

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

August 5, 1993

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF COMMUNICATIONS [SHELPER, WIDELL] *MSB*
DIVISION OF LEGAL SERVICES [GREEN] *TR*

RE : DOCKET NO. 911034-TL - EAS - REQUEST BY BROWARD COUNTY BOARD OF COMMISSIONERS FOR EXTENDED AREA SERVICE BETWEEN FORT LAUDERALE, HOLLYWOOD, NORTH DADE AND MIAMI.

DOCKET NO. 920260 - COMPREHENSIVE REVIEW OF THE REVENUE REQUIREMENTS AND RATE STABILIZATION PLAN OF SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY.

AGENDA: AUGUST 17, 1993 - CONTROVERSIAL - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I: \PSC\CMU\WP\911034.RCM

CASE BACKGROUND

- This docket was initiated pursuant to a resolution filed by the Broward County Commission requesting implementation of extended area service (EAS) between the Fort Lauderdale, Hollywood, North Dade, and Miami exchanges. The Commission also received a number of letters from residents of the Weston and Davie areas of the Fort Lauderdale exchange, requesting EAS between Fort Lauderdale, North Dade and Miami. These exchanges are all located in the Southeast LATA and Southern Bell provides the local service. The Fort Lauderdale and Hollywood exchanges are located in Broward County while the North Dade and Miami exchanges are located in Dade County. Attachment A contains pertinent exchange data, and Attachment B is a map of the involved exchanges.
- By Order No. 25208, issued October 11, 1991, the Commission required Southern Bell to conduct traffic studies on these routes. By Order No. 25517, issued December 23, 1991, the Commission granted Southern Bell's Motion for Extension of Time. The traffic studies were conducted for a thirty (30) day period beginning October 15, 1991 through November 13, 1991. On January 16, 1992, the Company filed traffic studies

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with the Commission.

- At the May 5, 1992 agenda, the Commission voted to deny flat rate EAS on these routes since the calling rates on these routes did not meet EAS rule requirements. In addition, because of the complexity of the issues surrounding this docket and the potential revenue impact of any alternative toll relief plan for these routes, the Commission found it appropriate to consolidate this docket into the Southern Bell Rate Case (920260-TL) and consider alternative toll relief for these routes within the context of the rate case (Order No. PSC-92-0420-FOF-TL).
- Order No. PSC-93-0808-PCO-TL, issued May 25, 1993, authorized the intervention of The Florida Interexchange Carriers Association (FIXCA).
- At the May 4, 1993 agenda, the Commission voted to remove this docket from the Southern Bell Rate Case and process it separately. In addition, Southern Bell was ordered to conduct new traffic studies and implement the \$.25 hybrid plan on the Fort Lauderdale/North Dade, Fort Lauderdale/Miami and Hollywood/Miami routes (except for the Pembroke Pines area) within six (6) months (per Order No. PSC-93-0842-FOF-TL, issued June 7, 1993).
- On June 25, 1993, FIXCA filed a protest to PSC-93-0842-FOF-TL. A request for evidentiary hearing was also filed.
- On June 28, 1993, Southern Bell filed a Motion for Clarification of Order No. PSC-93-0842-FOF-TL or alternatively, a Petition for Formal Proceeding.
- This recommendation will address FIXCA's and Southern Bell's filings.

DISCUSSION OF ISSUES

ISSUE 1: Should Broward County's request for EAS between the Fort Lauderdale, Hollywood, North Dade and Miami exchanges (Docket No. 911034-TL) be placed back into the Southern Bell Rate Case (Docket No. 920260-TL)?

RECOMMENDATION: Yes, due to the request for evidentiary hearings by FIXCA, the issues in this docket should be considered in the Southern Bell Rate Case (Docket No. 920260-TL). Southern Bell's Motion for Modification or alternatively its Petition for Formal Protest is moot since FIXCA filed a request for hearing.

STAFF ANALYSIS: On June 25, 1993, FIXCA filed a Request for Evidentiary Hearing. The request seeks an evidentiary hearing on the Proposed Agency Action Order No. PSC-93-0842-FOF-TL, which ordered the \$.25 plan on the Fort Lauderdale/North Dade, Fort Lauderdale/Miami and Hollywood/Miami routes.

FIXCA contends that the implementation of the \$.25 plan for the routes in question invokes a statutory ban on competition and in the Commission's view prohibits FIXCA members from providing service on these routes. It further argues that if the Commission approves the \$.25 plan it will reverse the decisions of thousands of consumers by unilaterally awarding to Southern Bell traffic which consumers have already chosen to have carried by other competitive telecommunication providers.

In the Petition FIXCA also states that the \$.25 plan on these routes would allow Southern Bell to provide toll service at price levels which its competitors can never meet because the competitors must purchase access from Southern Bell.

FIXCA believes an evidentiary hearing is necessary so that the Commission can comprehensively evaluate the ramifications of the proposed \$.25 plan.

Southern Bell's Motion for Modification of Order No. PSC-93-0842-FOF-TL, or alternatively, Petition for Formal Proceeding becomes moot with FIXCA's filing. Southern Bell's Motion requested that the order be modified to allow it twelve months to implement these plans (June 29, 1994) instead of the six months (December 29, 1993) as originally ordered. The Company stated that the implementation will affect approximately 1.6 million subscriber lines and will require extensive reprogramming, engineering, and construction. The Company further stated that if an extension of time was not given, it would want a hearing on this issue.

Docket No. 911034-TL
August 5, 1993

Staff believes that the issues in the case warrant a hearing and FIXCA's request should be granted. Converting these routes to the \$.25 plan will designate the routes as local traffic and restrict IXC's from carrying the calls. Many of the IXCs have made the effort to instruct customers on 10XXX dialing to receive their services (the IXC's) instead of the LEC's. Therefore, the conversion to the \$.25 plan could have significant impacts.

Once the issue of whether there should be a hearing is answered, the question arises as to when should the case be heard. If set on its own schedule the earliest the case could be heard would be July or August 1994 (approximately a year from now). As noted in the case background, this case was originally moved into the Southern Bell rate case (920260-TL) in May 1992. The Southern Bell rate case is quite large and complex and staff has attempted to handle matters that could be separated out individually. Therefore, when the Southern Bell rate case was delayed, the Commission removed this docket from the rate case to process it.

The possible revenue impacts to Southern Bell could be significant if the \$.25 plan or flat rate EAS is implemented. Staff believes that since the Southern Bell rate case hearings are set for early 1994 that this would be the most expeditious time to address this matter.

Due to the request for evidentiary hearings by FIXCA the issues in this docket should be considered in the Southern Bell Rate Case (Docket No. 920260-TL). In addition, Southern Bell's Motion for Modification or alternatively its Petition for Formal protest becomes moot since FIXCA filed a request for hearing.

ISSUE 2: Should Southern Bell conduct new traffic studies as ordered in PSC-93-0842-FOF-TL?

RECOMMENDATION: Yes, Southern Bell should conduct new traffic studies as ordered in PSC-93-0842-FOF-TL.

STAFF ANALYSIS: Order No. PSC-93-0842-FOF-TL, issued June 7, 1993, was protested by FIXCA. FIXCA opposed the implementation of the \$.25 plan on the Fort Lauderdale/North Dade, Fort Lauderdale/Miami and Hollywood/Miami routes, but did not protest the LEC conducting new traffic studies for these routes. The protest, however, negates the entire order on hold since there was no provision to sever these issues.

It was decided at the May 4, 1993, agenda that due to the damage caused by Hurricane Andrew and the relocation of residents and businesses from South Florida that new traffic studies were warranted. Rule 25-4.059 (Filing Requirements), which limits reviews of EAS to every three years, was waived and Southern Bell was required to conduct new traffic studies on these routes.

Staff believes new traffic studies are needed to determine if the calling patterns have changed substantially since Hurricane Andrew. There is also a concern that with only getting the traffic data from Southern Bell that we will have incomplete information (this is due to the IXC's contending that they could lose significant revenues from these routes). Staff intends to conduct discovery of the IXC's traffic during the rate case.

Since FIXCA did not object to the portion of Order No. PSC-93-0842-FOF-TL which required Southern Bell to conduct new traffic studies on the Fort Lauderdale/North Dade, Fort Lauderdale/Miami and Hollywood/Miami routes, staff recommends that Southern Bell conduct new traffic studies on these routes within 90 days of the date the Order is issued from this recommendation.

Docket No. 911034-TL
August 5, 1993

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No, this docket should remain open until the Commission makes a final decision in the Southern Bell Rate Case (Docket No. 920260-TL).

STAFF ANALYSIS: This docket should remain open until the Commission makes a final determination in the Southern Bell Rate Case.

I:911034.RCM

CMU
J. Phillip Carver
General Attorney

Southern Bell Telephone
and Telegraph Company
c/o Marshall M. Criser III
Suite 400
150 So. Monroe Street
Tallahassee, Florida 32301
Phone (305) 530-5558

June 28, 1993

RECEIVED

JUN 29 1993

CMU

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

Re: Docket No. 911034-TL - Broward County EAS

Dear Mr. Tribble:

Enclosed please find an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Motion for Modification of Order No. PSC-93-0842-FOF-TL or, Alternatively, Petition for Formal Proceeding, which we ask that you file in the 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 to the parties shown on the attached Certificate of Service.

Sincerely yours,

J. Phillip Carver
J. Phillip Carver (02)

Enclosures

cc: All Parties of Record
A. M. Lombardo
Harris R. Anthony
R. Douglas Lackey

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A BELL SOUTH Company

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RECORDS & REPORTING

CERTIFICATE OF SERVICE
Docket No. 911034-TL

I HEREBY CERTIFY that a copy of the foregoing has been
furnished by United States Mail this 28th day of June, 1993
to:

Staff Counsel
Division of Legal Services
Florida Public Svc. Commission
101 East Gaines Street
Tallahassee, FL 32399-0863

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Grandoff and Reeves
315 South Calhoun Street, Ste. 716
Tallahassee, FL 32301

Joseph P. Gillan
J.P. Gillan and Associates
Post Office Box 541038
Orlando, FL 32854-1038

J. Phillip Carver
(2)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by Broward Board of) Docket No. 911034-TL
County Commissioners for extended area)
service between Fort Lauderdale,)
Hollywood, North Dade and Miami)
_____) File: June 28, 1993

**SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
MOTION FOR MODIFICATION OF ORDER NO. PSC-93-0842-FOF-TL
OR, ALTERNATIVELY, PETITION FOR FORMAL PROCEEDING**

COMES NOW, BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), and hereby files, pursuant to Rules 25-22.029(4), 25-22.036(7)(a)&(f), and 25-22.037, Florida Administrative Code, its Motion for Modification of Order No. PSC-93-0842-FOF-TL or, alternatively, Petition for Formal Proceeding, and states as grounds in support thereof the following:

1. On June 7, 1993, this Commission issued Order No. PSC-93-0842-FOF-TL, which was entitled "Notice of Proposed Agency Action Order Removing Docket No. 911034-TL from Docket No. 920260-TL, Directing Company to Conduct Additional Traffic Studies, and Requiring Implementation of Alternative Toll Relief Plan". This Order becomes final on June 29, 1993. This Order requires Southern Bell to implement the extended area service plan known as the \$.25 plan on the following routes: Fort Lauderdale/North Dade, Fort Lauderdale/Miami, and Hollywood/Miami. The Order further requires Southern Bell to

implement the plan on these routes within six months of the date upon which the Order becomes final, i.e., by December 29, 1993.

2. Southern Bell files this motion to request that the Order be modified to allow Southern Bell twelve months to implement these plans, i.e., until June 29, 1994. The reasons for this request are as follow: The implementation of the \$.25 plan on these routes will affect approximately 1.6 million subscriber lines. The implementation of the plan on these routes will require extensive reprogramming and engineering.

3. Further, the implementation of the \$.25 plan on the above-described routes will require extensive construction. Specifically, there must be added to the network a total of more than 9700 additional trunks, which will require equipment additions in twenty-one of the forty central offices that serve the area in question. The equipment necessary to bring about these additions must be engineered, manufactured, shipped and installed. After the installation of the equipment, an additional period is necessary for testing and to make the necessary translation changes.

4. The above-referenced equipment additions that are necessary to implement these EAS routes will be performed by vendors who work under contract to Southern Bell. Southern Bell has asked these vendors to estimate the minimum time necessary to

install the needed equipment, and has been informed by them that the installation cannot be completed before May of 1994.

5. Accordingly, the necessary construction and installation and the necessary engineering and programming to implement the calling plans at issue will require, at a minimum, a period of twelve months. For this reason, Southern Bell hereby requests that the Commission modify the subject Order to allow it twelve months, rather than the six months currently provided by the Order, to implement the plan on these routes.

6. Southern Bell submits that the facts set forth above are true and accurate, and that, to the best of Southern Bell's knowledge, they will not be disputed by any party to this proceeding. For this reason, Southern Bell believes that this Commission can properly consider Southern Bell's request as a Motion to Modify the subject Order, and can act upon it without the necessity of an evidentiary hearing. If, however, this Commission deems it necessary to conduct an evidentiary proceeding in order to grant the relief requested by Southern Bell, then Southern Bell requests, in the alternative, that the instant pleading be accepted as a Petition for a formal proceeding, pursuant to Rules 25-22.029(4) and 25-22.036(7)(a)&(f).

7. Southern Bell sets forth the following to comply with the requirements of Rule 25-22.036 as to the form of a petition for formal proceeding: Information satisfying Rule 25-22.036(7)(a)1 is set forth above. The facts set forth above in paragraphs 2 through 5 constitute Southern Bell's statement of the ultimate facts alleged, as required by Rule 25-22.036(7)(a)4. This recital of facts also establishes (as required by Rule 25-22.036(7)(a)2) that the substantial interests of Southern Bell are affected by the Order in question and by the Commission's ruling on this Petition. To the best of Southern Bell's knowledge, none of the facts set forth above are disputed. (Rule 25-22.036(7)(a)3).

8. Southern Bell's request for relief is, as set forth above, that the time for the Company to comply with the Order by implementing the above-referenced EAS routes be extended from six months to twelve months. (Rule 25-036(7)(a)5). Southern Bell received notice of this Commission's proposed agency action by way of a copy of the Order that arrived from this Commission via U.S. Mail. (Rule 25-22.036(7)(f)).

9. Again, Southern Bell believes that the facts set forth above are undisputed, and that this Commission can grant the relief Southern Bell seeks by treating this pleading as a motion for modification of the Order. If, however, this Commission

deems it necessary to conduct an evidentiary hearing prior to granting the relief Southern Bell seeks, then Southern Bell requests that this pleading be accepted as a request for a formal proceeding.

WHEREFORE, Southern Bell respectfully requests the entry of an Order granting the relief set forth above.

Respectfully submitted,

SOUTHERN BELL TELEPHONE AND
TELEGRAPH COMPANY

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by Broward Board) Docket No. 911034-TL
of County Commissioners for) Filed: June 25, 1993
extended area service between)
Fort Lauderdale, Hollywood,)
North Dade and Miami)
_____)

**The Florida Interexchange Carriers Association's
Petition on Proposed Agency Action
Order No. PSC-93-0842-FOF-TL and
Request for Evidentiary Hearing**

The Florida Interexchange Carriers Association (FIXCA), through its undersigned counsel, pursuant to rules 25-22.029(4) and 25-22.036, Florida Administrative Code, files this petition on Proposed Agency Action Order No. 93-0842-FOF-TL, requesting the Commission to hold an evidentiary hearing on the proposed agency action contemplated by Order No. PSC-93-0842-FOF-TL and to enter a final order rejecting implementation of the "\$.25 plan" on the Fort Lauderdale/North Dade, Fort Lauderdale/Miami, and Hollywood/Miami routes. As grounds therefor, FIXCA states:

1. The name and address of Petitioner is:

Florida Interexchange Carriers Association
c/o Joseph Gillan
P.O. Box 547276
Orlando, Florida 32854-7276

2. All pleadings, notices and communications in this docket shall be sent to:

Vicki Gordon Kaufman
McWhirter, Grandoff & Reeves
315 S. Calhoun Street, Suite 716
Tallahassee, Florida 32201

Background

3. In 1991, the Commission received a request from the Broward County Board of County Commissioners to consider requiring implementation of extended area service (EAS) between the Fort Lauderdale, Hollywood, North Dade, and Miami exchanges and from the Weston central office of the Fort Lauderdale exchange to the North Dade and Miami exchanges. The Commission instructed Southern Bell Telephone and Telegraph Company (Southern Bell) to perform traffic studies to determine if the routes met the EAS standards of rule 25-4.060, Florida Administrative Code. The Commission reviewed the results of the traffic studies and found that the routes did not qualify for EAS. Order No. PSC-92-0420-FOF-TL at 3. In the same order, the Commission decided to consider "alternative toll relief" in the Southern Bell rate case due to "the complexity of the issues surrounding this docket and the potential revenue impact of any alternative toll relief plan for these routes. . . ." Id.

4. At its April 22, 1993 Agenda Conference, the Commission again considered Broward County's EAS request. Commission Staff recommended that due to the delay in the Southern Bell rate case, that Broward County's EAS request be removed from that docket and considered separately. Staff also recommended that new traffic studies be done to assess the effect of Hurricane Andrew on the area. The Commission approved both recommendations.

5. However, in addition to adopting Staff's recommendation on the above two issues, the Commission voted to implement the "\$.25 plan" on the routes in question. Such decision was made

without an evidentiary hearing and without sufficient evaluation as to whether this plan is appropriate for the routes in question.

Substantial Interests

6. FIXCA members are presently authorized to compete with Southern Bell (both through resale and through the use of their own facilities) by providing service on these routes. FIXCA's members are substantially affected by Proposed Agency Action Order No. PSC-93-0842-FOF-TL because implementation of the "\$.25 plan" invokes a statutory ban on competition on these routes and in the Commission's view prohibits FIXCA members from providing service on such routes.¹ If the Commission approves the "\$.25 plan" for the routes in question, it will reverse the decisions of thousands of consumers by unilaterally awarding to Southern Bell traffic which consumers have already chosen to have carried by other competitive telecommunications providers.

7. Further, the "\$.25 plan" is a measured, interexchange toll service. It is a preferential pricing plan which would provide greatly discounted prices over certain select toll routes. Therefore, even if the Commission's ban on competition is overturned by the Court on appeal, the Commission's approval of the price levels inherent in the "\$.25 plan" would substantially affect FIXCA members. The Commission's approval of the "\$.25 plan" on these routes would allow Southern Bell to provide toll service at

¹ The Commission's interpretation that it has the statutory authority to ban competition along routes where the "\$.25 plan" has been implemented is currently on appeal to the Florida Supreme Court. Florida Interexchange Carriers v. Florida Public Service Commission, Case No. 80,007.

price levels which its competitors can never meet because Southern Bell's competitors must purchase an essential component of such toll service (access) from Southern Bell itself. The resulting price squeeze is in direct contravention of the legislative direction to the Commission to encourage competition in the toll market.

Disputed Issues of Fact

8. The disputed issues of fact include, but are not limited to,:

a. What is the impact of the "\$.25 plan" on Southern Bell consumers;

b. What is the impact of the "\$.25 plan" on Southern Bell's competitors;

c. If toll relief is warranted, is there an alternative that would better meet the needs and desires of consumers.

Ultimate Issues of Fact

9. The ultimate issue of fact is whether or not the "\$.25 plan" should be approved on the routes in question. It is FIXCA's position that it should not be approved.

Hearing Request

10. An evidentiary hearing is necessary so that the Commission can comprehensively evaluate the ramifications of the proposed "\$.25 plan."

WHEREFORE, FIXCA protests Proposed Agency Action Order No. PSC-93-0842-FOF-TL and requests that the Commission suspend its implementation and hold an evidentiary hearing on the matters at issue.

Vicki Gordon Kaufman
Vicki Gordon Kaufman
McWhirter, Grandoff & Reeves
315 South Calhoun Street
Suite 716
Tallahassee, Florida 32301

904/222-2525

Attorney for the Florida
Interexchange Carriers
Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Florida Interexchange Carriers Association's Petition on Proposed Agency Action Order No. PSC-93-0842-FOF-TL and Request for Evidentiary Hearing has been hand delivered* or furnished by U.S. mail to the following parties of record this 25th day of June, 1993:

Angela Green*
Division of Legal Services
Florida Public Service
Commission
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Tallahassee, FL 32301

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Vicki Gordon Kaufman
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