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ORIGINAL  
HERE COPY

March 10, 1994

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, 900960-TL, 910163-TL, 910727-TL

Dear Mr. Tribble:

Enclosed is an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Motion to Dismiss Proposal by Communication Workers of America. Please file this document in the above-captioned dockets.

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 (PW)*

Nancy B. White

Enclosures

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



DOCUMENT NUMBER-DATE

02396 MAR 10 1994

FPSC-RECORDS/REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of ) Docket No. 920260-TL  
the Revenue Requirements and Rate )  
Stabilization Plan of Southern )  
Bell Telephone and Telegraph )  
Company )

In re: Show cause proceeding ) Docket No. 900960-TL  
against Southern Bell Telephone )  
and Telegraph Company for )  
misbilling customers )

In re: Petition on behalf of ) Docket No. 910163-TL  
Citizens of the State of Florida )  
to initiate investigation into )  
integrity of Southern Bell )  
Telephone and Telegraph Company's )  
repair service activities and )  
reports )

In re: Investigation into ) Docket No. 910727-TL  
Southern Bell Telephone and )  
Telegraph Company's compliance )  
with Rule 25-4.110(2), F.A.C., )  
Rebates ) Filed: March 10, 1994

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S MOTION  
TO DISMISS PROPOSAL BY COMMUNICATION WORKERS OF AMERICA

COMES NOW, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell") and moves that the Florida Public Service Commission dismiss the Proposal for Implementation of \$10 Million Reduction filed by the Communication Workers of America ("CWA") for the reasons set forth below.

1. By Order No. PSC-94-0172-FOF-TL, dated February 11, 1994, the Commission approved the Stipulation and Agreement Between the Office of Public Counsel and Southern Bell, as well as the Implementation Agreement for Portions of the Unspecified Rate Reductions in Stipulation and Agreement Between the Office of Public Counsel and Southern Bell (collectively, the

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"Settlement"). The Stipulation, while effectively settling the issues in the above captioned dockets, still leaves certain sums of money available for disposition in 1994, 1995, and 1996. For example, the Settlement provides for a \$10 million revenue reduction, which is not yet specifically allocated, to be implemented on July 1, 1994. The Settlement allows all parties to submit proposals as to how this \$10 million revenue reduction should be implemented. As required, on March 1, 1994, Southern Bell filed its rate design proposal in connection with this \$10 million revenue reduction.

2. On or about February 28, 1994, the CWA filed its Proposal for Implementation of the \$10 Million Reduction. In its Proposal, the CWA requested that the \$10 million be used to fund the creation of a "workers/citizens" cooperative. CWA suggests that such a cooperative be composed of the Public Counsel and members selected by the Commission, organized labor, and the public. The purported purpose of the cooperative would be to allow the public to participate in the debate regarding the so-called information superhighway.

3. The fundamental premise of this proposal is flawed for two major reasons. First, the power to create such a cooperative properly lies in the legislature, not the Commission. Although the Commission has broad powers, these powers are limited by statute and there is no statute by which such a cooperative could be created by the Commission. Indeed, it would appear that the creation of such a cooperative would be an improper delegation of

the Commission's legislative mandated authority. Cf. Barry v. Garcia, 573 So.2d 932 (Fla. 3rd DCA 1991) and Microtel, Inc. v. Florida Public Service Commission, 464 So.2d 1189 (Fla. 1985).

4. Second, the creation of such a cooperative would simply be redundant and thus a waste of limited resources. There already exist two entities whose primary function is to serve the public interest in the area, interalia, of telecommunications regulation. Those entities are the Commission itself and the Office of Public Counsel.

5. The legislature created the Commission to regulate public utilities and declared that purpose to be in the public interest. Section 364.01 of the Florida Statutes, specifically provides that the Commission shall exercise its powers to protect the public health, safety, and welfare in the area of telecommunications services. The Commission has exclusive jurisdiction to regulate and supervise telecommunications companies with respect to rates and services. See Section 364.01, Florida Statutes. The Commission is required to balance the interests of the companies it regulates with those of the state's ratepayers. See Citizens of the State of Florida v. Public Service Commission, 435 So.2d 784, 789 (Fla. 1983); Order No. 20104, issued 10/3/88 in Docket No. 880685-TL; and Order No. 17040, issued on December 31, 1986 in Docket Nos. 861362, 860674, 861139, and 860984.

6. The legislature also provided for the appointment of a Public Counsel to "represent the general public of Florida"

before the Commission. Section 350.061, Florida Statutes. Public Counsel is required to provide legal representation for all of the citizens of Florida in Commission proceedings. In order to fulfill that role, Public Counsel has specifically enumerated powers which include appearing before the Commission to set forth any position deemed to be in the public interest. Section 350.0611, Florida Statutes. Thus, all citizens, including workers, have full and fair representation before the Commission.

7. The Citizens of the State of Florida thus have more than adequate representation with respect to telecommunications issues in the form of the Commission and Public Counsel. There is absolutely no need for a third entity to advance a public interest which is already thoroughly represented. This is particularly so when the \$10 Million available July 1, 1994 can be used to reduce various telephone rates and thereby provide a direct benefit to Southern Bell's ratepayers.

WHEREFORE, Southern Bell requests that the Commission issue an Order dismissing the Proposal of the CWA for disposition of the \$10 Million revenue reduction for the reasons described herein.

Respectfully submitted this 10th day of March, 1994.

SOUTHERN BELL TELEPHONE  
AND TELEGRAPH COMPANY

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**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 10th day of March 1994 to:

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