



Florida Cable Telecommunications Association

Steve Wilkerson, President

August 16, 1995

ORIGINAL  
FILE COPY

VIA HAND DELIVERY

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: **DOCKET NO. 920260-TL**

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are an original and fifteen copies of Florida Cable Telecommunications Association, Inc.'s ("FCTA") Posthearing Brief. Copies have been served on the parties of record pursuant to the attached certificate of service.

Also enclosed is a copy on a 3-1/2" diskette in WordPerfect format, version 5.1.

Please acknowledge receipt and filing of the above by date stamping the duplicate copy of this letter and returning the same to me.

Thank you for your assistance in processing this filing.

Yours very truly,

- WCK \_\_\_\_\_
- WFA 3
- WPP \_\_\_\_\_
- WCF \_\_\_\_\_
- WCU North
- WTR \_\_\_\_\_
- WEG \_\_\_\_\_
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- WLN 5
- WOP \_\_\_\_\_
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- WSE 1
- WAS \_\_\_\_\_
- WOT \_\_\_\_\_

*Laura L. Wilson*  
Laura L. Wilson  
Regulatory Counsel

Enclosures

c: All Parties of Record  
Mr. Steven E. Wilkerson

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310 North Monroe Street • Tallahassee, Florida 32301 • (904) 681-1990 FAX (904) 681-9676

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

DOCKET NO. 920260-TL

FILED: August 16, 1995

**FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC.'S POSTHEARING BRIEF**

The Florida Cable Telecommunications Association, Inc. ("FCTA"), pursuant to Rule 25-22.056, Florida Administrative Code, and the August 3, 1995 Memorandum of Robert Elias requesting discussion of additional legal issues, respectfully submits the following Posthearing Brief to the Florida Public Service Commission ("Commission") in the above-captioned docket.

**A. BASIC POSITION**

FCTA was an original party to this docket and has primarily monitored this particular proceeding. Based upon the evidence of record, FCTA maintains that the Commission should reject Southern Bell's proposal concerning the \$25 million set for disposition in this proceeding. Southern Bell has failed to demonstrate how its plan is consistent with the goals of the new law to "promote" consumer choice along the routes in question. The Commission should take all steps necessary to promote competition and the consumer benefits of a wider array of telecommunications services at lower prices.

**B. LEGAL ISSUES**

**ISSUE ONE:** Since this docket was opened prior to the new law being enacted, should the unspecified \$25 million rate reduction scheduled for October 1, 1995, be processed under the former version of Chapter 364, Florida Statutes?

**\*POSITION:** No, it should be processed under the new law.\*

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**ANALYSIS:** The unspecified \$25 million rate reduction should be processed under the new law. Section 364.385(2) requires this result since this proceeding did not progress to the stage of hearing by July 1, 1995.

**ISSUE TWO:** If approved, would Southern Bell's ECS plan become part of basic local telecommunications service as defined in Section 364.02(2), Florida Statutes?

**\*POSITION:** No, it would become a non-basic local service.\*

**ANALYSIS:** Southern Bell's ECS plan is a non-basic service under the new law. The statutory definition of "basic local telecommunications service" excludes ECS routes ordered by the Commission after July 1, 1995. As a result, on January 1, 1996 (presumably the date Southern Bell elects price regulation) Southern Bell may raise the rates on these routes by 6-20% annually.

**ISSUE THREE:** If it is not a part of basic local telecommunications service, does Southern Bell's ECS plan violate the imputation requirement of Section 364.051(6)(c), Florida Statutes?

**\*POSITION:** Yes, the plan appears to violate the imputation requirements of the new law.\*

**ANALYSIS:** FCTA agrees with FIXCA that as a non-basic service, ECS prices must exceed the imputed price of any monopoly component charged to a competitor in the provision of its same or functionally equivalent service. Gillan, Tr. 296-297. The relevant charges to consider in the imputation test are switched access charges imposed by Southern Bell on each competitor for use of the "monopoly" local exchange network. Use of the term "monopoly" is appropriate as until January 1, 1996 no other entity may lawfully provide local switched access services. Even after January 1, 1996, competition will occur gradually.

**ISSUE FOUR:** Does Southern Bell's ECS proposal violate any other provision of the revised Chapter 364, Florida Statutes, excluding those previously identified in the positions on the issues listed in the prehearing order?

**\*POSITION:** FCTA has identified relevant statutory provisions in its position on the issues listed in the prehearing order.\*

**ANALYSIS:** FCTA has identified relevant statutory provisions in its position on the issues listed in the prehearing order. These positions are discussed below.

### **C. STATEMENT OF THE ISSUES**

**ISSUE ONE:** Which of the following proposals to dispose of \$25 million for Southern Bell should be approved?

- (1) Southern Bell's proposal to implement the Extended Calling Service (ECS) plan pursuant to the tariff filed on May 15, 1995.
- (2) CWA's proposal to reduce each of the following by \$5 million:
  - (i) Basic "lifeline" senior citizens telephone service;
  - (ii) Basic residential telephone service;
  - (iii) Basic telephone service to any organization that is non-profit with 501(c) tax exempt status;
  - (iv) Basic telephone service of any public school, community college and state university;
  - (v) Basic telephone service of any qualified disabled ratepayer.
- (3) McCaw's and FMCA's proposal that a portion be used, if necessary to implement the decisions rendered in Docket No. 940235-TL.

(4) Any other plan deemed appropriate by the Commission.

**\*POSITION:** The Commission should not adopt any plan that is geared toward remonopolizing markets and stifling the provision of the widest possible array of consumer choice among competing telecommunications services.\*

**ANALYSIS:** Because this proceeding is appropriately disposed of under the new law, the Commission should carefully evaluate the effect of the various proposals on the development of consumer choice. Proposals geared toward protecting the incumbent LEC by remonopolizing markets, raising rates and stifling competition must be rejected. Southern Bell's proposal, while perhaps offering a couple of months of immediate lower rates to certain consumers, would have a negative long term effect on consumer choice for the following reasons:

First, FCTA agrees with Sprint and FIXCA that Southern Bell's plan is geared toward protecting Southern Bell. The record reveals at least three factors which will act to impede the development of consumer choice: (a) the change to 7-digit dialing; (b) the mandatory nature of the service; and (c) the preclusion of a wholesale - ECS service by the dominant LEC. Gillan, Tr. 299-309.

Second, as a "non-basic service" under the new law, Southern Bell will be able to annually raise its proposed ECS rates. Southern Bell has claimed for years that residential basic service rates are being subsidized. Once it has been given the ability to retain its residential customers with even lower revenue levels than before, Southern Bell can then annually raise its rates between 6-20% depending upon the level of competition. Without full competition, any alleged long term consumer price benefits of Southern Bell's plan are illusory.

Third, FCTA agrees with FIXCA that the ECS plan does not meet the imputation requirements of the new law. FCTA addressed this issue above.

**ISSUE TWO:** If the Southern Bell proposal is approved, should the Commission allow competition on the Extended Service Calling Routes. If so, what additional actions, if any, should the Commission take?

**\*POSITION:** The new law does not require the Commission to "permit" competition on the Extended Service Calling routes. It requires the Commission to "promote" competition.\*

**ANALYSIS:** There is an important distinction in the new law between "permitting" competition and "promoting" competition. The Legislature has not asked the Commission to "permit" it. Rather, the Legislature has already "permitted" it by several express findings that competition is in the public interest. Sections 364.01(3) and 364.337(6), Fla. Stat. The Legislature has asked the Commission to exercise its exclusive jurisdiction to "promote" competition, "encourage" it and "eliminate" obstacles that will delay or impair it. Section 364.02(4), Fla. Stat. This was intended as the trade-off for legislated price regulation effective January 1, 1996. As a consequence, the Commission should be looking for ways to promote competition along the ECS routes in question without regard to whether Southern Bell's ECS plan is approved.

**ISSUE THREE:** When should tariffs be filed and what should be the effective date?

**\*POSITION:** No position.\*

**ANALYSIS:** FCTA took no position on this issue.

**ISSUE FOUR:** Should this docket be closed?

**\*POSITION:** No, this docket should not be closed.\*

**ANALYSIS:** This docket should remain open to deal with the remaining unspecified rate reductions under the Stipulation and Implementation Agreement.

**RESPECTFULLY SUBMITTED** this 16th day of August, 1995.

FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC.  
310 N. Monroe Street  
Tallahassee, Florida 32301  
(904) 681-1990



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Laura L. Wilson  
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**CERTIFICATE OF SERVICE**  
**DOCKET NO. 920260-TL**

I **HEREBY CERTIFY** that a true and correct copy of FCTA's Posthearing Brief has been furnished by Hand Delivery(\*) and/or U.S. Mail on this 16th day of August, 1995 to the following parties of record:

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