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September 3, 1996

HAND DELIVERED

Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Fl 32399-0850

Re: Docket No. 920260-TL

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and fifteen copies of The Florida Interexchange Carriers Association's Motion for Reconsideration or in the Alternative, for Clarification, 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 1 \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU Norton \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG 1 \_\_\_\_\_ VGK/pw
- LIN 5 \_\_\_\_\_ Encls.
- OPC \_\_\_\_\_
- RCH \_\_\_\_\_
- SEC 1 \_\_\_\_\_
- WAS \_\_\_\_\_
- OTH \_\_\_\_\_

RECEIVED & FILED  
SEP 3 1996  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

09307 SEP-3 96

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: September 3, 1996

The Florida Interexchange Carriers Association's  
Motion for Reconsideration or in the Alternative,  
for Clarification

The Florida Interexchange Carriers Association (FIXCA), pursuant to rule 25-22.060, Florida Administrative Code, files this Motion for Reconsideration of Order No. PSC-96-1058-FOF-TL, Order Suspending Tariff, or in the Alternative, for Clarification of that Order.

As a preliminary matter, FIXCA notes that Order No. PSC-96-1058-FOF-TL directs Commission Staff to conduct further discussions with the parties to determine whether the access tariff, which is the subject of the suspension order, can go into effect. Such discussions have been held and it is FIXCA's understanding that based on discussion with the parties, Staff will issue a recommendation finding that the BellSouth Telecommunications, Inc.'s (BellSouth) access charge reduction tariff should go into effect on October 1, 1996 as filed, subject to the Commission's ability to reallocate the required access reduction to different elements after the October hearing. It is further FIXCA's understanding that Staff will recommend that any reallocation be prospective, thus obviating the need for a true-up mechanism.

FIXCA is in agreement with this approach. It files this Motion in an abundance of caution to preserve its rights since Staff's recommendation and Commission action

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09307 SEP-3 96

FPSC-RECORDS/REPORTING

on that recommendation is not scheduled until after the due date for the filing of this Motion. FIXCA will withdraw its Motion upon approval of the access tariff.

As grounds for its Motion, FIXCA states:

Introduction

1. On February 11, 1994, the Commission issued Order No. PSC-94-0172-FOF-TL, Order Approving Stipulation and Implementation Agreement. This Order approved a settlement agreement between BellSouth and numerous other parties, including FIXCA, in numerous pending dockets involving BellSouth.

2. The settlement agreement approved by the Order calls for a series of rate reductions to be made over a three-year period. Some of the rate reductions are specific--that is, they involve specific amounts of money for the reduction of specific services on specific dates. Other reductions set out only dollar amounts and leave the specific disposition of the money up to the Commission after consideration of proposals submitted by parties.

3. The subject of the Order Suspending Tariffs involves the former type of rate reduction--one where the amount, timing and service are specified in the settlement agreement.

4. Paragraph 1C of the settlement agreement approved by the Commission provides that on October 1, 1996, BellSouth will reduce its intrastate switched access rates so that they are in parity with its interstate switched access rates in effect on January 11, 1994.

5. BellSouth made a tariff filing to comply with this requirement of the

settlement agreement. This tariff filing was to go into effect on October 1, 1996 and would have complied with the terms of the Commission-approved settlement agreement.

6. However, Order No. PSC-96-1058-FOF-TL suspends the BellSouth tariff filing pending the outcome of the Commission's hearing on the unspecified portion of the refund BellSouth is required to make in 1996. The unspecified portion of the refund will be the subject of competing proposals which the Commission will consider in a hearing to be held at the end of October. A final order resulting from this proceeding will not be issued until months later, well past the October 1, 1996 deadline for the required access reduction.

#### Basis for Reconsideration

7. Order No. 94-0172-FOF-TL is a final order of the Commission and has been in effect since its issuance on February 11, 1994. The Order requires BellSouth to reduce its switched access rates on October 1, 1996. Unlike the discretionary provisions of the Order allowing parties to submit proposals for and the Commission to dispose of certain amounts, the switched access reductions are mandated by the Order and are not discretionary. The Commission generally has the power to modify its orders if the public interest requires. However, once an order of the Commission becomes final and passes beyond any period for reconsideration or appeal, the Commission may only modify the terms of such order after proper notice and hearing. See Austin Tupler Trucking, Inc. v. Hawkins, 377 So.2d 679 (Fla. 1979); Peoples Gas System, Inc. v. Mason, 187 So.2d 335 (Fla. 1966).

8. The Commission's suspension of the tariff will result in the 1996 access reduction going into effect well after the October 1, 1996 date required by the Order approving the settlement. Based on Austin Tupler and Peoples Gas, the Commission's suspension creates a departure from the terms of the Order which is beyond the confines of the Commission's ability to effectuate.

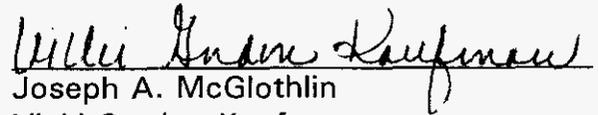
9. The specific access reductions in the settlement agreement were an integral part of the settlement -- they were a specific part of the agreement and must take place on the date specified in the settlement. These access reductions formed the basis for FIXCA's participation in the settlement agreement in the first instance and may not now be delayed by the Commission.

10. Therefore, the Commission should reconsider its Order and allow the access reductions scheduled for October 1, 1996 to take place as set out in BellSouth's tariff filing.

#### Basis for Clarification

10. In the alternative, if the Commission does not reconsider the Order Suspending Tariff, FIXCA asks the Commission to clarify that the amount of money needed to make the October 1, 1996 access reduction will be credited to the IXCs back to October 1, 1996 or held subject to refund. The Order approving the settlement agreement requires the access reduction to be made on October 1, 1996. If this is not done, the Commission should ensure that the IXCs receive the benefit of their agreement back to October 1, 1996 if the actual reduction is made after that time.

WHEREFORE, FIXCA requests the Commission to reconsider, or in the alternative, clarify its Order Suspending Tariff.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of FIXCA's Motion for Reconsideration or in the Alternative, for Clarification, has been furnished by hand delivery\* or by U.S. Mail to the following parties of record, this 3rd day of September, 1996:

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