

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Comprehensive Review of the)
Revenue Requirements and Rate)
Stabilization Plan of Southern)
Bell Telephone & Telegraph Company)

Docket No. 920260-TL
Filed: December 4, 1992

**CITIZENS' RESPONSE AND OPPOSITION TO SOUTHERN BELL'S
MOTION TO STRIKE THE TESTIMONY OF MICHAEL R. MALOY,
R. EARL POUCHER, MARK N. COOPER AND JOSEPH P. CRESSE**

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this response and opposition to the motion to strike the testimony of Michael R. Maloy, R. Earl Poucher, Mark N. Cooper and Joseph P. Cresse filed by BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell") on November 25, 1992.

1. Southern Bell complains that the testimonies of Michael R. Maloy, R. Earl Poucher, Mark N. Cooper and Joseph P. Cresse address matters which relate to dockets 900960-TL and 910163-TL. According to the prehearing officer's additional order on prehearing procedure issued November 11, 1992, evidence related to those dockets will not be incorporated into the main hearings in this docket beginning January 25, 1993.

2. Southern Bell, however, fails to acknowledge that on November 23, 1992, the Citizens moved the full Commission to review the prehearing officer's order. That motion specifically asked the full Commission to include in this docket all of the matters about which Southern Bell complains. Accordingly, until the full Commission completes its review of the prehearing officer's order, Southern Bell's motion is not ripe.

3. Even if the full Commission does not grant the relief requested by the Citizens, with but one exception all of the testimony covered by Southern Bell's motion is relevant to issues being heard during the main hearings in this docket beginning on January 25, 1993.¹ Quality of service is specifically included as issue 31 in this case. In addition, the Commission intends to look at both the positive and negative results of the existing "incentive" regulation plan in this docket (issue 26b) and Southern Bell's request for even further relaxation of regulation from this Commission (issues 28 and 29). The testimonies of Michael R. Maloy, R. Earl Poucher, and Mark N. Cooper are all relevant to these issues.

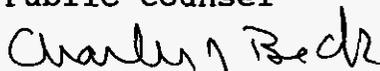
¹ The one exception concerns the issues concerning the imputation of revenues and expenses from inside wire services when setting regulated rates. It would be ironic if the full Commission did not consider those issues in this case concerning Southern Bell when the same issues have been considered in the recent rate cases of the next three largest telephone companies in the state: GTE Florida, Inc., United Telephone Company of Florida, and Central Telephone Company of Florida.

4. The Citizens know of no instance where this Commission has refused to allow parties to introduce testimony relevant to issues being heard by the Commission. In fact, Commission rule 25-22.048(2) states that every party has the right to present evidence relevant to the issues. The order of the prehearing officer should not, nor can not, be interpreted in a way that would violate this rule with respect to the upcoming hearing in this docket. Thus, even if the full Commission does not grant the relief requested in our motion filed November 23, 1992, the testimony must still be allowed because it is relevant to issues that are being addressed in the hearings beginning on January 25, 1993.

WHEREFORE, the Citizens oppose the motion to strike the testimony of Michael R. Maloy, R. Earl Poucher, Mark N. Cooper and Joseph P. Cresse filed by Southern Bell on November 25, 1992.

Respectfully submitted,

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**CERTIFICATE OF SERVICE
DOCKET NO. 920260-TL**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 4th day of December, 1992.

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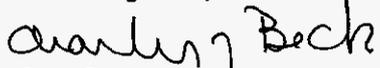
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