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ORIGINAL
FILE COPY

December 21, 1993

Mr. Steve Tribble, Director
Division of Records and Reporting
101 East Gaines Street
Tallahassee, Florida 32399

Re: Docket No. 920260-TL, Comprehensive Review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone and Telegraph Company.

Dear Mr. Tribble:

Enclosed for filing and distribution are the original and 15 copies of The Florida Interexchange Carriers Association's Motion to Compel, on behalf of the Florida Interexchange Carriers Association, in the above docket.

Please acknowledge receipt of the above on the extra copy enclosed herein and return it to me. Thank you for your assistance.

Sincerely,

Vicki Gordon Kaufman
Vicki Gordon Kaufman

ACK _____

AFA 2 _____

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Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of) Docket No. 920260-TL
the Revenue Requirements and Rate) Filed: December 21, 1993
Stabilization Plan of Southern)
Bell Telephone and Telegraph)
Company)
_____)

THE FLORIDA INTEREXCHANGE
CARRIERS ASSOCIATION'S MOTION TO COMPEL

The Florida Interexchange Carriers Association (FIXCA), pursuant to rules 25-22.034 and 25-22.037, Florida Administrative Code, and rule 1.380, Florida Rules of Civil Procedure, moves the Commission for an order compelling Southern Bell Telephone and Telegraph Company (Southern Bell) to respond to certain discovery requests propounded by FIXCA. As grounds therefore, FIXCA states:

1. On November 8, 1993, FIXCA sent Southern Bell two discovery requests related to its private corporate network. FIXCA interrogatory no. 57 states:

Provide your best estimate of the undepreciated value of the dark fiber on Southern Bell's private toll network.

FIXCA request for production no. 16 states:

Produce all documents, memoranda and workpapers relating to the estimate provided in Interrogatory 57.

2. Southern Bell refused to respond to either request stating that the requests were "overly broad, unduly burdensome, and oppressive." Southern Bell stated (without any supporting documentation) that responding to FIXCA's two requests "would

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require more than a half dozen engineers working full time for more than three months."

3. Southern Bell's refusal to respond to FIXCA's discovery should be rejected. The Commission should compel Southern Bell to respond for the reasons discussed below.

4. First, the information FIXCA seeks is highly relevant to the issues the Commission will consider in this case. The right of discovery is to be liberally construed so that any matter which is not privileged and which is relevant to the subject matter of the case must be disclosed. Saunders v. Florida Keys Electric Co-Op, 471 So.2d 88, 89 (Fla. 3d DCA 1985); Lazarus Homes Corp. v. Gustman, 340 So.2d 513, 514 (Fla. 3d DCA 1976).

5. The prudence of Southern Bell's corporate network and the action that this Commission should take if Southern Bell's investment in such network is found imprudent is a clearly identified issue in this case. Issue 2b states:

Is Southern Bell's investment in its interLATA internal company network prudent, reasonable, and necessary to enable it to provide service to the ratepayers? If not, what action should the Commission take?

See also, Issues 2, 19.

6. Second, without information on the value of Southern Bell's private corporate network, the Commission may not have sufficient information to fashion an appropriate remedy for ratepayers if it finds Southern Bell's investment in its corporate network to be

imprudent. The Commission must have the financial information necessary to make a reasoned determination. Such financial information is solely within the possession of Southern Bell. Other parties have no ability to replicate Southern Bell's records in order to provide the Commission with a basis for decision.

7. Third, the main thrust of Southern Bell's objection seems to be that it will require some effort for Southern Bell to respond to FIXCA's discovery requests. In its objection, Southern Bell makes totally unsubstantiated statements about the amount of effort the response would require. However, even assuming for purposes of argument only, that Southern Bell's unproven claim is correct, FIXCA purposefully framed its question to ask for Southern Bell's "best estimate" of the undepreciated value of the dark fiber on Southern Bell's private toll network. Southern Bell ignores this portion of the request and responds based on providing a detailed accounting.

8. However, even more important than FIXCA's request for a "best estimate" is the fact that an objection based on the fact that compliance may be costly is not a ground for a valid objection. Ford Motor Company v. Edwards, 363 So.2d 867, 870 (Fla. 1st DCA 1978); Goodyear Tire & Rubber Co. v. Cooley, 359 So.2d 1200 (Fla. 1st DCA 1978). This is especially the case when the information sought is totally within the possession of the objecting party and when such information is highly relevant to the issues which the Commission must decide.

WHEREFORE, FIXCA moves the Commission to enter an order requiring Southern Bell to immediately respond to FIXCA interrogatory no. 57 and FIXCA request for production no. 16.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Florida Interexchange Carriers Association's Motion to Compel has been furnished by hand delivery* or by U.S. Mail to the following parties of record, this 21st day of December, 1993:

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