

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

M E M O R A N D U M

March 26, 1993

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING  
**FROM:** DIVISION OF APPEALS (BELLAK) *ACB DS*  
**RE:** DOCKET NOS. 910163-TL, 920260-TL, 900960-TL, 910727-TL  
**AGENDA:** MARCH 30, 1993 - CONTROVERSIAL - PARTIES MAY NOT PARTICIPATE  
**FILE NAME:** 910163#3.RCM

*920260#3.RCM*

BACKGROUND

Order No. PSC-93-0317-PCO-TL, (Order), issued by the Prehearing Officer on March 3, 1993, in the above consolidated docket, granted Public Counsel's Motion To Compel BellSouth Telecommunications' Operations Manager -- Florida Internal Auditing Department -- Shirley T. Johnson to answer deposition questions.

On March 10, 1993, Southern Bell filed a Motion For Review of the Prehearing Officer's Order by the full Commission. On March 16, 1993, Public Counsel filed its Response thereto.

DISCUSSION OF ISSUES

ISSUE 1: Should Southern Bell's Motion For Review be granted?

STAFF RECOMMENDATION: No. The motion should be denied.

STAFF ANALYSIS: Southern Bell has not identified in the Order error of fact or law that would meet the appropriate standard for reconsideration or review. Diamond Cab Co. of Miami v. King, 146 So. 2d 889 (Fla. 1962); Pingree v. Quaintance, 399 So. 2d 161 (Fla. 1st DCA 1981); Order No. PSC-92-0339-FOF-TL (5/13/92).

During a deposition of Shirley T. Johnson, BellSouth Telecommunications Operations Manager for Internal Auditing, Southern Bell objected to questions asked by the Public Counsel concerning certain internal audits. The objections were based on a claim that information about the audits was privileged from discovery under the attorney-client and work-product doctrines.

DOCUMENT NUMBER-DATE

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FPSO-RECORDS/REPORTING

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The full Commission has already held that the audits in question were not privileged from discovery. Final Order No. PSC-93-0292-FOF-TL. Accordingly, Southern Bell's reiteration here of its disagreement with that holding does not identify an issue of fact or law that the Prehearing Officer overlooked or an error requiring review. Though Southern Bell further argues that the deposition questions regarding the audits improperly invaded privileged matters, that argument is inconsistent with the Commission's previous holding that the audits were not privileged. Therefore, the Request For Review should be denied.

ISSUE 2: Should this docket remain open?

STAFF RECOMMENDATION: Yes.

RCB