Legal Department

NANCY B. WHITE General Attorney

Southern Bell Telephone and Telegraph Company 150 South Monroe Street Suite 400 Tallahassee, Florida 32301 (404) 529-5387 URIGINAL FILE COPY

August 10, 1994

Mrs. Blanca S. Bayo Director, Division of Records and Reporting Florida Public Service Commission 101 East Gaines Street Tallahassee, Florida 32301

RE: Docket No. 920260-TL

Dear Mrs. Bayo:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Renewal of its Motion to Dismiss the Communications Workers of America's Petition on Proposed Agency Action for Formal Hearing. Please file these documents in the 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:

ACK John

RECEIVED & FILED

Sincerely,

FPSC-BUREAU OF RECORDS

Mancy B. White

Fralegue

Enclosures

All Parties of Record

A. M. Lombardo

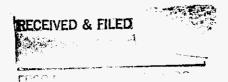
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FPSC-RECORDS/REPORTING

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION



In re: Comprehensive Review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone and Telegraph Company

Docket No. 920260-TL

Filed: August 10, 1994

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S RENEWAL OF ITS MOTION TO DISMISS THE COMMUNICATIONS WORKERS OF AMERICA'S PETITION ON PROPOSED AGENCY ACTION FOR FORMAL HEARING

COMES NOW, BellSouth Telecommunications, Inc., d/b/a
Southern Bell Telephone and Telegraph Company ("Southern Bell")
and renews its motion that the Florida Public Service Commission
("Commission") dismiss the Communications Workers of America's
("CWA") Petition to Dismiss the CWA's Petition Proposed Agency
Action for Formal Hearing ("Petition") for the reasons set forth
below.

1. By Order No. PSC-94-0172-FOF-TL, dated February 11,
1994, the Commission approved the Stipulation and Agreement
Between the Office of Public Counsel and Southern Bell, as well
as the Implementation Agreement for Portions of the Unspecified
Rate Reductions in Stipulation and Agreement Between the Office
of Public Counsel and Southern Bell (collectively, the
"Settlement"). The Settlement, while effectively settling the
issues in the above captioned docket, left certain sums of money
available for disposition in 1994, 1995, and 1996. For example,
the Settlement provided for a \$10 million revenue reduction,
which was not specifically allocated, to be implemented on July
1, 1994. The Settlement allowed all parties to submit proposals
as to how that \$10 million revenue reduction should be
implemented. As required, on March 1, 1994, Southern Bell filed

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its rate design proposal in connection with this \$10 million revenue reduction.

- 2. On or about February 18, 1994, the Communication Workers of America ("CWA") filed a Proposal for Implementation of the \$10 Million Reduction. In its Proposal, the CWA requested that the \$10 million be used to fund the creation of a "workers/citizens cooperative." CWA suggested that such a cooperative be composed of the Public Counsel and members selected by the Commission, organized labor, and the public. The so-called purpose of the cooperative would be to allow the public to participate in the debate regarding the so-called information superhighway.
- 3. By Order No. PSC-94-0669-FOF-TL, dated June 2, 1994, the Commission approved Southern Bell's modified alternative proposal to provide for rate reductions as follows: elimination of Billed Number Screening charges for residential and business customers by approximately \$1.9 million; reduction of rates for DID trunk terminations by approximately \$800,000.00; and reduction of mobile interconnection usage rates by approximately \$7.3 million. These rate reductions were ordered to be implemented effective July 1, 1994.
- 4. In denying the CWA's proposed use of these funds, the Commission found that not only did the Commission lack statutory authority to create the cooperative suggested by the CWA, but that the Commission also lacked the authority to place the \$10 million at such a cooperative's disposal. Therefore, the Commission correctly rejected the CWA's proposal.

- The Commission issued its order as a Notice of Proposed 5. Agency Action. On June 22, 1994, the CWA filed a purported Petition on Proposed Agency Action for Formal Hearing ("Petition"). On July 1, 1994, Southern Bell filed a Motion to Dismiss CWA's Petition on the grounds that (1) the Commission had no authority to grant the CWA's proposal; (2) the Commission was not bound by the requirements of the Settlement to hold rate design hearings; (3) the Petition failed to adequately state a substantial interest, as required by Commission rules and Florida Statutes; (4) the Petition failed to identify any disputed issues of material fact as required by Florida Statutes; and (5) with regard to the merits of the CWA's proposal, the creation of such a cooperative would be redundant and a waste of limited resources. Southern Bell hereby incorporates the arguments made in its Motion to Dismiss into this motion as if written in full herein.
- 6. While Southern Bell's Motion to Dismiss was still pending, an issue identification workshop was held, resulting in an Order Establishing Procedure (Order No. PSC-94-0893-PCO-TL, issued July 21, 1994) setting forth the dates for the key activities of this case. Direct testimony was due to be filed on August 1, 1994. The CWA filed what purported to be testimony on August 2, 1994. Setting aside the issue of CWA's untimely filing of testimony, and, in addition to the grounds heretofore listed, Southern Bell hereby renews and supplements its Motion to Dismiss.

7. One of the fundamental issues in this matter is that of the Commission's authority vel non to enact the proposal made by the CWA. The CWA has the obligation in this matter of proving that the Commission's decision regarding the rejection of the CWA's proposal was incorrect. This they have not done. The testimony of the CWA in this matter completely ignores this fundamental issue. Rather, it assumes that the Commission has the burden of somehow making the CWA proposal legal. It is axiomatic that it is incumbent upon the petitioner to bring forth proposals for Commission action which are within the legitimate authority of the Commission to undertake. The CWA has failed to address this issue in their direct testimony and thus, they have not met their burden. For this additional reason, their Petition should be dismissed.

WHEREFORE, Southern Bell requests that the Commission issue an Order dismissing the Petition on proposed Agency Action of the CWA for the reasons described herein.

Respectfully submitted this 10th day of August, 1994.

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

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CERTIFICATE OF SERVICE Docket No. 920260-TL Docket No. 900960-TL Docket No. 910163-TL Docket No. 910727-TL

I HEREBY CERTIFY that a copy of the foregoing has been

furnished by United States Mail this 10th day of August, 1994 to:

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