



DEPARTMENT OF THE ARMY
 OFFICE OF THE JUDGE ADVOCATE GENERAL
 901 NORTH STUART STREET
 ARLINGTON, VA 22203-1837



REPLY TO
 ATTENTION OF

August 16, 1995

Regulatory Law Office
 U 3741

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SUBJECT: In re: Comprehensive Review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone and Telegraph Company Docket No. 920260-TL

Mrs. Blanca S. Bayo
 Director, Division of Records and Reporting
 Florida Public Service Commission
 2540 Shumard Oak Boulevard
 Tallahassee, Florida 32399-0850

Dear Mrs. Bayo:

Enclosed for filing please find the original and 15 copies of the Post-hearing Statement and Brief of the U.S. Department of Defense and All Other Executive Agencies (DoD/FEA) in the above-subject proceeding.

Copies have been served in accordance with the Certificate of Service.

Sincerely,

Peter Q. Nyce, Jr.
 Peter Q. Nyce, Jr.
 General Attorney
 Regulatory Law Office

- ACK
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- APP _____
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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 960260-TL

POSTHEARING STATEMENT

and

BRIEF

of

THE UNITED STATES DEPARTMENT OF DEFENSE AND
ALL OTHER FEDERAL EXECUTIVE AGENCIES

ROBERT N. KITTEL
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by

PETER Q. NYCE, JR.
General Attorney

August 17, 1995

DOCUMENT NUMBER-DATE

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FPSC-REGG-00/REPORTING

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**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

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

Docket No. 920260-TL

POSTHEARING STATEMENT

and

BRIEF

of

**THE UNITED STATES DEPARTMENT OF DEFENSE AND
ALL OTHER FEDERAL EXECUTIVE AGENCIES**

Introduction

In Order No. PSC-94-0172-FOF-TL, the Commission approved a Stipulation and Agreement requiring Southern Bell Telephone and Telegraph Co. ("Southern Bell") to implement specific rate reductions and other rate changes for its intrastate telecommunications services in Florida. The other rate changes included a \$25 million reduction in annual revenues for unspecified services to be effective on October 1, 1995.

The United States Department of Defense and All Other Federal Executive Agencies ("FEAs") submit statement to address various proposals to implement this \$25 million rate reduction.

This statement contains a Posthearing Statement of the FEAs' positions and a Brief on the issues addressed at the evidentiary hearings. The statement also

addresses the issues designated by the Commission at the conclusion of the evidentiary hearings.

Posthearing Statement

The FEAs submitted a Prehearing Statement in this proceeding on July 10, 1995. The FEAs do not wish to modify any of the positions described in that statement, but provide the following summaries required by the Commission's Order.

Q. Should the Commission accept the proposals by other parties to implement a \$25 million revenue reduction for Southern Bell?

A. The Commission should not accept the proposals by Southern Bell, McCaw Communications and the Communications Workers of America.

Q. How should the required revenue reduction be implemented if the Commission does not accept the proposals made by these parties?

A. The Commission should take steps which aid the development of competition in Florida. One possible step would be to address the disparity in the charges for PBX and ESSX services.

Brief on Refund Proposals at Hearings

On July 10, 1995, the FEAs submitted a Prehearing Statement describing their initial position on the \$25 million rate reduction scheduled for October of this year. In that statement, the FEAs explained that the proposals by Southern Bell, McCaw Communications, and the Communications Workers of America should be rejected because they will not aid the development of competition.

The Commission should take advantage of the unique opportunity afforded by a substantial rate reduction to promote more competition for telecommunications services in Florida. Competition benefits all individuals and firms participating in the telecommunications markets. The FEAs' experience in obtaining telecommunications services throughout the United States has shown that competition results in lower prices, better service, and more rapid deployment of new technologies.

Proposal by Southern Bell

Southern Bell proposes to implement the \$25 million rate reduction by initiating "Extended Calling Service" or "ECS". This new offering would provide subscribers in certain exchanges with the ability to place "local" calls over an expanded area for a charge of 25¢ per call for messages originating on residence telephones and a per-minute charge for messages originating on business telephones.

Southern Bell's proposal expands the boundaries of local exchange areas to include places previously reached only through intraLATA toll calls. The FEAs urge the Commission to reject this scheme because it is anti-competitive.

The Commission has not yet authorized competition for switched local exchanges services in Florida. In contrast, there is vigorous competition for intraLATA message toll services because 14 interexchange carriers and 207 resellers offer this service in Florida.¹ Southern Bell's proposal to establish ECS is an attempt to stake out a larger market for its monopoly service and reduce the opportunities for its competitors in the intraLATA message toll market.

Proposal by McCaw Communications

McCaw Communications is concerned with interconnection rates for mobile services. The company recommends that the interconnection rates be cut to mirror reductions in access charges, a proposal also being addressed in Docket No. 940235-TL.

McCaw offers cellular and paging services in many communities in Florida. The company's proposal in this case is clearly designed to obtain special benefits for cellular and paging activities. The FEAs urge the Commission to reject this proposal

¹ NARUC Compilation of Utility Regulatory Policy 1993-1994, Table 148.

because it is self-serving and also because it attempts to redress a matter before the Commission in another proceeding.

Proposal by Communications Workers of America

The Communications Workers of America ("CWA") proposes to implement the \$25 million change by reducing revenues about \$5 million for each of five local exchange services:

- "lifeline" service for senior citizens,
- service for any non-profit organization with tax exempt status,
- service for any public school, community college or state university,
- service for any qualified disabled ratepayer, and
- basic residential telephone service.

While this plan may appear attractive in the short-term, it will not aid the development of competition in the long-run. Rate subsidies are not required to maintain ubiquitous telephone service in a competitive environment. Telephone service is continually becoming more valuable, as shown by the increasing number of persons with multiple telephone lines, fax terminals or modems in their homes, and cellular telephones in their cars. The quantity of assigned telephone numbers is increasing so rapidly that new "area codes" are required well ahead of original expectations.

Local telephone service is a bargain for most subscribers. There is no evidence that the price of telephone service is the primary factor in the decision by low income residents whether or not to have a telephone in their homes.

Florida participates in Federal "Link-up America" and "Lifeline" programs designed to reduce the initial and recurring costs of telephone service to subscribers meeting specified criteria. These programs are the appropriate vehicle for assuring that all households have the ability to obtain telephone service. The FEAs urge the

Commission to conclude that CWA's proposed rate subsidies are unnecessary and misdirected.

Recommended Plan for Revenue Reduction

The Commission should use this opportunity to adjust prices for telecommunications services to encourage the development of fair competition in Florida. Pricing of Southern Bell's services is particularly important because the company faces different degrees of competition for its many intrastate services.

Long-run incremental costs are the appropriate benchmark for pricing Southern Bell's competitive services. A service that is priced above its long-run incremental costs is making a contribution to the common costs of the firm. On the other hand, prices for competitive services below the corresponding long-run incremental costs may signal the presence of subsidies by Southern Bell's monopoly ratepayers. Furthermore, it is important to place maximum limits on the prices for services that end users or other carriers can obtain only from Southern Bell.

It is likely that the rates for many Southern Bell services do not meet these criteria. The Commission should use the \$25 million rate reduction to help remedy imbalances between rates and costs. It is particularly important for the Commission to address cases where Southern Bell is using its monopoly power over one service to provide the company with an unfair competitive advantage for other services. In their Prehearing Statement, the FEAs noted that Southern Bell has such an opportunity with respect to its ESSX service. The Florida Ad Hoc Telecommunications Users Committee ("Ad Hoc") addressed this matter in some detail through the direct testimony of its expert witness in this proceeding.²

As the FEAs and Ad Hoc pointed out, Private Branch Exchange ("PBX") and ESSX services compete directly with each other. Southern Bell provides some of the

² Direct Testimony of Douglas S. Metcalf, pages 4-6.

elements of PBX service, including PBX trunks and direct inward dialing ("DID"), while Southern Bell provides all of the elements of ESSX service. By maintaining unreasonably high rates for PBX trunks and DID service, Southern Bell tilts the competitive balance in its own favor. The FEAs urge the Commission to address this infirmity by applying the \$25 million to a reduction in the rates for PBX trunks and DID service.

Statement of Positions on Issues Designated at the Conclusion of Hearings

Pursuant to the Staff's memorandum to all parties of August 3, 1995, the FEAs hereby provide their positions on issues designated at the conclusion of the evidentiary hearings in this matter.

Q1. 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?

A. Matters concerning the \$25 million rate reduction should be controlled by the new provisions of Chapter 364, Florida Statutes. Although Docket No. 920260-TL was initiated when the prior version of Chapter 364 was effective, the rate reductions at issue here were set for hearing at a future time. Section 364.385(2), Florida Statutes, provides that any proceeding that has not progressed to the stage of hearing by July 1, 1995, may with the consent of all parties and the Commission, be conducted in accordance with the law as it existed prior to January 1, 1996. Clearly, the earlier rules control only with unanimous consent. The FEAs (and probably other parties) would prefer that the revised law obtain, so that unanimous consent is absent.

Q2. If approved, would Southern Bell's ECS plan become part of basic local telecommunications service as defined in Section 364.02(2) Florida Statutes?

A. Southern Bell's proposed service should not become part of basic local telecommunications service as defined in Section 364.02(2), Florida Statutes. The

revised Section 364.02(2) specifically includes only ECS in existence or ordered on or before July 1, 1995.

Q3. If it is not a part of basic telecommunications service, does Southern Bell's ECS plan violate the imputation requirement of Section 364.051(6)(c), Florida Statutes?

A. Southern Bell's plan violates the imputation requirement because the proposed rates fail to cover the direct costs of providing the service plus the imputed price of Southern Bell's switched access services which competitors would be required to pay. In an attempt to sidestep this infirmity, Southern Bell argues that ECS should be combined with intraLATA toll service.³ This attempt to dodge the rules, which only highlights the fact that Southern Bell is trying to enlarge its own share of the market as discussed *supra*, should be rejected by the Commission.

Q4. 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?

A. Southern Bell's proposal violates the spirit of the changes, which are intended to reflect the consensus of the Legislature that "competitive provision of telecommunications service, including local exchange telecommunications service, is in the public interest . . ." ⁴ This consideration alone provides ample ground to reject Southern Bell's proposal.

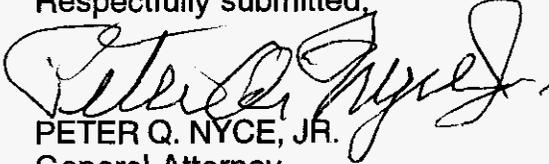
³ Tr. Vol. 3, pp. 365-66.

⁴ Section 364.01, Florida Statutes, "Powers of Commission, legislative intent."

Conclusion

WHEREFORE, the premises considered, the United States Department of Defense and All Other Federal Executive Agencies urge the Florida Public Service Commission to apply the scheduled \$25 million rate reduction to balance the rates for PBX and ESSX services.

Respectfully submitted,



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and

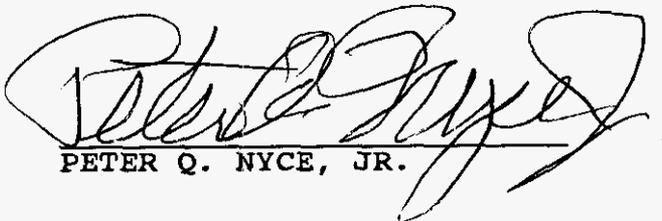
All Other Federal Executive Agencies

August 17, 1995

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by first-class U.S. Mail to all parties on the attached service list.

Dated at Arlington County, Virginia, this 1st day of August 1995.


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