

1 APPEARANCES:

2 J. PHILLIP CARVER, c/o Nancy H. Sims, Suite 400, 150
3 South Monroe Street, Tallahassee, Florida 32301, Telephone No.
4 (904) 222-1201, and NANCY B. WHITE, 4300 Southern Bell Center,
5 675 West Peachtree Street, Northeast, Atlanta, Georgia
6 30375-0001, Telephone No. (404) 614-4045, appearing on behalf
7 of BellSouth Telecommunications, Inc. d/b/a Southern Bell
8 Telephone and Telegraph Company.

9 MICHAEL W. TYE, AT&T Communications of the Southern
10 States, Inc., 106 East College Avenue, Suite 1410,
11 Tallahassee, Florida 32301, Telephone No. (904) 425-6360, and
12 ROBIN DUNSON, appearing on behalf of AT&T Communications of
13 the Southern States, Inc.

14 MARK RICHARD, 304 Palermo Avenue, Coral Gables,
15 Florida 33134, Telephone No. (305) 442-8772, appearing on
16 behalf of Communication Workers of America, Locals 3121, 3122,
17 3107.

18 BENJAMIN H. DICKENS, JR., Blooston, Mordkofsky,
19 Jackson & Dickens, 2120 L Street, N. W., Suite 300,
20 Washington, D. C. 20037, appearing on behalf of Florida Ad Hoc
21 Telecommunications Users Committee.

22

23

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25

1 APPEARANCES CONTINUED:

2 **LAURA L. WILSON**, Florida Cable Telecommunications
3 Association, Inc., 310 North Monroe Street, Tallahassee,
4 Florida 32301, Telephone No. (904) 681-1990, appearing on
5 behalf of **Florida Cable Telecommunications Association, Inc.**

6 **VICKI GORDON KAUFMAN**, McWhirter, Reeves, McGlothlin,
7 Davidson, Rief & Bakas, 315 South Calhoun Street, Suite 716,
8 Tallahassee, Florida 32301, Telephone No. (904) 222-2525,
9 appearing on behalf of **Florida Interexchange Carriers**
10 **Association.**

11 **C. EVERETT BOYD, JR.**, Ervin, Varn, Jacobs, Odom &
12 Ervin, P. O. Drawer 1170, Tallahassee, Florida 32302,
13 Telephone No. (904) 224-9135, appearing on behalf of **Florida**
14 **Mobile Communication Association, Inc. and Sprint**
15 **Communications Company Limited Partnership.**

16 **RICHARD D. MELSON**, Hopping Green Sams and Smith,
17 Post Office Box 6526, Tallahassee, Florida 32314, Telephone
18 No. (904) 222-7500, appearing on behalf of **MCI**
19 **Telecommunications Corporation.**

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21

22

23

24

25

1 APPEARANCES CONTINUED:

2 **FLOYD R. SELF** and **NORMAN H. HORTON, JR.**, Messer,
3 Vickers, Caparello, Madsen, Goldman & Metz, P. O. Box 1876,
4 Tallahassee, Florida 32302-1876, Telephone No. (904) 222-0720,
5 appearing on behalf of **McCaw Communications of Florida, Inc.**

6 **JACK SHREVE**, Public Counsel, and **CHARLES J. BECK**,
7 Deputy Public Counsel, and **EARL POUCHER**, Class B Practitioner,
8 Office of Public Counsel, 111 West Madison Street, Room 812,
9 Tallahassee, Florida 32399-1400, Telephone No. (904) 488-9330,
10 appearing on behalf of the **Citizens of the State of Florida.**

11 **ROBERT ELIAS**, **DONNA L. CANZANO** and **TRACY HATCH**,
12 Florida Public Service Commission, Division of Legal
13 Services, 2540 Gerald L. Gunter Building, Shumard Oak
14 Boulevard, Tallahassee, Florida 32399-0870, Telephone No.
15 (904) 413-6199, appearing on behalf of the **Commission Staff.**

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P R O C E E D I N G S

(Hearing convened at 9:30 a.m.)

CHAIRMAN CLARK: Call the hearing to order.

Mr. Elias, please read the notice.

MR. ELIAS: Notice issued by the Clerk of the Public Service Commission advises that a hearing will be held in 920260-TL, that is the comprehensive review of the revenue requirements and rate stabilization plan of Southern Bell Telephone & Telegraph Company, today, Monday, July 31st, 1995, at 9:30 a.m., in 148 of the Betty Easley Conference Center, located at 4075 Esplanade Way, Tallahassee, Florida.

CHAIRMAN CLARK: Thank you. We'll take appearances.

MR. RICHARD: Mark Richard of three CWA Locals 3121, 3122 and 3107. Thank you.

MR. CARVER: Phillip Carver on behalf of Southern Bell. 150 West Flagler Street, Miami, Florida.

MS. WHITE: Nancy White on behalf of Southern Bell 675 West Peachtree Street, Atlanta, Georgia 30375.

MR. DICKENS: Ben Dickens on behalf of the Florida Ad Hoc Committee, 2120 L. Street, N.W., Washington, D.C. 20037.

MS. WILSON: Laura Wilson representing the Florida Cable Telecommunications Association, 310 North Monroe Street, Tallahassee, Florida 32301.

MR. BECK: Jack Shreve, Charlie Beck, Earl Poucher,

1 Office of the Public Counsel, 111 West Madison Street, Room
2 812 Tallahassee, Florida, appearing on behalf of the Florida
3 citizens.

4 MS. KAUFMAN: Vicki Gordon Kaufman, McWhirter,
5 Reeves, McGlothlin, Davidson, Rief & Bakas, 125 South Gadsden
6 Street, Suite 300, Tallahassee 32301, appearing on behalf of
7 the Florida Interexchange Carriers Association.

8 MR. BOYD: I'm Everett Boyd of the Ervin law firm,
9 305 South Gadsden Street, Tallahassee, Florida 32301. I'm
10 appearing on behalf of the Florida Mobile Communications
11 Association and on behalf of Sprint Communications Company
12 Limited Partnership.

13 MR. TYE: I'm Michael W. Tye, 106 East College
14 Avenue, Suite 1410, Tallahassee, Florida 32301, appearing on
15 behalf of AT&T Communications of Southern States, Inc. Also
16 appearing with me is Robin Dunson of the AT&T Law Division in
17 Atlanta. Ms. Dunson is a member of the Georgia Bar.

18 MR. MELSON: Richard Melson of the law firm Hopping
19 Green Sams & Smith PA, Post Office Box 6526, Tallahassee,
20 Florida, appearing on behalf of MCI Telecommunications
21 Corporation.

22 MR. SELF: Floyd Self and Norman Horton of the
23 Messer Vickers law firm, P. O. Box 1876, Tallahassee,
24 Florida, appearing on behalf of McCaw Communications of
25 Florida, Inc.

1 MR. ELIAS: Robert V. Elias, and with me Donna
2 Canzano and Tracy Hatch, Room 370 Gerald L. Gunter Building.
3 appearing on behalf of the Commission Staff.

4 MR. PRUITT: Prentice Pruitt, Counsel to the
5 Commissioners, same address.

6 MR. ELIAS: I believe the first preliminary matter
7 to be taken up is Southern Bell's motion to dismiss the
8 proposal filed by the Communications Workers of America.

9 CHAIRMAN CLARK: Mr. Elias, I have a motion to
10 dismiss. I have no response to it. Was there one filed?

11 MR. ELIAS: To the best of my knowledge there was no
12 written response filed to the motion.

13 CHAIRMAN CLARK: Mr. Richard.

14 MR. RICHARD: It was my understanding from my
15 colleague who attended the prehearing conference that the
16 motion was to be argued the first thing this morning, and that
17 is the way the pretrial order was written. As we read it, it
18 was -- under "Pending Motions" it says it's filed its motion
19 and -- oh, I'm sorry. The only pending motion was the motion
20 here, and it said the motion will be addressed at the
21 beginning of the hearing to allow the parties to respond.
22 We've just received it so we're prepared to argue the motion
23 now, Your Honor.

24 CHAIRMAN CLARK: The reason we didn't argue it at
25 the prehearing conference was to allow you time to file a

1 written pleading.

2 MR. RICHARD: I apologize to the Commission. That
3 is not the understanding that I had. I wasn't here,
4 obviously, but I take responsibility for my colleague who said
5 that she thought that it was to be argued here when we got the
6 thing, the Prehearing Order, which I'm referring to on the
7 very last page under "Pending Motions." It was our
8 understanding it was to be argued first thing here.

9 CHAIRMAN CLARK: Yes. But the reason it was not
10 argued at the prehearing conference was to allow time for you
11 to file a written motion, a written response.

12 MR. RICHARD: I'm understanding that now. It's not
13 the way we read it. We were told it was going to be taken up
14 here for argument.

15 CHAIRMAN CLARK: Yes, that was the intent but it was
16 also put off so you could file a written response.

17 MR. RICHARD: I understand.

18 CHAIRMAN CLARK: If that's the case, I'm going to
19 allow Southern Bell to go ahead and take five minutes and
20 argue your motion, and then Mr. Richard, I'll allow you to --

21 MR. RICHARD: If it does help the Commission, we're
22 relying on the same case law they are relying on.

23 CHAIRMAN CLARK: Go ahead, Mr. Carver.

24 MR. CARVER: Thank you, Chairman Clark.

25 The legal issue here is, of course, whether the CWA

1 has the type of interest in this proceeding that would allow
2 them to participate. And whether they are intervening or
3 whether -- (a telephone rings) -- whether they are
4 intervening --

5 CHAIRMAN CLARK: Go ahead.

6 MR. CARVER: Okay. Whether they are intervening or
7 whether they are trying to participate under some other basis,
8 the standard really comes down to the question of whether they
9 are substantially interested.

10 And the legal standard for substantially interested,
11 or what constitutes a substantial interest, was set forth in
12 two different cases, both of which are cited in our motion, so
13 I'll just touch briefly upon them.

14 The first one, and the really the most important
15 case, is the Agrico. And it sets forth two different tests to
16 determine if a party is substantially interested.

17 The first test is whether the party will suffer
18 injury, in fact, which is of sufficient immediacy to entitle
19 them to a Section 120.57 hearing. And the second prong of the
20 test is whether the person had a substantial injury which is
21 of a type or nature which the proceeding is designed to
22 protect.

23 The second pertinent case that is cited in the
24 motion is the case of Florida Society of Opthomology versus
25 State Board of Optometry. And in that case there's some very

1 useful language because the court said specifically that the
2 type of interest that is involved is one that has to be
3 specific and immediate. In other words, the person who wishes
4 to participate in the hearing has to have some sort of
5 interest that's greater than the interest that the general
6 public at large would have.

7 Now, in the petition that CWA has filed, there's no
8 factual allegation sufficient to meet that standard. Instead,
9 CWA has argued only that under the settlement agreement
10 interested persons may file petitions and that they are an
11 interested person.

12 I have two responses to that. One, I don't think
13 you can look at the agreement and say that there's anything
14 that would indicate that the parties, by saying "interested
15 person" rather than "substantially interested" intended to
16 lower the standard. Secondly, even if that had been the
17 intent, standing is a legal issue and it's an issue that's
18 properly resolved by the Commission. And I don't believe that
19 the parties can stipulate that someone who would not otherwise
20 have standing does have standing. So again, the standard is
21 still that the CWA must demonstrate a substantial interest.

22 The other point related to this that I think is very
23 important is that it has to be a substantial interest in this
24 particular proceeding. CWA may have had an adequate interest
25 in some other part of the rate case but this is a discrete

1 issue; it's being addressed in a separate hearing and the
2 question is whether they have a substantial interest at what
3 is going to occur today.

4 Finally, if you look at their petition, which is
5 really the test, and you look at the language, there is simply
6 no factual determination, or there's no factual basis that
7 would allow you to make a determination, I should say, that
8 they have a particular specific interest that's greater than
9 the interest of the public at large.

10 They have filed a proposal that would have as its
11 beneficiary a diverse group of ratepayers, none of whom have
12 any particular or specific connection to the CWA. And in
13 fact, when Staff sent CWA an interrogatory to ask them what
14 their authority was to represent these particular ratepayers,
15 their response was simply that they care. And while that is
16 certainly laudable, it's not enough of a connection to that
17 group to demonstrate that they have an immediate and
18 sufficient interest in this proceeding.

19 Again, the petition fails to demonstrate that they
20 have that interest, and that the test is what is apparent on
21 the face of the petition. So that's the basis for the motion
22 to dismiss. Thank you.

23 CHAIRMAN CLARK: Thank you, Mr. Carver.
24 Mr. Richard.

25 MR. RICHARD: Yes. I think there are three reasons

1 why this motion should be denied. One is we do meet the test.
2 Secondly, there's an equitable argument to be made at the late
3 point of which Southern Bell filed it. And third is the way
4 this docket was set up and I'll just go in reverse order.

5 As this Commissions well knows, this was set up
6 under a stipulation of settlement between the Office of Public
7 Counsel and Southern Bell. It was approved by this Commission
8 in an order in February '94, Order No. 940172-FOF-TL. And in
9 that order it was stated "To the extent not limited herein,
10 the parties or any other interested person shall submit their
11 proposal not less than 120 days."

12 My clients represent nearly 5,000 telephone workers
13 for Southern Bell in Dade County, Florida. My clients
14 represent twice that number of retirees from Southern Bell
15 from all over the state. My clients, employees and retirees
16 are customers, but more important we're the workers. We're
17 the workers.

18 Now, if you remember the settlement of this case
19 came out from three dockets: The rate case itself, a typical
20 rate case, alleged sales improprieties and alleged reporting
21 improprieties on maintenance work. Our employees were the
22 ones who were deposed; our employees were the ones who faced
23 discipline and termination for the underlying docket here. In
24 any event, your order approved the settlement which said "or
25 any other interested person." We are sitting here, the only

1 other interested person. Every other person at this table --
2 and I stand to be corrected, Commission -- is a party.

3 When the notice went out for this hearing for today,
4 it said the purpose of the hearing was not the tariffs, the
5 purpose of the hearing was to hear proposals from any other
6 interested person. That's what your notice said. And we are
7 the only other interested person. We're the only person here,
8 of course, the state and Public Counsel represent the general
9 public at large but everyone else here is a telephone company
10 for the most part or big users. There are no other workers
11 here.

12 So the first and foremost argument we say to you is
13 that if an agreement was made, and if this Commission approved
14 it in its order, it would be renegeing on that agreement to
15 change it now and say other interested persons can't come
16 forward. They have used their language. They drafted it. It
17 must be construed against them. The Commission didn't use the
18 word "any other interested party." They did.

19 Secondly, we did submit our proposal in February.
20 February of '95. We were the first one to submit our
21 proposal. Chapter 364, which has been revised as you all
22 know, effective July 1st, indicated specifically this order
23 would stay in effect unless modified. We're unsure of any
24 modification that this Commission has made changing the
25 agreement from any other interested party. Let me address the

1 equity issue.

2 I find it very strange that this motion would come
3 up today, to be candid with you. The last unspecified rate
4 case hearing was \$10 million. We participated, we argued in
5 front of you, no one kicked us out and that was privately
6 settled. And in that settlement Southern Bell asked us not to
7 raise the same issue at the next hearing. I represent that to
8 you all. They didn't in that settlement tell us we couldn't
9 be back. No one threw us out last time. If you remember, we
10 asked for a hearing. You all told me I was premature. I ran
11 to the Florida Supreme Court. They said I was dead wrong and
12 you were right, and the hearing went on and we settled
13 privately with Southern Bell on that issue.

14 Then this hearing comes up. We filed first in
15 February. In March, April, May, June Southern Bell says
16 nothing. They depose our president of our local. We attend
17 depositions, and at the time the prehearing statements were
18 filed by all the parties to this table, including Southern
19 Bell, there were nary a mention of that motion. We all filed
20 our prehearing statements. We spent money, flew up and just
21 days before, I believe, July 12th, and the prehearing
22 conference was July 17th, Southern Bell gives us the motion.
23 Now, we had just settled two motions with them on discovery in
24 good faith. We've not been obstructionist; we're very
25 professional mature players in this arena and we want to be

1 and continue to operate on that basis. But five days before
2 the hearing, after the prehearing things, this comes in. Five
3 months of discovery deposes; clearly their motion is out of
4 order.

5 Last, but not least, is the issue assuming you
6 believe somehow we have to rise to the substantial interested
7 party, we meet that test. We meet the Agrico -- if that's how
8 it's pronounced -- test. For two reasons. One is under
9 Chapter 120.57 -- I'm not sure and I would propose to you that
10 this may not be proposed agency action, and we may not have
11 risen to a 120.57 hearing where you would even need
12 substantial interest. The reason being that this is just a
13 hearing by virtue of a settlement for you all to hear
14 proposals. Then from there you would decide what you do, and
15 I believe 120.57 would kick in at that point.

16 Assuming that you all don't agree with that, let's
17 go right into the definition. The definition of a party under
18 120.57(b) is someone who has a substantial interest, which I
19 believe we have, but before you even get that you have a party
20 by virtue of agency action, regulation or statute that has a
21 right to participate.

22 If this Commission legally had the right to approve
23 the settlement, which it did, then it had the right by virtue
24 of your inherent plenary administrative and statutory powers
25 to approve it. If you approved it using the words "and any

1 other interested parties," then I have a right under statutory
2 and administrative law to be here. Not because of a direct
3 statutory reference, but because of your inherent plenary
4 powers to approve the settlement, which you did, and you
5 approved the language that said, quote, "any other interested
6 person or party." So that means you set up a duality to come
7 here. You were tasking for two groups, any party or any other
8 interested person. Since you had that power and you did
9 exercise it, I have a right to be here under 120.57. If I
10 don't meet that test, then I'm last, end up where Southern
11 Bell thinks we end up. And that is, I have to show a
12 substantial interest.

13 And the cases they cited were really cases where
14 people who weren't directly interested showed up to say,
15 "Well, I want to know about environmental permitting." That's
16 the Agrico case. Or I want to know about giving licenses to
17 ophthalmologists, the other ophthalmology case.

18 We're quite different. We're 4,000 workers. We
19 help set policy of this Company through quality circles.
20 We're shareholders to this Company. We faced constant
21 depositions and accusations from the Attorney General's Office
22 and the Staff here, and understandably so, for alleged sales
23 and billing and reporting improprieties. We hold meetings.
24 We collect dues. We have researchers. We have lobbyists. We
25 worked with the Governor's since-retired Chief of Staff on

1 364. We maintained an office up here during the 364 battle.
2 We're not just 10,000 communication citizens. We're the
3 employees and we have as much right here as anyone else.

4 Now, what is our substantial interest? You're going
5 to hear a lot about competition in this docket. Everyone's
6 position is on file. If you rule in such a way that is
7 injurious to Southern Bell, we're the ones laid off. And we
8 have had over 1,000 layoffs throughout our system in the last
9 several yers. Do I need mention any more greater impact than
10 what happens here could directly affect pensions, employment,
11 health insurance. The other persons are here because they
12 think they may not have a competitive edge, and that's fair
13 and I understand that. The damage that can be done to the
14 workforce, I would suggest professionally and politely, would
15 be many times morefold than MCI or Sprint might have out of
16 this, although they have every reason to be here and we
17 understand that.

18 Secondly, you cannot judge our standing by our
19 proposal. It doesn't matter what we've put in for the
20 \$25 million. That doesn't decide whether we have injury.
21 It's us. We're interested in how this \$25 million is spent.
22 We were here for the 10 million. We prepared to be here for
23 the 48 million. We went to a Supreme Court. We've showed a
24 greater interest and immediacy of injury than anyone else.
25 And the ruling here on the how the 25 million is spent is the

1 issue. And we have a direct, immediate impact. And we have
2 testimony through Mr. Knowles' deposition that he's been told
3 by the Company however this ruling comes out here, among other
4 issues, directly affects continued employment and the
5 workforce numbers.

6 So we respectfully submit that one, we meet the
7 substantial injury test. Two, this is very late and unfair to
8 this litigant. We've filed prehearing -- we've done
9 everything on time and in a very, very cooperative manner, and
10 will continue to do so if participating in this hearing is
11 allowed.

12 And last but not least, and perhaps the most
13 important with this, how can we say to Citizens of the State
14 of Florida that all parties or any other interested person can
15 come forward with a proposal and the one and only interested
16 person in both dockets, this one and the 10 million, is being
17 asked to be kicked out. Thank you.

18 CHAIRMAN CLARK: Thank you. Mr. Carver, I'll allow
19 you to respond, briefly.

20 MR. CARVER: As to the standard for substantially
21 interested, I think I've already covered that so I won't cover
22 that again. I do have just a couple of points I'd like to
23 make.

24 COMMISSIONER KIESLING: Could I ask you a question?
25 I'm sorry -- over here.

1 Does the settlement say "substantially interested"
2 or does it say "interested"?

3 MR. CARVER: It says "interested." The precise
4 language says "any other interested person shall submit not
5 less than 120 days prior," et cetera, et cetera. So it says
6 "interested" rather than "substantially interested."

7 I think if you look at the agreement in toto,
8 though, there's really not a basis to reach the conclusion
9 that the parties were intentionally trying to stipulate to
10 some lower standard. I think in the context of the agreement
11 "interested" and "substantially interested" really mean the
12 same thing.

13 But there's an additional point I think is even more
14 important. And that's that the issue here is "standing", and
15 standing is a legal issue and a party either has it or they
16 don't have it. It's not as if individuals reaching a
17 settlement can stipulate that someone who doesn't have
18 standing to participate in a hearing will be able to.
19 Ultimately that's always a question for the Commission. And
20 that's why we couched our motion in terms of the pure legal
21 argument because the question is again: Do they have a
22 substantial interest?

23 The only other thing I want to add -- well, actually
24 there are two other things. One, Mr. Richard makes a great
25 deal out of this equity argument and the notion that I suppose

1 they should be allowed to participate simply because we filed
2 our motion three weeks ago.

3 It's true that the motion does test the sufficiency
4 of the pleading and it could have been filed sooner. But at
5 the same time there was outstanding discovery from Staff to
6 CWA that went precisely to this issue. And, frankly, the way
7 we looked at it, if CWA responded to that with a good solid
8 reason to be involved, there just wouldn't seem to be any
9 point to file the motion. So we waited for the responses to
10 the interrogatories and the responses that they filed, and I
11 don't have the precise date, but I believe it was at the end
12 of June, perhaps the 29th, or so, was that as the workers of
13 of the industry they care. That's it. There's no more
14 substance to their response to discovery than that. A little
15 over --

16 CHAIRMAN CLARK: Mr. Carver, let me ask you a
17 question. Under 120.52(12)(c) it says "any other person" --
18 the definition of "party" means "any other person, including
19 an agency staff member, allowed by the agency to intervene or
20 participate in a proceeding as a party."

21 By referring to "interested persons," have we opened
22 the door to allow them to participate in this proceeding as a
23 party?

24 MR. CARVER: No, I don't believe so, because, again,
25 I don't think the agreement was intended to set a different

1 standard. I think the standard would simply be does someone
2 qualify under 120.57. Now, I'll grant you, there is some
3 ambiguity there. You could look at it as a situation where
4 parties could file something under a 120.52 standard but not
5 participate because they failed to meet a 120.57 standard, but
6 I don't think that makes a lot of sense. And that's why I
7 reached the conclusion that the agreement shouldn't be
8 construed to say that interested persons can necessarily
9 participate, even if they wouldn't meet the standard to have
10 an evidentiary hearing. I think that those two have to be
11 read together.

12 Again, on the equity argument, my only point here is
13 that we filed this when we did because we were waiting for
14 reponses to discovery. Those responses didn't raise any basis
15 for CWA to be involved and it didn't respond or raise many of
16 the matters that Mr. Richard is raising today.

17 The final point I want to make is that much of
18 Mr. Richard's argument, I think, goes to the procedural stance
19 of this. That the CWA has an interest in the rate case in
20 general, that they were involved in some prior hearing, that
21 they were involved in the main hearing or prehearing phase of
22 it before the settlement. And it's true, they were involved
23 in all of that and they may have had a substantial interest in
24 that. But again I'll just repeat what I said earlier, which
25 this is a discrete issue, and this is a separate hearing, and

1 it's a very narrow issue. And I believe the appropriate legal
2 test is whether they are substantially interested in what is
3 going to occur today. What they may have been interested in
4 that took place a year or two years ago or whatever is just
5 beside the point. Thank you.

6 CHAIRMAN CLARK: Mr. Elias.

7 MR. ELIAS: First of all, Mr. Richard mentioned
8 several times during his presentation a private settlement and
9 I wonder if you would care to share the terms of that
10 settlement agreement with the Commission.

11 MR. RICHARD: That issue was not objected to at the
12 depositions I feel exactly -- it's permissible for us to go
13 for.

14 Basically, we had withdrawn our proposal on the
15 10 million because we wanted an educational community forum
16 set up with that 10 million. There was an argument about
17 whether that was legal or not. And I believe Commissioner
18 Clark raised that. It was very interesting. You all did,
19 actually.

20 And when we sat down with the Company we exchanged
21 several things. One was we would withdraw the petition. Two,
22 we would agree at this hearing not to raise the same issue;
23 not to ask that the 25 million be used for a citizens
24 information highway program and we haven't. Three, \$5,000 was
25 exchanged in cost to us, fees and cost. Third, and one of the

1 most important things, we had and wanted a face-to-face
2 meeting with Joe Lacher about 364, and we talked about
3 workers' right and this coming-up hearing. And we were also
4 asked unofficially to call them before we filed this proposal,
5 which we did. I called Robert Beatty, a fine gentlemen and
6 counsel for them, and told them what our plan was. And that's
7 the full extent of it.

8 I want to add one other thing. The interrogatories
9 that were sent to us asked us why we think we represent
10 consumers, seniors, public schools; our proposal. That's not
11 the test. The test is whether we will be injured by how this
12 \$40 million is used. So you can't use our interrogatory
13 answer. That's saying judge my interest in this by what I
14 propose. Anybody here could propose reductions in the PBX
15 rates or ESSX rates. It doesn't mean that's their interest.

16 CHAIRMAN CLARK: If I allow you to go on, I'm going
17 to have to let Mr. Carver --

18 MR. RICHARD: Okay. My mute button is on.

19 CHAIRMAN CLARK: I guess what I turned to you for
20 was a recommendation.

21 MR. ELIAS: We do not believe that the
22 Communications Workers of America meet either prong of the
23 Agrico test. There is no injury, in fact, and I do not
24 believe the interest of a labor union versus a regulated
25 utility are one that is within the zone of interest designed

1 to be protected by Chapter 364 and our regulatory
2 responsibility.

3 This is a rate case. In Chapter 364 there are
4 provided, and we have held, numerous service hearings
5 throughout Southern Bell's service territory to consider the
6 impact on customers and customer comments. The phrase
7 "interested persons" in the settlement agreement is clearly an
8 ambiguity. It could be interpreted to suggest a broader
9 standard for participation than is normally found in Section
10 120.57 proceedings.

11 In everything we do here in the forefront is the
12 fact that this agency is an arm of a legislature and that
13 ratemaking is a legislative function. And I'm one of those
14 people that hold dear the notion the right of people to
15 petition their government for redress of grievances is
16 something that should be afforded the broadest possible
17 interpretation.

18 Not mentioned by the parties, but argued in CWA's
19 motion -- excuse me, Southern Bell's motion, is the
20 Commission's decision in the petition of Florida Power and
21 Light Company and Ft. Pierce Utilities to resolve a
22 territorial dispute where a customer of the Ft. Pierce Utility
23 sought to intervene and was denied intervention based on the
24 provision in our rules that provide for limited customer input
25 in those type proceedings.

1 I would also cite to the Commission the recently
2 decided -- or the order issued March 13, 1995, in Docket
3 No. 941324, order denying intervention and approving load
4 profile enhancement rider. And in that case Tampa Electric
5 Company attempted to intervene in a proceeding initiated by
6 petition filed by People's Gas System to seek approval of a
7 conservation program. And the basis of TECO's alleged
8 substantial interest was competitive injury. And I think that
9 that case is most analogous to this one, and on that basis
10 would recommend that Southern Bell's motion be granted.

11 COMMISSIONER KIESLING: Madam Chairman.

12 CHAIRMAN CLARK: Yes.

13 COMMISSIONER KIESLING: May I inquire of Mr. Shreve,
14 since they were the main player in reaching this agreement,
15 what their understanding and intention was by the use of the
16 term "interested person"? Would that be appropriate?

17 CHAIRMAN CLARK: I think that would be fine.

18 MR. SHREVE: Commissioner, we had really envisioned
19 allowing everyone to come in that, of course, did have a
20 interest in this. There are specified rate reductions and
21 unspecified rate reductions that were left out there to be
22 determined at a later time. We left that money out there
23 specifically so the Commission would have the ability to take
24 care of the different interests that might come up in the
25 future that we were not totally aware of at that time. And we

1 viewed it as being, I think, probably more of a widespread
2 interest that could be available to people. We were not able
3 to pin down who we were talking about at that time, but that
4 was the reason for the \$25 million, that we insisted on
5 keeping an amount out there for the Commission to do what they
6 thought was proper in the future as well as the 48 million
7 next year. I think we would have viewed the interested
8 parties in the widest way, broadest way.

9 COMMISSIONER KIESLING: And not intending in any way
10 to be argumentive, but wanting to understand, how do you
11 square that with the case law that essentially says that
12 parties by agreement cannot expand the authority or
13 jurisdiction of an agency?

14 MR. SHREVE: Well, I don't think we were trying to
15 expand the jurisdiction of the agency. I could see where
16 there would be many customer groups out there that would be
17 individual customer groups that would look for benefits from
18 this \$25 million but that would not cover the substantial
19 interest of the entire public. We did not try and change the
20 jurisdiction of the Commission, but leave it open to all that
21 would have an interest in this, whether it be one person,
22 small run group of people or the customers in their entirety.
23 We were not trying to limit where people were coming in here.

24 COMMISSIONER KIESLING: All right. Thank you.

25 MR. RICHARD: Madam Chairman, may I respond to one

1 point?

2 CHAIRMAN CLARK: We've heard argument. Are there
3 any other questions from the Commissioners?

4 COMMISSIONER KIESLING: May I ask one more question
5 of Mr. Elias?

6 Again, kind of playing devil's advocate, it would
7 seem to me that that agreement was drafted by a number of
8 attorneys and that most attorneys who practice in this forum
9 understand the difference between the substantially affected
10 interests standard under Agrico and a lesser standard of
11 interested person. And it would seem to me also then that at
12 least an argument could be made that when interpreting those
13 words that we would have to look to, I guess, the
14 understandings of the parties about that distinction. And my
15 preference would be to -- if there is an ambiguity in that, to
16 interpret it broadly so we do not exclude someone who was
17 intended to be included by the failure of the parties to use
18 the more narrow term of "substantially affected interests."

19 I guess I want to know what your thoughts are on
20 when we narrowly construe or when we broadly construe,
21 especially an agreement that we accepted and adopted.

22 MR. ELIAS: I think it's ambiguous. I think the
23 interpretation that you've applied is permissible and
24 acceptable. I put, as I said, considerable weight in the
25 order that was issued concerning Tampa Electric's Company's

1 intervention in Peoples Gas System's petition. I didn't
2 inquire of the parties, but in reading that agreement time
3 after time after time after time, and knowing the framework
4 that it was put together, I wasn't all that sure that the
5 question was actively considered.

6 COMMISSIONER KIESLING: Thank you.

7 COMMISSIONER GARCIA: Would you mind if I asked
8 Mr. Pruitt his opinion?

9 CHAIRMAN CLARK: I was going to do that.

10 COMMISSIONER GARCIA: Great. Thank you.

11 MR. PRUITT: The Florida Supreme Court in 1974 says
12 that the test for authority to intervene is whether a private
13 person will suffer an injury differing in kind from the
14 general public. US Steel Corporation versus Save Sand Key
15 Incorporated, 303 So.2d Page 9.

16 Going maybe a little bit higher than that in the
17 Circuit Court of Appeals, District of Columbia, 1987, said on
18 standing that "American Legal Foundation, a nonprofit legal
19 foundation working to promote media fairness and
20 accountability 'Lacked standing to review FCC's refusal to
21 investigate the Foundation's complaint against a television
22 network.'" That's American Legal Foundation versus FCC, 808
23 Fed 2d Page 84, 1987.

24 I think the Agrico case -- I have some notes on it,
25 but it's substantially the same as I've heard presented to you

1 today and I think that's still in effect.

2 CHAIRMAN CLARK: Okay. Thank you.

3 Commissioners, frankly, I'm at a loss to remember
4 whether or not it's the presiding officer's responsibility to
5 rule on motions or if we allow the Commission as a whole to do
6 it. But at this point I'm going to rule on the motion and
7 then there's always the opportunity for a motion to overturn
8 it.

9 COMMISSIONER DEASON: Let me say that you're
10 presiding and you can do that. It was always my understanding
11 that a motion to dismiss was of a substantial nature that the
12 full Commission needed to rule.

13 CHAIRMAN CLARK: I'm happy to do that. Let's do it
14 that way. I accept your advice on that. In that case, if
15 we're ready, I'm ready to entertain a motion.

16 COMMISSIONER JOHNSON: Since I thought this was your
17 decision to make I didn't ask any questions, but now that I
18 know I have the responsibility of deciding this, too, I have a
19 couple of questions for our legal counsel.

20 You started off in your argument concentrating
21 mainly on the Agrico case. And in doing that -- and I know
22 that the gentlemen argued that that standard doesn't
23 necessarily have to apply. I think also in your argument you
24 stated that the parties could not confer or settle and decide
25 that we have standing. My question is do we have the

1 discretion -- as the Commission, do we have broad discretion
2 in this area or do we have to apply the case law standard
3 because there were some good equity arguments made? There is
4 the ambiguity in the language. But my question is do we even
5 have the discretion even given all of that to apply a
6 different standard?

7 MR. ELIAS: I believe based on the fact that this
8 agency is an arm of the legislature, that there is more
9 discretion than might be afforded an agency performing
10 strictly executive functions.

11 COMMISSIONER JOHNSON: So your answer is yes.

12 MR. ELIAS: Yes.

13 COMMISSIONER JOHNSON: That we do have the
14 discretion to apply a lesser standard than that enunciated in
15 the decision you articulated. A different standard than the
16 one that --

17 MR. ELIAS: Different standard. A broader standard.

18 COMMISSIONER JOHNSON: And the reason that you did
19 not apply that or run us through that analysis was what?

20 MR. ELIAS: The opinion or, excuse me, the order
21 that was issued with respect to Peoples Gas and Tampa Electric
22 I think fairly narrowly construes -- and you have to remember,
23 that was a three-to-two decision -- the standing issue with
24 respect to economic issues before the petition.

25 Applying that to the facts of this case -- and again

1 it's a close call, but it was our belief that CWA did not in
2 this instance meet the standard.

3 CHAIRMAN CLARK: Commissioners, I would point out
4 that under 120.52(12)(c), which is the definition of a party,
5 it says "any other person including an agency staff member
6 allowed by the agency to intervene or participate in the
7 proceeding, is a party." And I think -- just sort of indicate
8 how I view this, it seems to me by approving that settlement
9 and incorporating it in a Order we may have suggested that,
10 for purposes of this proceeding, those people who may
11 participate as a party is something less than required by the
12 statute.

13 We may have done that inadvertently, but I certainly
14 think that's what the wording of the settlement seemed to
15 indicate and had we been focusing on that, we might have done
16 something different. But at this point I think it was
17 reasonable to rely on that phrase in the settlement.

18 COMMISSIONER GARCIA: I would agree with the
19 Chairman there. I think that that is precisely what happened
20 there and I believe that Public Counsel's representation in
21 this issue is on behalf of all of the people, and Public
22 Counsel would never assume to represent all of the people of
23 the state of Florida all of the time. And when Public Counsel
24 finds itself in conflict Public Counsel steps back from that
25 role and allows others to participate as well as they always

1 can participate. And for that reason, I'm a believer that the
2 Communication Workers of America are an affected party,
3 especially in this type of case where we're looking at a
4 settlement that affects so many people. And for that reason
5 I'd like to make the motion to deny Southern Bell's motion.

6 CHAIRMAN CLARK: Let me just be clear, because I
7 think it's important in how we term them. I would term them
8 as an interested party and one we could authorize to
9 participate. I would not, if it were solely on the basis of
10 substantially interested, I don't think they meet that
11 standard.

12 COMMISSIONER GARCIA: Right. I would agree with
13 you. I would agree with you there. I'm simply believing
14 using Diane's rationale on this, and she certainly convinced
15 me, I think, as well as your understanding, and for that
16 reason I would -- and Mr. Shreve, of course -- for that reason
17 I would move to deny Southern Bell's motion.

18 CHAIRMAN CLARK: Is there a second?

19 COMMISSIONER KIESLING: Yes.

20 COMMISSIONER DEASON: I was just going to ask a
21 question about the motion.

22 COMMISSIONER KIESLING: Okay. I would second the
23 motion. But I would like to make a couple of other comments.

24 One of them is that while the equity arguments were
25 interesting and, you know, sounded good, we're not a court of

1 equity.

2 CHAIRMAN CLARK: And standing can be raised at any
3 time.

4 COMMISSIONER KIESLING: That's correct. However, on
5 the flip side of that, it would seem to me that this being a
6 rate case, we are wearing our quasi-legislative hat and not
7 our quasi-judicial hat. And under our quasi-legislative hat,
8 we are not bound by the strict terms of Chapter 120, and in
9 fact, are, and have in the past, always applied a broader
10 interpretation of whose interest may be affected. And that's
11 the basis for my second, that I think it is within our
12 discretion.

13 CHAIRMAN CLARK: Commissioner Deason.

14 COMMISSIONER DEASON: My question basically is that
15 if we allow participation, are we making a decision that they
16 are or are not substantially affected, or are we saying that's
17 not a necessary decision for this case given the unique nature
18 of this case and the nature of the stipulation and the fact
19 that we're in essentially a ratemaking mode, which is
20 basically a legislative function.

21 COMMISSIONER KIESLING: My second was based on the
22 fact that I don't think "substantially affected" is the
23 appropriate test in this quasi-legislative proceeding, but I
24 do not think that they have proven that they are substantially
25 affected. I just don't think they need to.

1 COMMISSIONER DEASON: We're not making a decision
2 one way or the other. We're just saying for purposes of this
3 case, this hearing, the Communication of Workers of America
4 will be allowed to participate. And we're not making any
5 decision of whether they are or are not a substantially
6 affected person.

7 COMMISSIONER KIESLING: That would be my
8 understanding of the motion. Perhaps Commissioner Garcia --

9 COMMISSIONER GARCIA: Absolutely. We're deciding in
10 this case specifically to allow them to participate. And
11 we're not defining them as a substantially interested party.

12 CHAIRMAN CLARK: There's been a motion and a second.
13 All in favor say "aye." Aye.

14 COMMISSIONER KIESLING: Aye.

15 COMMISSIONER DEASON: Aye.

16 COMMISSIONER JOHNSON: Aye.

17 COMMISSIONER GARCIA: Aye.

18 CHAIRMAN CLARK: Opposed, "nay." The motion to
19 dismiss is denied.

20 Are there any other preliminary matters?

21 MR. SELF: Yes, Chairman Clark.

22 CHAIRMAN CLARK: Let me start at this end.

23 MR. CARVER: Yes. One other preliminary matter.

24 Mr. Stanley is the only witness who has prefiled both direct
25 and rebuttal testimony. So I'd like to suggest to save time

1 he take the stand one time and that the parties examine him on
2 both sets of testimony at that time.

3 CHAIRMAN CLARK: Any objection to that? Any problem
4 with the Commissioners? Then we will take his direct and
5 rebuttal testimony up at the same time. Thank you.

6 MR. CARVER: Thank you.

7 CHAIRMAN CLARK: Ms. Kaufman.

8 MS. KAUFMAN: Yes, Chairman Clark, I wanted to let
9 the Commissioners know that at the appropriate time FIXCA
10 intends to make a motion to strike portions of Mr. Hendrix's
11 testimony. I'd be happy to do that now or whenever the
12 Commission --

13 CHAIRMAN CLARK: We'll take it up when Mr. Hendrix
14 takes the stand.

15 MS. KAUFMAN: I would request, though, that the
16 Commission, perhaps, deal with the motion before Mr. Gillan
17 takes the stand. In the event that that motion might be
18 denied, Mr. Gillan might have the opportunity to comment on
19 some of the issues that are going to be raised in the motion.

20 I think it would be clear from the nature --

21 CHAIRMAN CLARK: That seems inappropriate to me,
22 frankly. I mean if the motion to strike is denied --

23 MS. KAUFMAN: I'd be happy to argue it now. Without
24 getting into it, we see some procedural and due process
25 problems in the structure of the case. And that's the nature

1 of the motion. I think it might have a bearing on how -- what
2 you might allow Mr. Gillan to comment upon if the motion is
3 denied.

4 COMMISSIONER KIESLING: May I inquire?

5 CHAIRMAN CLARK: Sure.

6 COMMISSIONER KIESLING: Are you suggesting that
7 Mr. Gillan would address something that is beyond the scope of
8 his prefiled direct?

9 MS. KAUFMAN: Yes. I'm suggesting he might have the
10 opportunity to comment on some issues that are raised by Mr.
11 Hendrix that we think are inappropriate in his rebuttal, and
12 that's why we will make our motion to strike. But I thought
13 it might be helpful if that was ruled on before Mr. Gillan
14 took the stand.

15 CHAIRMAN CLARK: On what basis is -- would there be
16 an opportunity to provide supplemental direct testimony.

17 MS. KAUFMAN: Well, Commissioner, we don't view it
18 as supplemental direct testimony. We view some of the issues
19 that have been raised in Mr. Hendrix's testimony as
20 inappropriate rebuttal testimony; as issues that should have
21 been raised earlier.

22 The way the case has turned out, Mr. Hendrix's has
23 raised these issues. He didn't even file direct testimony.
24 He raised them in his rebuttal testimony, and the parties have
25 had no opportunity, which they should have had, to comment on

1 those issues.

2 MS. WHITE: May I make a comment?

3 CHAIRMAN CLARK: No. Just a minute.

4 It seems to me that's appropriate argument for
5 counsel to make, not for a witness to provide any sort of
6 additional testimony. Let me go through and see if there's
7 any other preliminary matters. Mr. Boyd?

8 MR. BOYD: No, ma'am.

9 CHAIRMAN CLARK: Ms. Wilson.

10 MS. WILSON: Yes, Madam Chairman.

11 I would like to request the ability to be excused
12 during the hearing. We're basically monitoring this
13 proceeding. We've not filed testimony. We believe our rights
14 and positions can be adequately represented by the other
15 parties and we'd like to reserve the ability to file a
16 posthearing brief. We feel our resources could be better used
17 in other proceedings.

18 CHAIRMAN CLARK: Your request to be excused will be
19 approved. Mr. Melson.

20 MR. MELSON: Nothing.

21 CHAIRMAN CLARK: Mr. Self.

22 MR. SELF: Yes. Madam Chairman, at the prehearing
23 conference we discussed having Mr. Maass perhaps taken out of
24 order since he lives in Seattle. Subsequent to the prehearing
25 conference, I've discussed with the parties stipulating his

1 testimony into the record, and the parties waiving cross
2 examination of it. And if this is the appropriate time, I'd
3 like to request to do that, and his testimony can then be
4 inserted at the appropriate spot. And when that does occur, I
5 do have one blank to fill in in his testimony.

6 CHAIRMAN CLARK: If you would, let's move his
7 testimony into the record when he would normally have taken
8 the stand.

9 MR. SELF: That's fine. Thank you.

10 CHAIRMAN CLARK: Commissioners, it's my intention to
11 take up the motion to strike at the time Mr. Hendrix takes the
12 stand and allow you to argue at that point. I think it's
13 inappropriate to use that as a vehicle for providing any kind
14 of supplemental information through your witness.

15 MS. KAUFMAN: That would be fine, Chairman Clark.

16 CHAIRMAN CLARK: If the interest turns out different
17 as a result of your argument, we can take it up at that time.

18 I believe Mr. Stanley is the first witness.

19 MR. CARVER: Southern Bell calls Joseph Stanley.

20 Has the witness been sworn in?

21 CHAIRMAN CLARK: Thank you, very much. Will all of
22 those people who intend to provide testimony in this
23 proceeding please stand and raise your right hand.

24 (Witnesses collectively sworn.)

25

- - - - -

1 JOSEPH A. STANLEY
2 was called as a witness on behalf of BellSouth
3 Telecommunications, Inc. and, having been duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. CARVER:

7 Q Would you state your full name and business address?

8 A Joseph A. Stanley, Jr. 3535 Colonnade Parkway,
9 Birmingham, Alabama.

10 Q By whom are you employed and in what capacity?

11 A BellSouth Telecommunications. I'm a director in the
12 pricing organization.

13 Q And did you cause to be prefiled in this docket both
14 direct and rebuttal testimony?

15 A Yes, sir.

16 Q And the direct testimony consists of 12 pages and
17 two exhibits; is that correct?

18 A That is correct.

19 Q And the rebuttal testimony consists of 16 pages and
20 two exhibits?

21 A That is correct.

22 Q Do you have any changes or additions to your direct
23 testimony?

24 A Yes.

25 Ms. Nancy Sims' letter of July 28th, 1995, to the

1 Commission amended our original filing to add 36 routes. We
2 have copies of that letter available if anyone needs it.
3 These additional routes are being proposed at the urging of
4 the Public Counsel and our customers. The routes --

5 CHAIRMAN CLARK: Mr. Stanley, hold up a minute. Is
6 he amending his testimony, this testimony? Am I supposed to
7 be looking at a page or line?

8 MR. CARVER: It's not so much an amendment to the
9 testimony as an amendment to the plan which would be reflected
10 in the exhibits.

11 Basically by agreement with Public Counsel,
12 additional ECS routes were added to the plan that we proposed.
13 I doesn't change the substance of his testimony or the reasons
14 that we advocate the plan. But now, rather than there being
15 252 routes, there are an additional 18 to a route, so there
16 are 36 more. That's what he's trying to communicate. It's
17 just that we've added to the number of routes but
18 substantively there's no change to the testimony itself.

19 CHAIRMAN CLARK: I don't have a copy of that letter.
20 Are you going to be giving it to us?

21 COMMISSIONER KIESLING: While we're at it, I'm still
22 trying to find the exhibits because they were not attached to
23 the testimony I have.

24 CHAIRMAN CLARK: There were no exhibits, were there?

25 WITNESS STANLEY: There were two exhibits. One was

1 the tariff and the second exhibit was a stipulation and
2 agreement between BellSouth Telecommunications and FIXCA dated
3 March 31st.

4 MS. KAUFMAN: Chairman, I don't want to interrupt
5 counsel's examination of this witness, I just want to inquire
6 if the letter that was just passed out, is that going to be an
7 exhibit? I'm a little concerned about what has been
8 represented as an amendment to his testimony, and I believe
9 that FIXCA would have an objection to that, and I don't know
10 procedurally how you want to handle it.

11 CHAIRMAN CLARK: Mr. Carver?

12 MR. CARVER: I think it's appropriate to handle it
13 either way. Again, it doesn't change the substance of his
14 testimony. It's just increasing the number of routes.

15 CHAIRMAN CLARK: Let's handle it this way. Is he
16 making any amendments to his written prefiled testimony,
17 direct testimony?

18 WITNESS STANLEY: No.

19 CHAIRMAN CLARK: Okay. But you're indicating now
20 there are 36 more routes and maybe we should handle this
21 letter as an additional exhibit, which we can mark at the time
22 after we mark the ones that are initially attached to his
23 prefiled testimony.

24 MR. CARVER: That would be fine.

25 CHAIRMAN CLARK: All right.

1 CHAIRMAN CLARK: Go ahead.

2 Q (By Mr. Carver) Mr. Stanley, do you have any other
3 changes to your direct testimony?

4 A No, I do not.

5 Q Do you have any changes or additions to your
6 rebuttal testimony?

7 A No.

8 Q If I were to ask you today the questions that appear
9 in your direct testimony and in your rebuttal testimony, would
10 your answers be the same?

11 A Yes.

12 MR. CARVER: Madam Chairman, I request that the
13 witness's prefiled testimony be inserted into the record as
14 though read, both direct and rebuttal.

15 CHAIRMAN CLARK: The prefiled direct testimony of
16 Joseph A. Stanley, Jr. and the prefile rebuttal testimony of
17 Mr. Stanley will be inserted in the record as though read.

18

19

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25

1 Southern Bell Telephone and Telegraph Company
2 Testimony of Joseph A. Stanley, Jr.
3 Before the Florida Public Service Commission
4 Docket No. 920260-TL
5 June 15, 1995
6
7

8 Q. Please state your name and business address.

9

10 A. I am Joseph A. Stanley, Jr. My business address is
11 3535 Colonnade Parkway, Birmingham, Alabama 35243.

12

13 Q. By whom are you employed?

14

15 A. I am employed by BellSouth Telecommunications, Inc.
16 d/b/a Southern Bell Telephone and Telegraph Company
17 (Southern Bell).

18

19 Q. Please give a brief description of your background
20 and experience.

21

22 A. I graduated from Auburn University with a Bachelor
23 of Science degree in Industrial Engineering and from
24 the University of Alabama in Birmingham with a
25 Masters in Business Administration. I have 27 years

1 experience in the telephone industry and am
2 currently responsible for developing tariffs and
3 pricing for local exchange and toll services in the
4 nine BellSouth states.

5

6 Q. What is the purpose of your testimony?

7

8 A. The purpose of my testimony is to describe Southern
9 Bell's proposal for Extended Calling Service which
10 was filed with the Commission on May 15, 1995. This
11 filing is attached as JAS-1. The filing was made to
12 achieve the \$25 million unspecified rate reduction
13 for 1995 as required by the Stipulation and
14 Agreement dated January 5, 1994, and the
15 Implementation Agreement dated January 12, 1994.

16

17 Q. Please briefly describe the plan that has been filed
18 with the Commission.

19

20 A. Extended Calling Service (ECS) is an enhancement to
21 existing local exchange service offerings. It
22 provides expanded area calling for customers whose
23 community of interest needs extend beyond current
24 local calling areas. ECS provides seven-digit
25 dialing capability to selected exchanges at rates

1 which are significantly less than Southern Bell
2 basic toll rates. Calls to ECS exchanges are billed
3 at \$.25 per message for residence customers. For
4 business customers, each call is billed at \$.10 for
5 the initial minute and \$.06 for each additional
6 minute. There is no change in the monthly recurring
7 access line rate for existing local exchange
8 service.

9

10 Q. Why did Southern Bell file this plan?

11

12 A. The conditions imposed by the Stipulation and
13 Agreement and the Implementation Agreement require
14 an unspecified rate reduction of \$25 million during
15 1995. The rate reduction associated with the
16 implementation of ECS on the routes proposed in the
17 May 15, 1995 filing will more than satisfy this
18 requirement. Further, ECS represents a particularly
19 appropriate service for satisfying this requirement
20 because it is extremely responsive to customer
21 desires and to the economic development needs of the
22 state.

23

24 ECS is designed to address customer desires for
25 expanded area calling. As a region or community

1 develops, economic and cultural ties expand into new
2 areas. This expansion creates a desire for more
3 widespread communications service. This desire
4 typically manifests itself through extended area
5 service (EAS) requests which come before this
6 Commission. During the last three years alone,
7 forty (40) requests for EAS have been considered by
8 this Commission.

9
10 The consideration of an EAS request can be a lengthy
11 and costly process. It can also be controversial.
12 If approved, all customers pay the EAS surcharges
13 even though not all customers benefit.

14
15 Extended Calling Service (ECS), on the other hand,
16 provides a uniform approach to satisfy individual
17 customers in areas where there is a desire for
18 expanded area calling. Further, because a customer
19 pays only if he uses the service, it does not impose
20 an EAS surcharge on customers who have limited or no
21 need for an expanded service area.

22
23 Southern Bell's customers have indicated their
24 desire for expanded area calling by requesting
25 extended area service (EAS). Currently there are

1 twenty-one (21) requests for EAS service pending
2 before this Commission. As Florida continues to
3 prosper, customers in developing areas outside large
4 urban centers will likely continue to desire to
5 expand their local calling areas. ECS can satisfy
6 many of these customer needs.

7

8 Q. How were the ECS routes chosen for this filing?

9

10 A. The ECS routes were selected to satisfy customers'
11 community of interest calling needs. These needs
12 are created by such things as where customers work,
13 where they worship, where they shop, where they
14 attend school, and where they receive medical care.
15 These needs differ for different people and for
16 different communities. The following guidelines
17 were used in selecting routes for this filing:

18

19 1) There was an obvious community of interest,
20 as in the case of the Dade-Broward
21 metropolitan area;

22

23 2) Traffic studies revealed a significant
24 community of interest;

25

- 1 3) The existence of local optional calling
2 plans demonstrated a community of interest;
3
- 4 4) The inclusion of an exchange was necessary
5 to eliminate leap-frog local calling
6 situations caused by community of interest
7 considerations listed above; and
8
- 9 5) Reciprocal routes eliminated the confusion
10 associated with one-way local service.
11
- 12 Q. What other services are affected by this filing?
13
- 14 A. In the past several years, this Commission has
15 worked with Southern Bell to identify the best way
16 to respond to customer needs and desires for
17 expanded area calling. Various solutions have been
18 used at different times and in different locations.
19 As a result, Southern Bell offers many different
20 expanded area calling services, including Optional
21 Extended Area Service, Enhanced Optional Extended
22 Area Service (with four options), Optional Calling
23 Service (Toll-Pac), and Local Calling Plus.
24
- 25 ECS represents the evolution of these offerings into

1 a single service that has already been chosen by
2 this Commission several times as an alternative to
3 EAS; i.e., Docket No. 910762-TL, Order No.
4 PSC-93-0305-FOF-TL; Docket No. 911034-TL, Order No.
5 PSC-94-0572-FOF-TL; and Docket No. 920667-TL, Order
6 No. PSC-93-0997-FOF-TL.

7
8 This filing introduces ECS on Bell-to-Bell routes
9 where the older services are currently available.
10 ECS should be more advantageous to customers
11 currently subscribing to the services listed above.
12 Consequently, these services will be discontinued on
13 the routes where ECS is implemented.

14
15 This consolidation will have benefits beyond the
16 economic considerations for customers and for
17 Southern Bell. Having one uniform plan for the
18 state will eliminate customer confusion created by
19 the availability of multiple plans. As customers
20 move from one location to another, they will already
21 be familiar with the service offered. Southern Bell
22 will benefit from only having to maintain and
23 administer one plan rather than several.

24

25 Q. Do you believe this tariff filing is in the public

- 1 interest?
- 2
- 3 A. Yes. ECS was designed to meet those customer and
4 economic development needs for expanded local
5 calling areas which have been expressed in petitions
6 to this Commission, in bills before the Florida
7 legislature, and in customer contacts with Southern
8 Bell employees throughout the state. The plan as
9 filed would provide reduced usage rates to customers
10 in each of the areas which are currently requesting
11 EAS service. ECS offers customers a larger
12 seven-digit calling area, as well as significant
13 reductions in the usage rate for the expanded
14 service area. The opportunities provided by ECS
15 will provide benefits to many Florida subscribers,
16 and at the same time enhance the economic
17 development positions of the more rural counties.
- 18
- 19 Q. How does the Southern Bell ECS proposal compare with
20 the proposal presented by the Communication Workers
21 of America (CWA) in this docket?
- 22
- 23 A. The proposal presented by the CWA directs most of
24 the revenue reduction to special interest groups
25 rather than making the reductions available to the

1 majority of Southern Bell customers in Florida.
2 Under the CWA proposal, only \$5 million would be
3 directed to basic residence customers, providing a
4 bill reduction of only about ten cents per month for
5 each customer. The Southern Bell proposal on the
6 other hand provides broad based reductions on routes
7 throughout the state. These reductions are
8 available to almost all Southern Bell customers.
9
10 Q. How does the Southern Bell ECS proposal compare with
11 the proposal presented by McCaw Communications in
12 this docket?
13
14 A. The Petition of McCaw Communications of Florida,
15 Inc., which was adopted by the Florida Mobile
16 Communications Association, Inc., presupposes the
17 outcome of an unrelated docket before this
18 Commission. In addition, McCaw's proposal targets
19 the reduction to an even smaller special interest
20 group than the CWA proposal. McCaw's proposal
21 benefits only mobile service providers, while
22 Southern Bell's ECS proposal benefits individual
23 rate payers. Even if McCaw passed the benefits of
24 their proposal on to their individual customers
25 (which has not been suggested by McCaw), Southern

1 Bell's proposal would make benefits available to
2 many more end users.

3

4 Q. If the Commission approves the Southern Bell ECS
5 proposal, should the Commission allow competition on
6 ECS routes?

7

8 A. In the Stipulation and Agreement Between BellSouth
9 Telecommunications, Inc., and the Florida
10 Interexchange Carriers Association, dated March 31,
11 1994 (attached as JAS-2), the parties agreed that
12 "interexchange carriers may continue to carry
13 traffic on the routes in question that they are
14 authorized to carry." Southern Bell does not object
15 to expanding this agreement to include the routes in
16 this proposal, thereby allowing competition on these
17 routes. The Commission need not impose any
18 additional conditions that were not included in the
19 original Agreement.

20

21 Q. Would additional tariff filings be required to
22 implement the Southern Bell proposal?

23

24 A. No. The tariffs that were filed with the Commission
25 on May 15, 1995, (see JAS-1) include all the changes

- 1 necessary to implement ECS on the new routes.
- 2
- 3 Q. Should this docket be closed if the Southern Bell
- 4 proposal is approved?
- 5
- 6 A. No. This docket should remain open until the rate
- 7 reductions required by the Settlement for October,
- 8 1996, have been approved.
- 9
- 10 Q. Please summarize your testimony.
- 11
- 12 A. Southern Bell's May 15, 1995 ECS filing is
- 13 responsive to customer desires for expanded local
- 14 calling, and more than satisfies the requirement for
- 15 the 1995 unspecified rate reductions pursuant to the
- 16 Stipulation and Agreement and the Implementation
- 17 Agreement. The benefits of Southern Bell's ECS
- 18 proposal would be available to almost all of
- 19 Florida's Southern Bell customers, whereas the CWA
- 20 and the McCaw/FMCA proposals would benefit primarily
- 21 special interest groups. Southern Bell urges this
- 22 Commission to approve the proposed ECS tariff
- 23 filing.
- 24
- 25 Q. Does this conclude your testimony?

- 1
- 2 A. Yes.
- 3
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1 SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
2 REBUTTAL TESTIMONY OF JOSEPH A. STANLEY, JR.
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

4 DOCKET 920260-TL

5 JULY 10, 1995

6

7

8 Q. Please state your name and business address.

9

10 A. I am Joseph A. Stanley Jr. My business
11 address is 3535 Colonnade Parkway,
12 Birmingham, Alabama 35243.

13

14 Q. By whom are you employed?

15

16 A. I am employed by BellSouth
17 Telecommunications, Inc. d/b/a Southern Bell
18 Telephone and Telegraph Company (Southern
19 Bell).

20

21 Q. Have you previously filed testimony in this
22 docket?

23

24 A. Yes. I filed direct testimony in support of
25 Southern Bell's proposal to achieve the

1 unspecified \$25 million rate reduction for
2 1995 through the implementation of Extended
3 Calling Service (ECS) on selected routes.

4

5 Q. What is the purpose of this testimony?

6

7 A. The purpose of this testimony is to rebut
8 certain contentions of AT&T's witness Guedel,
9 FIXCA's witness Gillan and Ad Hoc's witness
10 Metcalf. Specifically, I will deal with the
11 following issues:

12

13 1. Competition will continue to flourish
14 with the introduction of ECS. ECS
15 will not re-monopolize service on
16 routes where it is implemented.

17 2. ECS is a better use of the \$25M rate
18 reduction than the PBX trunks and DID
19 proposals suggested by witnesses
20 Guedel and Metcalf.

21

22 Q. Will the implementation of Southern Bell's
23 ECS service foreclose effective toll
24 competition as suggested in the testimony of
25 Mr. Metcalf on page 9 (lines 10 & 11), Mr.

1 Gillan on page 5 (lines 7-10), and Mr. Guedel
2 on page 4 (lines 1-4)? .

3

4 A. Absolutely not. With or without ECS,
5 competition will continue to flourish in the
6 state of Florida. This will happen for two
7 very important reasons:

8

9 - Southern Bell can provide only
10 intraLATA service while its
11 competitors can provide the full
12 spectrum of toll services, including
13 intraLATA, interLATA, interstate, and
14 international services.

15 - Southern Bell is not the only provider
16 of access service in Florida.

17

18 Q. What is the competitive significance of
19 Southern Bell's being prohibited from
20 offering a full range of toll services?

21

22 A. This prohibition affects Southern Bell's
23 ability to compete in at least three ways.
24 First, Southern Bell's competitors have the
25 ability to offer "one-stop shopping" for all

1 of their toll services. Customers can deal
2 with one vendor and have all of their toll
3 usage consolidated on one bill. This gives
4 Interexchange Carriers (IXC) a distinct
5 advantage because of the convenience that it
6 offers to customers. Second, Southern Bell's
7 competitors can allow customers to combine
8 their intraLATA usage with their remaining
9 toll usage to increase the benefit of volume
10 discount plans. We have already seen IXC
11 initiatives which take advantage of this
12 capability. Third, intraLATA toll service in
13 Florida today represents less than 20% of the
14 total toll business. Even if Southern Bell
15 could capture the entire intraLATA market,
16 which is certainly not realistic, the IXCs
17 would still control over 80% of the total
18 market.

19

20 Q. Mr. Metcalf, on page 9 (lines 13-15) of his
21 testimony, argued that the IXCs cannot
22 effectively compete with ECS because Southern
23 Bell's ECS rates are less than switched
24 access rates. How do you respond to this
25 argument?

1
2 A. The argument is invalid to the extent that it
3 considers only Southern Bell's intrastate
4 switched access rates. The level of these
5 rates is only one factor in an analysis of
6 the competitiveness of the ECS market. Other
7 access rates and providers must be considered
8 as well. For example, IXCs which provide a
9 full spectrum of toll services are able to
10 evaluate the economic validity of their
11 offerings on an aggregated basis. Therefore,
12 the combined cost to the IXC of intrastate
13 access, interstate access, and alternative
14 access is the relevant factor that will
15 determine whether an IXC can effectively
16 compete for ECS traffic. Additional
17 considerations are provided in the rebuttal
18 testimony of Mr. Hendrix.

19
20 Q. Do IXCs in Florida have viable alternatives
21 for access service?

22
23 A. Yes. Today there are seventeen (17) AAVs
24 that are certificated to operate in Florida.
25 These AAVs offer alternatives to Southern

1 Bell's access services. Indeed, MCI has
2 publicly stated that they intend to actively
3 pursue alternatives to obtaining access from
4 the Regional Bell operating companies.

5 Alternatives to Southern Bell access are
6 available today and I would expect that the
7 choices available to an IXC will multiply as
8 a result of the recently passed legislation.

9

10 Q. Are there reasons why re-monopolization of
11 the ECS traffic is unlikely?

12

13 A. Yes, there is one in particular. The \$.25
14 residence rate may be less attractive for
15 customers who make a lot of calls of short
16 duration and distance, when compared to a per
17 minutes charge levied by the IXCs. My
18 exhibit JAS-3 depicts situations in which
19 calls of short duration and distance would
20 cost less than ECS calls. These examples
21 depict another reason why Southern Bell
22 simply would not be able to re-monopolize
23 with ECS.

24

25 Q. In the testimony of Mr. Metcalf, on page 4

1 (lines 13 & 14), and Mr. Guedel, on page 8
2 (lines 8-17), they argue that PBX is at a
3 distinct disadvantage compared to ESSX^R
4 Service and, hence, a better use of the \$25M
5 rate reduction would be to reduce rates for
6 trunks and DID. Do you agree?

7
8 A. No, I do not. The assertion that pricing
9 differences between PBX trunks and ESSX
10 Service cause PBX to be uncompetitive with
11 ESSX Service is without merit. My
12 calculations show that Southern Bell's ESSX
13 Service's relative market share has increased
14 no more than 1% in the past three years.
15 Given this, it appears that PBX can
16 successfully compete with ESSX Service. It
17 also raises serious doubt with regard to Mr.
18 Medcalf's contention on page 4 (lines 18-19)
19 of his testimony that the PBX market has lost
20 "tremendous market share in the last few
21 years".

22
23 Q. Has Southern Bell reduced the price of PBX
24 trunks in the last few years?

25

1 A. Yes. In 1994, Southern Bell reduced the
2 price of PBX trunks and Direct Inward Dialing
3 (DID) by \$35.0M. These reductions included
4 disaggregation of hunting from PBX trunk
5 rates. This was significant because it meant
6 that customers could purchase a lower rated
7 trunk for outgoing traffic. Hunting was
8 disaggregated from Network Access Registers
9 (NARs), which are used in the provisioning of
10 ESSX Service. However, the reductions to the
11 PBX trunks were greater than those to NARs,
12 thus working to the advantage of PBX.

13

14 Q. Does Southern Bell offer any alternatives to
15 buying PBX trunks?

16

17 A. Yes. We offer MegaLink^R Service. MegaLink
18 Service consists of a "pipe" that contains
19 the equivalent of 24 trunks. A customer can
20 buy the pipe and then pay to activate the
21 individual trunks as they are needed. The
22 pricing advantages relative to PBX trunks can
23 be significant for a customer with higher
24 traffic volumes. Overall demand for
25 MegaLink Service has been strong in Florida

1 with sufficient units sold to handle over
2 53,000 PBX trunks.

3

4 Q. Do you agree with Mr. Metcalf's assertion
5 that changing the pricing relationship
6 between PBX trunks and ESSX Service would
7 result in a more active and competitive
8 market?

9

10 A. No. This is already one of the most
11 competitive markets in the telecommunications
12 industry, and it has been for many years.
13 The competition is not typically between a
14 single PBX proposal and an ESSX Service
15 proposal. Rather, it is between multiple PBX
16 proposals from multiple vendors and,
17 possibly, an ESSX Service proposal. With a
18 market share less than 12%, ESSX Service
19 cannot possibly be considered the leader in
20 this market. It is simply not reasonable to
21 expect that changing the pricing relationship
22 between PBX trunks and ESSX Service would
23 have such a profound effect. In my opinion,
24 nothing would happen beyond what is already
25 happening today.

1

2 Q. Will the new telecommunications legislation
3 have an impact on the relationship between
4 PBX trunks and ESSX Service pricing?

5

6 A. Yes. Implementation of the legislation will
7 mean that other companies will likely enter
8 the local market and offer alternatives to
9 our PBX trunks. In addition, the recent
10 filing in Georgia of MFS Intelenet of
11 Georgia, Inc. (exhibit JAS-4) indicates that
12 certain competitors are willing and able to
13 provide their version of our ESSX Service.

14

15 We may need to make changes to the prices of
16 our services as this competition develops.
17 However, we need to carefully monitor how the
18 market is moving and then determine which
19 services, if any, need to be adjusted. For
20 example, to simply reduce PBX trunks in all
21 rate groups might not be the right answer,
22 especially since we would expect significant
23 competition to occur in larger cities.

24

25 Q. If the Commission chooses to apply the \$25M

1 reduction to trunks and DID, who would
2 benefit?

3

4 A. The main benefit would be to large customers
5 who would see their rates reduced. PBX
6 vendors could also benefit in that they would
7 be better positioned to capture a portion of
8 the ESSX Service market share. Southern Bell
9 could benefit somewhat if significant
10 reductions occurred in markets that AAVs are
11 likely to enter.

12

13 Q. Both Mr. Metcalf and Mr. Guedel, the AT&T
14 witness, gave limited support to McCaw's
15 proposal to use the \$25M to reduce mobile
16 service rates. Would this be an appropriate
17 direction for the Commission to pursue?

18

19 A. No. As I indicated in my direct testimony,
20 this issue is already being addressed in an
21 unrelated docket. There is no reason to also
22 consider that proposal in this docket. In
23 addition, the McCaw proposal is simply
24 another type of access reduction. The
25 Order issued by this Commission approving the

1 agreements between the parties sets out
2 access reductions as follows:

3	7-1-94	\$50M
4	10-1-95	\$55M
5	10-1-96	<u>\$35M</u>
6	TOTAL	\$140M

7 Given the substantial amount already targeted
8 to access reductions, I believe it is very
9 appropriate to implement the proposed
10 Expanded Local Calling reductions, which are
11 responsive to expressed customer needs.

12

13 Q. Let's turn now to the ECS plan itself. What
14 is your assessment of Mr. Metcalf's portrayal
15 of ECS as a form of local measured service?

16

17 A. The ECS plan does not change either the
18 dialing pattern or the rates for calling
19 within a customer's existing local calling
20 area. Customers with no need to make calls
21 over a new ECS route will see no change.
22 No aspect of ECS imposes local measured
23 service on any part of a customer's existing
24 bill.

25

- 1 Q. How do you respond to concerns expressed by
2 the testimony of Mr. Metcalf on page 9 (line
3 5) and Mr. Gillan on page 9 (lines 10, 11 &
4 19) regarding the fact that ECS is mandatory
5 and requires seven digit dialing?
6
- 7 A. ECS is mandatory in the sense that it is the
8 only calling plan Southern Bell will offer
9 over certain routes. However, unlike
10 mandatory Extended Area Service (EAS),
11 customers only pay when they make calls. ECS
12 has already been implemented on a number of
13 routes in Florida. It has been well accepted
14 by the Commission and by customers.
15
- 16 Likewise, seven digit dialing has been
17 utilized on all existing intra-NPA ECS
18 routes, just as it has with EAS. Again, the
19 plan has been very well received. We believe
20 the great majority of customers will welcome
21 seven digit dialing over the affected routes.
22
- 23 There is an alternative for customers if ECS
24 simply does not meet their needs. That
25 alternative is called competition. Our

1 competitors offer 10XXX dialing today and
2 will very soon be able to offer 1+ dialing.
3 While ECS offers a slight dialing advantage,
4 it has the disadvantage of not allowing
5 customers to aggregate their usage and take
6 advantage of the resulting discounts and
7 convenience. Seven digit dialing does not
8 give Southern Bell the insurmountable
9 competitive edge that intervenor witnesses
10 suggest.

11

12 Q. What is your opinion regarding the proposal
13 of Mr. Gillan on page 3 (lines 12-13) of his
14 testimony that the Commission should use the
15 interim refund mechanism outlined in the
16 stipulation rather than implementing Southern
17 Bell's ECS proposal?

18

19 A. It is unnecessary for the reasons outlined
20 earlier in my testimony. In addition, over
21 the past few years Southern Bell has
22 experienced a substantial amount of customer
23 interest in EAS. ECS has already been used
24 in Florida to address EAS needs. ECS has
25 been well received by both the Commission and

1 customers and provides a standardized and
2 lasting approach. It will cut EAS requests
3 substantially if not totally eliminate them.
4 A customer refund will do nothing to satisfy
5 these demands. ECS is in the customers
6 interest and should be implemented using the
7 \$25M rate reduction.

8

9 Q. Would you please summarize your testimony?

10

11 A. Intervenor witnesses have objected to ECS as
12 a re-monopolization of the intraLATA market.
13 Southern Bell, with only the ability to serve
14 the intraLATA market, simply cannot exert
15 this kind of market power. Interexchange
16 carriers have the ability to aggregate their
17 traffic and utilize sources other than
18 Southern Bell for access. The ability to do
19 these two things, combined with the
20 additional flexibility that will be available
21 to IXCs due to the new legislation allows the
22 IXCs to fully compete with Southern Bell.

23

24 Intervenor witnesses suggested rate
25 reductions to other services to fulfill the

1 \$25M rate reduction. None of the proposals
2 made by these witnesses will benefit as many
3 customers as will ECS. ECS meets customer
4 demand for expanded calling, while only
5 affecting the customers that make the calls.
6 It offers the advantage of a very attractive
7 rate, without unduly penalizing customers
8 that do not need it.

9
10 ECS is in the interest of a great number of
11 Floridians. It offers benefits to more
12 customers than any proposals submitted by
13 other witnesses. I urge the Commission to
14 approve the ECS plan as filed by Southern
15 Bell.

16

17 Q. Does this conclude your testimony?

18

19 A. Yes, it does.

20

21

22

23

24

25

1 Q (By Mr. Carver) Mr. Stanley, could you please
2 summarize your direct testimony?

3 A Yes, sir.

4 The purpose of my direct testimony is to describe
5 Southern Bell's filing of extended calling service. I'll
6 refer to that as ECS, extended calling service. This was
7 filed to achieve the unspecified rate reduction of \$25 million
8 for 1995 as required by the Stipulation and Agreement dated
9 January 5, 1994, and the Implementation Agreement dated
10 January 12, 1994.

11 ECS is an enhancement to existing local exchange
12 offerings. It provides expanded area calling to customers
13 whose community of interest needs go beyond current calling
14 areas. It offers seven-digit dialing to selected exchanges.
15 Residential customers pay 25 cents per message; business
16 customers pay 10 cents for the first minute and 6 cents for
17 each additional minute.

18 ECS was filed in an attempt to be responsive to EAS
19 calling needs and desires of our Florida calling. The level
20 of EAS calling activity in Florida has been very significant
21 for some time. The Commission has considered 40 requests for
22 EAS in the last three years alone. My testimony indicates
23 that there are 21 requests currently pending. There have been
24 three more since my testimony was filed, so actually there are
25 24 pending right now.

1 Over the years a number of different types of
2 calling plans have been put in place in Florida in an attempt
3 to be responsive to EAS calling needs. The result is that we
4 have now a lot of varying types of plans and we have no single
5 standardized approach for all of Southern Bell territory in
6 Florida.

7 ECS really represents the evolution of these various
8 plans that have been filed. It's already been chosen several
9 times by the Commission as an alternative for EAS. The most
10 notable example is the implementation earlier this year of ECS
11 on several Dade/Broward County routes.

12 The Commission approved ECS for these routes after
13 the Florida Interexchange Carriers Association and Southern
14 Bell agreed to a stipulation wherein ECS would be implemented
15 on the routes in question as a local seven-digit calling plan.
16 The current ECS proposal is identical to the one approved for
17 the Dade/Broward County routes.

18 Customers have expressed their desires for EAS
19 through petitions to this Commission, contacts with the Public
20 Counsel and contacts with Southern Bell. If approved, ECS
21 will do much to satisfy these EAS desires. It will benefit
22 residential and small business customers alike across the
23 state. It will meet those needs with a convenient seven-digit
24 calling plan that offers attractive rates but does not, as
25 does flat rate EAS, charge customers that do not really need

1 the expanded calling.

2 If not approved, there will be a lot of disappointed
3 customers. I believe it will be particularly hard for our
4 residential customers to understand that the 25 million is
5 used to benefit strictly large business customers. Southern
6 Bell believes ECS is the right plan for utilization of the
7 \$25 million, and we're hopeful that the Commission will
8 approve it as filed.

9 Q Does that conclude the summary of your direct
10 testimony?

11 A Yes, it does.

12 Q Mr. Stanley, could you please summarize your
13 rebuttal testimony?

14 A Certainly.

15 The purpose of my rebuttal testimony is to deal with
16 proposals of other witnesses in this proceeding. In
17 particular, I deal with two issues. First, ECS will not
18 foreclose effective toll competition for two reasons.
19 Southern Bell can only provide intraLATA service, whereas our
20 competitors can provide the full spectrum of toll products,
21 including intraLATA, interLATA, interstate and international.
22 This gives our competitors the ability to offer the
23 convenience of dealing with one carrier. Equally, if not more
24 important, it lets them combine all usage and give volume
25 discounts based on the total toll usage that a customer has.

1 The second reason that ECS will not, in my opinion,
2 foreclose toll competition relates to the contentions of other
3 witnesses that their companies simply cannot compete with ECS
4 because ECS rates are less than switched access.

5 Jerry Hendrix deals with whether ECS rates are, in
6 fact, less than switched access. However, I point out in my
7 rebuttal that the cost of our access to an IXC is a function
8 of much more than an LEC's intrastate access rates. Just as
9 an IXC can bundle its toll offerings and base its volume
10 discounts on a customer's total usage, it can also bundle
11 intrastate and interstate access and evaluate a product based
12 on its total profitability.

13 In addition, there are currently 17 alternate access
14 venders certificated to offer service in Florida. These AAVs
15 offer alternatives to purchasing access from Southern Bell.
16 As a result of the recently passed legislation, these options
17 are likely to increase significantly.

18 A second major issue I deal with relates to the
19 question of what is the best use of the \$25 million? Other
20 witnesses argued that a better use of the 25 million would be
21 to reduce PBX trunk rates.

22 I consider ECS to be a better choice than trunk
23 reductions for the following reasons. PBX trunk reductions
24 would only benefit large users and large companies. They
25 would do nothing for residential and small business customers.

1 Secondly, trunk NARs and hunting just received a
2 \$35 million decrease in 1994.

3 Third, PBX customers can buy MegaLink as a
4 substitute for flat rate trunks. Not only can they, but they
5 are buying it. As of May 1995, 53,000 PBX trunks are
6 provisioned to be a MegaLink. There are only 80,000
7 provisioned to be flat rate trunks. So one can easily see
8 that MegaLink is apparently a viable alternative.

9 Fourthly, ESSX, by my calculations, has less than a
10 12% market share. That market share has increased no more
11 than 1% in the last three years. In other words, it's gone
12 from about 11 to about 12. That's market share. With this
13 low of a market share, it's unreasonable to argue, for
14 whatever reason, that PBX can't compete with ESSX.

15 Fifth, with the new legislation an alternative local
16 exchange company can itself offer ESSX or CENTREX. MFS and
17 TeleNet has filed for CENTREX service in Georgia. The
18 offering appears to be a central-office based offering like
19 ESSX. If ESSX truly has the advantage that other witnesses
20 argue, then we can expect a rush of ALECs to provide ESSX
21 service.

22 Lastly, I repeat and remphasize my first point and
23 and it's this, I think very important: PBX trunk reductions
24 will only benefit large users, and they just received a
25 \$35 million decrease in 1994.

1 Florida PBX trunk rates in comparison of those in
2 other BellSouth states are already some of the lowest in the
3 region. A reduction at some point as competition develops may
4 very well be appropriate, but it's not currently the best use
5 of the \$25 million. ECS, on the other hand, benefits
6 residents and business customers. It is responsive to EAS
7 calling needs. It will, I believe, go a long way toward
8 resolving the numerous requests for EAS that this Commission
9 continues to receive.

10 Q Does this conclude your summary?

11 A Yes, it does.

12 MR. CARVER: Chairman Clark, I'd like to request
13 that the witness's exhibits be marked for identification.

14 CHAIRMAN CLARK: We'll mark the exhibits now.

15 MR. CARVER: We have two exhibits to his direct
16 testimony, JAS-1, that's the ECS tariff filing; JAS-2 which is
17 is the stipulation and agreement between BellSouth
18 Telecommunications and FIXCA.

19 There are also two exhibits to his rebuttal
20 testimony. The first one, JAS-3 is a document entitled
21 "Residence Calls Cheaper with IXC Toll," and the second
22 exhibit to his rebuttal testimony is JAS-4, which is "Tariff
23 of MFS InteleNet of Georgia, Inc." And then as the fifth
24 exhibit I would like to have the supplemental filing along
25 with the letter dated July 28th, 1995.

1 CHAIRMAN CLARK: Okay. JAS-1 will be identified as
2 Exhibit 1. JAS-2 will be identified as Exhibit 2. JAS-3 will
3 be identified Exhibit 3, and JAS-4 will be identified as
4 Exhibit 4. And JAS -- the letter to the Commission Clerk from
5 Nancy Sims, with additional ECS routes attached will be
6 Exhibit 5.

7 (Exhibit Nos. 1 through 5 marked for
8 identification.)

9 MR. CARVER: The witness is available for cross
10 examination.

11 CHAIRMAN CLARK: Mr. Beck. Oh, excuse me.
12 Mr. Richard.

13 CROSS EXAMINATION

14 BY MR. RICHARD:

15 Q Mr. Stanley, under your proposal isn't it true that
16 for three-minute calls in the extended calling service area
17 that businesses will pay less than residential users?

18 A Yes, that's true. I think a business customer would
19 pay 10 cents for the first minute, 6 cents for each additional
20 minute. So for a three-minute call a business customer would
21 pay 22 cents. They would continue after the 23 minutes to pay
22 6 cents a minute. A residential customer will pay 25 cents
23 for unlimited calling.

24 Q So for three-minute calls the business customer
25 would have a better break than the residential?

1 A For a three-minute call, that's correct.

2 Q Do you have any data that indicates what the average
3 length of call would be for businesses besides what we've
4 seen?

5 A The average length of call for a business customer,
6 I believe, is about 2.2 minutes, and I think it's 4.2 for a
7 residential. I believe that's correct.

8 Q Now, isn't it true that the original settlement that
9 caused rise for this hearing came about in part because of
10 alleged sales improprieties and maintenance reporting
11 improprieties?

12 MR. CARVER: I'm going to object. What's the
13 relevance of that?

14 MR. RICHARD: I'm going to connect it up in a
15 minute. They are using this to enhance themselves and not the
16 very people that were injured. I think I can ask the
17 question.

18 CHAIRMAN CLARK: Would you repeat the question,
19 please?

20 Q (By Mr. Richard) My question is isn't it true that
21 the settlement that gave rise to this hearing today came about
22 in part because of Southern Bell settling accusations of
23 alleged sales improprieties and maintenance reporting
24 improprieties?

25 A I was not a party to that settlement. I can't

1 really get into --

2 CHAIRMAN CLARK: Your attorney has objected and I
3 have not yet ruled on that. Go ahead, Mr. Carver.

4 MR. CARVER: Whatever was at issue in that prior
5 proceeding has been settled. It's not an issue here. The
6 purpose of this hearing is simply look at the \$25 million
7 reduction that has been agreed to and determine how to apply
8 it. I believe that counsel is trying to inject irrelevant
9 matters into this apparently to prejudice the Commission.
10 It's just not an issue.

11 CHAIRMAN CLARK: Mr. Richard.

12 MR. RICHARD: Your Honor, the public was told that
13 part of the settlement caused an Attorney General's
14 investigation to go away, Public Counsel, Public Service
15 Commission investigation; and they threw \$25 million into the
16 pot. We don't think that money should be used in a way that
17 in the end helps the Company get a leg up on other competitors
18 necessarily. I just want to explore that. And I think I have
19 a right. He raised --

20 CHAIRMAN CLARK: You need to tie up for me why it is
21 relevant.

22 MR. RICHARD: Why is it relevant? Because you all
23 approved a settlement, called off investigations when they put
24 money on the table called \$25 million. It would at least
25 imply to the public at large, as reported in the newspapers

1 and Commission issuances, that part of the settlement was to
2 let these investigations be dropped in exchange for the money.
3 We think that implies that maybe that would be a consideration
4 for you that these monies should be used in a way to carry on
5 that good faith effort to end everything. The public didn't
6 walk away from all of these allegations and everything to sit
7 there and have the Company use the money in ways -- well, they
8 can use it any way you all approve. But I think one of your
9 considerations has to be does this serve the purpose of the
10 settlement. There had to be a purpose to it or you all
11 wouldn't have approved it.

12 CHAIRMAN CLARK: I'll allow the question.

13 MR. RICHARD: I'll be brief on this topic.

14 Mr. Stanley --

15 MR. CARVER: There's a question pending, is there
16 not?

17 MR. RICHARD: But I think he answered it. And
18 then -- he said he wasn't aware of the settlement.

19 MR. CARVER: Were you through with your answer,
20 Mr. Stanley?

21 WITNESS STANLEY: I'm not really -- was not a party
22 to all of the issues that you were talking about. I can't
23 really address that directly.

24 Q (By Mr. Richard) Okay. My question is when
25 comparing yourselves to a competitor on intraLATA telephone

1 calls that will be made if this tariff is adopted, will there
2 be any dialing differences between your customers and the
3 customer of a competitor if this is adopted?

4 A Customers would dial on a seven-digit basis for ECS.

5 Q Right -- I'm sorry.

6 A If someone chooses to use a competitor's offering
7 they would dial, I would think, on a 1+ basis.

8 Q Do you have any studies to indicate whether that
9 will cause customers to stay or leave the company, meaning
10 Southern Bell?

11 A No.

12 Q Because -- do you have a position on whether or not
13 having to do 1+ versus seven-digit impacts customer loyalty in
14 switching to other carriers?

15 A I think it's going to be an individual thing. A
16 customer-by-customer thing. It depends on whether or not they
17 are getting the benefits from the volume discounts that the
18 other carriers can offer.

19 From a personal standpoint, if that offsets -- if I
20 can get a better deal doing that, I'd probably go with them.

21 Q Let me ask you this, sir. Don't you think that if
22 the Commission adopts this plan as proposed with the ECS,
23 that, in fact, that will give Southern Bell a competitive
24 advantage over others in the same area?

25 A I think the rate is a very attractive rate. We're

1 filing it in response to expressed EAS needs. You know,
2 whether we had 1+ -- a 1+ order or not, I think it would be
3 the appropriate thing to do. As far as whether or not it
4 gives us an advantage, I think it really depends on what the
5 carriers offer in response to that.

6 Q And you're telling us that Southern Bell has never
7 done a study to indicate whether customers will switch if they
8 have to dial more digits?

9 A I don't know that I have seen a conclusive study on
10 that. There's been speculation one way or the other on it.

11 Q Do you understand that this \$25 million is to be
12 used in any way to enhance Southern Bell's position or was it
13 from the perspective of the consumers?

14 A I think we derive some benefits from it. I think
15 certainly customers derive benefits from it because of the EAS
16 requests we've seen. As I pointed out in my testimony,
17 there's been a lot of EAS activity in Florida for some time.
18 I think this responds to it. I think it's very much in the
19 customers' interest as far as what they want. We get some
20 things out of it, too. Namely, it's a better plan to
21 administer. It's much easier to administer from a billing
22 standpoint. It's much easier for our service representatives
23 to deal with a more consistent plan across the state instead
24 of having to deal with the multiplicity of plans that they
25 have to deal with today. Quite frankly, I don't know how they

1 keep up with all of them.

2 Q Now, in your direct testimony you indicated there
3 were two reasons why you thought this plan was beneficial.
4 One was it would help the economic development of the state of
5 Florida. Sir, do you have any studies that indicate that your
6 plan would help with the economic development of the state of
7 Florida?

8 A I don't have any studies, but apparently the people
9 out there think it will judging from the amount of interest
10 that we have.

11 Q You also said this plan was designed in response to
12 customers' desires. Do you have any studies that definitively
13 show the customers' desires on your particular ECS proposal?

14 A With the number of filings that we have had for EAS
15 calling needs, and the amount of interest that we have had in
16 that, I don't know what better study do you need than that
17 kind of data.

18 Q But you don't have a scientific study?

19 A Well, I don't have a scientific study?

20 Q Uh-huh.

21 A Again, with the amount of interest we've had -- it's
22 inconceivable that anyone would argue there's not an interest
23 in expanded calling in this state. It's inconceivable to me
24 that anyone would argue that.

25 Q You didn't conduct a study among the --

1 A I didn't do a study because I didn't feel it was
2 necessary.

3 Q My question is, you didn't conduct a study among
4 consumers asking them which of the plans proposed before the
5 Commission today is the one that they desire. The CWA plan
6 versus your plan versus your --

7 A No, no. We have no reason to do that. We've a plan
8 we're proposing but I wouldn't have any reason to ask why they
9 like your plan better, no.

10 Q Sir, it is true that if you don't use long distance
11 service in the extended calling service proposal now, that the
12 consumer will not reap any benefit from your tariff proposal.

13 MR. CARVER: Would you ask that again?

14 MR. RICHARD: Sure. It's a little confusing.

15 Q (By Mr. Richard) If you don't make long distance
16 calls, your proposal isn't going to help the consumer?

17 A If the customer doesn't have a need for expanded
18 calling, which would be long distance routes now, and would
19 not even have a need under the price that we're offering with
20 the new plan, then they wouldn't benefit from it, that's
21 correct. I think you've got to be -- just because someone is
22 not making calls today, I wouldn't necessarily say they might
23 not make calls at this rate in the future if they have a need
24 to.

25 Q How much would the average residential consumer save

1 over the next year on a monthly basis under your plan?

2 A I haven't calculated that.

3 Q How much would the average business consumer save on
4 a monthly basis over the next year of your plan?

5 A The average business. You know, that kind of
6 information you could calculate, I suppose, but I haven't
7 calculated it.

8 Q You talked about the new Bill 364 and the
9 competitive environment in your summary before. Do you
10 remember that?

11 A Yes.

12 Q Do you know if the new bill is even applicable to
13 this proceeding under the savings clause language?

14 A I really don't know.

15 Q Okay. On Page 7 of your direct testimony you
16 indicate that the ESC plan on Bell-to-Bell routes will
17 generate savings because of consolidation of different
18 methodologies. Do you remember that?

19 MR. CARVER: Could we have a line reference?

20 MR. RICHARD: Line 15, Page 7, Mr. Stanley.

21 WITNESS STANLEY: Okay.

22 Q You indicate at Line 21 that "Southern Bell will
23 benefit by having to maintain and administer one plan rather
24 than several," correct?

25 A That's correct.

1 Q Isn't there a savings associated with this
2 consolidation?

3 A I think there very well could be, yes.

4 Q And have you quantified how much that savings is?

5 A No.

6 Q And would you be willing to pass that savings on to
7 the ratepayers?

8 A Well, our proposal is to put this plan in, and
9 there's a certain amount of revenue give-up. We're giving the
10 revenue up -- we're meeting the revenue give-up requirements,
11 the \$25 million, and I think that we're more than meeting
12 those, as it turns out.

13 Q But you have to give up the 25 million no matter
14 what. It's just a question of how?

15 A That's correct.

16 Q Does the Company have a position of whatever savings
17 are associated with the consolidation as whether that will be
18 passed on in addition to the \$25 million.

19 A That additional amount there has not been
20 specifically quantified. I think the give-up that we're
21 proposing beyond the 25 million would more than offset that.

22 Q Now, on the letter that just got put in as a
23 late-filed exhibit, I think, you indicate that you're adding
24 an additional \$6 million worth of revenue refunds?

25 A That's approximately correct, yes.

1 Q Is the Company pledging that \$6 million regardless
2 of the Commission's outcome on the \$25 million proposal?

3 A No.

4 Q So that only goes into effect if the 25 million is
5 adopted?

6 A That would go into effect if the ECS proposal is
7 adopted for the routes that we have proposed.

8 Q Is it not true that the Company has plans to
9 implement this ECS regardless of the outcome of this docket?

10 A Do we have plans to implement it regardless of the
11 outcome?

12 Q Yes.

13 A No. No.

14 MR. RICHARD: I have no further questions.

15 CHAIRMAN CLARK: Thank you, Mr. Richard. Mr. Beck.

16 MR. BECK: Thank you, Chairman Clark.

17 CROSS EXAMINATION

18 BY MR. BECK:

19 Q Mr. Stanley, I'd like to start by asking you some
20 questions about Exhibit 5, which is last Friday's letter --

21 A Certainly.

22 Q -- which was sent to the Commission.

23 Do the additional routes that Southern Bell is
24 proposing affect, first of all, Palm Beach County, do they
25 not?

1 A Yes, a number of them do; that's correct.

2 Q Prior to last Friday's filing there were some
3 exchanges in Palm Beach County that could not call all other
4 exchanges in Palm Beach County; is that correct?

5 A That's correct.

6 Q With your filing on Friday, this will allow all
7 exchanges in Palm Beach County to call all other exchanges in
8 the county? Is that right?

9 A Yes. That's my understanding.

10 Q In addition to that, you have some routes for Delray
11 Beach and Boynton Beach, do you not?

12 A Yes.

13 Q Could you tell the Commission where Boynton Beach
14 and Delray Beach are located?

15 A I'm not sure if I can. I'll try. (Pause)

16 Q Let me ask it this way: Are those two exchanges in
17 the southernmost portion of Palm Beach County?

18 A I believe they are, yes.

19 Q With your filing on Friday, this will allow, first
20 of all, Boynton Beach to call into Broward, all of Broward
21 County, will it not?

22 A I believe that's right.

23 Q Prior to Friday's filing, how far could Boynton
24 Beach call?

25 A I'm not sure.

1 Q Did they have Fort Lauderdale, for example, before
2 Friday's filing?

3 A I don't think they did. I don't think they had
4 calling into the southern county there.

5 Q This will also allow Delray Beach to call down
6 through all of Broward County, will it not?

7 A I believe that's right. Those -- yeah, I believe
8 that's right.

9 Q Southern Bell implemented ECS calling between a
10 large portion of Dade and Broward Counties in January of '95,
11 did it not?

12 A Yes.

13 Q Do you know whether the proposal for ECS calling was
14 originally ordered as in a PAA order by this Commission? Do
15 you know the history behind the ECS calling on those routes?

16 A I know some of the history of the ECS calling in
17 general, how it came about, I think, because we had routes in
18 prior to that. I'm not sure of all of the history. I know a
19 little bit about the history of the Dade/Broward.

20 Q Do you know whether that was originally issued as a
21 PAA order by the Commission?

22 A Help me with PAA order.

23 Q Proposed agency action.

24 A I don't know.

25 Q But in any event, that was part of the agreement

1 Southern Bell entered into to settle the rate case, was to
2 implement calling on those routes, was it not?

3 A That's my understanding, yes.

4 Q But that didn't include all of Dade and all of
5 Broward, did it?

6 A That's correct.

7 Q With your filing in this -- for this rate reduction
8 you'll complete the calling between Dade and Broward County,
9 will you not?

10 A That's correct.

11 Q What has been the customer's response to the ECS
12 plan you put into effect between most of the parts of those
13 counties?

14 A Customer response as far as I can see has been very
15 good. I'm not aware of -- I'm not aware of any negative
16 comments on it whatsoever. I've seen -- I guess I have -- did
17 see some articles talking about some -- what I would consider
18 minor aspects of the offering but I have seen no major
19 criticism of it.

20 Q You mentioned you're familiar with some of the
21 background to ECS in general in Florida?

22 A Yes.

23 Q Would you describe that?

24 A I know it started -- we started putting some ECS
25 routes in. The Commission ordered those routes back in, oh, I

1 guess the last one to two years. My recollection is that the
2 initial one was put in for GTE, and for some time there we
3 would have situations where a particular exchange might ask
4 for flat rate EAS. That particular exchange might not meet
5 the calling requirements for flat rate EAS and the Commission,
6 on several occasions, went ahead and ordered ECS on those
7 routes where they did not meet the criteria for flat rate EAS.

8 Q And the ECS for GTE, was that primarily between
9 Tampa and St. Petersburg?

10 A I'm not sure.

11 Q Do you know whether GTE proposed 25-cent calling on
12 those routes?

13 A It was my understanding that they did. Now, I could
14 be wrong but I thought they proposed -- I thought they
15 proposed 25 cents, at least for residential customers. I
16 don't know --

17 Q Would it surprise you to learn that the Commission
18 changed GTE's plan to have 25-cent calling for residential
19 customers?

20 A Let me back up and say what I do know about that.

21 I know that 25 cents went in for GTE. Now, exactly
22 how it came about in terms of what GTE proposed versus what
23 the Commission ordered, I'm really not sure of.

24 Q What effect, in your opinion, would ECS calling have
25 on economic development between the affected routes?

1 A I think it will have a positive influence. What we
2 see is we see EAS calling requested because customers want to
3 be in a position to expand their calling. As communities
4 grow, they want to be able to call their doctors, their
5 schools. I hear this in other states as well as Florida. I
6 do tend to see more EAS requests out of Florida and perhaps
7 one other state than I do anywhere else in the region. We see
8 a lot of demand for that where customers simply want to have
9 the expanded calling.

10 I think EAS satisfies that and I think the beauty of
11 it is it does it without flat rate. If you put flat rate in,
12 everybody gets an increase and everybody doesn't necessarily
13 need the expanded calling. This puts a very attractive rate
14 in, in a situation where those customers that need it can take
15 advantage of it without imposing the same flat rate charge on
16 everyone else.

17 MR. BECK: Thank you, Mr. Stanley. That's all I
18 have.

19 CHAIRMAN CLARK: Ms. Kaufman.

20 CROSS EXAMINATION

21 BY MS. KAUFMAN:

22 Q I want to go back to some questions that I think
23 Mr. Richard asked you.

24 Currently, is it true that on the routes that you've
25 selected for inclusion in the ECS proposal, many of these are

1 currently toll routes, MTS routes?

2 A Yes, many of them are, that's correct.

3 Q And we could get an idea of how many of them are by
4 turning to your tariff, which I think is Attachment C to
5 JAS-1, and that's six pages, am I right?

6 A Yes.

7 Q And if we glanced through those six pages, the
8 column at way to the right that says "MTS", those are toll
9 routes today; is that correct?

10 A That's correct.

11 Q And today consumers who want to place calls on those
12 routes do it using the 1+ dialing pattern, right?

13 A Yes.

14 Q Now, you're aware, are you not, of the Commission's
15 1+ presubscription order?

16 A Yes.

17 Q Now, as things stand today, before ECS but after
18 presubscription is implemented, a consumer would be able to
19 make calls on these routes using the 1+ dialing pattern and
20 they could chose either Southern Bell or an IXC; is that
21 right?

22 A On these routes today.

23 Q After 1+ is implemented?

24 A After 1+ is implemented, that's correct.

25 Q Now, if ECS is implemented as Southern Bell has

1 suggested, then these same calls are going to be made by
2 someone that chooses Southern Bell on a seven-digit basis?

3 A These calls would be made on seven-digit basis.
4 That's correct. Well, let me stop with that. They can be
5 made on a seven-digit basis or they could be made on a 1+
6 basis, either one, assuming that the Commission allows
7 competition on those routes.

8 Q I'm talking about ECS goes in, a consumer chooses to
9 use Southern Bell to carry the ECS calls rather than an IXC,
10 if they chose Southern Bell, they'll get to make those calls
11 on a seven-digit basis?

12 A That's correct.

13 COMMISSIONER GARCIA: Can I ask a question? Aren't
14 we going through different zip codes here in this, area codes?

15 WITNESS STANLEY: If it's an area code -- if it's
16 within an area code it would be --

17 CHAIRMAN CLARK: Commissioner Garcia is asking the
18 question.

19 MS. KAUFMAN: I'm sorry, Commissioner. I was
20 looking down that way. I'm sorry. I apologize.

21 COMMISSIONER GARCIA: It's all right.

22 MS. KAUFMAN: I haven't gotten accustomed to this
23 hearing room yet.

24 COMMISSIONER GARCIA: He's a good looking guy over
25 there.

1 MS. KAUFMAN: I thought it was coming from down
2 there and I was --

3 COMMISSIONER GARCIA: It's a good confusion.

4 I wanted to ask if it's a different area code then
5 clearly --

6 WITNESS STANLEY: Would have to dial ten digits. If
7 a different area code, instead of dialing seven digits, it
8 would be ten digits; it wouldn't be 1+, though.

9 COMMISSIONER GARCIA: However, if there was an
10 overlay plan, let's say that this Commission adopted an
11 overlay, then it would obviously be ten digits unless it was
12 something -- it would only be local calls that would be seven
13 digits.

14 WITNESS STANLEY: The local calls would be
15 seven digits and if you get into an overlay.

16 COMMISSIONER GARCIA: Then everything would be ten
17 digits.

18 WITNESS STANLEY: You could get into a ten-digit,
19 yes, but there would still be a distinction between 1+ ten and
20 ten.

21 COMMISSIONER GARCIA: Okay.

22 Q (By Ms. Kaufman) To go back to the situation as it
23 exists today, I think we have established a consumer using
24 Southern Bell would do seven digits within the same area code?

25 A That's correct.

1 Q And a consumer that chose an IXC would use the 1+
2 dialing pattern, which would require them to dial ten digits;
3 is that correct?

4 A With a 1 plus ten digits, yes.

5 Q One plus, 11 digits?

6 A I'm not sure if it's 1 plus ten all in this state
7 today or if it's 1 plus seven and 1 plus ten.

8 Q Well, they certainly would be dialing more than 7;
9 is that correct?

10 A Yes, certainly.

11 Q You mentioned in your summary and you talked about
12 in your testimony the agreement between FIXCA and Southern
13 Bell on the six Dade/Broward routes. Do you recall that?

14 A Yes.

15 Q And you've attached that to your testimony, haven't
16 you, the settlement agreement.

17 A That's correct.

18 Q It's true, isn't it, Mr. Stanley, that that
19 agreement simply put off the differences that FIXCA and
20 Southern Bell had regarding the appropriate treatment of those
21 routes until the final EAS rules were in place?

22 A I read the document for what it says. If it says
23 that, then certainly that's fine. If it said it was put off,
24 then certainly I have to read it based on what it says.

25 Q Would you turn to your Exhibit JAS-2 and look at

1 Paragraph 6.

2 A Certainly.

3 Q It's on Page 4 at the bottom.

4 A What was your question?

5 Q It's true, isn't it, that this agreement that
6 Southern Bell and FIXCA entered into simply was a vehicle to
7 put off to another day their disagreements over how these
8 routes might be treated pending the outcome of the
9 Commission's EAS rule proceeding?

10 A I assume that's a reading of it, I guess, Ms.
11 Kaufman, I'm not sure.

12 Q Well, would you agree with me, Mr. Stanley, that it
13 certainly wasn't intended to be any sort of a settlement or
14 statement of FIXCA's position in this docket?

15 A I really don't know.

16 Q Well, we hadn't entered into this docket, had we, at
17 the time that that agreement was signed?

18 A Hadn't entered into this docket?

19 Q We had not begun -- the settlement wasn't signed and
20 we hadn't begun this process to decide how to deal with the
21 \$25 million refund?

22 A The \$25 million refund was identified -- when you
23 said this docket, I assume you mean the ECS docket.

24 Q No. What I'm talking about is FIXCA's settlement
25 that you have attached to your testimony --

1 A Right. March of '94.

2 Q -- occurred earlier in time than the issues we're
3 dealing with today?

4 A This settlement has to do with ECS routes between
5 Dade and Broward. It's the same calling plan we're dealing
6 with today.

7 Q It doesn't have anything to do with Southern Bell's
8 obligation to refund the \$25 million that we're discussing
9 today?

10 A No. I mean the \$25 million is a separate issue,
11 certainly. That's not what I was referring to. I was simply
12 pointing out in this document that there had been prior
13 agreement that ECS would be a local calling plan seven-digit
14 dial.

15 Q I guess all I'm asking you, I think it's true, is it
16 not, that certainly it wasn't the parties intent that that
17 agreement would have application here --

18 A I have no idea what the intent was.

19 Q -- in this docket?

20 A I was not a party to it.

21 Q So you don't know.

22 A No, I don't know what the intent was. All I can do
23 is take the document and read what it says.

24 Q You weren't involved in that agreement, were you?

25 A No, I was not.

1 Q I want to turn to your rebuttal now. I just have a
2 few questions about that.

3 Have you read the other parties' testimony in this
4 docket?

5 A I have. I haven't read it recently.

6 Q You're familiar, though, are you not, with the
7 contention that many of the parties have set forth that if
8 this plan is implemented, it will have an adverse effect on
9 competition on the routes that are in question?

10 A Yes.

11 Q And I think that, if I'm stating it correctly, you
12 say in your rebuttal testimony that that's not the case.

13 A That's correct. That's my opinion.

14 Q And one reason that you think that that's not the
15 case is because you think that there's going to be some
16 competition on these routes, and that customers will have a
17 choice and they will look at their options. Is that right?

18 A Yes. I think customers will look at their total
19 calling. And I think we've already seen instances where
20 carriers are offering discounts based on total calling. I've
21 certainly seen those; not just intraLATA.

22 Q And you have an exhibit that you've attached to your
23 rebuttal, and it's JAS-3 which is Exhibit 3; is that right?

24 A Yes. That's correct.

25 Q And that exhibit is an attempt to illustrate the

1 fact that consumers will take a look at their options, and at
2 least in some circumstances pick the more economic one.

3 A Yeah. This exhibit simply shows that for a customer
4 that makes short duration calls and short duration and short
5 distance, then ECS is not necessarily the best choice. The
6 IXC offerings could be a better choice than those just on a --
7 looking purely a per-call basis, I tend to think customers
8 will tend to look at their total usage, their total calling,
9 not just per call, but this demonstrates they don't -- purely
10 a per-call basis.

11 Q To follow through with your -- to take a look at
12 your exhibit here, if I understand it correctly, over there on
13 the right, the very right-hand column, it says "Maximum Billed
14 Minutes," what you're trying to show there is ECS is going to
15 cost less than an IXC alternative when a call is longer than
16 the minutes that are all the way in the right-hand column; is
17 that right?

18 A That's correct.

19 Q I just want to the walk you through one of the
20 mileage bands so we can see how a consumer would have to
21 analyze their calls in order to figure out what their best
22 choice might be.

23 Let's look at the third mileage band down, that's
24 the 23 to 55 mileage band, and you've got two listings there,
25 one for evening and one for nights and weekends; is that

1 right?

2 A You said 23 to 55.

3 Q Right, third one down?

4 A Yes. Uh-huh.

5 Q Now, if a customer wanted to figure out which would
6 be more economical, the ECS plan or a competitor, an IXC, and
7 I see you've listed three different ones there, they would
8 have to have some information to do that, wouldn't they?

9 A That's true of any calling they do. Certainly no
10 more confusing than the current situation they have with
11 interLATA.

12 Q The first thing they'd have to know and I guess they
13 wouldn't necessarily have to know these in the order that I'm
14 going to present them, but they'd have to know how long their
15 call is going to last; if it's going to be less than a minute
16 or more than a minute; is that right?

17 A I guess they would -- they would have to know in
18 advance how long their call is going to last and the distance
19 and the time of day they are going to call.

20 Q You've anticipated my question. You'd have to know
21 how far away the call is and how long you're going to talk and
22 you'd have to know that before you place a call, right?

23 A That's one way to do it. I know the way I do my
24 calling, and I make a fair amount of interLATA calls, I will
25 tend to call in the off-peak period. I don't know exactly how

1 long I'm going to call because I'm calling relatives and we
2 may talk for a while. And sometimes my wife may choose to
3 call a relative during the day period and we wind up paying
4 the peak rate and she will not be as sensitive to that as I
5 will just as many consumers may not be as sensitive
6 to peak/off-peak calling times and distances and this sort of
7 thing. I think ECS makes it much easier. It says 25 cents.
8 You pay 25 cents and you talk. There's nothing to keep up
9 with or no comparisons to be made.

10 Now, if you're a customer, though, that is sensitive
11 to having a need for a lot of short duration calls, then
12 certainly you'd probably get into more of an analysis like
13 this. Or if you're a customer that does a lot of calling on
14 routes beyond these routes, because this is a route-specific
15 offering; this is not for every route out of an exchange. It
16 is certain routes. And you would tend, I would think, to look
17 at your total calling. And then you would look at what's the
18 more convenient thing for me in terms of who I want to deal
19 with and what's the best deal for me.

20 Q I guess what I'm trying to explore with you is what
21 you're trying to illustrate in this exhibit. And I thought we
22 had agreed you were trying to illustrate that there will be
23 choices that will be competitive with your ECS product.

24 A This is from my perspective -- it's not intended to
25 be a complicated exhibit. All it shows is that there are

1 situations where customers would be better off on a per-call
2 basis to place a call with a carrier. Let's say MCI for
3 example, has a 19-cent rate and the first minute -- I don't
4 know exactly what it is, but say 23 to 55 is 19 cents for the
5 first minute, then that's cheaper than a quarter and they'd be
6 better off. That's one of the things that you get when you
7 charge a quarter. There are going to be some calls where you
8 can make them cheaper using another carrier. That's all
9 that's depicting. It just shows the breakevens.

10 Q And the customer would have to do that analysis in
11 order to figure out who was cheaper; is that right?

12 A Well, I mean just like you'd have to do an analysis
13 on all of your calling. If you really want to get down and do
14 a hard analysis, you have to do that analysis with every call
15 you make, whether it's with us or with somebody else.

16 Q Now, let's say we have a customer that did that,
17 they wanted to go through that analysis and they knew how long
18 they were going to call and they knew how far away the call
19 was and they knew if it was evening, nights or weekends, or
20 whatever, then I guess this exhibit shows they'd save some
21 money on the short calls with some of the other IXCs; is that
22 right? Short duration calls.

23 A The IXC rates tend to be less on short distance and
24 certainly on short duration.

25 Q Can you tell me -- let's just stay in the same

1 mileage band that we looked at. If the customer did that
2 analysis, for example, for AT&T, do you know how much they
3 would save on that call?

4 A Just a minute. I'm looking for my AT&T rates. Just
5 a moment. (Pause) 23 to 55 miles?

6 Q Yes?

7 A Which period?

8 Q Let's look at evening.

9 A Evening period the initial minute is .2025, that is
10 20 and a quarter cents for the first minute. So if they
11 placed the call with AT&T they would pay 20 and a quarter
12 cents and I assume there's some rounding in there somewhere.

13 Q So, how much are they going to save after going
14 through this analysis on that call?

15 A On that one call they would save 4.75 cents by using
16 AT&T.

17 Q If they were going to use MCI and they did that
18 analysis, how much would they save on that call?

19 A MCI's basic rates are a penny less than AT&T's, so
20 in that case they would save 5.75 cents. Sprint's, I think,
21 are identical to AT&T so it's 4.75 cents.

22 Q Do you know, Mr. Stanley, how many residential calls
23 on average are -- take less than a minute?

24 A No, I don't. The real key issue there I think is
25 you almost have to come back to the individual. We could say

1 well, 20% of all calls are less than a minute. But that
2 doesn't mean anything. The key thing is what does it mean to
3 you as a consumer? If you have a need to make calls like
4 that, a lot of them, or if you have a need to make a lot of
5 long calls, then that will affect what you choose. If you
6 have a need to call a particular location, it affects what you
7 choose. There are a lot of different things going into the
8 mix of your decision making here.

9 ECS, again, is not on all routes. It is on
10 particular routes. So if you are in an exchange, ECS gives
11 you benefit in calling a particular location. Some of the
12 Dade/Broward you might pick up all of the locations in that
13 county, but you get ready to call other places and it won't
14 necessarily benefit you.

15 So customers are going to look at their total
16 calling needs, any of us will do that, I think, and look at
17 what is the best deal based on those total calling needs.

18 Q But you don't know how many residential calls last
19 less than a minute, do you?

20 A No, I don't know that.

21 MS. KAUFMAN: That's all I have. Thank you, Mr.
22 Stanley.

23 CHAIRMAN CLARK: We'll take a break until 11:30
24 (Brief recess.)

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CHAIRMAN CLARK: We'll reconvene the hearing. Mr. Boyd.

MR. BOYD: Thank you, Chairman Clark.

Chairman, I have distributed, placed in front of you and each of the Commissioners, and I think all of the parties, a proposed exhibit that I would like to be assigned an exhibit number.

CHAIRMAN CLARK: Which one is it?

MR. BOYD: It's responses to McCaw's Second Request for Production of Documents, Item No. 23.

CHAIRMAN CLARK: That will be labeled as Exhibit 6. (Exhibit No. 6 marked for identification.)

CROSS EXAMINATION

BY MR. BOYD:

Q Mr. Stanley, do you have Exhibit 6 in front of you there?

A Yes.

Q If you'll turn to the second page, can you identify that document as a document produced by Southern Bell in the course of the discovery in this docket?

A Yes, sir.

Q And do you have the responses of Southern Bell to McCaw's Second Set of Interrogatories before you?

1 A I don't have it in front of me, no.

2 Q Okay. Thank you. I'll move on to another subject,
3 then.

4 Can you tell me, Mr. Stanley, what the composite
5 originating and terminating access charge will be on October 1
6 of '95 for Southern Bell?

7 A I think that would be better addressed to Mr.
8 Hendrix. I don't really know that. Excuse me, Mr. Boyd. Who
9 are you representing?

10 Q I'm sorry. I represent Sprint and the Florida
11 Mobile Communications Association.

12 A Thank you.

13 Q I have, Mr. Stanley, an interrogatory answer. Would
14 you accept, subject to check, the figures for that rate, the
15 composite rate?

16 A What is the figure?

17 Q For October 1 of '95 and this is, Counsel, Southern
18 Bell's response to McCaw's Second Set of Interrogatories, Item
19 No. 28. For October 1, '95 the rate is 7.152 cents per
20 minute.

21 MR. CARVER: Could we show him a copy of the
22 document?

23 MR. BOYD: Sure. I'll be happy to. If I may
24 approach the witness. (Hands document to witness.)

25 A Okay.

1 Q And the October 1, '96, composite access charge is
2 6.017 cents. Will you accept that number, subject to check,
3 as well?

4 A Yes.

5 Q And even if you round the October '95 rate to
6 7 cents, I believe you said the average residential call on
7 these routes was 4.2 minutes?

8 A That's correct.

9 Q If you round the October '95 rate to an even 7 cents
10 that's 29.4 cents, isn't it, for that average call?

11 A That looks about right.

12 Q And that compares to the proposed ECS rate of
13 25 cents for that call?

14 A The same call on a ECS route would be 25 cents.
15 That's correct. What you're doing here is you're looking at a
16 per-call basis instead of looking at everything. On a
17 per-call basis --

18 Q I'm just asking you if you agree with my math.

19 A Pardon me?

20 Q I'm just asking if you agree with the math.

21 A I don't have a calculator. I'm taking your word for
22 it.

23 Q And in October of '96, if you round the access
24 charge down to 6 cents for that same average call that you
25 spoke of, 4.2 minutes times 6 cents is about 25.2 cents?

1 A That's about right.

2 Q And, again, that compares to the 25-cent ECS charge
3 to the residential customer for that call?

4 A The charge for the ECS call would be 25 cents.

5 Q Thank you. Now, the proposal is for the ECS plan to
6 take effect on October 1 of '95; is that correct?

7 A The ECS plan, I think what we've said is Phase I
8 would cut 60 days after the final order is effective. Phase
9 II would cut 120 days after the final order is effective.

10 Q And the proposed plan is nonvoluntary. If the
11 person dials, makes the call, they will be charged the
12 Southern Bell ECS rate?

13 A Yes. Depends on your definition of voluntary. I
14 would call that voluntary.

15 We will offer only one rate on a particular route if
16 we implement ECS. So if a customer uses Southern Bell on that
17 route they pay 25 cents. If a customer chooses to use someone
18 else or to not make the call, then obviously they'd pay
19 something else or nothing at all.

20 Q And I think Ms. Kaufman looked at the attachment to
21 the filing that listed the routes and seen that many of them
22 had the MTS designation beside them; is that correct?

23 A I believe she did.

24 Q Do you agree that more than the majority of those
25 calls are MTS routes?

1 A Oh, yes. That's what you get into with expanded
2 calling and EAS pressure is typically to convert that to local
3 calling.

4 Q And today for Southern Bell customers to make those
5 calls, the MTS calls, how are those dialed?

6 A They would be dialed either 1 plus seven or 1 plus
7 ten digit. The ones that are MTS today.

8 Q And when your Phase I plan starts, those would be
9 dialed with just a seven digit; is that right?

10 A Again, if you select our service it's dialed on a
11 seven-digit basis, that's correct. If you select your
12 service, then it's dialed on a different basis.

13 Q If the customer dials the ECS call under your plan
14 it's seven digits.

15 A That's correct.

16 Q Does Southern Bell propose to have some form of
17 promotion or educational activities to explain the change in
18 dialing pattern?

19 A I'm sure we will. We would typically do bill
20 inserts. We might do some type of mail out. I don't know
21 specifically what is planned for that but I'm certainly
22 certain that we would, yes.

23 Q And until the -- let me back up.

24 The 1+ intraLATA calling arrangement for IXCs is set
25 to take place January of 1996, isn't it?

1 A I was thinking some of that started to cut earlier
2 than that. I don't remember the dates -- you're talking about
3 the 1+ order?

4 Q Yes, sir. And let me back up. Today for a customer
5 to choose an IXC to carry these routes that you've shown as
6 MTS, it has to be dialed on either a 10XXX or an 800
7 dial-around call?

8 A I would say yes.

9 Q You would agree that that's a dialing advantage to
10 Southern Bell today?

11 A I think it's obviously more difficult to dial 10XXX
12 where you have to do that. There are certainly ways around
13 that through dialing mechanisms and all, but generally it
14 would be easier to dial certainly 1+ than it would be 10XXX.

15 Q Once the 1+ intraLATA dialing takes place, then the
16 difference in calling will be seven digit for your ECS calls
17 and 1 plus ten digits for the IXC calls, will it not?

18 A The calling would be seven digit as long as it's
19 intra-NPA. It would be ten digit if it's inter-NPA. And in
20 the case of the carrier dialed calls it would be a 1+ -- I
21 assume a 1 plus seven or a 1 plus ten.

22 Q And you would agree, would you not, that the
23 seven-digit dialing arrangement would constitute a dialing
24 advantage for Southern Bell?

25 A That's back to what I said earlier. I think what

1 you're doing when you say that your --

2 MR. BOYD: Chairman Clark?

3 WITNESS STANLEY: I would not disagree.

4 MR. BOYD: May I ask the witness answer the question
5 yes or no and then be permitted to explain.

6 CHAIRMAN CLARK: Would you do that, please,
7 Mr. Stanley?

8 A No. I don't think it's necessarily a dialing
9 advantage -- an overall advantage. Now, if you focus purely
10 on the dialing aspects of it, is it easier to dial one digit
11 less or perhaps three digits less, then certainly that's
12 easier. But I think you have to look at the total service and
13 that gets back to what I said earlier. If it's worth my while
14 to dial more digits in order to save money, I'll do that. So
15 when a customer is making a decision about which carrier he or
16 she will use, and I think they'll look at the total service,
17 and I think your dialing pattern is one piece of that. I
18 don't think that's the total thing that causes a customer to
19 choose one way or the other.

20 Q And is that dialing arrangement what you meant in
21 your summary when you described your ECS plan as having a
22 convenient seven-digit calling plan?

23 A It is convenient in the sense that it will be easy
24 for customers to use, yes.

25 Q That's the terminology you used in your summary,

1 wasn't it?

2 A Yes. One of the advantages when we start talking
3 about ECS, we talk about the rate, the 25-cent rate; we talk
4 about the dialing advantage that it offers in terms of other
5 plans and it's a seven digit.

6 What I was responding to, though, was I think you
7 don't focus just on that particular plan when a customer is
8 making a decision. I think the customer will look at all
9 aspects of their calling when they make a decision. That's
10 only one of them.

11 Q Does Southern Bell have any studies that project or
12 estimate the percentage of traffic on these routes that
13 will -- that the ECS plan will attract?

14 A I'm not aware of any. You know, what you're talking
15 about is, you're talking about converting the traffic that are
16 there to ECS, so certainly there will be a volume of traffic
17 there.

18 Q Now, you refer, I believe, in response to
19 Ms. Kaufman I think in your summary to a bundling of access
20 between interstate and intrastate. Do you recall that?

21 A Yes. I believe I mentioned that in summary.

22 Q Yes, sir. If an IXC carries one of these -- a call
23 over one of these routes, they will pay the intrastate access
24 charge for that call, won't they?

25 A It depends really. It depends on whether or not --

1 yes or no.

2 Q Yes, sir.

3 A Yes if they use Southern Bell, that's correct.

4 Q Thank you. Ms. Kaufman asked you about the exhibit
5 JAS-3, which I think is Exhibit 3. They had the analysis of
6 the different rate plans and the mileage bands and so forth.
7 You're familiar with your exhibit?

8 A Yes.

9 Q Do I understand it correctly then that a customer
10 who doesn't understand all of those rate comparisons and
11 simply dials a short haul call on a seven-digit basis because
12 it's more convenient will pay more than it would with one of
13 the IXCs.

14 A The answer is yes. If a customer dials -- wants to
15 use this particular plan, it's conceivable they could pay more
16 than they would with one of the IXCs. I would still submit to
17 you that it's a whole lot easier for a customer to understand
18 a 25-cent rate like this than it would be the multiplicity of
19 other calling plans that are out there. Certainly, if
20 anything, this is less complicated than what we see today.

21 Q And for that short haul call, short duration, it's
22 more expensive.

23 A For that one call, short duration and/or short
24 distance, it could be more expensive with ECS than it is with
25 Sprint, MCI, AT&T, any other caller that might provide that

1 service for that particular call, yes.

2 MR. BOYD: Thank you.

3 CHAIRMAN CLARK: Mr. Tye.

4 CROSS EXAMINATION

5 MR. TYE: Good morning, Mr. Stanley.

6 Chairman Clark, could I make an inquiry of Staff
7 through the Chair if all of these exhibits are going to be
8 introduced, because if they are it's going to shorten what
9 I've got to say considerably.

10 MR. ELIAS: We intend to offer them, yes.

11 BY MR. TYE:

12 Q Mr. Stanley, you indicated that the new filing that
13 you made added about 18 routes to your present filing; is that
14 correct?

15 A It's actually 36 routes, two reciprocals, yes.

16 Q Yes, sir, I understand. So instead of proposing ECS
17 on 252 routes, you're now proposing it on 288; is that
18 correct?

19 A That's correct.

20 Q Now, when did you agree with Public Counsel to add
21 these new routes?

22 A The agreement was last week, I think just shortly
23 before Ms. Sims wrote the letter, which it was -- I believe it
24 was written on the 28th.

25 Q Which is last Friday; is that correct?

1 A Yes.

2 Q Do you know what day the agreement was reached?

3 A I'm not sure. I'm not sure.

4 Q When did you enter into discussions with Public
5 Counsel with respect to these routes?

6 A It would have been since the deposition. I don't
7 know the specific dates.

8 Q The deposition was on June the 17th, was it not?

9 A Two weeks ago, that's correct.

10 Q And at the time of your deposition Public Counsel
11 asked you about some of these very same routes; is that
12 correct?

13 A That is correct.

14 Q And you indicated that these routes did not meet the
15 criteria that you had set up for ECS service; is that correct?

16 A That's correct.

17 Q Now, prior to Friday afternoon when this filing was
18 made, did somebody notify any of the other parties to this
19 case of the intent to expand this filing?

20 A I'm not aware that we have. I'm not aware of any
21 notification other than Ms. Sims' letter and the additional 36
22 routes being considered.

23 Q And the letter was dated July 28th, which was
24 Friday?

25 A That's correct.

1 Q Mr. Stanley, what does ECS stand for?

2 A Extended calling service.

3 Q And I think you indicated in your deposition that
4 you consider it to be a local service; is that correct?

5 A That's correct.

6 Q Has Southern Bell -- Southern Bell has done customer
7 surveys in the past on various issues; is that correct?

8 A Yes, different types of focus groups and things like
9 that, yes.

10 Q You haven't conducted any customer surveys of that
11 nature with respect to this particular service, though, have
12 you?

13 A No.

14 Q So when you say in your summary that if this filing
15 isn't approved, there would be a lot of disappointed customers
16 out there, that's a supposition on your part, is it not?

17 A What I'm looking at is the number of EAS requests
18 that the Commission has.

19 This will go a long way towards addressing those
20 requests. There are 24 outstanding right now. No reason to
21 expect that they would not see more. In my opinion, ECS will
22 go a long way toward resolving those EAS issues.

23 Q Mr. Stanley, one of the routes that you're proposing
24 ECS on in this case is Key West to Miami; is that correct?

25 A That's correct.

1 Q And am I correct in understanding that that route is
2 135 miles?

3 A Yes, that's correct.

4 Q Do you know of any EAS case where EAS has been
5 ordered over a distance of 135 miles?

6 A No, I don't believe so.

7 Q Mr. Stanley, you indicated in response to some
8 questions asked earlier about use of PBX trunks that PBX users
9 could use MegaLink in lieu of PBX trunks; is that correct?

10 A That's correct.

11 Q MegaLink is a high capacity access service, is it
12 not?

13 A That's right.

14 Q And to use MegaLink you have to commit to use 24
15 channels; is that correct?

16 A That's correct.

17 Q So the only PBX customer that it would be
18 economically feasible to use MegaLink for would be one that
19 has at least 24 PBX trunks; is that correct?

20 A No, it's not really. Let me clarify that a little
21 bit, my previous answer.

22 MegaLink is a pipe. It will handle 24 circuits, but
23 you can activate the circuits as you need them. You buy the
24 pipe and then you pay an additional charge as each circuit is
25 activated.

1 Since the deposition I took a look at the high rate
2 group and it looked to me like we could have a breakeven down
3 as low as eight or ten trunks. So you could have a customer
4 that has much fewer than 24 trunks that could still buy and
5 use MegaLink.

6 And the other thing that I pointed out in my
7 testimony that was very interesting was that MegaLink today,
8 we've got the equivalent of 53,000 trunks on MegaLink. We've
9 only got 80,000 flat rates; that's a 130,000 something trunks
10 and 53,000 of them over MegaLink. That has grown from roughly
11 15,000 in 1990 to about 28,000 in 1992, up to 53,000, which
12 says to me that there's a lot of PBX customers using this
13 alternative.

14 Q Does that complete your answer?

15 A Yes.

16 Q Okay. Thank you.

17 So the break-even point, according to your analysis
18 then, is eight trunks; is that correct?

19 A That's correct.

20 Q If you have fewer than eight trunks, it's not
21 economical for you to use MegaLink; is that correct?

22 A That's correct.

23 Q Okay. Mr. Boyd asked you a question about studies
24 with respect to the amount of market share that Southern Bell
25 would have on these routes if ECS is implemented. Do you

1 recall those questions?

2 A I think he asked about minutes or something. I
3 didn't hear that market share question.

4 Q The market share of the total minutes, I believe was
5 his question.

6 A I think he asked how many minutes would convert, or
7 something.

8 Q Well, let me ask you this: How did you determine
9 the revenue impact of this filing when you put it together?

10 A What we did, we took the routes that were being
11 converted and we actually took those routes, the toll minutes
12 on those routes, and converted them to the ECS pricing
13 structure. So simply priced -- instead of pricing them out
14 under toll rates, we priced them out at the 25 cent rate for
15 res and the ten and six for bis. So, you know, in doing that
16 you have to price out the total usage that's involved.

17 Q What kind of a stimulation factor did you use?

18 A We looked at a stimulation, our best estimate would
19 be about 50%.

20 Q Did you assume that you would capture any traffic
21 from IXCs that might otherwise be providing service on those
22 routes?

23 A No.

24 Q Now, at your deposition I think you indicated that
25 you were part of a team that put this filing together; is that

1 correct?

2 A This was -- a filing was looked at and I
3 participated. Yes, you can say I was part of a team of
4 people.

5 Q And I think you indicated that primarily it was put
6 together at the direction of Mr. Lombardo and Ms. Sims here in
7 Florida; is that correct?

8 A You can look at it that way, yes. We put
9 recommendations together to them, and they had the final call
10 on what exactly we would file.

11 Q And I think you indicated that you were asked to put
12 this filing together, or that the team began to meet the first
13 quarter of this year; is that correct.

14 A We did some work on it the first quarter of this
15 year. I think I indicated also there was some work going back
16 to the fourth quarter of last year. I did some subsequent
17 checking and we did, indeed, put some recommendations together
18 around October and there was some work done on actually
19 looking at ECS, the expansion of ECS back well before then.

20 Q But you didn't remember any of that in your
21 deposition; is that correct?

22 A The deposition, I think you asked me and I did not
23 remember specific dates. I believe I did mention to you that
24 we started discussions on this in the fourth quarter.

25 MR. TYE: Thank you. I have no further questions of

1 Mr. Stanley.

2 CHAIRMAN CLARK: Mr. Melson.

3

4

CROSS EXAMINATION

5 BY MR. MELSON:

6 Q I'm Rick Melson representing MCI. I've got just a
7 few questions. Could you turn to your Exhibit No. 3, JAS-3?

8 A I didn't know this exhibit was going to be so
9 popular when I put it together.

10 Q Well, it's the label on it, "Residence Calls Cheaper
11 with IXC Toll" that grabbed my interest.

12 A Okay.

13 Q Is it true that this exhibit shows that an IXC is
14 never cheaper in the daytime in any call of 11 miles or
15 greater?

16 A For a day call, a residence day call 11 miles and
17 greater that's what it would show given the current rates.
18 And all I did was I simply took your existing rates, I didn't
19 take any type of volume discounts or anything you might offer.

20 Q I've got about half a dozen questions and if we get
21 them answered yes and no, it will move things along. If you
22 need to explain, that's fine.

23 I believe you've testified the average call duration
24 is 4.2 minutes for a residence call; is that correct?

25 A That's correct.

1 Q And, again, on your JAS-3, the only place where a
2 residence call might be cheaper -- residence call of average
3 duration might be cheaper using an IXC would be in the
4 night/weekend period in the 10 mile or less band; is that
5 correct?

6 A For this particular -- ask me that again. Let me be
7 sure I understood what you said.

8 Q With an average call duration of just over four
9 minutes, the only place that a night/weekend residence call
10 might be cheaper over an IXC, if it was an average duration
11 call, would be in that one to ten mile band; is that correct?

12 A That's correct. I think if I understand you
13 correctly, let me just say it back to be sure I did.

14 What you're asking -- this exhibit shows the number
15 of minutes that one could use to the point where you get up to
16 25 cents. I think what you're saying is that looking at a
17 four-minute call the only place you see a four-minute call is
18 night/weekend, one to ten miles. That's the only place you
19 could get that high, that's correct.

20 Q Do you know how many of the proposed ECS routes are
21 ten miles or less?

22 A Not offhand, no.

23 Q Could you turn to your answer to Staff's
24 Interrogatory No. 12.

25 A I can't turn to it. I don't have it.

1 Q Do you have the package of materials the Staff has
2 handed out.

3 MR. ELIAS: Mr. Stanley, the white loose-leaf
4 notebook contains --

5 Q (By Mr. Melson) If you could turn to Page 12 of
6 that book.

7 A Okay.

8 Q If I understand correctly, Pages 12 through 19 show
9 the mileage bands for the ECS routes; is that correct?

10 A Yes.

11 Q And would you accept, subject to check, if you look
12 through the mileage bands as they are given here, you only
13 find ten routes, actually five routes two-way on which the
14 mileage is ten miles or less?

15 A Subject to check, I'll take that.

16 Q And would you take a look at the first one of those,
17 which is on Page 13, it's Big Pine Key to Miami which shows
18 six miles. Should that be 106?

19 A I'm not sure. I don't know of the geography of
20 Florida as well. It could very well be, I'm not sure.

21 Q On the second page, Homestead to Key West shows five
22 miles? Should that be 105?

23 CHAIRMAN CLARK: I can tell you that's not right.

24 WITNESS STANLEY: I'll take Ms. Clark's opinion on
25 that, yes. I'll accept 105.

1 CHAIRMAN CLARK: There are a number of errors in
2 this it seems to me. Looking at Key Largo to Key West or Key
3 Largo to Homestead, one is one mile and one is 22. I don't
4 think those are right at all.

5 Q (By Mr. Melson) So if this exhibit shows only ten
6 routes that are less than 10 miles, the actual number would
7 appear to be somewhat less than 10 routes that would fall into
8 that category once the corrections are made?

9 A Given these corrections, I would have to agree with
10 that, yes.

11 MR. MELSON: That's all I had. Thank you.

12 MR. SELF: No questions.

13 CHAIRMAN CLARK: Thank you, Mr. Self.

14 MR. DICKENS: If Staff wants to go last I have a few
15 questions.

16 CHAIRMAN CLARK: Go ahead Mr. Dickens.

17 CROSS EXAMINATION

18 BY MR. DICKENS:

19 Q Mr. Stanley, I'm Ben Dickens representing Florida
20 Ad Hoc Telecommunications Users Committee.

21 I wanted to ask you a follow up on a question that
22 Mr. Tye discussed with you about MegaLink.

23 A Yes.

24 Q In your prefiled testimony you have mentioned the
25 fact that 53,000 -- Page 8, carrying over a Page 9, beginning

1 at Line 24, you say "Overall demand for MegaLink service has
2 been strong in Florida with sufficient units sold to handle
3 over 53,000 PBX trunks."

4 A Excuse me, which page are you on?

5 Q I'm sorry. I'm asking questions about your rebuttal
6 testimony. I should have made that clear. All of my
7 questions will be directed to your rebuttal.

8 A Page 9.

9 Q Beginning at the bottom of Page 8, Lines 24 to 25,
10 carrying over to the top of 9.

11 A Okay.

12 Q Do you see that statement about MegaLink service?

13 A Yes.

14 Q Okay. Is it your testimony that there are 53,000
15 PBX trunks being provisioned now over MegaLink?

16 A In effect that's the case, yes. There are the
17 equivalent of 53,000 units over MegaLink today, yes.

18 Q Okay. So this is not a capacity --

19 A No.

20 Q -- not merely capacity to handle 53,000 PBX trunks?

21 A That's correct.

22 Q Okay. On Page 5 of your testimony you're talking
23 about a statement Mr. Metcalf made about ECS rates being lower
24 than switched access, than the switched access rates that
25 Southern Bell's competitors pay.

1 A You say on Page 5?

2 Q Yes.

3 COMMISSIONER KIESLING: Of prefiled or --

4 MR. DICKENS: Yes, Page 5 of prefiled --

5 COMMISSIONER KIESLING: Rebuttal?

6 MR. DICKENS: Prefiled rebuttal testimony.

7 A Okay.

8 Q (By Mr. Dickens) Actually, it begins on Line 20 at
9 the bottom of Page 4, and carries over to 5. Do you see that?

10 A Yes, I see it.

11 Q I believe that your statement is that the argument
12 is invalid because it considers only Southern Bell's
13 intrastate switched access rates, and you go on to point out
14 between Lines 11 and 16 that the combined cost to the IXC
15 intrastate access, interstate access and alternative access is
16 a relevant factor as to whether an IXC can effectively compete
17 for ECS traffic. Do you see that?

18 A Yes.

19 Q Okay. It's a true statement, isn't it, however,
20 Mr. Stanley, that the IXCs cannot lower their intrastate
21 access costs on calls going over ECS routes by using
22 interstate access rates?

23 A Yes. That's not what I meant by that. I didn't
24 mean that they could necessarily lower the cost on the
25 intrastate route. That's correct. They can't do that. What

1 I'm saying, though, is if you look at the total cost and the
2 total access for a particular product, be it interstate,
3 intrastate, alternate access, the use of that, then in looking
4 at all of those things, what I'm pointing out, is that they
5 can lower their overall cost of access.

6 Q But at least some of those IXC operations and the
7 costs that they pay are beyond the jurisdiction of this
8 Commission, aren't they?

9 A Yes.

10 Q And you would not, as a general principle, want to
11 suggest that this Commission or any state regulatory
12 Commission should look at nonjurisdictional operations to, for
13 instance, set the revenue requirements for Southern Bell's
14 operating companies?

15 A No, that's not what I'm talking about at all. What
16 I'm simply saying is that regardless of where it's done and
17 how it's done, the reality of it is, that interstate is less
18 than intrastate and there are alternatives and will be more
19 alternatives to getting your access from the LEC. And I'm
20 simply pointing out that if you're really going to look at
21 whether or not an IXC can compete, I think that's the relevant
22 thing to look at, not just what the particular approved LEC
23 rates are in a state.

24 Q Well, if interstate access rates were much higher,
25 would you be making the argument that they couldn't compete

1 very effectively?

2 A If interstate rates were higher than -- no, you
3 couldn't make that portion of the argument. You could still
4 make it with regard to alternate access, though.

5 Q But you wouldn't suggest that we look beyond Florida
6 jurisdictional operations for Southern Bell to see how
7 Southern Bell is doing?

8 A No.

9 Q Revenewise.

10 On Page 3, backing up a little bit in your rebuttal
11 testimony, you say that with or without ECS, competition will
12 continue to flourish in Florida. And one reason you give is
13 because Southern Bell can only provide intraLATA service while
14 competitors can provide intraLATA and interLATA service. And
15 going on over to Page 4, you say that even if Southern Bell
16 captured the entire intraLATA market, the IXCs would still
17 control over 80% of the total market. Do you see that
18 statement? That's on Lines 14 to 18, Page 4.

19 A Yes.

20 Q You're suggesting that because Southern Bell
21 currently only has authority to operate intraLATA that the
22 market is more competitive?

23 A Which market is more competitive?

24 Q Well, the intraLATA market I presume is what you're
25 talking about.

1 A Am I suggesting that the intraLATA market is more
2 competitive.

3 Q Well, let me ask you what market you're referring to
4 in your answer on Page 4, that begins on Line 4 and ends on
5 Line 14?

6 A Begins on Line -- let me be sure I'm following you,
7 now. Page 4, beginning on line --

8 Q Line 3.

9 A 3?

10 Q Excuse me. Page 3, Line 4 is where your answer is.

11 A Page 3, Line 4.

12 Q Yes. The answer begins, "Absolutely not."

13 A Okay. Now what is your question?

14 Q What market are you referring to there? You say,
15 "Absolutely not. With or without ECS, competition will
16 continue to flourish in Florida for two reasons. Southern
17 Bell can provide only intraLATA service while its competitors
18 can provide the full spectrum of toll services, including
19 intraLATA, interLATA interstate and international." Now, what
20 market were you referring to when you made that statement
21 about --

22 A I'm really talking about the toll market in the
23 state of Florida. I'm saying that --

24 Q T-O-T-A-L?

25 A Toll, T-O-L-L.

1 Q Toll market.

2 A Toll. The long distance market in the state of
3 Florida will continue to flourish is what I'm saying. And
4 what I go on to point out on the next page, when I talk about
5 the 20% versus the 80%, what I'm saying is that roughly 20% of
6 the market is intraLATA. 80% is everything else, interLATA,
7 international, interstate, whatever. The significance of that
8 is that it gives, I think, an IXC a significant advantage in
9 terms of being able to offer volume discounts on total
10 traffic. They can come in and add the additional 20% and add
11 that to their volume discounts, if you will, and offer
12 discounts and I think compete. And I think a lot of times we
13 get so focused on the intraLATA market, we don't stop and
14 realize that relative to the total toll market, it's not a big
15 piece of it; it's a smaller piece of it.

16 Q Well, again, though, your statement says that
17 competition will flourish because Southern Bell can only
18 provide intraLATA service. Now, did you mean to say that --

19 A Well, it didn't say that, did it?

20 Q Well, it says, Lines 9 through 14, that's what it
21 says.

22 A Which page are we on now?

23 Q Page 3.

24 A And you're reading 9 through 14, "Southern Bell can
25 provide only intraLATA service, while its competitors can

1 provide the full range of toll services, including intraLATA,
2 interLATA, interstate and international?

3 Q That's right.

4 A I'm sorry. So what is your question?

5 Q Well, I'm trying to figure out what -- you said in
6 your testimony that competition will continue to flourish
7 because Southern Bell can only provide intraLATA service,
8 while its competitors can compete in other arenas. Does that
9 mean that --

10 A Let me explain it this way: Competition will
11 continue to flourish. In other words, even if we put in this
12 ECS, it's not going to foreclose competition is what that is
13 saying. And it's not going to foreclose competition for two
14 reasons: One is that the other carriers can offer the volume
15 discounts, they can offer the one-stop shopping, the
16 convenience, all of the advantages of being able to lump total
17 toll usage that we don't have. That is a distinct advantage
18 in my mind in the marketplace, and I think consumers will be
19 responsive to that. Because of that, it's not likely, even if
20 we put this ECS in, we're going to capture all of the traffic,
21 in my opinion.

22 Q Well, in fact, there's a bill pending in Congress,
23 isn't there, to give you interLATA authority?

24 A That's correct.

25 Q And it ought to be voted on this week or next week.

1 Do you know anything about that?

2 A I don't know a lot about it. I know that the bill
3 is moving through Congress that will open up a lot of
4 different markets, not just this one.

5 Q In any event, Mr. Stanley, I take it you're not
6 complaining in this testimony about Southern Bell's inability
7 to compete outside the LATA, are you?

8 A No.

9 Q Okay. Let me refer you to Page 9 of your testimony.

10 MR. CARVER: Rebuttal still?

11 MR. DICKENS: Yes, rebuttal.

12 MR. CARVER: Okay.

13 Q (By Mr. Dickens) And you indicate some disagreement
14 with Mr. Metcalf's assertion that changing the pricing
15 relationship between PBX and ESSX is going to result in a more
16 competitive market. And one of the things you cite there in
17 your answer at Lines 17 and 18 is the fact that ESSX has a
18 less than 12% market share.

19 A Yes. There are really two interesting --

20 Q Let me ask you a question before you make a speech.

21 A Certainly.

22 Q Assuming for the sake of argument your market share
23 calculation is correct of less than 12%.

24 A Okay.

25 Q That doesn't necessarily mean that the market is as

1 competitive as it could or should be, does it? Market share
2 by itself doesn't necessarily tell you that competition is
3 occurring fairly or at its most efficient level, does it?

4 A I don't think you can look only at that, but I've
5 got to make a speech on that.

6 When you're looking at market share, certainly
7 there's more than market share, but we're talking about a
8 terminal PBX equipment market that has been competitive for
9 about 20 years. This is not like this is a new market that
10 just crept up. We have had competition in it since the late
11 '70s. I say "we," from an overall industry standpoint.
12 There's been competition in a lot of that for a long time.
13 And to say after that long a period of time, with as much
14 competition and as many other providers that we have providing
15 PBX equipment, that we're sitting here with a 12% share, and
16 we look at that over of the past three years and it's grown 1%
17 or less, and I think your witness indicated that we were
18 taking substantial parts of that market, I just don't see it
19 based on the numbers I'm looking at. I don't see how we have
20 captured gobs of that market.

21 Q How precise would you say your definition of the
22 market share or your study of the market share is?

23 A I would not say it's real precise. The difficulty
24 that I get into is ESSX is defined a certain way and you get
25 into the issue of what is PBX, and what's key, and those kinds

1 of things. And it's as good as I could get my hands around
2 it.

3 Q I'm sorry, could you repeat the last part of that
4 answer?

5 A It's as good as I could get in terms of trying to
6 look at the PBX market and the ESSX market in trying to get
7 some idea of market share. It's not a precise science. I
8 fully admit that.

9 Q But, in fact, there are a number of other things
10 other than product pricing that might affect market share;
11 isn't that true?

12 A Yes.

13 Q For instance, marketing skills?

14 A Marketing skills, certainly.

15 Q Or the fact that with PBX the customer can own the
16 equipment; whereas, with ESSX they essentially rent it.

17 A I'm sorry. I didn't understand the last part.

18 Q Well, another example is, for instance, I've got a
19 PBX in my law firm, and we own the equipment; whereas, before
20 we had CENTREX from C&P, and we had to pay them a fee every
21 month and didn't own anything at the end of the contract term,
22 and that's another factor a customer might consider; isn't it?

23 A Lease versus sale, those kinds of issues, certainly.

24 Q Yes. Yes. And, in fact, PBX and ESSX aren't priced
25 the same at all in terms of methodology, are they?

1 A No. It's two different offerings.

2 Q Well, could you explain to the Commission how they
3 are priced?

4 A Certainly. I mean, the best I can. I'm not -- I
5 don't know how current -- I'm not necessarily the current
6 expert on ESSX as such, but ESSX is priced to meet the
7 marketplace. It's a bundled service. It offers -- whereas a
8 PBX is a piece of equipment that sits on a customer's premise
9 and it has all of the intelligence at the customer's premise
10 and you connect PBX trunks to connect it to the world. In the
11 case of ESSX, you don't have the -- the smarts are in the
12 central office, so you have the lines going from the central
13 office to the station equipment.

14 So the pricing, when it comes down to the pricing of
15 it, of two systems that are competitive like that, I'm sure
16 that the PBX vendors will be trying to price their product to
17 be competitive, just like Southern Bell would be trying to
18 price ESSX knowing that it's got to compete with that those
19 same PBX vendors.

20 Q All right. Well, let me take you back for a second.
21 ESSX, in fact, is priced to cover its incremental cost, isn't
22 it?

23 A Well, that's a test. It's market price, but the
24 test will be do you cover your incremental cost? But it's not
25 priced as at incremental cost or anything like that.

1 Q Okay. And how are PBX trunks priced?

2 A PBX trunks?

3 Q Yes.

4 A PBX trunks have been, over time, I guess you could
5 say were residually priced, if you will, just like residential
6 service. And PBX trunks do have contribution in them to help
7 offset the cost of basic local telephone service. All of your
8 business services will like that.

9 Q In fact, it's priced on an index of its perceived
10 value of service relative to a B-1 line, isn't it?

11 A It's -- over time it has typically had a
12 relationship to a B-1 line. In the filing that was made last
13 year, we actually went in and took the hunting out of it. I
14 think the rate is still a little above a B-1 line.

15 Q All right. But in any event, ESSX is not priced
16 relative to value of service; it's priced based on market, and
17 then apparently you've also tried to ensure that it covers its
18 incremental cost; is that right?

19 A They would price it based on market and look at
20 incremental cost. They would look also, I'm sure -- well,
21 that's basically what you'll be doing, you'll be looking at
22 the market responsiveness. Will it compete in the marketplace
23 and those kinds of things, yes.

24 Q All right. Now, just to make sure --

25 CHAIRMAN CLARK: Let me interrupt just a minute.

1 MR. DICKENS: Sure.

2 CHAIRMAN CLARK: Mr. Stanley, if you could answer
3 with a yes or a no, so we know where you are going.

4 WITNESS STANLEY: Okay. I'm sorry.

5 Q (By Mr. Dickens) Just to make sure that we're not
6 mixing up services sold to end users versus the products that
7 Southern Bell provides, Southern Bell provides ESSX as a
8 service, which includes the loop that goes to each ESSX
9 station, correct?

10 A That's correct.

11 Q Okay. And PBX vendors sell PBXs that compete with
12 ESSX services, but, typically, the customer has to buy the PBX
13 trunk from Southern Bell; isn't that true?

14 A Typically, the PBX trunk would come from Southern
15 Bell; that's correct.

16 Q Okay. And those two compete, PBX equipment and ESSX
17 service?

18 A They do, and looking at the market share PBX has
19 done extremely well in that environment.

20 MR. DICKENS: Okay. Thank you very much,
21 Mr. Stanley.

22 CHAIRMAN CLARK: Mr. Elias.

23 MR. ELIAS: I would like to, at this time, identify
24 several exhibits for the record, some of which the parties and
25 the Commissioners have in front of them.

1 The first I'd ask be assigned the next exhibit
2 number, which is 7, is a composite exhibit consisting of
3 interrogatory responses and deposition transcripts identified
4 on the first page. And I'd ask that be identified as Staff's
5 composite exhibit.

6 CHAIRMAN CLARK: All right. Just so I'm clear, all
7 of the information in this notebook; is that correct?

8 MR. ELIAS: After Page 282 is the exhibit that I
9 would identify next, which is Staff's Request for Official
10 Recognition.

11 CHAIRMAN CLARK: Well, we'll identify the composite
12 exhibit, consisting of 282 pages as Composite Exhibit 7,
13 consisting of answers to interrogatories to Southern Bell by
14 the Staff, OPC and FIXCA; and a transcript of the depositions
15 of Joseph Stanley, Mike Guedel, Joe Gillan and Jerry Hendrix
16 and CWA's responses to Staff's First Set of Interrogatories, 1
17 through 32, that will be the composite exhibit.

18 Now, Mr. Elias, is what follows just a listing of
19 what you have requested official notice of?

20 MR. ELIAS: Yes, official recognition and a copy of
21 each of the orders or opinions.

22 CHAIRMAN CLARK: We'll list the list of documents as
23 an exhibit, and then we will take official recognition of the
24 documents themselves. So the Staff's list of those items for
25 which they are requesting official recognition will be

1 identified as Exhibit 8.

2 MR. ELIAS: Now Exhibit 9, what we'd asked be
3 identified as Exhibit 9 has not been distributed to anyone.
4 It is a redacted copy of Southern Bell's response to Staff's
5 First Request for Production of Documents. It is some 500 to
6 600 pages, double sided, and other than the column and
7 headings on those pages, there is no information on those
8 pages. I'd be glad to supply anybody that wants a copy of
9 this with one after the break, but I don't believe that there
10 is any --

11 CHAIRMAN CLARK: Give me the title again. Exhibit 9
12 is the redacted copy of what?

13 MR. ELIAS: Staff's -- Southern Bell's response to
14 Staff's First Request for Production of Documents, No. 1.

15 The next two exhibits are confidential and those are
16 Southern Bell's response to Staff Interrogatory No. 17.

17 CHAIRMAN CLARK: That's Exhibit 10.

18 MR. ELIAS: The next exhibit would be the
19 confidential version of Southern Bell's Response to Staff's
20 Request for Production of Documents No. 1.

21 CHAIRMAN CLARK: Just so I'm clear, you have Exhibit
22 9 as the redacted copy of the same thing?

23 MR. ELIAS: Yes, ma'am.

24 The next exhibit is the redacted copy that is --
25 consists of some six pages, which was handed out separately

1 and it's entitled "Palm Beach County Traffic Study,
2 Docket No. 921193."

3 CHAIRMAN CLARK: All right. The redacted copy of
4 the Palm Beach Traffic Study, are you going to enter in the
5 confidential study, too?

6 MR. ELIAS: We are going --

7 CHAIRMAN CLARK: Why are we doing that?

8 MS. CANZANO: It's related to the ECS filing that
9 came in on Friday.

10 CHAIRMAN CLARK: Well, my question is why are we
11 having an exhibit of the redacted copy and the confidential
12 copy?

13 MR. ELIAS: I asked the same question, and I was
14 told that that's the way we have to do it. I mean, if you're
15 satisfied with just the confidential exhibits, I'd be happy to
16 withdraw the two redacted copies.

17 CHAIRMAN CLARK: I thought that's what we did when
18 we made the redacted copies available, but we'll go ahead and
19 do it this way and sort it out later. Go ahead.

20 MR. ELIAS: Last exhibit, which will be Exhibit 13,
21 is the confidential version of the Palm Beach County Traffic
22 Study, provided in Docket No. 921193.

23 Now, I've got one correction to make to this exhibit
24 package that I discovered while I was sitting here. And that
25 is on Page 135 you will note that there's some writing after

1 the written reponse to the question, that's my note. I don't
2 intend for that to be part of the record, and I will provide a
3 clean copy of those two pages.

4 CHAIRMAN CLARK: Okay. Anything else, Mr. Elias?

5 MR. ELIAS: Those are the exhibits.

6 CHAIRMAN CLARK: Do you have any questions of this
7 witness?

8 MS. CANZANO: Yes, we do.

9 CHAIRMAN CLARK: Let me ask just a question of staff
10 counsel for Southern Bell.

11 I have been looking at the mileage bands on the
12 exhibit starting on Page 12. Some of them look wrong to me.

13 MR. CARVER: I think some of them are wrong, and I
14 apologize for that.

15 Let me make this offer. If we could file a
16 late-filed exhibit that would be a corrected version, we'll go
17 through that and correct anything that is wrong. We'd be
18 happy to do that, and, again, I apologize.

19 CHAIRMAN CLARK: All right. Let's mark that
20 Exhibit 14, late-filed exhibit, and it would be Answer to
21 Staff Interrogatory 12. So a corrected answer to Staff
22 Interrogatory No. 12. It may just be that you left the "1"
23 off of some of them.

24 MR. CARVER: I think that's what happened. I think
25 we dropped a column maybe when we printed it out.

1 (Exhibit Nos. 7, 8, 9, 10, 11, 12, 13 and 14 marked
2 for identification.)

3 CHAIRMAN CLARK: Go ahead, Ms. Canzano.

4 MS. CANZANO: Okay.

5 CROSS EXAMINATION

6 BY MS. CANZANO:

7 Q Good afternoon, Mr. Stanley.

8 A Good afternoon.

9 Q You considered community of interest factors when
10 you planned ECS routes, did you not?

11 A Did we consider community of interest factors? Yes.

12 Q You've listed five of them, did you not? Could you
13 name what they are?

14 A Name the factors that we used?

15 Q That you used.

16 A Certainly. Did you say community of interest
17 factors?

18 Q Yes.

19 A This is on Page 5 of my testimony?

20 Q (By Mr. Canzano) It starts on Page 5 of your
21 testimony.

22 A Yes. And the community -- the factors that we used
23 in determining which routes we would propose for ECS were as
24 follows: Number one, there's an obvious community of interest
25 as in the case of the Dade/Broward metropolitan area. Number

1 two, traffic studies revealed a significant community of
2 interest. Number three, the existence of local optional
3 calling plans demonstrated a community of interest. Number
4 four, the inclusion of an exchange was necessary to eliminate
5 leap-frog local calling situations caused by community of
6 interest considerations listed above. And number five,
7 reciprocal routes eliminated the confusion associated with
8 one-way local service.

9 Q In your response to Staff Interrogatory 1 A-1, which
10 is conveniently Page 1 of our composite exhibit, you stated
11 that there was an obvious community of interest as in the case
12 of Dade/Broward metropolitan area?

13 A Yes.

14 Q What specifically do you mean by "obvious community
15 of interest"?

16 A Based on contact with our people down here regarding
17 interest in EAS calling, looking at that entire geographical
18 area, it's my understanding that it has grown. That area
19 begins to perceive itself as one large community. I'm not,
20 again, an expert on the geography of South Florida, but it was
21 based on the contacts we have had from the public, from Public
22 Counsel regarding interest in EAS, it was our impression that
23 that entire area was desirous of having EAS-type calling.

24 Q How did you determine which routes fall under this
25 obvious community of interest for the Dade/Broward Counties?

1 A We basically picked up the rest of the Dade/Broward
2 routes that were not included the first part of this year and
3 that cutover that was done, I believe, in January.

4 Q Are there any proposed ECS routes that leap-frog an
5 exchange that is not within Southern Bell's service area?

6 A ECS is purely Bell to Bell, so we don't include any
7 independent routes.

8 Q I know. But does it jump over a route that would be
9 run by a different company?

10 A It could. I really don't know.

11 Q If approved, do you consider these ECS routes to be
12 part of the basic local telecommunications service?

13 A I believe -- I'm not real familiar with the
14 legislation. Is that where you're going with the --

15 Q Yes, but this is just your understanding of the
16 legislation.

17 A My understanding of it, I would consider it, I
18 guess, a part of basic service. Now, if these are approved,
19 my understanding of the legislation would not necessarily put
20 it in that basic category, I don't think.

21 Q So your answer is no to that, your understanding of
22 it?

23 A I'm not real sure on exactly what the legislation
24 says, but my understanding of it is ECS routes up to a
25 particular point in time would be considered basic rates. And

1 routes put in after that point in time would be nonbasic, and
2 I believe these that we're proposing here would be nonbasic.

3 Q But your response to a different question asked by
4 one of the parties was that these ECS routes were to be
5 considered local; is that correct?

6 A That's correct.

7 Q Why is that, in your opinion?

8 A Why are they considered local?

9 Q Uh-huh.

10 A To me they meet a need, an expanded calling need
11 that would typically meet with flat rate EAS-type service.
12 This is meeting that same calling need. It's a situation
13 where you have expanded calling. You know, I mentioned
14 earlier, you've got situations where people -- communities are
15 branching out, there's a need to call schools, there's a need
16 to call places where they worship, shopping, that sort of
17 thing. So as an area grows, the growth of that area causes
18 people to want to have more expanded local dialing. This
19 meets the needs of expanded local dialing, those same type EAS
20 needs. And we consider it as such a local calling plan.

21 Q So, therefore, which types of entities do you see
22 competing in this market for these ECS routes?

23 A I would expect to see the IXCs competing. There may
24 be others once we get into alternate local exchange carriers.
25 You could very easily have a vendor that is serving as both an

1 alternative access -- alternate local exchange carrier and as
2 an IXC, doing both. I think with the new bill opening things
3 up to competition, that there are probably a lot of
4 possibilities that we haven't even thought of yet.

5 Q If an IXC is allowed to compete on these routes, how
6 could they be effective competitors if the access rate remains
7 unchanged on these routes?

8 A It's back to what I said earlier, I don't think you
9 just look purely at the access rate as filed in the intrastate
10 jurisdiction. I think you have got to consider the fact that
11 they do have the ability to obtain a lower access for the
12 overall service by combining that and looking at other
13 interstate as well as intrastate. In addition, the alternate
14 access vendors give them the opportunity to buy replacements
15 for some portions of their access.

16 Q Using the five criteria that you developed, did you
17 evaluate all of Southern Bell's routes?

18 A Yes, we did.

19 Q Did you include in Southern Bell's May 15th filing
20 all of Southern Bell's routes that you thought met those five
21 criteria?

22 A Yes, we did.

23 Q Then is it correct to say that if you excluded a
24 route from that May 15th filing, that it failed to meet any of
25 those five criteria that you established?

1 A If we left a route out, it was either done so
2 because we overlooked something or because it did not meet
3 those criteria. And in particular, the only place that you
4 might say well --

5 COMMISSIONER GARCIA: That applied to the ones that
6 were added by Public Counsel?

7 WITNESS STANLEY: That's kind of what I was thinking
8 Initially, we did not include those as meeting those five
9 criteria. You could, perhaps, make an argument that under
10 number one, the first criteria we had that said, "There's an
11 obvious community of interest as in the case of Dade/Broward
12 metropolitan area." One could perhaps make an argument that
13 Palm Beach County, for example, might be an obvious community
14 of interest, but that's the only one of those criteria, as I
15 see it, that these could conceivably come under.

16 Q (By Mr. Canzano) If that were the case, then, you
17 mean it wasn't obvious on May 15th?

18 A That's correct.

19 Q Then what do you mean by "obvious"? could you
20 please explain that to me one more time?

21 A Well, again, all I'm proposing is that with the
22 initial filing we would not have included Palm Beach County.
23 Now, if we overlooked that and if there is a community of
24 interest -- in other words, the people at Public Counsel feels
25 like there is, if our customers feel like there is, then

1 perhaps that argument could be made. But that's -- I would
2 not disagree with you that that perhaps would be a stretch to
3 include it there. I think, essentially, when we looked at it
4 initially it was not included, because we didn't feel at that
5 time that it met these criteria.

6 Q Well, how did you identify those additional ECS
7 routes that were filed on July 28th?

8 A Basically in negotiation with Public Counsel and our
9 Southern Bell people in Florida asking us to add these routes.
10 Public Counsel and, I think, some contacts with some
11 customers, as well, so we agreed to add them.

12 Q Isn't it true that 22 of the 36 routes that are
13 proposed on July 28th have been evaluated by this Commission
14 for extended area service?

15 A I believe they were, yes. I believe that was looked
16 at -- as far as the calling characteristics being in there, I
17 think that's right, yes.

18 Q I believe that --

19 A Let me back off. I don't know that I can fully
20 say -- it's my understanding that the CIF, the calling
21 information has been provided. Now, just how far the
22 Commission went in looking at that, I really don't know, you
23 know, how far they went in evaluating. I think your question
24 was had they evaluated? I really don't know that. I think
25 the information on calling characteristics has been provided.

1 Q Are you familiar with the request by Palm Beach
2 County in which it requested extended area service for all
3 exchanges in Palm Beach County, and specifically that's Docket
4 No. 921193? And --

5 A I'm not as familiar. I'm familiar with the fact
6 that there have been some traffic studies provided. I'm not
7 particularly familiar with that docket.

8 Q Okay. Do you have a copy of those traffic studies
9 in front of you? I believe Staff distributed them.

10 A Yes, I have.

11 Q It is confidential. I just want to make sure
12 everybody knows that.

13 A I do have some information that was given to me by
14 Staff regarding the calling, yes.

15 Q Have you had an opportunity to review that data?

16 A Briefly, yes.

17 Q Is it correct that those traffic studies would have
18 included an evaluation of those 22 routes in that July 28th
19 filing?

20 A I'm sorry.

21 Q Do you see --

22 A Excuse me. Could you repeat that? I'm sorry.

23 Q Okay. In that traffic study that you have in front
24 of you, is it correct to say that there's an evaluation of 22
25 of the routes that were listed in your July 28th filing?

1 A Is there an evaluation of the 22? I don't see an
2 evaluation.

3 Q Are these the same 22 routes that the Commission
4 reviewed in Docket 921193?

5 A I have not checked each route individually, but I'll
6 take, subject to check, that that's true, yes.

7 Q Okay. Didn't the calling rates on the majority of
8 those routes in front of you, except for the five routes that
9 were balloted for EAS, have low calling rates and
10 distribution?

11 A Low --

12 Q Low calling rates and distribution?

13 A Low relative to --

14 Q To our rule that we currently have?

15 A Yes.

16 Q Okay. Did Southern Bell file any supporting
17 documentation, such as traffic studies or community of
18 interest factors, for the remaining routes in its amended
19 filing?

20 A No. The only thing we filed was the one letter from
21 Ms. Sims for the amended routes.

22 MS. CANZANO: At this time Staff would like to ask
23 for a late-filed exhibit entitled, "Community of Interest
24 Factors for the Remaining Routes for the July 28th filing."

25 CHAIRMAN CLARK: That will be Exhibit 15.

1 (Late-Filed Exhibit No. 15 identified.)

2 Q (By Ms. Canzano) We would also like in that exhibit
3 any changes to the traffic data that you have before you
4 because that was taken from May 1993.

5 A This information you handed me, any changes to the
6 routes here you would want?

7 Q Yes.

8 A Okay.

9 Q So it will be consistent in terms of time.

10 Is the \$6 million figure listed in Exhibit 5, which
11 is your supplemental ECS filing, with or without stimulation?

12 A Without stimulation.

13 Q Would you agree that if we applied the 50%
14 stimulation factor to the \$6 million it would only be
15 \$3 million?

16 A No.

17 Q Could you please explain your answer?

18 A Our estimate is that the figure with stimulation
19 would be about 4.5 million, and especially what we're doing is
20 we're taking the traffic and converting it to toll and then --
21 converting it to ECS and stimulating it and taking the
22 difference, but it's coming in -- this is a soft number,
23 again, but around 4.6 million.

24 COMMISSIONER KIESLING: Could I get a
25 clarification --

1 WITNESS STANLEY: Certainly.

2 COMMISSIONER KIESLING: Did you, in reaching that
3 4.2, or whatever you just said, million, did you use a factor
4 of 50% or did you use some other factor?

5 WITNESS STANLEY: I believe it was a 50% factor.
6 This was done very quickly, and I haven't seen all of the
7 backup. It's a number that I have received. You're wondering
8 why it's not half, is that what you're --

9 COMMISSIONER KIESLING: Yeah. Is the difference
10 that you used the same factor and the same beginning point of
11 the 6 million but you used a different formula?

12 WITNESS STANLEY: The \$6 million is how much we
13 would lose. But what you have to do, is you have got to take
14 the traffic, the toll traffic, convert it to ECS, increase the
15 ECS by 50%, and then compare that to what we would have had
16 under toll. It's not just a 50% off. There's more to the
17 calculation than that.

18 COMMISSIONER KIESLING: So you use a different
19 formula.

20 WITNESS STANLEY: No. It would have been the same
21 formula. It's still the 50%.

22 COMMISSIONER KIESLING: No, I'm using -- formula and
23 factor are not the same word to me. You use a different
24 methodology, but apply it to the same factors. You use a 50%
25 factor, you use the 6 million, but if Staff is using it just

1 as a simple calculation, 50% times 6 million, you use some
2 different methodology that involves more steps.

3 WITNESS STANLEY: We would not have used just 50%
4 times that. That's correct. In one of our request items, we
5 went through, I think, I know in deposition, going through how
6 that was calculated. I'm still not answering your question.

7 COMMISSIONER KIESLING: No, you're not.

8 WITNESS STANLEY: Okay.

9 COMMISSIONER KIESLING: All I want to know is did
10 you use a different methodology than 50% times 6 million?

11 WITNESS STANLEY: Yes.

12 COMMISSIONER KIESLING: Thank you.

13 CHAIRMAN CLARK: Well, let me follow up on that.
14 The problem in terms of estimating your savings or the revenue
15 lost, you have to factor in how much you would have gotten
16 from toll and that's why it makes it different.

17 WITNESS STANLEY: Yes.

18 COMMISSIONER GARCIA: Which would mean you would
19 have to double the 6 million and then subtract from it the
20 income that would have been generated, correct? And that's
21 where you get to the 4.5.

22 WITNESS STANLEY: You basically take the toll
23 traffic and you convert it to what we would have gotten at
24 25 cents and you stimulate that number, and then you compare
25 it to what you would have gotten. I'm sorry if I wasn't very

1 clear on that.

2 MS. CANZANO: I think it's an appropriate time to
3 ask. Could we have a late-filed exhibit showing your
4 calculation of that \$6 million? And could you please put it
5 in the same format that you used for your other figures? And
6 these are on those additional routes.

7 WITNESS STANLEY: Certainly.

8 CHAIRMAN CLARK: So that's a calculation of the
9 revenue loss for additional routes?

10 MS. CANZANO: Yes.

11 CHAIRMAN CLARK: That's Exhibit 16.

12 (Late-Filed Exhibit No. 16 marked for
13 identification.)

14 Q (By Ms. Canzano) Is it your understanding that
15 under the new statute local exchange companies will be
16 required to offer resale and interconnection rates in
17 connection with their nonbasic offerings?

18 A I'm not really that familiar with what the statute
19 says about those issues.

20 Q Okay. Are you familiar with Mr. Gillan's testimony?

21 A I have read it.

22 CHAIRMAN CLARK: Ms. Canzano, how much longer do you
23 have?

24 MS. CANZANO: Maybe, just maybe ten minutes.

25 CHAIRMAN CLARK: All right. Go ahead.

1 Q (By Mr. Canzano) Do you agree with Mr. Gillan's
2 suggestion that if the Commission were to adopt Southern
3 Bell's ECS proposal that the Commission should simultaneously
4 establish resale and interconnection rates so that IXCs could
5 compete with the ECS offering?

6 A I really don't deal with it. Jerry Hendrix, I
7 think, would be a better one to deal with those issues.

8 Q Could you please explain why the PBX and DID
9 reductions should not be considered as an appropriate way to
10 dispose of the \$25 million?

11 A Certainly. There are several reasons that I had
12 pointed out in my testimony.

13 PBX trunk reductions will benefit purely large users
14 and large companies. Your basic business, your business
15 customers, small business customers, residential customers
16 will achieve no benefit from that. We just had a decrease in
17 these rates in 1994 of \$35 million that basically gave better
18 rates for flat rate trunks. It allowed a customer to buy
19 these without hunting. And it gave a decrease of \$35 million
20 at that time.

21 MegaLink alternative is there today for PBX
22 customers. It's obviously a very viable alternative for them
23 to use, and given the fact they are there and they're buying
24 it, I think they've got an alternative that's a good
25 alternative for them.

1 I think, too -- I haven't mentioned this before, but
2 if the Commission were to decide to just reduce flat rate
3 trunk rates, it could very well get into a situation where the
4 relationship between MegaLink and flat rate trunks has been
5 changed. And I would hate to see us in a situation where
6 we've suddently got customers wanting to take their MegaLink
7 out to put flat rate trunks in.

8 The reasons that have been given for going with a
9 PBX reduction that I've heard is that it would help stimulate
10 the market relative to ESSX. I rerally don't see that
11 happening when ESSX has as small a market share as they do. I
12 really don't any motivation for PBX providers to build new
13 capabilities into their switches simply to allow them to
14 compete with ESSX.

15 And given the fact that we've already seen a
16 competitive filing for an ESSX-type service in Georgia from
17 MFS and TeleNet, and I'm assuming we may see other things like
18 that. So I think when you come down through all of these
19 reasons, it's not necessarily saying that a PBX trunk rate is
20 not a bad -- a reduction is not a bad thing at some point. I
21 think as competition develops, particularly with the ALECs, it
22 may be something we need to do. But I think the best use of
23 the \$25 million, given the fact that we've already seen a
24 reduction of services, they already relate very well to other
25 states, I think it's -- the best use is through addressing EAS

1 calling needs.

2 Q Are you familiar with Mr. Metcalf's testimony?

3 A Somewhat.

4 Q Do you agree with Mr. Metcalf that ESSX should be
5 priced significantly higher than PBX service because ESSX uses
6 more plant and facilities to operate than does PBX?

7 A No.

8 Q Could you please explain your response?

9 A I'm not a technical person on that. But I'm not
10 aware that -- well, it's not my impression that it necessarily
11 uses more facilities, but I'm not technical enough to go into
12 detail on that. But suffice it to say I wouldn't agree with
13 that.

14 Q Are you familiar with Mr. Guedel's testimony?

15 A Somewhat.

16 Q Do you agree with Mr. Guedel's comparison of PBX and
17 ESSX loop costs that he discusses on Pages 10 and 11 of his
18 direct testimony?

19 A I don't remember specifically what he had. I
20 remember generally that he talked about that, but I don't
21 remember the particular points that he made.

22 Q Do you have a copy of his testimony?

23 A I don't with me, no.

24 MS. CANZANO: That's all the questions we have right
25 now.

1 CHAIRMAN CLARK: We'll take a break for lunch until
2 1:30, and we'll come back with the Commissioners asking
3 questions, if there are any questions, and then we'll go to
4 redirect. Thank you.

5 (Thereupon, lunch recess was taken at 12:50 p.m.)

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7 (Transcript follows in sequence in Volume 2.)

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I N D E X

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