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July 5, 1995

Ms. Blanca Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
Room 110, Easley Building  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

**HAND DELIVERY**

Re: Docket No. 920260-TL

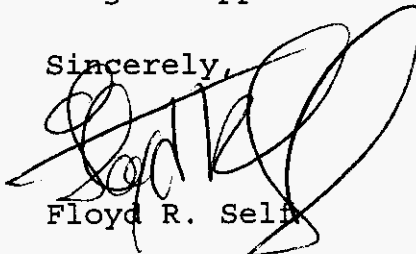
Dear Ms. Bayo:

Enclosed for filing are an original and fifteen copies of McCaw Communications of Florida, Inc.'s Motion to Compel in the above-referenced docket.

Please indicate receipt of this document by stamping the enclosed extra copy of this letter.

Your attention to this filing is appreciated.

Sincerely,



Floyd R. Self

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1 ERS/amb  
5 Enclosures  
cc: William H. Higgins, Esq.  
Mr. Kurt C. Maass  
Parties of Record

Vinson  
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DOCUMENT NUMBER-DATE  
06335 JUL-5 95  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of )  
revenue requirements and rate ) Docket No. 920260-TL  
stabilization plan of Southern ) Filed: July 5, 1995  
Bell )  
\_\_\_\_\_)

McCaw Communications of Florida's  
FIRST MOTION TO COMPEL DISCOVERY  
ANSWERS AND SANCTIONS FROM SOUTHERN BELL

McCaw Communications of Florida, Inc., for itself and its Florida regional affiliates ("McCaw"), pursuant to Rule 25-22.037, Florida Administrative Code, hereby moves that the Florida Public Service Commission ("Commission") enter an order compelling BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell") to respond to McCaw's Second Set of Interrogatories and Second Request for Production of Documents and an award of attorneys fees and costs pursuant to section 120.57(1)(b)(5), Florida Statutes. In support of this Motion, McCaw states:

1. On June 9, 1995, McCaw served its Second Set of Interrogatories and Second Request for Production of Documents ("Second Discovery") on Southern Bell in anticipation of filing testimony and participating in the scheduled July 31, 1995 hearings now set in this docket. McCaw's discovery requests are directly related to Issue 1(c) identified for this proceeding.

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2. On June 15, 1995 Southern Bell served its objections to McCaw's Second Discovery. By the objections, Southern Bell refused to provide any of the requested information.

3. Southern Bell's objections were received by undersigned counsel on June 19, 1995, and undersigned counsel thereafter called Southern Bell counsel Nancy White to discuss the Second Discovery, Southern Bell's objections, and possible stipulations or other accommodations to resolve the objections. On July 5, 1995, Ms. White advised undersigned counsel by telephone that Southern Bell would not provide any of the information in the Second Discovery or otherwise stipulate or accommodate McCaw's request.

4. McCaw propounded a total of 11 interrogatories (numbered 20 through 30) and 11 production requests (numbered 22 through 32) that related to each of the interrogatories. The information requested by McCaw directly relates to Issue 1(c) in this docket -- specifically whether any of the unallocated \$25 million in rate reductions should be used to implement the decision in Docket No. 940235-TL. For example, the interrogatories request information as to the revenue effect of continuing the linkage with access charges and mobile interconnection rates, the mobile interconnection rate levels if the linkage with access charges and mobile

interconnection rates is maintained, and various costs and usage volumes associated with mobile interconnection traffic that could be used to calculate and verify the revenue effect of maintaining the linkage with access charges.

5. Southern Bell's first objection to McCaw's Second Discovery is that the requested discovery is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. However, aside from simply asserting nonrelevancy, Southern Bell has not in any manner explained how the requested discovery is neither relevant nor reasonably calculated to lead to admissible evidence. On the other hand, as is clear from a review of McCaw's Second Discovery and the summary appearing in paragraph 4 above, such discovery is directly related to Issue 1(c) and McCaw's ability to advance its case for the disposition of some (if not all of) the unallocated \$25 million. Indeed, in the prefiled direct testimony of Mr. Kurt Maass, McCaw's witness in this proceeding, Mr. Maass had to file part of his testimony in blank since McCaw does not have in its possession, nor could it reasonably develop on its own, the necessary information as to the impact on Southern Bell of McCaw's proposal under Issue 1(c).

6. Southern Bell's second basis for objecting is that

McCaw's discovery is an attempt to conduct post-hearing discovery in Docket No. 940235-TL. Considering the fact that Southern Bell has admitted in its third grounds that these questions have already been asked and answered in Docket No. 940235-TL, Southern Bell's objection is illogical and irrelevant. McCaw is entitled to seek discovery from Southern Bell with respect to those issues that have been identified for this proceeding. Without question, discovery with respect to the revenue effect of accounting for certain decisions in Docket No. 940235-TL is highly relevant and material to Issue 1(c) in this docket. Indeed, as a close examination of McCaw's Second Discovery will reveal, this discovery request is a shorter form of the discovery propounded on, and answered by, Southern Bell last year when this issue was raised with respect to the \$10 million in unallocated rate reductions that took effect July 1, 1994.

7. Finally, Southern Bell objects on the grounds that Southern Bell has previously answered these questions in Docket No. 940235-TL and that introduction of such information in this docket is improper. Again, Southern Bell does not provide any explanation as to how or why this would be improper. More directly, since McCaw's discovery directly relates to Issue 1(c) in this

proceeding, the fact that some or all of the requested discovery has been introduced in Docket No. 940235-TL is irrelevant as to its relevance and admissibility in this docket.

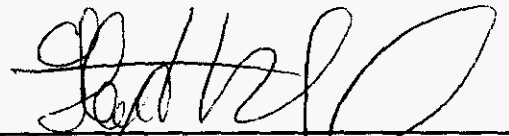
8. Southern Bell's objections and refusal to cooperate in any manner in producing information that is directly and specifically related to an identified issue in this docket unnecessarily blocks the free flow of information and seriously impedes McCaw's ability to timely and accurately prepare for and present its case to the Commission, especially given the short time frame set for this docket. This objection represents a gross abuse of process and places McCaw at a serious disadvantage vis a vis Southern Bell, which is attempting to convince the Commission of the merits of its own plan for the \$25 million. Accordingly, McCaw request an award of attorneys fees and expenses pursuant to Rule 1.380, Florida Rules of Civil Procedure, Rule 25-22.034, Florida Administrative Code, and section 120.57(1)(b)(5), Florida Statutes.

9. Given McCaw's Issue 1(c) in this proceeding, McCaw is not seeking to relitigate Docket No. 940235-TL nor to unreasonably burden Southern Bell. Indeed, since the instant discovery questions have been previously asked in both Docket No. 940235-TL and the present docket in McCaw's First Set of Interrogatories and

First Request for Production of Documents, McCaw would be agreeable to stipulating the relevant and most current of the prior discovery answers if they are still accurate. Even this Southern Bell has refused.

WHEREFORE, McCaw Communications of Florida, Inc., for itself and its Florida regional affiliates, requests that the Commission order Southern Bell to answer each of the interrogatories and production requests contained in McCaw's Second Set of Interrogatories and Second Request for Production of Documents, award attorneys fees and costs pursuant to section 120.57(1)(b)(5), and that this Motion be considered no later than at the prehearing conference.

Respectfully submitted,  
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