FLORIDA PUBLIC SERVICE COMMISSION

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M E M O R A N D U M

APRIL 21, 1994

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF COMMUNICATIONS [NORTON]
DIVISION OF LEGAL SERVICES [HATCH]

RE : DOCKET NO. 920260-TL: COMPREHENSIVE REVIEW OF REVENUE REQUIREMENTS AND RATE STABILIZATION PLAN OF SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY (T-94-118 FILED MARCH 1, 1994)

AGENDA: MAY 3, 1994 - REGULAR AGENDA - TARIFF FILING - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 60-DAY SUSPENSION DATE: APRIL 30, 1994 - WAIVED

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\920260.RCM
PLEASE PLACE ON AGENDA IMMEDIATELY FOLLOWING DN 940220-TL

CASE BACKGROUND

This docket was initiated pursuant to Order No. 25552 to conduct a full revenue requirements analysis and to evaluate the Rate Stabilization Plan under which Southern Bell (SBT or the Company) had been operating since 1988. Hearings were rescheduled several times in an effort to address all the concerns and issues that arose with the five consolidated proceedings over the ensuing two and a half years.

On January 5, 1994, a Stipulation and Agreement Between OPC and Southern Bell was submitted. On January 12, 1994, Southern Bell filed an Implementation Agreement for Portions of the Unspecified Rate Reductions in Stipulation and Agreement Between OPC and Southern Bell. Other parties filed motions in support of the Stipulation and Implementation Agreement. The Commission voted to approve the terms of the settlement at the January 18, 1994 agenda conference (Order No. PSC-94-0172-FOF-TL). The terms require, among other things, that rate reductions be made to certain of Southern Bell's services. Some of the reductions have already been implemented. Other reductions are scheduled to occur according to the following time table:

7/1/94	*	Switched access reductions - $50 million
	*	Unspecified rate reductions - $10 million
10/1/95	*	Switched access reductions - $55 million
	*	Unspecified rate reductions - $25 million
10/1/96	*	Switched access reductions - $35 million
	*	Unspecified rate reductions - $48 million

According to the terms of the Stipulation and Implementation Agreement, approximately four months before the scheduled effective dates of the unspecified rate reductions, Southern Bell will file its proposals for the required revenue reductions. Interested parties may also file proposals at that time. Parties which have already received or are scheduled to receive rate reductions for the services to which they subscribe, are generally precluded from taking positions that would benefit themselves.

This recommendation addresses the proposals for the $10 million in unspecified rate reductions scheduled to be implemented July 1. FIXCA, Ad Hoc, Department of Defense, and FPTA are precluded from making proposals which would benefit themselves. In addition to SBT, two entities have filed proposals: McCaw Cellular Communications (McCaw) and certain local chapters of the Communications Workers of America (CWA).

DISCUSSION OF ISSUES

ISSUE 1: Should Southern Bell's tariffs proposing rate reductions of $10 million be approved as filed?

RECOMMENDATION: Yes, the rate reductions contained in Southern Bell's primary proposal should be approved effective July 1, 1994.

Southern Bell should also be ordered to reexamine its Customized Code Restriction offering to residential, business, and PBX subscribers, and submit an explanation as to why this service should or should not remain bundled. The explanation should be submitted no later than July 1, 1994, and should include a discussion of the difference in demand for the various elements, technical constraints or efficiencies, and relative cost to provide under a bundled or unbundled structure.

SBT should also be ordered to file revisions to its mobile interconnection tariff to flow through the access charge reduction scheduled for July 1, no later than June 1, 1994 to become effective July 1, 1994. The filing should include the backup calculations and assumptions used to develop the new mobile interconnection usage rates and revenue impact.

STAFF ANALYSIS: Southern Bell submitted two proposals, a primary and an alternative, to reduce its rates by $10 million annually.

Primary Proposal

SBT's primary proposal consists of the following rate changes:

Eliminate charges for Billed Number Screening for Residential and Business customers	($1.9M)
Reduce IntraLATA 800 Service usage charges	($1.0M)
Reduce rates for Customized Code Restrictions	($0.9M)
Reduce rates for DID trunk terminations	($3.9M)
Reduce residential Ringmaster rates	($1.1M)
Reduce business hunting rates	($1.0M)
	($9.8M)

In its filing the Company asserts that "[t]hese particular rate reductions are appropriate in order to bring rates closer to costs." In response to staff data requests, SBT stated that:

1) the pressure to drive rates closer to costs is usually brought about by competition and technological change,

and that all the services proposed for reduction in this filing are experiencing varying degrees of such pressure;

2) all the services proposed for reduction currently have high revenue/cost ratios;

3) the proposed reductions were divided between the different markets/customers (residential, small and large business, toll) in an attempt to share the benefits.

Following is a description of the services affected by SBT's primary proposal:

Elimination of Billed Number Screening Charges

Billed Number Screening charges were eliminated for NPATS providers in the stipulation. Staff believes that it would be appropriate to eliminate these charges for end users as well. According to Southern Bell, Florida is the only BellSouth state that charges for Billed Number Screening, a service in which third number billing, collect billing or both are automatically blocked. Customers have expressed dissatisfaction with having to pay from $.60 to $1.00 extra per month in order to prevent unauthorized calls from being billed to their number. According to SBT, the cost to provide Billed Number Screening is negligible.

Reduce rates for Customized Code Restrictions

Customized Code Restrictions (CCR) prevent certain types of calls from being placed over the subscriber's phone. The service is provided by means of four option packages to residential, business and PBX subscribers. Packages include from five to thirteen types of code restrictions. The available code restrictions are: Operator 0+ and 0-; 976; 1+976; 1+900; directory assistance; direct long distance dialing; Open Talk and PulseLink.

Staff believes that the current Customized Code Restriction rates are substantially overpriced relative to rates charged for the same service to the Company's ESSX customers. In addition, ESSX subscribers may order code restrictions individually and are not limited or bound by pre-packaged options. While staff has recommended approval of the proposed rate reductions, we also recommend that the Commission order SBT to reexamine its Customized Code Restriction offering to residential, business, and PBX subscribers, and submit an explanation as to why this service should or should not remain bundled. The explanation should be submitted no later than July 1, 1994, and should include a discussion of the difference in demand for the various elements, technical constraints or efficiencies, and relative cost to provide under a bundled or unbundled structure.

Reduce rates for IntraLATA 800 Service

Southern Bell believes that reducing rates for this service by the $1 million proposed will make it more competitive with other 800 service offerings. The relative value of Southern Bell's offering may be considered lower than its competitors' since competitors offer volume discount plans, can complete both interLATA and intraLATA calls, and can provide single bills. This would constitute a 12.3% reduction in annual revenues. Staff cannot draw a conclusion as to whether the proposed reduction will or will not be sufficient for SBT to retain its market share. We do know, however, that 800 Service is a highly competitive field and agree that these rates should be reduced. The rates will still cover switched access charge rate levels with this reduction.

Reduce rates for Direct-In-Dialing (DID) trunk terminations

Direct-In-Dialing (DID) Service allows an outside caller to reach a station behind a PBX without the intervention of a live attendant. SBT states that economic competitive alternatives to DID Service have emerged. For example, current technology allows for a caller outside a PBX to reach a PBX station without the need for DID capability. Also, in certain situations, digital PBXs do not require trunk terminations to connect to the LEC's central office switch.

SBT believes that it must reduce DID trunk termination revenues by about fifty percent from their 1993 levels in order to remain viable in the market. If approved, this filing, coupled with the reductions already approved in February, would reduce revenues for this service by that amount. SBT's data shows that the proposed price would still recover the incremental costs of this service as calculated by the Company.

Reduce business Hunting Service rates

SBT has proposed to further reduce its business hunting rates in an effort to retain demand for this service. Rates were reduced in February as part of the stipulation agreement. Staff believes that Call Forwarding is an inexpensive, technically feasible alternative to this offering for many local service subscribers. Although SBT's tariff currently does not allow Call Forwarding to be installed on multiple lines at the same customer premises (thus prohibiting its use as a form of hunting service), customers are aware of its capabilities.

According to SBT, the monthly cost to provide Hunting Service is $.09 per line. Until February, the service was priced at 50% of the B-1 line rate. As part of the February reduction per the stipulation, SBT reduced the rate to 35% of the B-1 rate, or about $7.09 to $10.42 monthly, depending on the rate group. The proposed reduction of $1 million would reduce these rates by $.11-$.17 monthly. The price of Call Forwarding is $1.00 per line per month. Staff cannot determine whether the proposed reduction to Hunting Service will be sufficient to retain the demand for the service. We do agree, however, that these rates should be reduced.

Reduce residential RingMaster rates

RingMaster Service allows the subscriber to have up to three different phone numbers associated with a single phone line. A distinctive ringing pattern is provided for each number. In this way, a subscriber may receive calls dialed to two or more numbers without purchasing any additional lines. This service can therefore be used as a substitute for local exchange lines. SBT states that its prices for this service in Florida are substantially higher than those of other BellSouth states, relative to basic local rates. The proposed reduction would realign these relationships and should serve to increase demand for this service in Florida.

Alternative Proposal

Southern Bell submitted an alternative proposal in the event the Commission denies the Company's petition to stay the current requirement to flow through the $50 million in scheduled switched access charge reductions to the usage rates paid by mobile carriers (DN 940220-TL, to be addressed at same agenda):

Reduce mobile interconnection usage rates	approx.	($7.3M)
Reduce 800 service usage rates		($1.0M)
Reduce DID trunk termination rates		($1.7M)
	approx.	**($10.0)**

In DN 940220-TL, staff has recommended that SBT's request to stay the switched access reduction flow-through requirements to mobile usage rates be denied. However, we do NOT recommend that money from the stipulation be used to effect established policy. Rather, the Commission should treat the two cases independently, and Southern Bell should be required to flow through the switched access reductions to the mobile interconnection usage rates no matter what decision is made in this docket. The Commission approved the Stipulation. It did not excuse Southern Bell from any other standing obligations. Moreover, based on the Company's budget, it appears that Southern Bell will earn within the sharing range in 1994.

SBT should be ordered to file revisions to its mobile interconnection tariff no later than June 1, 1994 to become effective July 1, 1994. The filing should include the backup calculations and assumptions used to develop the new mobile interconnection usage rates and revenue impact.

ISSUE 2: Should McCaw Cellular Communication's Petition to use a portion of the $10 million to reduce the current Type 2B mobile interconnection usage rate to $.0098 per minute be approved?

RECOMMENDATION: No, not at this time.

STAFF ANALYSIS: Since there are currently no Type 2B mobile subscribers in Florida, there would be no revenue reduction associated with a Type 2B rate reduction. Docket No. 940235-TL, the Commission's investigation into the rates and structure of mobile interconnection, will address the issue of Type 2B rates.

ISSUE 3: Should the Commission grant the proposal of the Communications Workers of America, AFL-CIO, to create a workers/citizens cooperation committee to utilize the $10 Million to hire experts, poll the public, educate the citizenry, hold workshops, work with the PSC staff, Public Counsel and the utilities to insure the public's voice is heard?

RECOMMENDATION: No.

STAFF ANALYSIS: On March 1, 1994, the Communications Workers of America, AFL-CIO, Locals Nos. 3121, 3122 and 3107 (CWA) filed a proposal "Proposal for Implementation of $10 Million Reduction by Locals 3121, 3122, 3107 Communications Workers of America, AFL-CIO."[1] The CWA proposes that the $10 million be utilized for the public interest. Specifically, CWA proposes:

> The money would be given to a workers/citizens cooperation committee. The Office of Public Counsel would be a member of that committee. The PSC would select two (2) additional members, organized labor would select three (3) members, and the public would have three (3) members voted upon at various public hearings held throughout the service area. This nine (9) member committee would utilize the $10 million to retain experts, poll the public, educate the citizenry, hold workshops, work with the PSC Staff, Public Counsel and utilities in an effort to make sure the public's voice is heard.

In support of its request CWA argues that the current technological revolution coupled with the impetus to create an information superhighway raises numerous regulatory issues. Among the issues are universal service, recovery of investment in copper facilities, the ongoing nature of regulation of utilities, privacy, funding the new "highway," and the effect that the highway will have on employees. As a result of these questions, CWA argues that ratepayers and telecommunications employees must be poised to debate these questions. To that end, CWA argues that the workers/citizen committee should be created and that the $10 million should be placed at its disposal to give it the resources needed to insure that the public is a "player in the game."

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[1]In its proposal CWA has also asked for a hearing on its proposal. The request is premature at this point. Since the Commission's decision in this matter will be issued as a Notice of Proposed Agency Action, CWA will have a subsequent point of entry in which to appropriately request a hearing if it disagrees with the Commission's decision.

On March 10, 1994, Southern Bell filed a motion to dismiss CWA's proposal. In support of its motion Southern Bell argues that the fundamental premise of CWAs' proposal is flawed for two major reasons. First, the Commission has no authority to create such a "committee," and the creation of such an entity would be an improper delegation of the Commission's authority. Second, the Company argues that the purpose and function of the committee would be redundant and a waste of limited resources since the Office of Public Counsel and the Commission itself are already charged with serving the public interest in the area of telecommunications regulation. Accordingly, Southern Bell argues that there is absolutely no need for a third entity to advance the public interest which is already thoroughly represented.

On April 12, 1994, CWA responded to Southern Bell's Motion to Dismiss. CWA argues that Southern Bell's motion is misplaced since there is no statutory authority prohibiting the Commission from protecting workers and ratepayers. CWA further argues that the proposal is subject to Commission approval and that, if Southern Bell is correct, the Commission can modify the proposal to the extent needed to comply with the law. CWA also argues that Southern Bell's motion is an attempt to discourage participation by other parties. Finally CWA asks that the Commission hear oral argument on its proposal as well as Southern Bell's motion to dismiss.[2]

The Commission is a creature of statute. As such, it is now almost axiomatic that the Commission has only that authority which is expressly delegated to it by statute or that which is reasonably implied from its statutory authority. Nothing in either Chapters 350 or 364, Florida Statutes, expressly authorizes or suggests that the Commission may create a "workers/citizens cooperation committee" or that the Commission may delegate to any such entity the performance of any function otherwise with the Commission's authority. To attempt any such creation or delegation is beyond the Commission's authority and would be impermissible. Cf Barry v. Garcia, 573 So.2d 932 (Fla. 3rd DCA 1991) and D.M. Johnson v. Board of Architecture and Interior Design, Department of Business and Professional Regulation, 19 Fla. L. Weekly D454 (Fla. 2d DCA February 25, 1994).

[2]Since parties will be allowed to participate in the discussion of this item at the Commission's agenda conference, CWA will have an opportunity to address the Commission on its proposal and Southern Bell's motion to dismiss. Therefore, the request for oral argument it moot.

The determination as to how the first round of rate reductions stemming from the Settlement and the Implementation Agreement will be implemented is solely the responsibility of the Commission. Without any statutory authority, the Commission cannot delegate this decision to any other entity. Even if the Commission could create some sort of committee, the Commission lacks the authority to place the first $10 million increment at the committee's disposal regardless of how laudable the purpose of the committee may be. Accordingly, Staff recommends that the Commission deny CWA's proposal.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No, this docket should remain open pending approval of remaining tariffs required by Order No. PSC-94-0172-FOF-TL.

STAFF ANALYSIS: This docket should remain open pending approval of remaining tariffs required by Order No. PSC-94-0172-FOF-TL.