

9/6 1:00 pm

LAW OFFICES  
MESSER, VICKERS, CAPARELLO, MADSEN & GOLDMAN  
A PROFESSIONAL ASSOCIATION

SUITE 701  
215 SOUTH MONROE STREET  
POST OFFICE BOX 1876  
TALLAHASSEE, FLORIDA 32302-1876  
TELEPHONE (904) 222-0720  
TELECOPIER (904) 224-4359

ORIGINAL  
FILE COPY

September 2, 1994

Ms. Blanca Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

HAND DELIVERY

Re: Docket No. 920260-TL

Dear Ms. Bayo:

Enclosed for filing are an original and fifteen copies of McCaw Cellular Communications, Inc.'s Response to CWA's Motion to Strike Prehearing Statements.

Please indicate receipt of this document by stamping the enclosed extra copy of this letter.

Thank you for your assistance with this filing.

- ACK \_\_\_\_\_
- ATA Joh
- ASD \_\_\_\_\_
- CLP \_\_\_\_\_
- SEC Norton
- FRS/amb \_\_\_\_\_
- Enclosures \_\_\_\_\_
- Hatch \_\_\_\_\_
- cc: \_\_\_\_\_
- Mr. Dan Olmetti \_\_\_\_\_
- Parties of Record \_\_\_\_\_
- Kinson \_\_\_\_\_
- SEC L
- WAS \_\_\_\_\_
- OTH \_\_\_\_\_

*[Handwritten signature]*

Sincerely,  
*[Handwritten signature]*  
Floyd R. Self

DOCUMENT NUMBER-DATE  
09130 SEP-2 1994  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review )  
of the Revenue Requirements )  
and Rate Stabilization Plan )  
of Southern Bell Telephone and )  
Telegraph Company )  
\_\_\_\_\_ )

Docket No. 920260-TL  
Filed: September 2, 1994

**RESPONSE OF MCCAW CELLULAR COMMUNICATIONS, INC.  
TO CWA'S MOTION TO STRIKE PREHEARING STATEMENTS**

McCaw Cellular Communications, Inc. ("McCaw"), pursuant to Rule 25-22.037(2), Florida Administrative Code, hereby responds to the Motion to Strike Prehearing Statements filed by Locals 3121, 3122, and 3107 Communication Workers of America, AFL-CIO ("CWA"), and respectfully requests that this Motion be denied. In support of this request, McCaw states:

1. In its pleading served on August 26, 1994, counsel for CWA moved to strike the Prehearing Statement of McCaw, as well as the prehearing statements of several other parties, on the grounds that McCaw's Prehearing Statement was served in violation of the Procedural Prehearing Order, Order No. PSC-94-0893-PCO-TL ("Procedural Order"), in that CWA did not receive McCaw's Prehearing Statement until August 17, 1994, two days after the filing date. McCaw has neither violated the Procedural Order nor the applicable Commission rules.

2. The Procedural Order states at page 3:

The original and fifteen copies of each prehearing statement shall be prefiled with the Director of the Division of Records and Reporting by the close of business, which is 4:45 p.m., on the date due. A copy of the prehearing statement shall be served on all other parties and staff no later than the date it is filed with the Commission.

The required filing date was August 15, 1994. CWA does not dispute

DOCUMENT NUMBER-DATE

09130 SEP-2 8

FPSC-RECORDS/REPORTING

that McCaw timely filed with the Commission.

3. However, as to service of the Prehearing Statement, McCaw's certificate of service clearly states that a copy was served by mail on all parties, including CWA, on August 15, 1994. See Exhibit A to this response. Rule 25-22.028(3), Florida Administrative Code, provides that a certificate of service "shall be taken as prima facie evidence of service in compliance with this rule." Finally, Rule 25-22.028(2) states:

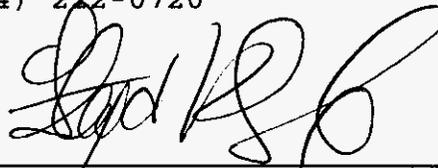
A copy of all documents filed pursuant to these rules shall be served on each of the parties no later than the date of filing. . .  
. Service by mail shall be completed upon mailing.

McCaw clearly complied with the Procedural Order and the Commission's rules regarding service, and the basis for CWA's Motion is simply wrong.

WHEREFORE, McCaw respectfully requests that the CWA Motion to Strike McCaw's Prehearing Statement be denied for the reasons stated herein.

Dated this 2nd day of September, 1994.

Respectfully submitted,  
MESSER, VICKERS, CAPARELLO, MADSEN,  
GOLDMAN & METZ, P.A.  
Post Office Box 1876  
Tallahassee, FL 32302-1876  
(904) 222-0720



---

FLOYD R. SELF, ESQ.

Attorneys for McCaw Cellular  
Communications, Inc.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of McCaw Cellular Communications, Inc.'s Response to CWA Motion to Strike Prehearing Statements in Docket No. 920260-TL has been sent by U.S. Mail on this 2nd day of September, 1994 to the following parties of record:

Division of Legal Services  
Fla. Public Service Commission  
101 E. Gaines Street  
Tallahassee, FL 32399-0850

Mr. Joseph P. Gillan  
J. P. Gillan & Associates  
P. O. Box 541038  
Orlando, FL 32854-1038

Ms. Robin Norton  
Division of Communications  
Fla. Public Service Commission  
101 E. Gaines Street  
Tallahassee, FL 32399-0850

Peter M. Dunbar, Esq.  
Pennington & Haben, P.A.  
P. O. Box 10095  
Tallahassee, FL 32302

Mr. Rick Wright  
Division of Audit & Finance  
Fla. Public Service Commission  
101 E. Gaines Street  
Tallahassee, FL 32399

Michael J. Henry, Esq.  
MCI Telecommunications Corp.  
780 Johnson Ferry Road  
Atlanta, GA 30342

Jack Shreve, Esq.  
Office of Public Counsel  
Room 812  
111 W. Madison Street  
Tallahassee, FL 32399-1400

Richard D. Melson, Esq.  
Hopping Boyd Green & Sams  
P. O. Box 6526  
Tallahassee, FL 32314

Harris R. Anthony  
Nancy B. White  
c/o Marshall M. Criser, III  
Southern Bell  
150 S. Monroe Street  
Suite 400  
Tallahassee, FL 32301

Chanthina R. Bryant, Esq.  
Sprint Communications Co., L.P.  
3065 Cumberland Circle  
Atlanta, GA 30339

Joseph A. McGlothlin, Esq.  
Vicki Gordon Kaufman, Esq.  
McWhirter, Grandoff & Reeves  
315 S. Calhoun St., Suite 716  
Tallahassee, FL 32301

C. Everett Boyd, Esq.  
Ervin, Varn, Jacobs,  
Odom & Ervin  
P. O. Drawer 1170  
Tallahassee, FL 32302

Michael W. Tye, Esq.  
AT&T Communications of the  
Southern States, Inc.  
106 East College Avenue  
Suite 1410  
Tallahassee, FL 32301

Mr. Monte Belote  
Fla. Consumer Action Network  
4100 W. Kennedy Blvd., #128  
Tampa, FL 33609

Mr. Dan B. Hendrickson  
P. O. Box 1201  
Tallahassee, FL 32302

Mr. Don Bell  
2880 N. Meridian Road  
Tallahassee, FL 32312

Michael A. Gross, Esq.  
Assistant Attorney General  
Department of Legal Affairs  
Room PL-01, The Capitol  
Tallahassee, FL 32399-1050

Benjamin H. Dickens, Jr., Esq.  
Blooston, Mordkofsky,  
Jackson & Dickens  
2120 L Street, N.W.  
Washington, DC 20037

Mr. Douglas S. Metcalf  
Communications Consultants,  
Inc.  
P. O. Box 1148  
Winter Park, FL 32790-1148

Thomas F. Woods, Esq.  
Gatlin, Woods, Carlson &  
Cowdery  
1709-D Mahan Drive  
Tallahassee, FL 32308

Mr. Cecil O. Simpson, Jr.  
Regulatory Law Office  
901 North Stuart Street  
Arlington, VA 22203-1837

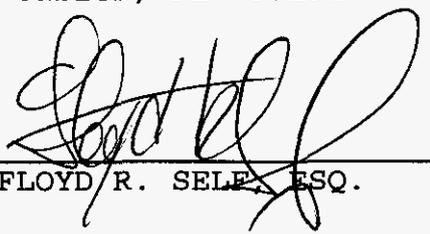
Mr. Charles King  
Snaveley, King & Associates,  
Inc.  
1220 L Street, NW  
Washington, DC 20005

Mr. Lance C. Norris, President  
Florida Public  
Telecommunications  
Association  
315 S. Calhoun St., Suite 710  
Tallahassee, FL 32301

Angela B. Green  
Florida Public  
Telecommunications  
Association  
315 S. Calhoun St., Suite 710  
Tallahassee, FL 32301

Mr. Mike Fannon  
Cellular One  
2735 Capital Circle, NE  
Tallahassee, FL 32308

Mark Richard, Esq.  
Attorney for Communications  
Workers of America Locals  
3121, 3122 and 3107  
304 Palermo Avenue  
Coral Gables, FL 33134

BY:   
FLOYD R. SELES, ESQ.