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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
TALLAHASSEE, FLORIDA

IN RE: Comprehensive review of the revenue requirements and
rate stabilization plan of SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY.

DOCKET NO. 920260-TL



BEFORE:

CHAIRMAN J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK
COMMISSIONER LUIS J. LAUREDO
COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING

PROCEEDING:

AGENDA CONFERENCE

ITEM NUMBER:

17**

DATE:

Tuesday, May 3, 1994

PLACE:

106 Fletcher Building
Tallahassee, Florida

REPORTED BY:

JANE FAUROT
Notary Public in and for the
State of Florida at Large

ACCURATE STENOGRAPHY REPORTERS, INC.
100 SALEM COURT
TALLAHASSEE, FLORIDA 32301
(904) 878-2221

DOCUMENT NUMBER-DATE

ACCURATE STENOGRAPHY REPORTERS, INC. 11261 NOV-83
FPSC-RECORDS/REPORTING

1 PARTICIPATING:

2 FLOYD SELF, representing McCaw Cellular.

3 HARRIS R. ANTHONY, representing Southern Bell
4 Telephone and Telegraph Company.5 EVERETT BOYD, representing Florida Mobile
6 Communications Association.7 MARK RICHARD, representing 4,000 Southern Bell
8 employees.

9 * * * * *

10 STAFF RECOMMENDATIONS11 Issue 1: Recommendation that Southern Bell's tariffs
12 proposing rate reductions of \$10 million be approved as
13 filed, effective July 1, 1994.14 Southern Bell should also be ordered to reexamine its
15 Customized Code Restriction offering to residential,
16 business, and PBX subscribers, and submit an explanation as
17 to why this service should or should not remain bundled.
18 The explanation should be submitted no later than July 1,
19 1994, and should include a discussion of the difference in
20 demand for the various elements, technical constraints or
21 efficiencies, and relative cost to provide under a bundled
22 or unbundled structure.23 SBT should also be ordered to file revisions to its
24 mobile interconnection tariff to flow through the access
25 charge reduction scheduled for July 1, no later than June 1,
1994, to become effective July 1, 1994. The filing should
include the backup calculations and assumptions used to
develop the new mobile interconnection usage rates and
revenue impact.26 Issue 2: Recommendation that McCaw Cellular Communication's
27 Petition to use a portion of the \$10 million to reduce the
28 current Type 2B mobile interconnection usage rate to \$.0098
29 per minute be denied.30 Issue 3: Recommendation that the Commission deny the
31 proposal of the Communications Workers of America, AFL-CIO,
32 to create a workers/citizens cooperation committee to
33 utilize the \$10 million to hire experts, poll the public,
34 educate the citizenry, hold workshops, work with the PSC
35 staff, Public Counsel and the utilities to insure the
public's voice is heard.

1 Issue 4: Recommendation that this docket remain open
2 pending approval of remaining tariffs required by Order No.
PSC-94-0172-FOF-TL.

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P R O C E E D I N G S

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CHAIRMAN DEASON: Item 17.

MS. NORTON: Item 17 addresses the \$10 million remaining per the stipulation. Unspecified rate reductions, that is the balance of the \$60 million total per the stipulation. Bell's primary proposal to dispose of the \$10 million is a series of rate reductions in the general subscriber tariff, local and toll. Staff's recommendation is to accept that primary proposal. The alternative proposal that Bell submitted was that if they were required by this Commission to flow-through the switched access reductions to the mobile rates that this 10 million, or a portion of it be used to do that.

COMMISSIONER CLARK: I agree with that. It just seems to me that if we had an order outstanding that says you will flow it through, then you have to account for that when you calculate how much money you have to make other reductions

MS. NORTON: Commissioner, there was another part of the stipulation that called for any other parties who wished to make a proposal to do so. Two others parties did that. One was McCaw, who proposed that 2B rates for mobile interconnection be reduced to .98 cents per minute. And the other was filed by the

1 Communications Workers of America, who proposed that a
2 committee be established to educate the people of
3 Florida. Those are separate issues in that
4 recommendation. So, those are all the proposals for
5 disposition of that 10 million that you must decide.

6 COMMISSIONER LAUREDO: Can you help me walk
7 through as a last meeting privilege, Issue 1? Although
8 it is stated again as Southern Bell's proposal, it's
9 Issue 1 as stated in this document that we go by, our
10 Bible.

11 MS. NORTON: Item 17?

12 COMMISSIONER LAUREDO: Right, 17. Does that stand
13 on its words or the so so-called alternative is
14 something else under Issue 1? Forget about 2, 3 and 4
15 for a minute.

16 MS. NORTON: Issue 1 incorporates both -- it's a
17 recommendation on both the primary and alternative
18 proposals of Bell.

19 COMMISSIONER LAUREDO: And you're saying -- so,
20 Bell has got two petitions under Issue 1?

21 MS. NORTON: Two proposals, one petition.

22 COMMISSIONER LAUREDO: Two proposals. So that if
23 you wanted to vote with Bell, you wouldn't even know
24 how to vote. This is the most confusing issue I have
25 been in in 2-1/2 years, amazingly enough. I mean, it's

1 unbelievable the way this has been done. Tell me, if I
2 agree with Commissioner Clark and the explanation of
3 the alternative, which I incorrectly asked for your
4 input earlier on, what do I vote on Issue 1?

5 MS. NORTON: You would vote to deny Staff and you
6 would vote to use Southern Bell's alternative.

7 COMMISSIONER LAUREDO: And there is no consensus
8 on the alternatives between the parties, but there is
9 -- on Issue 1, but there is in the Staff
10 recommendation. Is that a correct statement or a wrong
11 statement?

12 MS. NORTON: I need clarification on your question
13 before I answer it.

14 COMMISSIONER LAUREDO: Does the other two
15 intervenors -- actually there are three, I'm sorry.
16 But you're more concerned with Issue 3. Do the other
17 two company intervenors have a problem with the primary
18 as versus the alternative?

19 MR. SELF: Commissioner Lauredo -- I guess for
20 purposes of this item, I'm Floyd Self for McCaw
21 Cellular. I agree legally with Commissioner Clark,
22 Southern Bell is obligated to flow through the
23 7 million, or 6 million, or whatever it is, outside of
24 the 10 million.

25 COMMISSIONER CLARK: No, that's not what I said.

1 MR. SELF: Yes. Pardon? You didn't say that?
2 Oh. Well, I guess we are both confused,
3 Commissioner Laredo.

4 COMMISSIONER CLARK: I agree with Southern Bell's
5 alternative, that it be accounted for in the
6 10 million.

7 MR. SELF: And I won't object to that. And I will
8 withdraw my request for --

9 COMMISSIONER LAUREDO: Okay. That's all I needed
10 to hear.

11 COMMISSIONER KIESLING: Could I ask one question?
12 My only question is under the alternative proposal it
13 lists the amount as \$7.3 million, and Staff earlier
14 indicated that they thought the amount was going to be
15 considerably less than that, somewhere around
16 6 million.

17 MS. MARSH: Yes, ma'am, we believe that.

18 COMMISSIONER KIESLING: And I just -- if we are
19 going to approve the alternative proposal, you know, I
20 think that at least what they are asking for ought to
21 comport with the information that Staff has. And if it
22 doesn't, we should understand why not.

23 MR. ANTHONY: Commissioner Kiesling, I might be
24 able to address that. If the number is not exactly --
25 it may have changed. It's a complicated formula. To

1 the extent that it's not exactly what Southern Bell has
2 proposed in its alternative recommendation, we would
3 propose to make up the difference by an additional
4 reduction in the DID, just increase that amount that's
5 already proposed. I think it's 1.7 million, increase
6 that pro rata, so that the entire \$10 million would be
7 taken care of.

8 COMMISSIONER KIESLING: Okay. So you're amenable
9 to letting the Staff go ahead and calculate what the
10 correct reduction in mobile interconnection usage rates
11 would be and shift any excess between that figure and
12 the 7.3 into the DID reduction?

13 MS. NORTON: Commissioner, Staff would have a
14 recommendation on that also, a proposal on that.

15 COMMISSIONER KIESLING: Well, tell me what it is.
16 I mean, if we are going to adopt the alternative
17 proposal, I want to be sure that the numbers are right.

18 MS. NORTON: Okay. Two points, is that if the
19 Commission -- well, the first point is that there are
20 other parties here that wish to be heard on the
21 disposal of the 10 million. The second is that if the
22 Commission decides to spend part of the money to flow
23 through Staff's recommendation to use at least part of
24 the remaining balance, would be to eliminate the billed
25 number screening charges for residential and

1 business customers.

2 MR. ANTHONY: We wouldn't have any objection to
3 that, either, if the Staff preferred that.

4 MS. NORTON: The reason for is that per the
5 stipulation, the Commission has eliminated it in PATS
6 providers, and we believe that it would be appropriate
7 to eliminate it in its entirety and not leave a charge
8 for end users and not for that.

9 COMMISSIONER KIESLING: Do we have a dollar amount
10 on that?

11 MS. NORTON: Yes, we do.

12 COMMISSIONER KIESLING: So if I understand, the
13 Staff's alternative proposal to the alternative
14 proposal on Issue 1 would be a reduction in mobile
15 interconnect of -- how much?

16 MS. MARSH: Six million.

17 COMMISSIONER KIESLING: And then a reduction as
18 you indicated --

19 MS. NORTON: Of 1.9 to eliminate billed number
20 screening, and Staff would not have a problem with the
21 balance being used to reduce DID, if that was Bell's
22 proposal with the remaining amount.

23 MR. ANTHONY: We would have no objection to that,
24 assuming that -- I don't know how the Staff has
25 calculated it, but we would request the opportunity to

1 meet with the Staff and make sure that our numbers
2 agree with their numbers.

3 COMMISSIONER LAUREDO: And can I finish hearing
4 the other two parties' positions?

5 COMMISSIONER KIESLING: Yes. I just want to get
6 the numbers right.

7 MS. NORTON: Staff would recommend that it be
8 trued up at any rate if you were going to use the
9 10 million, so that would a commitment.

10 COMMISSIONER KIESLING: Okay. Thank you.

11 CHAIRMAN DEASON: Mr. Boyd.

12 MR. BOYD: Commissioner, I'm Everett Boyd on
13 behalf of the Florida Mobile Communications
14 Association.

15 We would have no objection to the alternative
16 proposal being implemented as just indicated.

17 COMMISSIONER LAUREDO: Thank you.

18 CHAIRMAN DEASON: Sir?

19 MR. RICHARD: My name is Mark Richard from Coral
20 Gables, Florida, and I represent 4,000 Southern Bell
21 employees working in Metropolitan Dade County.

22 And let me give you a few minutes of background
23 here. It's very odd and very unusual to have employees
24 send their union attorneys up here to address you.
25 There is a perceived -- I'm not saying it's real, but a

1 perceived taboo for employees to speak out in these
2 proceedings. And these 4,000 members not only are
3 workers in the system, but are ratepayers. And since
4 we filed this petition up here, my phone hasn't stopped
5 ringing. I don't know what that means, but we are
6 getting calls from consumer groups, The Florida
7 AFL-CIO, South Florida AFL-CIO. Consumers and workers
8 are concerned. Whether right or wrong, they perceive
9 this -- no offense -- as regulatory voodoo. They don't
10 understand it.

11 And what they saw historically, as I sat in on
12 those depositions regarding the alleged unfair billing
13 practices and the alleged improprieties and rate
14 design, is that four cases got squashed together and a
15 global settlement was reached. No problem with that.
16 And a lot of money was thrown around, a lot of
17 settlements were made, and a lot of workers laid up
18 late a night wondering what their deposition would lead
19 to, did they do anything wrong, were they just
20 following orders.

21 And out of this came, hopefully, a vision for a
22 new day, a global settlement. Jack Shreve's office
23 approved, Staff approved, you all approved. And in
24 that you carved out \$10 million, unspecified
25 \$10 million. And what it says in the implementation

1 agreement that you all approved is that hearings would
2 be held to determine, quote, "How it should be
3 disposed." Well, there has never been a hearing. And
4 it said that all interested parties shall, 120 days
5 prior to implementation, which was July 1st, put their
6 orders and their proposals together.

7 Now, our proposal may range from silly to just an
8 attempt to be part of this process. But we had a
9 vision of this 10 million, and we said if it was
10 illegal or improper that we would all massage it, like
11 lots of parties get to do. They all get to go into the
12 hallways and work deals out during breaks, which is how
13 it should be done. But we are never invited to that
14 table.

15 This 10 million has nothing to do with the
16 interconnect charges, and I don't want to be -- no
17 offense -- forced because 16 couldn't be resolved, that
18 our issue at 17 becomes a stepchild. We had a vision
19 of this 10 million. Instead of giving it in terms of
20 pennies in these reductions, and it's a lot of money,
21 wouldn't the public be better served if there was one
22 way to truly energize their participation? People want
23 to be part of this process. They can't afford to be.

24 And no disrespect to Staff or Jack Shreve, but
25 they are underfunded and overworked, and whether right

1 or not, perceived as not being the champions of the
2 people. And Jack is. I mean, I have great respect for
3 him.

4 But the bottom line is that 4,000 people got
5 together and saw that there was 10 million available,
6 put together a proposal. In a couple of pages off a
7 word processor, Southern Bell basically says you're
8 crazy. Can't do it. It cites a few cases I totally
9 disagree with, and I practiced before this Commission
10 in '85. You all weren't here, but I was. Not so
11 successfully, though, but I practiced here.

12 Staff comes up and holds a workshop. We were kind
13 of excited. We get notice of it on Monday night for
14 Thursday. One of the three presidents of the locals
15 died. We asked for a continuance. We don't get it.
16 We want to know where the hearings are going to be
17 held, because it says so here. We go, "No, this is
18 Proposed Agency Action. And the only way you'll get a
19 hearing is to disagree." Well, I don't feel like
20 getting a hearing by disagreeing with you all, because
21 we respect you. I don't want to be put in that
22 position.

23 We thought the agreement was that you would hear
24 everything, including interested parties. And only one
25 interested party doesn't belong to the industry. We're

1 the workers. We're the people that pick up the phones.
2 And if you'd listen to these workers you would be
3 amazed. You can get a woman or a man that works the
4 line, that installs the phone, that is a directory
5 assistance operator, and they will talk to you about
6 fiber optics. They'll talk to you about the copper
7 system. They want to know about their future. They
8 want to know about regulatory issues regarding privacy.
9 It is amazing; folks with little or no formal
10 education, one or the other, will sit out there and
11 talk to you all for hours about the information
12 highway.

13 So what we propose, and we don't know how to carve
14 it out yet, and we would almost ask you to defer this
15 issue. We propose taking that 10 million and putting
16 together a citizens committee. Yes, I know they can't
17 spend the 10 million. You're going to have total
18 control. And that was one of the legal issues that
19 could be worked out between the parties at a workshop
20 if at all you were interested in pulling these folks
21 together. Now, I don't know how that education works.
22 And I'm being frank with you. And we wrote -- and this
23 is within the Commission's domain. We don't know, but
24 we will tell you that if you took that 10 million and
25 somehow applied it to workshops, education, something,

1 you will see a citizen response that will make you all
2 remember forever for sitting on this body. If we truly
3 want citizens to participate here, we have got to let
4 them come to workshops with less than three days
5 notice. We have got to not cut deals in the back that
6 I'm not part of. We have got to sit there, if the
7 implementation agreement says hold hearings, we've got
8 to hold hearings and not do it by proposed agency
9 action.

10 And so what I say to you is our proposal was to
11 take this and put together a joint commission study.
12 There are legal questions about that and I respect
13 those legal questions. I think they could be worked
14 out. And it may turn out in the end that you want to
15 take all 10 million and put it into these flow-through
16 charges or some other rate reduction. It may be. But
17 let's have those hearings and let's mean what we say
18 when we say that all interested parties.

19 And I will tell you that Staff -- and by the way,
20 Ms. Norton has been incredibly helpful to us. And I
21 don't want to demean Staff in any way. She has been as
22 courteous and professional as one could expect. But
23 when you come up here -- and I will tell you, because
24 the two times I've been here, this and the time I was
25 here many years ago for two or three rates cases, you

1 almost felt as if you are a fringe player. That if
2 when you say interested parties can come up, if
3 interested parties do come up and our suits and stuff
4 don't really represent the industry, you feel you're
5 left out. You feel your ideas are freakish. You feel
6 like you're just taking up too much time on the agenda.
7 Well, we are not. We are the workers. The phones,
8 when I get the fax from you all denying my request, it
9 will come through phones that our workers hooked up.

10 And we ask you in the end to, one, either adopt
11 our proposal or defer it to hearings, hearings held
12 before -- because it says, "The parties agree" -- in
13 Paragraph 4, Page 11, "shall conduct hearings to
14 determine the rate design." Then it goes on to say,
15 "If, in fact, that doesn't happen coincidental or prior
16 to July 1st, and you are late, there is a refund
17 mechanism." It also says, "The parties agree to work
18 expeditiously toward scheduling, conducting and
19 concluding such hearings." We would like to
20 participate. We'd like to have a fair shot. And we'd
21 like for you to have those hearings. Thank you.

22 COMMISSIONER LAUREDO: Mr. Richard, I want to make
23 sure that I understand, then, that you are not in
24 agreement with supporting the alternate recommendation.

25 MR. RICHARD: We are very much opposed to it.

1 COMMISSIONER LAUREDO: Okay. And by voting either
2 the primary or the alternative, we would, in fact, moot
3 Issue 3, correct?

4 MR. HATCH: That's correct.

5 COMMISSIONER LAUREDO: I'm not really aware, other
6 than in the general sense, of what your proposal is
7 about. I can tell you since I am leaving, that if I
8 have to look back and say what -- at least one of my
9 legacies is I have really strived here to break down
10 the image that the companies are just some sort of
11 ivory tower. The companies are the people you
12 represent. They are taxpayers. They are parents of
13 students in our schools. And so I try to project that
14 image that we can break this bad image of the
15 companies. You gave a very eloquent presentation, but
16 all the citizens that I have met, and I also have been
17 trying to develop the legacy, or leave the legacy of
18 opening up this process more to nonlawyers and to
19 regular citizens. But everyone I've met would rather
20 have the money than either turn it back to the
21 government or to some sort of committee,
22 quasi-government or otherwise, that is going to do
23 either a study or a hearing, et cetera. So that you
24 know that at least I'm giving you a hearing. I can
25 tell you in a nonlegal sense hearing, I just don't

1 agree with taking an amount of money and just, you
2 know, develop this educational program, however ideal
3 it would be. My sense of the people that I have been
4 in hearings with is that they would rather have
5 refunds, either directly or indirectly.

6 MR. RICHARD: Well, assuming that's correct, and
7 it may very well be, I would have to anecdotally agree
8 with you. I don't want our proposal mischaracterized.
9 We are not talking about a bunch of bureaucrats. We're
10 talking to going to neighborhoods, have neighborhoods
11 elect committee people. We're talking about from the
12 bottom up having people decide on privacy issues,
13 whether the information highway will have video
14 capabilities as well as audio. And I may have
15 inartfully drawn it, and maybe you're right, and maybe
16 that's what a purpose of a hearing will be. But we've
17 got lots of phone calls coming. People would love to
18 see the money out of those bureaucrats' hands and into
19 their hands.

20 COMMISSIONER LAUREDO: Well, my experience, with
21 all due respect, having to swing in and out of the
22 public sector and the private sector, is any time you
23 create a committee -- and I don't want to get into it,
24 we just did one in Miami after the storm, and you are
25 familiar with it. And all of a sudden we create a

1 bureaucracy, and there are people on the payroll, and
2 all of a sudden the city is rebuilt somehow. I mean, I
3 tell you all of this dissertation gratuitously, only to
4 tell you that one need not link -- and I'm not saying
5 that you are doing it -- our position on Issue 3, with
6 certainly my concern for the workers of Southern Bell
7 or any other company, because I take pride in
8 recognizing that they are the company. It is not Joe
9 Lacker and it's not this wonderful attorney, Mr.
10 Anthony. It is the people who lay the cable and
11 connect, like you say, provide the lines to send the
12 faxes. And the way this is presented is almost -- I
13 feel trapped that someone that I've taken great pride
14 in representing and lifting, I'm going to be kind of
15 betraying. I don't agree with that. I think that we
16 should take whatever money we get back for the
17 citizens, we should give back to the ratepayers. And I
18 just wanted to explain that to you.

19 MR. RICHARD: And I understand. I guess the
20 question we would pose, and we are the company, and we
21 are proud of our company, but the question we would
22 propose is if these come back -- and 10 million sounds
23 like a lot, but it's going to end up being pennies to
24 the individual person. I suspect if you put before
25 someone, "Would you rather give up a few pennies and

1 have actual empowerment of the users at that end to
2 look into the issues that are coming", you might get a
3 different response. Perhaps you're right. All I'm
4 saying is let's have hearings on it as we have already
5 agreed to. The process here will bypass hearings
6 unless we object. And that's not what happened. This
7 implementation agreement called for hearings prior to
8 you implementing the rate design. And I, with all due
9 respect, suggest that the cart has been put in front.
10 It's backwards. And maybe you're right, and maybe the
11 legacy will be you've proven me wrong. And I'd like to
12 know that at a hearing. But there is no hearing.

13 CHAIRMAN DEASON: Well, you say there is no
14 hearing, but obviously -- and this is not a hearing,
15 granted. But you are certainly given an opportunity to
16 participate and to be heard from. This matter is being
17 handled as a PAA, which would enable you to request a
18 hearing. I know that you have stated you are reluctant
19 to basically get to a hearing by protesting an action,
20 but that is your opportunity, though, if you so choose
21 to exercise it.

22 MR. RICHARD: Mr. Chairman, in all due respect, I
23 think what that would do, then, is the purpose of that
24 hearing would be whether or not the order that you
25 issue, that we would then object to, should be

1 implemented or not. But that is not what the agreement
2 says. The agreement says that there will be a hearing
3 prior to -- it says, "The Commission shall conduct
4 hearings to determine the rate design by which the
5 amounts not specifically allocated shall be disposed
6 of." So, you don't have the input of the public, or
7 the utilities, or anyone, all interested parties. And
8 at that hearing our proposal would not be before the
9 participants. It would only be the "yea" or "nay," on
10 your proposal. And the way this was designed, our
11 proposal had to come in 120 days earlier, i.e. March,
12 so that it could be part of the hearing process, too.
13 And that isn't happening, either. So, with all due
14 respect, I think it is procedurally flawed and, you
15 know, I think it goes against the deal that was made
16 between the parties, which approved.

17 COMMISSIONER CLARK: Well, I can tell you with
18 respect to that deal and the notion of hearings, I
19 think it is in the context that we were not intending
20 to deny anyone's due process rights. But I know I
21 specifically brought up the issue that we could do it
22 by PAA and not have to have a hearing, given the short
23 period of time that we wanted to do that. And as I
24 recall in that agenda conference, we specifically
25 stated that it could be disposed of through a proposal

1 by the parties that then would go out PAA. So, it was
2 always my intention that if we could dispose of it,
3 that it be PAA. But I appreciate your coming and
4 suggesting that we have this association be initiated.
5 But it's my feeling that we are the wrong people to
6 talk to. I think it's beyond our statutory authority
7 to do. This money is not money that we have unbridled
8 discretion in disposing of. And your plea is more
9 appropriately addressed to the legislature.

10 MR. RICHARD: And that may be, and I respect it.
11 I guess while you all thought it was going to be done
12 by PAA, just remember that there are thousands of us
13 reading these things. We distribute these to the
14 workers at the factories -- well, not factories, but at
15 our headquarters where the trucks pull out, et cetera.
16 And when we were reading this, it didn't say PAA. When
17 we were reading it, it said there would be a hearing.
18 It also had a rebate procedure set up if the hearing
19 didn't take place incoincidental with the July 1 date.
20 And no disrespect, because I understand why you do it
21 PAA, a PAA does not do and address what is supposed to
22 be done here. And while we are dealing with these
23 perceptions out there, it's real hard to go back to
24 people and say there will be no hearings. You were in
25 invited to a workshop with less than three days notice,

1 that wouldn't be canceled on the death of one of the
2 parties. And, you know, we were told it didn't matter.
3 Of course, it doesn't matter, because we know we are
4 going to lose the item. And so all I'm saying -- and
5 I'm not saying anything is wrong up there. Please
6 believe me, I'm not. We wouldn't have come up here if
7 we didn't believe in you all. We're just saying it's
8 -- in a gloss it may be that the hearing leads to
9 nothing more than the same thing. That's what we all
10 agree to and that's what folks out there rely on. And
11 they rely seriously on it. And you'd be surprised how
12 they dig through these things, nonlawyers, and come up
13 with things. And they were excited. They found it.
14 As their lawyer, I didn't find it. And they wanted to
15 go to the workshops and they want to go to the
16 hearings. And if they lose, they lose in the spirit as
17 your award was. You know, your accolades this morning;
18 You agree to disagree. But we're not even getting a
19 chance to disagree, quite frankly. And you are going
20 to roll this through, which it can be, and it makes
21 everybody go through the paperwork. I'll get on the
22 plane and go back to my colleague, and he'll be okay,
23 but it's real hard to engender among our folks that
24 there is a regulatory body up here that's going to give
25 them their hearing. And if the hearing is just pro

1 forma, then, you know, I don't believe that. I don't
2 believe you operate that way, so we believe in it and
3 we're requesting it. And we would suggest that it
4 would be legally flawed on your part not to have that
5 hearing.

6 COMMISSIONER KIESLING: Well, with all due respect
7 to you, sir, it would seem to me that you also might be
8 the appropriate person to pass on to them that there is
9 simply no statutory authority that would allow us to
10 delegate the responsibility for dealing with this
11 \$10 million to anyone. And as I read your proposal, it
12 seems to me that that is what you're asking for. And
13 it's not out of, you know, any denigration of the
14 people that you represent. It's simply that we do not
15 have the statutory authority to do anything close to
16 what you're asking.

17 MR. RICHARD: Assuming arguendo, that's true. And
18 I do understand that axiom. I do. We asked in our
19 response to Southern Bell's motion to dismiss that if,
20 in fact, any part of our procedures were illegal, let's
21 all meet and discuss how to massage them into
22 legalities. And there may be a rate -- a service that
23 they're asked to provide that's education. It may be
24 that we can put stuffers inside their bills and go with
25 the 29 cents, and even though there's extra postage

1 there, there are a lot of alternatives. They all get
2 to go to Legal staff and say, you know, "Mr. Pruitt,
3 would you tell us if this is legal?" And if it's not,
4 everybody meets and figures it out. I offered to say
5 if, in fact, this was illegal -- and it might very well
6 be in the way it's couched -- is there a way to couch
7 it another way where it's not? We don't get that same
8 treatment. We don't get to say -- that was the whole
9 purpose I thought of a workshop. So, the folks here
10 who -- and they are brilliant -- the folks here that
11 understand the regulatory language and operation of 120
12 could say, "Mr. Richard, doing it this way we can't
13 have it done, but doing it this way you could." We
14 don't have that. We don't have their -- and it may be
15 through the hearing process as you all ask. Is it
16 legal? Can we do it another way? We don't get to be
17 asked those questions and we don't have the opportunity
18 to say, "You're right, Commissioner, how about this as
19 an alternative?" That's all been swept out of the way
20 with a little quick Staff recommendation, a quick
21 motion to dismiss, and the denial of the hearing. And
22 so in all due respect, I agree with you that you may
23 not be able to do it, but I don't -- so what I
24 respectfully request this Commission it go to a
25 hearing, it be deferred, and these very issues, very

1 poignant and well-made issues get discussed and
2 digested equally for this party as it is for all the
3 power brokers that come up.

4 CHAIRMAN DEASON: I'm at a loss. I don't
5 understand your statement that you're being treated
6 differently, unequally, and that there are so-called
7 power brokers who are treated differently. If you
8 could explain that to me.

9 MR. RICHARD: Yes. It's nothing personal,
10 Chairman. I guess what I'm saying is having been here
11 before, even before, there was a question posed to
12 Mr. Pruitt, "Is this legal, they way we're trying to do
13 this," about future rate hikes, and I'm not going to
14 pretend I understood it all. And the parties go and
15 meet, and they discuss it and sometimes they come back
16 and say, "Well, we can do it this way." It won't be a
17 tariff, it will be a tariff. No one came to us and
18 said, "All right, Mr. Richard, on behalf of your 4,000
19 people, we have legal problems." They said that, but
20 they didn't say, "Let's all go meet in the hallway and
21 ask Mr. Pruitt or try to work it out." No one said at
22 a hearing, you all didn't even have an opportunity to
23 hearing -- because this is not a hearing, it's PAA --
24 to say, "Let's work this out. Let's come up with
25 something else." So, what I'm saying is when Bell

1 tries to do something that may offend Chapter 120 of
2 the organic statutory language of this Commission, or
3 Staff has an idea, or Jack Shreve has an idea,
4 everybody carves those ideas together and massages them
5 to maybe make them legal, maybe not. That's where I
6 think we are different.

7 COMMISSIONER LAUREDO: This is very important to
8 me that you understand me and understand this
9 Commission, because I think we are drifting. You know,
10 I'm from the school of the glass is half full and it's
11 not half empty. And the Southern Bell settlement was a
12 major accomplishment for the people of Florida,
13 including the employees of Southern Bell. And it was
14 so certified by the most ardent public servant and
15 anti-Southern Bell advocate, which is Jack Shreve. So
16 it gives me great comfort that we did the right thing.
17 There might have been some mistakes in the drafting
18 where the word hearing probably -- everybody was under
19 a lot of pressure since we had a schedule. We had two
20 years of bad press and personal attacks on
21 commissioners, and all of that which we, hopefully,
22 will soon forget. And I'm not that dumb, but I have
23 made it a purpose to block my mind for the difference
24 between a PAA and a hearing, and all of that kind of
25 stuff because it would cloud my judgment. I leave it

1 to more eloquent legal scholars to decide that. I
2 don't know whether you are getting the legal hearing or
3 not, but I think you're getting a hearing, as far as
4 this Commissioner is concerned. I read the proposal,
5 and what you're proposing is something radically new.
6 Forget about whether we have the statutory authority or
7 not. Even if you told me I had the statutory
8 authority, I wouldn't vote for it. I mean, I'm the one
9 here who is telling you outright I wouldn't. I just
10 would not. I don't think -- as a policymaker, and not
11 a judge, which I'm not, and I don't understand all of
12 your legal rights, I don't think it's the right thing
13 to do. It's a good idea that probably needs to be
14 brought up under a different forum. And I hope that
15 you get the decision and that you get a level, a sense
16 of -- because you're going to be our translator.
17 You're going to be translating what we decide today to
18 them. You know, I always refer to people like yourself
19 not as lawyers, but as counselors, because I remember,
20 that was the original -- and lawyers have a
21 responsibility to counsel, not just to defend or
22 advocate, but to counsel. And you need to understand
23 that you're proposing something so radical under an
24 enormous amount of -- and the content of other
25 pressures that we have, that it's not acceptable to me.

1 I don't know, there are four other Commissioners. But
2 I would hate to have you, (a), have that decision and,
3 (b), feel that you were left out. And that would be
4 terrible. And then if you would translate that
5 feeling, after all the years that we've been here and
6 whenever we have to make tough decisions with very
7 hostile crowds about rate increases and try to advocate
8 that, you know, the employees of Southern Bell and the
9 stockholders are also citizens, they are also voters,
10 and all of that. And trying to bring this community
11 together on this regulatory antagonistic arena that we
12 live in, and for you to go back, it would be the worst
13 send off for me, that you would go back to 4,000
14 employees of Southern Bell with any kind of a negative
15 connotation, without explaining that -- I mean, this is
16 tough. I mean, you're trying to create a committee to
17 do something and fund it. I mean, you have to admit to
18 me on the record that it's certainly novel, isn't it?

19 MR. RICHARD: It is.

20 COMMISSIONER LAUREDO: Okay. And you need to
21 counsel them that it is novel, and not whether it's
22 legal or not, it's a radical departure from what we
23 believe to be our inherent authority. And it's
24 probably a premature idea. Maybe the Legislature will
25 pick it up, like Commissioner Clark said.

1 MR. RICHARD: We understand. Citizens utility
2 boards, which we never have been able to get through
3 here is something that is considered novel here, but
4 commonplace in California. Cogeneration is coming here
5 after it has been in California for a long time. I
6 guess my point is your argument on the merits, as well
7 as you, Commissioner, makes sense to me. I understand
8 your position and it will be translated in the good
9 faith that it's intended. Where we are having a
10 problem is, often, at least when I was here in '85, and
11 I heard it here today, parties are told go work this
12 out in the back. We're not being told to do that.
13 We're left out. We have a workshop that's within -- we
14 get a letter in Monday night's mail, 5:00, for Thursday
15 to fly up here. Nobody did it intentionally, believe
16 me they didn't. It was done in good faith. And I'm
17 just telling you, I will take back two messages: One
18 is that the spirit of the proposal may be rejected.
19 The other message is, no offense, but we're not the
20 same players at this table. We aren't told to go work
21 this out. No one told my fine colleague here and
22 Staff, "Meet with these folks, and maybe we could put
23 on workshops within the budget of the PSC. Forget this
24 10 million and address these issues."

25 COMMISSIONER CLARK: You can still do that. I

1 mean, you can see still suggest that. I think what
2 Commissioner Lauredo has said to you is there is really
3 nothing to work out here in the sense that this is,
4 one, beyond our authority; and, two, as he said, it's
5 not something that he thinks is a policy that we should
6 embark upon in terms of spending ratepayer money on.
7 It's not our choice to make. And, therefore, there is
8 nothing for us to tell you to go work out.

9 MR. RICHARD: And that may be right, except two
10 things I would like -- there was never a legal opinion
11 to come from Mr. Pruitt or the Attorney General's
12 Office, because I disagree with it. I think you do
13 have some authority here, although it's walking a very
14 fine gray line. And the other thing is through a
15 Chapter 120 evidentiary hearing, which this is not,
16 there is no sworn testimony, there are no experts,
17 there's no evidence put in or documentation, or
18 otherwise. We're being denied what was approved by you
19 all. You all approved the hearings.

20 COMMISSIONER LAUREDO: You missed a couple of
21 fundamental points that I made. I want to, first of
22 all, apologize to you for whatever slight, real or
23 imagined you got from Staff. Sometimes those things
24 happen. The new kid on the block, the new player.
25 It's like, you know, people like you and everybody in

1 their profession, you're used to doing -- you know, to
2 read any more into it than that, to read any conspiracy
3 theory, it's really a disservice.

4 MR. RICHARD: We don't read into it in anymore
5 than that.

6 COMMISSIONER LAUREDO: All I'm telling you is I
7 could sit, if you want, and you heard me earlier trying
8 to advocate for efficiency in this Commission. We can
9 have that hearing that you want with 17 witnesses, 44
10 lawyers all across this, and it will not change my
11 mind. Because in the end, if you're honest, it is a
12 question of what one believes, as a Commissioner,
13 anyway. I do not believe that that is our proper role.
14 It simply isn't. Whether or not we even have the
15 legality, which is the issue that you're pursuing, I'm
16 not sure that I'm that interested. I'm not saying,
17 however, that it's not a good idea. I think you just
18 happen to be at the wrong forum. And my concern is the
19 message you get, because it would be the ultimate irony
20 and tragedy for some of us to now have 4,000 employees
21 of Southern Bell, after a lot of people stood up for
22 them in very difficult forums, somehow that we slighted
23 them. My God, that would be like, like I said, the
24 worse send off you can certainly give me as a
25 Commissioner. And I sense you're drifting in that

1 direction, partly because you're frustrated by
2 something that happened either before or today, and I
3 personally apologize for it. Because if it did happen,
4 I can assure you that it was not meant intentionally.
5 So if we can put that aside, and maybe we can move to a
6 positive attitude, because we would certainly not want
7 to have you leave here frustrated and to convey that to
8 your members, because that would be the wrong
9 reflection of what we have done here at this
10 Commission.

11 MR. RICHARD: And someone of your Staff need not
12 apologize. It was never done in any bad faith. We
13 know that. I guess our problem is we believe that your
14 mind may be made up, but I also believe, as a trial
15 lawyer, that I walk into every case, no matter how
16 difficult with a shot at winning. And if we had an
17 evidentiary hearing, we don't know what -- and I
18 suspect you don't know, even though you're almost
19 positive, 99.9, you, as a public servant, I will at
20 least listen to it. And maybe a light bulb will go off
21 and maybe an expert from -- a public citizen will come
22 down, maybe an expert from California, I don't know.
23 All I'm saying is we're only asking you all to do what
24 you agreed to do, which was hold hearings. Now, if
25 that is something that you all feel isn't expeditious

1 or inefficient, you know, I understand that.

2 COMMISSIONER KIESLING: Mr. Chairman, I feel like
3 I've heard the same discussion now at least three
4 times, and I'm willing to make a motion that we move
5 Staff on Issue 3.

6 COMMISSIONER LAUREDO: Well, why don't we take
7 care of Issue 1, first?

8 COMMISSIONER KIESLING: Well, because Issue 1
9 depends on a resolution of 2 and 3.

10 CHAIRMAN DEASON: Okay. We have a motion to
11 approve Staff on Issue 3 on Item 17.

12 COMMISSIONER KIESLING: Yes, sir.

13 COMMISSIONER CLARK: Second.

14 CHAIRMAN DEASON: Moved and seconded. All in
15 favor say, "aye."

16 COMMISSIONER KIESLING: Aye.

17 CHAIRMAN DEASON: Aye.

18 COMMISSIONER JOHNSON: Aye.

19 CHAIRMAN DEASON: Any opposed? The motion carries
20 unanimously. Further motions.

21 COMMISSIONER LAUREDO: I was going to move
22 Southern Bell's alternative.

23 MR. HATCH: With respect to Issue 2, Mr. Self
24 withdrew his proposal 2B, am I correct, or do you still
25 have to rule on Issue 2?

1 COMMISSIONER LAUREDO: They all on the record said
2 that they supported Southern Bell's alternative.

3 MR. SELF: Yes.

4 COMMISSIONER LAUREDO: Therefore, I move Southern
5 Bell's alternative.

6 COMMISSIONER CLARK: Second.

7 MS. NORTON: Southern Bell's alternative was
8 the --

9 CHAIRMAN DEASON: Modified.

10 MS. NORTON: Modified, right.

11 COMMISSIONER KIESLING: With the subsequent
12 true-up.

13 MS. NORTON: With the true-up of billed number
14 screening and remainder in DID?

15 COMMISSIONER KIESLING: Right.

16 MR. HATCH: One thing I need to make clear, that
17 whatever your decision is with respect to Issue 1,
18 whichever proposal you choose, I want to make it clear,
19 because the agenda sheet does not clarify that it is
20 all a PAA, notwithstanding you've got tariffs there,
21 because to do otherwise, the tariffs would go into
22 effect and you'd lose the money. So the entire
23 decision would be subject to a protest.

24 COMMISSIONER KIESLING: Yes.

25 CHAIRMAN DEASON: All votes on Item 17 are being

1 made with the intent that they will be issued as PAAs.
2 Very well. And we have a motion to approve the
3 alternate position on Issue 1 as modified by Staff's
4 clarifications.

5 COMMISSIONER CLARK: Second.

6 CHAIRMAN DEASON: It has been moved and seconded.
7 All in favor say, "aye."

8 COMMISSIONER KIESLING: Aye.

9 COMMISSIONER LAUREDO: Aye.

10 CHAIRMAN DEASON: Aye.

11 Opposed.

12 COMMISSIONER JOHNSON: Nay.

13 CHAIRMAN DEASON: The motion carries on a vote of
14 four-to-one.

15 COMMISSIONER LAUREDO: Two is mooted, is that what
16 we decided?

17 CHAIRMAN DEASON: Issue 2, there is no need to
18 take a vote on Issue 2.

19 MR. SELF: I withdraw it.

20 COMMISSIONER LAUREDO: And Issue 4, I move
21 Issue 4, if it needs to be moved.

22 CHAIRMAN DEASON: Without objection? Hearing
23 none, Issue 4 is approved. That disposes of Item 17.
24 We will revert now to Item 16.

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, JANE FAUROT, Court Reporter, do hereby certify that the foregoing proceedings was taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages are a true and correct record of the proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 9th day of August, 1994.

Jane Faurot
JANE FAUROT
100 Salem Court
Tallahassee, Florida 32301
(904) 878-2221

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 9th day of AUGUST, 1994, IN THE CITY OF TALLAHASSEE, COUNTY OF LEON,

1 STATE OF FLORIDA, BY THE ABOVE PERSON WHO IS PERSONALLY
2 KNOWN BY ME.



Melanie Y Strubble
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