#### Law Offices

## McWhirter, Reeves, McGlothlin, Davidson, Rief & Bakas, P.A.

John W. Bakas, Jr.
Linda C. Darsey
C. Thomas Davidson
Stephen O. Decker
Leslie Joughin, III
Vicki Gordon Kaufman
Joseph A. McGlothlin
John W. McWhirter, Jr.
Richard W. Reeves
Frank J. Rief, III

PAUL A. STRASKE

100 North Tampa Street, Suite 2800 Tampa, Florida 33602-5126

Mailing Address: Tampa P.O. Box 3350, Tampa, Florida 33601-3350

TELEPHONE (813) 224-0866

Fax (813) 221-1854

CABLE GRANDLAW

PLEASE REPLY TO: TALLAHASSEE TALLAHASSEE OFFICE
315 SOUTH CALHOUN STREET
SUITE 716
TALLAHASSEE, FLORIDA 32301

TELEPHONE (904) 222-2525 FAX (904) 222-5606



### VIA HAND DELIVERY

August 23, 1995

Ms. Blanca S. Bayo, Director Division of Records and Reporting Gunter Bldg. 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0870

Re: Docket No. 920260

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and 16 copies of FIXCA's Response to Southern Bell's Motion to File Supplemental Brief.

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

VGK/pcg

Enclosures

CAF 100

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FPSC-RECORDS/REPORTING

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of ) DOCKET NO. 920260-TL the Revenue Requirements and Rate ) FILED: August 23, 1995 Stabilization Plan of Southern ) Bell Telegraph and Telephone ) Company.

# FIXCA's Response to Southern Bell's Motion to File Supplemental Brief

The Florida Interexchange Carriers Association (FIXCA), pursuant to rule 25-22.037, Florida Administrative Code, files its response to BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company's (Southern Bell) motion to file supplemental brief. Southern Bell's motion should be denied. As grounds therefor, FIXCA states:

- 1. At the conclusion of the hearing in this docket, Staff, at the request of the Commissioners, asked the parties to brief four new issues which were not included in the Prehearing Order.
- 2. One of these issues was whether Southern Bell's proposed ECS plan would violate any other provisions of the new statute besides those specifically listed in other issues. Counsel for Southern Bell was present at the time the four additional issues were discussed and finalized. Southern Bell did not object to the addition of any of the four issues nor did counsel raise any problems regarding responding to the issues as framed. Instead, when it filed its brief, Southern Bell requested leave to file a reply brief.
- 3. While Southern Bell claims in its motion that intervenors will get a "free shot" (Southern Bell motion and COMENITAL CONTRACTOR OF CONTRACT

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file an additional brief, it is Southern Bell who wants to take a second bite at the apple via the filing of a reply brief. Southern Bell responds to the issue about which it complains in its brief (see pages 35-36), but then asks for another chance to reply after it sees the arguments of the other parties. That is, Southern Bell wants the opportunity to file a reply brief--something not permitted in the Commission's rules.

- 4. Southern Bell claims it cannot anticipate the arguments of its adversaries. Interestingly, however, a review of the briefs filed shows that no party raised an argument about ECS' illegality which was not discussed at hearing. Therefore, Southern Bell has no basis to claim surprise and no basis to file a reply brief.
- 5. Southern Bell has had the opportunity to brief the issues, just as all the other parties have. It should not be permitted to reply to the briefs of the other parties, unless those parties are given the same opportunity to reply to Southern Bell's brief.

WHEREFORE, Southern Bell's motion should be denied.

Vicki Gordon Kaufman Vicki Gordon Kaufman McWhirter, Reeves, McGlothlin Davidson, Rief & Bakas
117 South Gadsden Street
Tallahassee, FL 32301

Attorneys for the Florida Interexchange Carriers Association

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Fixca's Response to Southern Bell's Motion to File Supplemental Brief, has been furnished by hand delivery\* or by U.S. Mail to the following parties of record, this <u>23</u> day of August, 1995:

\*Robert Elias
Donna Canzano
Division of Legal Services
Florida Public Service
Commission
Gerald L. Gunter Bldg., R. 370
2540 Shumard Oak Drive
Tallahassee, FL 32399

Marshall M. Criser
Southern Bell Telephone and
Telegraph Company
150 South Monroe Street
Sun Bank Bldg., Suite 400
Tallahassee, FL 32301

Michael J. Henry
MCI Telecommunications Corp.
780 Johnson Ferry Road
Suite 700
Atlanta, GA 30342

Charles J. Beck
Deputy Public Counsel
Office of Public Counsel
Claude Pepper Bldg., Rm. 812
111 W. Madison Street
Tallahassee, FL 32301

Chanthina R. Bryant Tony Key 3065 Cumberland Circle Atlanta, GA 30339

Dan B. Hendrickson Post Office Box 1201 Tallahassee, FL 32302

Monte Belote Florida Consumer Action 4100 W. Kennedy Blvd. #128 Tampa, FL 33609 \*Robin Norton
Division of Communications
Florida Public Service
Commission
Gerald L. Gunter Bldg.
Room 270
2540 Shumard Oak Drive
Tallahassee, FL 32399

Thomas F. Woods Gatlin, Woods, Carlson and Cowdery 1709-D Mahan Drive Tallahassee, FL 32308

Rick Melson Hopping, Green, Sams & Smith 123 South Calhoun Post Office Box 6526 Tallahassee, FL 32301

Michael W. Tye AT & T Communications 106 East College Ave. Suite 1410 Tallahassee, FL 32301

Floyd Self Messer, Vickers, Caparello Madsen, Lewis, Goldman Metz Post Office Box 1876 Tallahassee, FL 32301

Laura L. Wilson
Florida Cable Television
Association
Post Office Box 10383
310 North Monroe Street
Tallahassee, FL 32302

Michael A. Gross Assistant Attorney General Department of Legal Affairs PL-01, The Capitol Tallahassee, FL 32399-1050

Angela Green
Florida Public
Telecommunications Assoc.
125 S. Gadsden Street
Suite 200
Tallahassee, FL 32301

Rick Wright
Auditing & Financial
Analysis Division
Fla. Public Service
Commission
Gerald L. Gunter Bldg.
Room 215
2540 Shumard Oak Drive
Tallahassee, FL 32399

Vicki Gordon Kaufman