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DEC 27 1993

December 27, 1993

Mr. Steve C. Tribble  
Director, Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32301

RE: Docket No. 920260-TL

Dear Mr. Tribble:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Opposition to FIXCA's Motion to Compel and Motion for Protective Order. Please file this document in the above-captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served on the parties shown on the attached Certificate of Service.

Sincerely,

*Nancy B. White (NW)*  
Nancy B. White

Enclosures

cc: All Parties of Record  
A. M. Lombardo  
H. R. Anthony  
R. D. Lackey

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RECORDS

DOCUMENT NUMBER-DATE

13742 DEC 27 93

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: December 27, 1993

SOUTHERN BELL TELEPHONE AND TELEGRAPH  
COMPANY'S OPPOSITION TO FIXCA'S MOTION TO  
COMPEL AND MOTION FOR PROTECTIVE ORDER

COMES NOW, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), and pursuant to Rule 25-22.037, Florida Administrative Code and Rule 1.280(c), Florida Rules of Civil Procedure, herewith files (1) its Opposition to the Florida Interexchange Carriers Association's ("FIXCA") Motion to Compel with regard to FIXCA's Sixth Set of Interrogatories and Fourth Request for Production of Documents dated November 8, 1993, and (2) its Motion for Protective Order. In support of its Opposition and Motion, Southern Bell shows the following:

1. Pursuant to Rule 25-22.006, Florida Administrative Code, and Rule 1.280(c), Florida Rules of Civil Procedure, Southern Bell moves the Prehearing Officer to issue a Protective Order directing that discovery not be had with respect to FIXCA's Interrogatory No. 57 and Request for Production of Documents No. 16. As more specifically set forth herein, Southern Bell urges the Prehearing Officer to balance the unreasonable burden placed on Southern Bell by this discovery against the purported need for these discovery requests.

2. On November 8, 1993, FIXCA served Southern Bell with its Sixth Set of Interrogatories and Fourth Request for

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Production of Documents. Interrogatory No. 57 requested Southern Bell to provide its best estimate of the undepreciated value of the dark fiber on Southern Bell's private toll network. Request for Production of Documents No. 16 requested documentation relating to that estimate.

3. On December 8, 1993, Southern Bell filed its Response and Objections to FIXCA's Sixth Set of Interrogatories, Item No. 57 and Request for Production No. 16. Southern Bell incorporates herein the contents of its Responses and Objections. More specifically, Southern Bell objected to these items on the basis that the requests were overly broad, unduly burdensome, and oppressive and explained in detail the reasons why.

4. On December 21, 1993, FIXCA filed its Motion to Compel responses to the above referenced discovery requests.

5. Turning to the specifics of FIXCA's motion, FIXCA makes three different arguments. First, FIXCA argues that the information is relevant to Issue No. 2(b) in this docket regarding Southern Bell's corporate network. This issue relates to whether Southern Bell's investment in its interLATA internal company network is prudent, reasonable, and necessary to enable Southern Bell to provide service to the ratepayers. FIXCA has not shown how the undepreciated value of the dark fiber on Southern Bell's corporate network is relevant to whether the investment is prudent. As shown in the attached affidavit of Hamilton Gray, Southern Bell does not depreciate fibers or cross-sections of fibers. It depreciates amounts of investment by

vintage by account. Accordingly, in the rebuttal testimony of Hamilton E. Gray filed December 10, 1993, and, as reiterated in his affidavit attached hereto, Southern Bell has provided the amount of such investment in its network. How much of the dark fiber on that network remains undepreciated appears to have little, if any, relevance to whether the initial investment was reasonable.

6. Second, FIXCA argues that it must have information on the value of Southern Bell's private corporate network, so that the Commission can determine whether it is prudent. As noted above, the relevant information is contained not only in the attached affidavit, but also in Mr. Gray's rebuttal testimony. The total investment in Southern Bell's interLATA transport network is estimated to be \$13 million, while the incremental cost of the spare or dark fibers is estimated to be only \$1.8 million. Thus, the Commission and FIXCA both have the necessary information regarding the value of Southern Bell's corporate network.

7. Third, FIXCA argues that Southern Bell's original objection to its discovery is unsubstantiated. As shown by the attached affidavit of Mr. Gray, a response to FIXCA's discovery requests would require a search of 10 years of records and workpapers in 13 different offices and would require several employees working full time for more than three months. Such a search would be required because accounting for investment and reserve is by aerial, buried, and underground installation, not

by the specific use that is made of the plant. Even if Southern Bell had undertaken such a daunting task on the day the request was received, it would not have been completed until well into the hearings on this matter. Given the information already available to FIXCA, this request is thus unreasonable and inappropriate and FIXCA's Motion should be denied.

8. Rule 1.280(c) of the Florida Rules of Civil Procedure, specifically states that discovery may be curtailed in order to "protect a party or person from annoyance, embarrassment, oppression, or undue burden..." The attached affidavit clearly shows that FIXCA's request is burdensome and oppressive. The requests constitute an unwarranted intrusion into Southern Bell's business. Caribbean Security Systems, Inc. v. Security Control Systems, Inc., 486 So.2d 654 (3rd DCA 1986). See also Traveler's Indemnity Co. v. Salido, 354 So.2d 963 (3rd DCA 1978) and State Farm Mutual Automobile Insurance Co. v. Gray, 546 So.2d 36 (3rd DCA 1989).

9. While FIXCA claims that it is only requesting a "best estimate" and is not requiring a detailed accounting, it is obvious that Southern Bell will be required to defend this estimate from attacks by FIXCA. Therefore, it would be incumbent upon Southern Bell to provide an estimate that is grounded in reality. FIXCA is apparently asking Southern Bell to just guess or pick a number, but, given the future consequences, Southern Bell is not willing to do so and should not be required to do so. Southern Bell is unaware of any law that requires it to speculate

at an answer. As stated above, in order to respond to FIXCA's request with any degree of accuracy, a search, as detailed by Mr. Gray would be required. It should be noted, however, that, as stated in Mr. Gray's affidavit, the incremental cost of the dark fibers in Southern Bell's corporate network is approximately \$1.8 million. Therefore, logic would dictate that the undepreciated value of the dark fiber on Southern Bell's corporate network must be a figure less than \$1.8 million.

10. Finally, FIXCA takes the position that an objection based on the cost of the compliance is not valid. Since Southern Bell's objection is not based on cost, Southern Bell fails to see the relevance of FIXCA's argument.

WHEREFORE, Southern Bell respectfully urges the Commission to deny FIXCA's Motion to Compel, consistent with the arguments made above, and to grant the Company's Motion for Protective Order urging that discovery not be had in the manner requested.

Respectfully submitted this 27th day of December, 1993.

SOUTHERN BELL TELEPHONE  
AND TELEGRAPH COMPANY

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of )  
the Revenue Requirements and Rate )  
Stablilization Plan of Southern ) Docket No.920260-TL  
Bell telephone and Telegraph )  
Company )  
\_\_\_\_\_ )

AFFIDAVIT OF HAMILTON E. GRAY, JR.

BEFORE ME, the undersigned authority, personally appeared Hamilton E. Gray, Jr., who stated that he is currently an Operations Manager with BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company, Network Planning and Engineering Integration Department ("Network Planning") and further states the following:

1.

On or about November 8, 1993, Network Planning was requested to assist the Legal Department in responding to Item No. 57 of the Sixth Set of Interrogatories and Item No. 16 of the Fourth Request for Production of Documents filed by the Florida Interexchange Carriers Association ("FIXCA").

2.

Interrogatory No. 57 requested Southern Bell's best estimate of the undepreciated value of the dark fiber on Southern Bell's private toll network. Production of Document Request No. 16 requested documentation relating to that estimate.

3.

Upon review of these items, and, in discussion with the staff of Network Planning, it became apparent that a response to these requests would require an enormous amount of time and manpower.

4.

Accounting for cable investment and reserve is by aerial, buried and underground cable installation, not by the specific use that is made of the installation. Further, the Company does not depreciate fibers or cross-sections of fibers. It depreciates amounts of investment by vintage by account.

5.

Therefore, in order to respond to these requests, a search would be required of up to ten years of outside plant engineering drawings and accounting work papers (a combination of local office files, centralized office files, and archives) in order to obtain investment information before an estimate of depreciation could be factored to come up with an estimate of the remaining undepreciated value. These documents are located in up to 13 different offices in as many cities. Such a search would require about a half dozen engineers working full time for more than three months.

6.

As stated in my rebuttal testimony, filed on December 10, 1993 in this docket, the total cost of Southern Bell's interLATA transport network is estimated to be \$13 million. The incremental cost of the additional spare or dark fibers is estimated to be only \$1.8 million.

7.

Further, affiant sayeth not.

Dated this 22nd day of December, 1993.

Hamilton E. Gray, Jr.  
Hamilton E. Gray, Jr.

Sworn to and subscribed  
before me this 22nd day  
of December, 1993.

Sharon A. Greer  
Notary Public

**Notary Public, Alabama State at Large**  
**My Commission Expires February 14, 1997**  
**Bound by Fidelity Ins. Co.**

**CERTIFICATE OF SERVICE**

**Docket No. 920260-TL**

**Docket No. 900960-TL**

**Docket No. 910163-TL**

**Docket No. 910727-TL**

I HEREBY CERTIFY that a copy of the foregoing has been  
furnished by United States Mail this 27th day of December, 1993  
to:

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