

SIDNEY J. WHITE, JR.
General Attorney

Southern Bell Telephone
and Telegraph Company
Suite 400
150 South Monroe Street
Tallahassee, Florida 32301
(404) 529-5094

ORIGINAL
FILE COPY

December 8, 1993

Mr. Steve C. Tribble
Director, Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

RE: Docket No. 900960-TL ~~920260-TL~~

Dear Mr. Tribble:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Request for Confidential Classification. Please file these documents in the above-captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served on the parties shown on the attached Certificate of Service.

Sincerely,

Sidney J. White, Jr. (BW)
Sidney J. White, Jr.

Enclosures

cc: All Parties of Record
A. M. Lombardo
H. R. Anthony
R. D. Lackey

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
13120 DEC-8 88
FPSC-RECORDS/REPORTING

4. With respect to the information produced for Staff and specifically referenced in Attachment A as including vendor-specific contractual information, the information is entitled to confidential classification on the basis that it reflects proprietary, vendor-specific contractual pricing of its services to BellSouth. The terms of these contractual relationships, particularly the prices charged by outside vendors, are negotiated at arms length with such vendors and are not intended for public disclosure. Section 364.183(3)(d), Florida Statutes, specifically provides that proprietary confidential business information includes "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods and services on favorable terms." Since the information at issue includes vendor-specific pricing negotiated by Southern Bell, this information satisfies the above criteria for confidentiality. Public disclosure of this information would impair the Company's ability to contract for similar goods and services in the future on favorable terms. Southern Bell has opportunities to negotiate bulk discounts or other favorable pricing with its vendors for products and services. These vendors require that the terms of these contractual arrangements be kept confidential in order to avoid undue pressure from other customers to reduce prices or to have the vendor offer terms and prices similar to that negotiated by Southern Bell. Through public disclosure of such contractual information, these vendors providing crucial products and services to Southern Bell would likely react by increasing Southern Bell's prices rather than lower all other potential customers' prices for similar services or products. Thus,

the maintenance of these contractual details as confidential ensures that Southern Bell will continue to be able to negotiate the most favorable contracts with its vendors. If this were not the case, the result would cause harm to Southern Bell in its operations and could tend to increase the Company's cost of doing business which, in turn, would be harmful to Southern Bell ratepayers. This risk is particularly great in the context of procurement of services, since often much more negotiation occurs relating to such contracts.

5. With respect to the information referenced in Attachment A as including verbatim comments from Company employees which were communicated in the course of a confidential ethics study commissioned by BellSouth and conducted by an outside vendor, this information is entitled to confidential classification pursuant to Section 364.183(3) and 3(a), Florida Statutes, and such classification is consistent with prior rulings of this Commission in Orders PSC-93-1689-CFO-TL and PSC-93-1690-CFO-TL, both issued on November 22, 1993 in Docket Nos. 920260-TL, 910163-TL, 900960-TL and 910727-TL.

6. BellSouth commissioned Ethics Resource Center, Inc. to perform a study addressing employees' understanding of appropriate business conduct with the goal of creating ethics awareness workshops which were to be offered within the Company. In the process of conducting the study, Ethics Resources Center created and distributed a written survey instrument designed to elicit employee perceptions relating to ethical issues, and a portion of this survey requested

candid comments¹ from respondents regarding ethical issues they perceived in the Company.

7. The survey instrument clearly stated that all responses would be confidential, and that employee anonymity would be assured. This was done, as is the case with employee communications to the internal Employee Reporting Line and ombudsman's office, in order to obtain the most complete and unedited comments from those surveyed. Public disclosure of these verbatim comments now would discourage employees in the future from communicating, either directly or indirectly, information such as that provided in the survey responses on ethics issues. Some of the comments mention specific departments, factual scenarios, and other information that could result in disclosure of particular factual incidents implicating certain individuals including those about whom the comments were made as well as those providing the information. This risk is real to those who provided these comments and the promise of confidentiality and anonymity would be broken through public disclosure of such comments. This would lead to distrust for the process.

8. Ethics Resource Center, Inc. was used in this particular case in an effort to obtain maximum assurance that the confidentiality of communications would be protected, and to present employees with an independent vehicle through which they could express their comments on issues relating to appropriate business conduct within the Company.

¹ Question Nos. 8, 25 and 27 asked for written comments from respondents. All other questions were objective, multiple choice type questions.

9. A Commission order compelling disclosure of the information communicated during the study process would destroy any future effectiveness of such a process by invading the principle of confidentiality that is the cornerstone of the process and which is absolutely necessary for its effectiveness. This particular survey, as is the ongoing case with BellSouth's ombudsman's office and Employee Reporting Lines, provided employees an opportunity for complete and unedited disclosure without the threat or fear of retaliation that may exist in other arenas. Wholesale compelled disclosure of this information would result in a chilling effect on communications vital to the goals of continuous corporate improvement and also on the internal policing of the Company's affairs. Such a result would be contrary to the public interest.

10. The employees who provided written comments in response to the survey did so with the appropriately held perception that there was a justifiable expectation of strict confidentiality of such communications. Any public disclosure of these comments or other communications received during the survey would send the extremely destructive signal to Company employees that "confidential" does not really mean confidential. This would likely render future efforts of a similar kind a less effective, with fewer employees willing to provide candid feedback.

11. If a process promises confidentiality, and later it is found that such confidentiality does not exist, or that information provided purportedly in confidence may be publicly disclosed in legal proceedings, employees are unlikely to trust the process and will not fully participate. If this were to occur, the ironic result would be

that information or communications that could be conveyed and used as a catalyst for positive improvement within the Company will not be communicated, and these vehicles for addressing a broad array of workplace problems and issues will be disabled.

12. It is significant that the Commission has already recognized the substance of these arguments in the context of the operations of the Employee Reporting Lines and the ombudsman's office. In Order Nos. PSC-93-1689-CFO-TL and PSC-93-1690-CFO-TL, issued November 22, 1993, the Prehearing Officer found that public disclosure of the identities of persons calling the Employee Reporting Line or ombudsman's office, and the substance of the communications would discourage direct or indirect communications by employees regarding perceived ethics issues in the Company. Consequently, the Prehearing Officer granted SB's Motion for Confidential Treatment and Permanent Protective Order relating to this information.

13. The rationale supporting the Prehearing Officer's prior decisions protecting the identities of individuals and the information provided to the ethics hotline or ombudsman's office from public disclosure is equally compelling in the case of the ethics survey conducted by the outside vendor. The survey was requested by BellSouth and designed as a vehicle to obtain information and candid comments regarding employee perceptions relating to ethics issues. This information may not have been obtained without the express assurances of confidentiality and anonymity given to the respondents. Employees, relying on the assurances of confidentiality, gave information that BellSouth can use as a catalyst for positive change

and continuous improvement. Without such candid information, BellSouth would be severely hampered in its efforts to identify and address perceptual and other ethics-related issues in a timely and effective manner.

14. Southern Bell has treated and intends to continue to treat the material for which confidential classification is sought as private, and this information has not been generally disclosed.

WHEREFORE, based on the foregoing, Southern Bell moves the Prehearing Officer to enter an order declaring the information described above and contained in the indicated portions of the attachments to be proprietary confidential business information, and thus not subject to public disclosure.

Respectfully submitted this 8th day of December, 1993.

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY

Harris R. Anthony (per)

HARRIS R. ANTHONY
J. PHILLIP CARVER
c/o Marshall M. Criser, III
400 - 150 South Monroe Street
Tallahassee, Florida 32301
(305) 530-5555

R. Douglas Lackey (per)

R. DOUGLAS LACKEY
SIDNEY J. WHITE, JR.
4300 - 675 West Peachtree Street
Atlanta, Georgia 30375
(404) 529-5094

Fpsc DOCKET 900960-TL
STAFF'S 8TH REQUEST FOR CONFIDENTIAL CLASSIFICATION

JUSTIFICATION FOR CONFIDENTIALITY REQUEST

1. This information includes verbatim comments from Company employees which were communicated in the course of a confidential ethics study commissioned by BellSouth and conducted by an outside vendor. Some of the comments mention specific departments, factual scenarios and other information that could result in disclosure of particular factual incidents implicating certain individuals. If released, this information could break the promise of confidentiality and anonymity made to interviewees, leading to distrust of the survey process and risk of negative repercussions to respondents and their coworkers. This information is entitled to confidential classification pursuant to Section 364.183(3) and 3(a), Florida Statutes, and consistent with prior rulings of this Commission in Orders PSC-93-1689-CFO-TL and PSC-93-1690-CFO-TL, both issued November 22, 1993 in Docket Nos. 920260-TL, 910163-TL, 900960-TL and 910727-TL.

2. This information reflects vendor specific contractual pricing negotiated by Southern Bell. Public disclosure of this information would impair Southern Bell's ability to contract for goods and/or services on favorable terms. Pursuant to Section 364.183, Florida Statutes such information is classified as proprietary, confidential business information which is exempt from the Open Records Act.

LOCATION OF PROPRIETARY INFORMATION

ITEM 119

<u>PAGE</u>	<u>LINE NO.</u>	<u>REASON</u>
F04B08Z 0000001	32,33	1
002	1	1
003	36,37	1
004	19-22	1
005	23,24	1
007	31,32	1
009	4,5	1
010	4-11,21,22,24,25	1
011	3,4,7,8	1
022	5,27-29	1
023	1	1
024	18-21,24,25	1
025	5-7,20-23	1
026	9-11,13-15,24-27,32-34	1
027	5-7,10-12,22,23	1

ITEM 119 Cont'd

<u>PAGE</u>	<u>LINE NO.</u>	<u>REASON</u>
F04B08Z 0000028	5-9	1
029	1-4,10-12,15-17,22-24,26-31	1
0030	11-13	1
031	9-11	1
032	17-25,28-30	1
033	17,18,22,25,26,28-32	1
034	24-26,29-33	1
035	20-22,26-29	1
036	3,4,10-12	1
042	5,6,31-35	1
044	2-6,11-14,24-27,33-35,38-40	1
045	13-16,18-20,22-28,37-39	1
046	6-12,15-18,21-25,33-36	1
047	1-3,12-14,16-21,38,39	1
048	1-5,9,10,12-14,35-39	1
049	12,13,25-28,36-39	1
050	1,4-6,10-16	1
064	13	2
065	8	2
066	3,10,19,21	2
067	10	2
068	3,10,19,21	2
070	23	2

ITEM 121

F04B08Z 0000131	18,25,26	2
0132	5,10,16,17,23,25	2