

3:35 pm

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June 29, 1994



Mrs. Blanca S. Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

RE: Docket No. 920260-TL

Dear Mrs. Bayo:

Enclosed are an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Motion for Emergency Relief. Please file these documents 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 on the parties shown on the attached Certificate of Service.

ACK _____

AFA John

AFB _____

CAF _____

Morton

Enclosures

Sincerely,

Nancy B. White
Nancy B. White (PW)

cc: All Parties of Record

Hatch A. M. Lombardo

6 H. R. Anthony

R. D. Lackey

Vinson

J.D.
FPSC RECORDS/REPORTING

DOCUMENT NUMBER-DATE
06443 JUN 29 1994
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of)
the Revenue Requirements and Rate) Docket No. 920260-TL
Stabilization Plan of Southern)
Bell Telephone and Telegraph) Filed: June 29, 1994
Company)
_____)

SOUTHERN BELL TELEPHONE AND TELEGRAPH
COMPANY'S MOTION FOR EMERGENCY RELIEF

COMES NOW, BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell") and moves that the Florida Public Service Commission ("Commission") grant emergency relief to Southern Bell by authorizing Southern Bell to implement \$10 million in proposed rate reductions pursuant to the terms of Order No. PSC-94-0669-FOF-TL, 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 "Settlement"). The Settlement, 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 was not specifically allocated, to be implemented on July 1, 1994, and 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

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its rate design proposal in connection with this \$10 million revenue reduction.

2. On or about February 18, 1994, the Communication Workers of America ("CWA") filed a Proposal for Implementation of the \$10 Million Reduction. In its Proposal, the CWA requested that the \$10 million be used to fund the operation of a "workers/citizens cooperative". CWA suggested that such a cooperative be composed of 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. By Order No. PSC-94-0669-FOF-TL, dated June 2, 1994, the Commission approved, with minor modification, Southern Bell's alternative proposal to provide for rate reductions as follows: reduction of mobile interconnection usage rates by approximately \$7.3 million; elimination of Billed Number Screening charges for residential and business customers by approximately \$1.9 million; and reduction of rates for DID trunk terminations by approximately \$800,000.00. These rate reductions were ordered to be implemented effective July 1, 1994.

4. With regard to the CWA's proposal for the use of the \$10 million, the Commission found that not only did it lack statutory authority to create the committee suggested by the CWA, but that the Commission also lacked the authority to place the \$10 million at such a committee's disposal. Therefore, the Commission correctly rejected the CWA's proposal.

5. The Commission issued its order as a Notice of Proposed Agency Action. On June 22, 1994, the CWA filed a document styled "Petition on Proposed Agency Action for Formal Hearing". Unless the Commission takes the action requested by Southern Bell herein, the CWA's Petition would have the effect of halting the rate reductions scheduled for July 1, 1994.

6. Southern Bell believes that it is in the public interest for this Commission to authorize Southern Bell to implement the proposed rate reductions in spite of the CWA's petition and therefore urges the Commission to do so. The situation is unique in that the CWA is not proposing rate reductions of its own, but rather a totally different use of the monies in question, a use that, as the Commission has already recognized, is inappropriate and unlawful. Public interest dictates that the ratepayers should not be deprived of the immediate benefits inherent in the \$10 million rate reduction due to frivolous claims by the CWA that have no basis in fact or law. Indeed, Southern Bell will be filing an Answer and Motion to Dismiss CWA's petition and will show that the interests of the CWA are not substantially affected by the Commission's order nor are there any disputed issues of material fact, all as required by Rules 25-22.029 and 25-22.036 of the Florida Public Service Commission.

7. As it has already recognized, the Commission has no authority to grant the CWA's proposal since it may not delegate its authority in such a manner. Barry v. Garcia, 573 So.2d 932 (Fla. 3rd DCA 1991) and Context Development Company v. Dade

County, 374 So.2d 1143 (Fla. 3rd DCA 1979). There can be no question about this basic tenet of administrative law. A statutory agency does not possess any inherent powers; it is limited to the powers granted by statute. Id. As the Commission noted, nothing in its grant of statutory authority allows it to comply with the desires of the CWA. Therefore, the \$10 million available July 1, 1994 should be used to reduce various telephone rates and thereby provide a direct benefit to Southern Bell's ratepayers.

8. In addition to the legal impediment is the fact that Southern Bell's ratepayers are the ones who will be injured if the rate reductions are not allowed to become effective on July 1, 1994. Publicity describing the scheduled rate changes has occurred. Thus, if the rate changes do not take place as scheduled, subscribers who have planned on such may be disadvantaged.


9. Paragraph 10 of the Stipulation provides that, if rate reductions do not take place as scheduled by the Settlement, Southern Bell will return to its ratepayers the portion of the rate reduction not implemented due to the delay. This is intended to ensure that Southern Bell's ratepayers are not deprived of any rate reduction as a result of an implementation delay. By allowing the rate reductions previously approved by this Commission to take effect as currently scheduled, the same result is obtained. The ratepayers receive the lower rates in the form and in the manner as contemplated by this Commission.


10. Furthermore, CWA is not in any way prejudiced by allowing the rates to become effective as scheduled. Even if the Commission were ultimately to approve CWA's proposal, which is highly unlikely given the obvious legal infirmities of the CWA's suggested use of the monies, money could still be set aside for the "cooperatives" proposed by CWA.

WHEREFORE, Southern Bell requests that the Commission issue an Order authorizing Southern Bell to implement the \$10 million revenue reductions on July 1, 1994 for the reasons described above.

Respectfully submitted this 29th day of June, 1994.

SOUTHERN BELL TELEPHONE AND
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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 29th day of June, 1994 to:

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