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December 10, 1993

Mr. Steve Tribble, Director
Division of Records and Reporting
101 East Gaines Street
Tallahassee, Florida 32399

Re: Docket No. **920260-TL**, Comprehensive Review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone and Telegraph Company.

Dear Mr. Tribble:

Enclosed for filing and distribution are the original and 15 copies of the Rebuttal Testimony and Exhibit of Joseph Gillan, on behalf of the Florida Interexchange Carriers Association, in the above docket.

Please acknowledge receipt of the above on the extra copy enclosed herein and return it to me. Thank you for your assistance.

ACK _____

AFA 3 _____

APP _____

CAF _____

CMU _____

CTR _____

EAG _____

LEG 1 _____

LIN orig 2 6 _____

OPC _____

ROH _____

SEC 1 _____

WAS _____

OTH _____

Sincerely,

Vicki Gordon Kaufman
Vicki Gordon Kaufman

VGK/jfg

Enclosures

DOCUMENT NUMBER-DATE

13250 DEC 10 8

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
FILE COPY

In re: Comprehensive Review of the) DOCKET NO. 920260-TL
Revenue Requirements and Rate)
Stabilization Plan of Southern Bell) FILED: December 10, 1993
Telephone and Telegraph Company.)
_____)

REBUTTAL TESTIMONY AND EXHIBIT

OF

JOSEPH GILLAN

ON BEHALF OF

THE FLORIDA INTEREXCHANGE CARRIERS ASSOCIATION

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DOCUMENT NUMBER-DATE

13250 DEC 10 83

FPSC-RECORDS/REPORTING

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
2 REBUTTAL TESTIMONY AND EXHIBIT
3 OF
4 JOSEPH GILLAN
5 ON BEHALF OF
6 THE FLORIDA INTEREXCHANGE CARRIERS ASSOCIATION
7 DOCKET NO. 920260-TL

8 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

9 A. My name is Joseph Gillan. My business address is
10 P.O. Box 541038, Orlando, Florida 32854.

11 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

12 A. The purpose of my rebuttal testimony is to address the
13 testimony of staff witness, David Dismukes, concerning
14 Southern Bell's proposed ELS service and AT&T witness
15 John Spooner's suggestion that the access-created portion
16 of Southern Bell's excess revenues since January 1, 1993
17 be refunded to the interexchange carriers that paid those
18 charges.

19 Q. WHAT COMMENTS DO YOU HAVE REGARDING MR. DISMUKES'
20 TESTIMONY?

21 A. While I agree with Mr. Dismukes' conclusion that Southern
22 Bell has provided virtually no evidence to support its
23 ELS proposal, it has provided sufficient evidence to
24 reject the plan. It has provided a wealth of
25 inconsistent statistics which cannot be reconciled. In

1 my view, Southern Bell *did not* file evidence which
2 justified its predatory preference for this traffic
3 because Southern Bell *could not* support this claim.
4 Nothing distinguishes the within-40 mile traffic of some
5 of Southern Bell's customers from the beyond-40 mile
6 traffic of others; nor is there anything to distinguish
7 the traffic of those which use Southern Bell from those
8 which prefer its rivals. The only characteristic that
9 distinguishes this traffic is Southern Bell's management-
10 preference for using predatory toll rates to entice
11 customers to subscribe to local measured service.

12 **Q. ARE THERE ANY STATISTICS WHICH DESCRIBE THE INTRALATA**
13 **TOLL MARKET AND THE EXPECTED IMPACT OF ELS WHICH INDICATE**
14 **THAT THE PLAN SHOULD BE REJECTED?**

15 **A.** Yes. In its response to FIXCA's Interrogatory no. 53,
16 Southern Bell represents that the total cost of ELS in
17 1995 is \$11.3 million. Relating this figure to Southern
18 Bell's minimum filing requirements discloses a
19 fundamental discrepancy of enormous dimensions. In
20 Schedule E1-a, Southern Bell said that \$80,618,984 of MTS
21 would be "transferred" to ELS, and another \$51 million
22 shows up as an unexplained market loss, resulting in a
23 projection of MTS revenues lower than historical levels
24 by \$130 million. Wild, irreconcilable disparities like
25 this one require that the proposal be rejected.

1 Q. IS THERE ANY OTHER DATA AVAILABLE CONCERNING THE
2 POTENTIAL IMPACT OF ELS?

3 A. Yes. I have reviewed Southern Bell's analysis underlying
4 its estimate of an \$11.3 million impact of ELS in 1995.
5 This analysis details the impact by various customer
6 categories. Southern Bell's analysis shows that ELS will
7 reduce costs to business customers by over \$12 million
8 and increase residential payments by over \$1 million.
9 Plainly, this is nothing more than a toll service priced
10 below access charges targeted at the business market
11 where Southern Bell perceives it faces its greatest
12 competition.

13 Q. DOES THE DATA YOU HAVE REVIEWED ESTABLISH ANY OTHER
14 RELATIONSHIPS?

15 A. Yes. Staff witness, Mr. Dismukes' Exhibit DED-2,
16 Schedule 5 (for which Southern Bell claims
17 confidentiality), provides the miles and community of
18 interest factors (CIF) for 58 routes. The underpinning
19 of Southern Bell's "40 mile" plan is that mileage is a
20 useful proxy for a community of interest. I have
21 computed the correlation between mileage and CIF for
22 these 58 routes. My computation shows that there is no
23 correlation between mileage and CIF -- statistically
24 establishing the arbitrariness of the proposed plan!

25 Q. DO YOU HAVE A RESPONSE TO AT&T'S MR. SPOONER'S TESTIMONY?

1 A. Yes. Mr. Spooner correctly points out that interexchange
2 carriers -- like all other customers of Southern Bell --
3 have been paying excessive rates during the pendency of
4 this proceeding that should appropriately be refunded.
5 Mr. Spooner's recommendation is that the IXCs should also
6 receive their share of this refund.

7 Q. DO YOU AGREE WITH MR. SPOONER'S RECOMMENDATION?

8 A. Not entirely. Rather than directly refunding the access-
9 created portion of Southern Bell's overearnings to the
10 interexchange carriers, I strongly urge the Commission to
11 establish a "set-aside" to be used to fund the
12 implementation of intraLATA 1+ presubscription.

13 Q. WHY DO YOU PREFER THIS ALTERNATIVE TO AN OUTRIGHT REFUND?

14 A. IntraLATA 1+ presubscription is critically needed to
15 confer important benefits to customers and also to curb
16 marketing abuses by Southern Bell.

17 Implementation of 1+ presubscription will require
18 some additional investment. Mr. Guedel has estimated the
19 overearnings attributable to access to be \$25-30 million.
20 I have reviewed internal Southern Bell estimates of the
21 cost to implement 1+ presubscription. These estimates
22 (Southern Bell regards the specific numbers as
23 confidential) indicate that a set-aside of this amount
24 would be more than adequate to defray the costs of
25 implementation. Using a portion of this money to defray

1 the costs of 1+ presubscription could possibly speed
2 implementation of the 1+ regulatory framework. From
3 FIXCA's perspective, realizing more readily the
4 associated benefits and putting an end to present abuses
5 would make paying this price very worthwhile.

6 **Q. TO WHAT BENEFITS DO YOU REFER?**

7 **A.** I have described them many times, including in my direct
8 testimony, so I will be succinct here. Presently, the
9 convenience of 1+ dialing is being used to protect
10 Southern Bell's market position, not to benefit
11 customers. Continuing to deny customers the right to
12 choose their own intraLATA 1+ service maintains an
13 artificial monopoly, imposing on the market an
14 unnecessary barrier to competition, and providing
15 Southern Bell with an opportunity to use customer
16 confusion to protect its market advantage.

17 **Q. CAN YOU GIVE AN EXAMPLE OF HOW CUSTOMER CONFUSION COMES**
18 **INTO PLAY IN THE ABSENCE OF 1+ PRESUBSCRIPTION?**

19 **A.** Yes. I'll describe the specific abuse I had in mind when
20 I answered the earlier questions. Absent 1+
21 presubscription, customers desiring the service of other
22 carriers must dial additional digits (i.e., carrier
23 access codes) to reach their preferred supplier.
24 Southern Bell recently sent its customers a notice with
25 their bills that implies that customers who "routinely

1 dial the five digit long distance code" (in other words,
2 customers who reach a carrier other than Southern Bell)
3 may be violating the law. See Exhibit ___ (JPG-4).
4 Deciphering this notice requires an expert knowledge of
5 the telecommunications industry. Absent such knowledge,
6 many customers must feel intimidated into using Southern
7 Bell instead of another carrier. This type of behavior,
8 designed to exploit the confusion that typifies the
9 status quo, graphically demonstrates the need for 1+
10 presubscription. Establishing a potential set-aside now
11 would enable the Commission to expedite implementation
12 should the Commission decide to adopt this policy.

13 I recognize that the Commission is addressing 1+
14 presubscription in a separate proceeding. I recommend
15 only that the Commission set the money aside pending the
16 outcome in that case. The Commission should not take
17 steps that are inconsistent with a 1+ environment until
18 the merits of the competitive 1+ alternative have been
19 fully considered.

20 **Q. DOES THE NOTICE WHICH SOUTHERN BELL SENT TO ITS CUSTOMERS**
21 **INDICATE ANY ACTION WHICH THE COMMISSION SHOULD TAKE IN**
22 **CONJUNCTION WITH 1+ PRESUBSCRIPTION?**

23 **A.** Yes. According to the notice, Southern Bell has begun
24 affirmatively denying customers access to their chosen
25 carrier for calls where the 25 cent plan has been

1 implemented.

2 Q. WHY ARE STEPS NECESSARY?

3 A. To my knowledge, the Commission has never identified any
4 public interest that is served by invoking a prohibition
5 on competition on each route where it has allowed the 25
6 cent plan to be implemented. The recent decision of the
7 Supreme Court of Florida involving GTE's 25 cent plan
8 established that the Commission has the discretion to
9 maintain competition on those routes: in other words, to
10 approve the 25 cent routes, it is not necessary to
11 sacrifice the customers' ability to choose. I recommend
12 that the Commission should determine that customers
13 served on the 25 cent routes continue to have the ability
14 to use a competitive alternative carrier for that route.

15 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

16 A. Yes.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Rebuttal Testimony and Exhibit of Joseph Gillan, on behalf of the Florida Interexchange Carriers Association has been furnished by hand delivery* or by U.S. Mail to the following parties of record, this 10th day of December, 1993:

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