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October 12, 1992

Steve Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0850

Re: Docket No. 920260-TL

Dear Mr. Tribble:

Enclosed for filing in the above-referenced docket on behalf of the Citizens of the State of Florida are the original and 15 copies of the Citizens' Motion to Set Intervenor Testimony Filing Date at Least Thirty Days after Production of Documents and Information Subject to Pending Motions to Compel.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

- ACK ✓
- AFA 3
- APP
- CAP
- CJ
- CIF
- EDU
- LEG 10/12/92
- LET 6
- OPR
- PLN
- REG 1
- TRN
- STC

Sincerely,

Charles J. Beck
Deputy Public Counsel

Enclosure

DOCUMENT NUMBER-DATE

11930 OCT 12 1992

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Comprehensive Review of the)
Revenue Requirements and Rate) Docket No. 920260-TL
Stabilization Plan of Southern) Filed: October 12, 1992
Bell Telephone & Telegraph Company)
_____)

**MOTION TO SET INTERVENOR TESTIMONY FILING DATE
AT LEAST THIRTY DAYS AFTER PRODUCTION OF DOCUMENTS
AND INFORMATION SUBJECT TO PENDING MOTIONS TO COMPEL**

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, request the Commission to set the date for intervenors to file testimony at least thirty days after the production of documents and information subject to pending motions to compel.

1. There is presently no order on prehearing procedure setting forth dates for filing testimony, but the case assignment and scheduling report (CASR) used for internal purposes at the Commission contemplates intervenors filing testimony on November 2, 1992. The Citizens can not meet that date because the Commission has not yet ruled on our motions to compel. Production of the documents and information sought by those motions is needed in order to file testimony.

2. Motions related to discovery have been pending in this docket for as long as five months, as shown by the following chart:

TYPE OF MOTION	DOCKET	DATE FILED	DESCRIPTION
compel	920260	5-8-92	dispute over definitions; documents withheld under claim of relevancy; objections based on work product, privilege. Requests <u>in camera</u> inspection of withheld documents.
compel	920260	5-13-92	to obtain responsive documents in the possession of the parent corporation.
compel	920260	6-2-92	to obtain LMOS, MOOSA, KSRI and schedule 11 audits.
compel	920260	6-5-92	to obtain responsive documents in the possession of the parent corporation.
compel	920260	7-13-92	to obtain documents related to inside wire maintenance and obtain responsive documents in the possession of the parent corporation.

3. Moreover, the lack of rulings in a related docket concerning the investigation into the integrity of Southern Bell's repair service activities and reports also affects our ability to present testimony. For example, a motion filed over three months ago asks the Commission to compel responses to about sixty questions asked at a deposition of Southern Bell Vice President Network - South Area Jerry Sanders and Southern Bell

General Manager-Human Resources C. L. Cuthbertson, Jr. A motion filed over seven weeks ago requests the Commission to compel Southern Bell to produce a document revealing the names of craft personnel created by a panel reviewing possible disciplinary action. Rulings on these motions are particularly important now that the Tenth Statewide Grand Jury has squarely placed the question of punitive action against Southern Bell in the hands of the Commission.¹

4. In particular, rulings on matters related to the integrity of Southern Bell's repair service activities and reports are significant to this docket because this docket reviews Southern Bell's actions during its incentive plans. Actions related to the integrity of Southern Bell's repair

¹ The final report of the tenth statewide grand jury states "In closing, it must be noted that the proposed settlement agreement does not contain any "punishment", per se, of the company for its alleged failure to properly report to the Public Service Commission actual repair time for restoration of telephone service to customers whose telephones were out of service. This issue was raised in our investigation, but we have been advised that the United States Supreme Court's ruling H. J. Inc., et al v. Northwest Bell Telephone Company, 112 S. Ct. 2306 (1992), casts doubt on our ability, or the ability of the criminal courts, to directly sanction the company for such conduct, if it in fact occurred. We specifically note, however, that the Florida Public Service Commission has both the jurisdiction and the concomitant discretion to impose severe monetary penalties on the company if it finds that the company has falsified reports required by PSC rules. We therefore strongly recommend that the Public Service Commission, in conjunction with its publicly mandated responsibility, investigate this matter, exercise its penal authority, and take into consideration this possible fraudulent conduct on the part of the company in determining an appropriate rate of return." Final Report of the Tenth Statewide Grand Jury, September, 1992, at page 2.

service activities and reports, which affect quality of service, are an important part of the incentive plan.

5. Order no. 20162 issued October 13, 1988 implemented an incentive regulation plan for Southern Bell. The Commission adopted many of the incentives that had been proposed by Southern Bell in petitions it filed on January 13, 1988. However, a number of parties expressed concern that providing Southern Bell additional incentives to maximize profits might affect quality of service. The Commission addressed this by stating:

"There is a concern that the company might improve earnings over the short run by letting quality of service slip. In order to discourage and detect such actions, our staff will continue its ongoing review of service quality as required by Commission rules and will consider more expanded service audits if any significant slippage in quality is detected. The Commission will be notified if service quality significantly deteriorates during the course of this plan, or if Commission rules concerning service standards are violated. The Commission may then consider imposing a penalty on Southern Bell." Order 20162 at page 26.

6. This docket should determine Southern Bell's range for return on equity and its rate setting point. Adjusting Southern Bell's rate setting point to the lower end of its authorized range of return on equity is an appropriate response to various activities which occurred during the incentive plan. These activities includes both activities related to Southern Bell's

repair service and reports, as well as activities related to "sales" when customers were not even contacted about services being added to their bills. All of these matters concern the quality of service provided to Southern Bell's customers.

7. In addition, this information should be reviewed by the Commission before the Commission considers Southern Bell's proposal for further deregulation in this docket. The Commission can not make an informed decision about further deregulating Southern Bell without first reviewing improper activities which occurred during the time period when the incentive plan was in effect.

8. The Citizens need at least thirty days after the documents and information are produced before filing testimony. The information must be analyzed. In the case of identifying persons, depositions of many those persons will likely be required. A follow-up deposition of Southern Bell Vice President Network - South Area Jerry Sanders and Southern Bell General Manager-Human Resources C. L. Cuthbertson, Jr., will be required to obtain answers to the scores of questions they refused to answer in the earlier deposition.

WHEREFORE, the Citizens respectfully request the Commission to set the date for intervenors to file testimony at least thirty days after the production of documents and information subject to pending motions to compel.

Respectfully submitted,

Jack Shreve
Public Counsel



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Attorneys for the Citizens of
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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 12th day of October, 1992.

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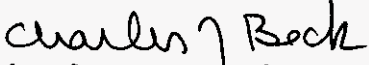
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