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August 17, 1995

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BY HAND DELIVERY

Ms. Blanca S. Bayó
Director, Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 920260

Dear Ms. Bayó:

Enclosed for filing on behalf of MCI Telecommunications Corporation in the above referenced docket are the original and 15 copies of MCI's post-hearing brief, together with a disk containing a WordPerfect 5.1 copy of the brief.

By copy of this letter this document has been provided to the parties on the attached service list.

Very truly yours,

Richard D. Melson

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cc: Parties of Record

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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 17, 1995

MCI TELECOMMUNICATION CORPORATION'S POST-HEARING BRIEF

MCI Telecommunications Corporation (MCI) hereby submits its Posthearing Brief in the above-captioned docket. This brief contains an executive summary, followed by a detailed discussion of each of the legal and factual issues identified by the Commission.

EXECUTIVE SUMMARY

This proceeding involves the disposition of $25 million in unspecified rate reductions by Southern Bell scheduled for October 1, 1995, under the settlement agreement approved by the Commission in an earlier phase of this docket.

Southern Bell's proposal is to implement extended calling service (ECS) on 288 existing toll routes, concentrated primarily in the Southeast LATA. Under this plan, residential calls would be priced at 25 cents/minute regardless of duration and business calls would be priced at 10 cents for the initial minute and 6 cents for each additional minute. This is the same type of ECS plan that the Commission has recently been implementing on selected routes which do not have sufficient calling volumes and call distribution to qualify for non-optional flat-rate EAS, but

which nevertheless exhibit sufficient community of interest to warrant consideration of an alternative form of toll relief.

Two things are fundamentally different about Southern Bell's current ECS proposal. First, Southern Bell has made no showing that the routes proposed meet traditional community of interest standards. Instead, Southern Bell has created five new criteria to identify its proposed ECS routes -- one of which is a novel definition of community of interest that includes all routes in Dade and Broward Counties. On the eve of the hearing, Southern Bell added 36 additional routes to its proposal, none of which meets any of the five new criteria that Southern Bell has developed. Thus Southern Bell's ECS proposal is not for routes where customer usage and demand supports toll relief; it is for routes that Southern Bell seeks to remonopolize on the eve of 1+ intraLATA presubscription.

Second, the statutory framework under which ECS must be evaluated has changed. Any ECS routes approved in this docket will be "non-basic" services under the new statute. By law, this ECS service must cover the imputed price charged to competitors for any monopoly components of the service, plus other direct costs of providing the service. Southern Bell's proposed ECS pricing fails this test. There are three possible solutions: increase the price for ECS service; reduce the price for monopoly switched access; or create a new interconnection rate available to all competitors (IXCs or ALECs) who choose to provide a competing service. Unless one of these solutions is implemented,

Southern Bell's ECS proposal must be rejected as anti-competitive and inconsistent with the requirements of the new telecommunications statute.

Given these infirmities with Southern Bell's ECS proposal, MCI submits that a better solution would be to use the $25 million rate reduction in a way that implements the statutory intent to promote competition within Florida. Ad Hoc and AT&T both offered alternatives that would meet this goal. The principal alternative, and the one MCI urges the Commission to adopt, is to reduce the price of PBX trunks and DID service to levels that are closer to the prices at which Southern Bell offers competing ESSX services to the same group of end-user customers.

LEGAL ISSUES

Legal Issue 1: 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?

MCI: This question does not need to be answered in order to dispose of the issues before the Commission, which can be resolved by the Commission's decision on Legal Issues 2 and 3. If the Commission determines this question must be resolved, the answer is "no," the date the docket was opened is not the decisive factor in deciding whether this phase of the proceeding is governed by the former version of Chapter 364.

As discussed below in Legal Issues 2 and 3, the revised statute contains specific provisions regarding the status of ECS service. That status depends on the date on which an application for ECS was filed and/or the date on which ECS was approved.

Because the status of ECS under the statute is clear, the Commission is not required to deal with the broader question posed by this issue in order to dispose of the matters in this docket.

Nevertheless, if the Commission believes that this issue must be resolved, the answer is "no," the rate reductions in this proceeding are not governed by the former version of Chapter 364 simply because the docket was open on the effective date of the statutory revisions. Section 364.385(2) contains two provisions which, at first blush, appear to be internally inconsistent:

> Proceedings including judicial review pending on July 1, 1995, shall be governed by the law as it existed prior to the date on which this section becomes law.
>
> * * *
>
> Any administrative adjudicatory proceeding which has not progressed to the stage of a 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.

This provisions can be harmonized by applying the principle of statutory construction which says that when the same statute contains general and specific provisions on the same subject matter, each must be given its legitimate scope of operation and the general provision must be construed to affect only such cases as are not within the terms of the more specific provision. 49 Fla. Jur. 2d Statutes §182.

Applied in this way, the general rule is that matters pending on July 1, 1995 are governed by the old law. However,

where the matter is one that requires an adjudicatory hearing which has not yet occurred, that general rule is superseded by the specific rule which permits pre-January 1, 1996 law to be applied only "with the consent of all parties and the commission."

Since the disposition of the $25 million refund at issue in this docket required an adjudicatory hearing, since that matter had not progressed to the hearing stage by July 1, 1995, and since the parties have not consented to proceeding under pre-January 1, 1996 law, this docket is governed by the new statute.

This interpretation gives full effect to both provisions in Section 364.385. Unfinished business consisting of pending matters that do not require a hearing, or pending matters that have been to hearing, are governed by the old law. Matters that require a hearing, but have not yet progressed to the hearing stage, are governed by the new law.

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

MCI: No. An ECS route is part of basic local telecommunications service only if (a) under section 364.02(2), the specific ECS route was in existence or ordered by the Commission on or before July 1, 1995; or (b) under section 364.385(2), there was an application for the specific route pending before the Commission on March 1, 1995 which is subsequently approved by the Commission.

There are two provisions in the new statute which bear on the status of ECS routes as basic or non-basic service:

> "Basic local telecommunications service" means voice-grade, flat-rate residential and flat-rate single-line business local exchange services. . . . For a local exchange telecommunications company, such term shall include any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995.
>
> §364.02(2), Florida Statutes
>
> * * *
>
> All applications for extended area service routes, or extended calling service pending before the commission on March 1, 1995, shall be governed by the law as it existed prior to July 1, 1995. Upon approval of the application, the extended area service routes, or extended calling service shall be considered as basic services and shall be regulated as provided in s. 364.051 for a company that has elected price regulation.
>
> §364.385(2), Florida Statutes

Reading Section 364.02(2) in isolation, one would conclude that July 1, 1995 is the cut-off date for determining whether particular EAS or ECS routes are part of "basic local telecommunications service." Routes in effect on that date are basic service, routes instituted after that date are not. This bright line rule is modified slightly by the savings provisions in Section 364.385(2). Under that section, EAS and ECS routes for which applications were pending on March 1, 1995, and which are subsequently approved, become part of basic local service. Nothing in the statute confers basic service status on ECS routes which were neither in effect on July 1, 1995, nor the subject of a pending application on March 1, 1995.

Since Southern Bell's ECS proposal in this docket was filed on May 15, 1995, it does not fall within the scope of the savings clause. Thus, if approved, these ECS routes will not become a part of basic service.

Of course, a few of the routes proposed by Southern Bell in this docket were also the subject of pre-existing applications filed before March 1, 1995. The Commission is disposing of those applications in separate dockets, the first batch of which was considered at the August 15th agenda conference. Any routes approved pursuant to that pre-existing process, in which the Commission applies its general ECS policy, will become part of local service. In contrast, routes appearing for the first time in Southern Bell's $25 million rate reduction proposal, which are being handled without reference to the Commission's general ECS community of interest policies, will, if approved, be non-basic service.

Legal Issue 3: 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?

MCI: Yes. As a non-basic service, ECS must cover the direct costs of its non-monopoly components and the imputed cost of its monopoly components. Even if a lower rate could be charged up until the effective date of price regulation, that rate is not protected, since section 364.385(1) grandfathers only rates which were in effect prior to July 1, 1995.

Section 364.051(6) governs the provision of non-basic service by price-regulated LECs.[1] Subsection (6)(c) requires that the price for a non-basic service cover the direct cost of providing the service, including as an imputed cost the price charged to competitors for any monopoly component used by a competitor in providing the same or functionally equivalent service.

This statutory price floor for a non-basic service is similar (but not identical) to the imputation test that the Commission has applied historically to intraLATA toll pricing. Under current Commission policy, the price for intraLATA toll must cover the price charged to competitors for monopoly components (i.e. intrastate switched access) used in the provision of the same or functionally equivalent service, plus the cost of billing and collection. Under the new statutory test, the price for intraLATA toll would have to cover both the costs that are covered today plus any additional direct costs -- such as interexchange transport -- that are not captured in the current imputation formula.

As proposed, Southern Bell's ECS plan violates both the current imputation policy and the new imputation statute. As shown in the discussion of Issue 1(a), the price proposed for ECS service falls short of covering the price charged to competitors (i.e. IXCs) for the monopoly components (i.e. switched access)

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[1] For purposes of analysis, MCI assumes that Southern Bell will elect price regulation effective January 1, 1996.

used to provide a competitive service, much less any additional direct costs incurred by Southern Bell.[2]

Southern Bell's conclusion that the imputation standards are met is based on three fundamental errors. First, Southern Bell aggregates revenues from the proposed ECS routes with all intraLATA toll revenues. (Hendrix, T 379) That is improper, since ECS and intraLATA toll are two separate services. Section 364.051(6) recognizes "categories" of non-basic services for some purposes, such as determining applying the cap on non-basic price increases under subsection (6)(a). However, section 364.051(6)(c) on price floors does not apply to categories of service, it applies separately to each non-basic service. Given the differences in price structure and dialing pattern between ECS and intraLATA toll, and given the customers' view that ECS is a variety of local service, MCI believes that these are separate non-basic services within the meaning of subsection (6)(c).

Second, Southern Bell excludes the price of local transport from the amount of switched access charges imputed in determining the price floor for ECS service. (Hendrix, T 367) Yet local transport for switched services is a monopoly today and will be a monopoly for the foreseeable future. Southern Bell's statements that there are 17 AAVs certified today and that there are a

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[2] Unless and until Southern Bell offers all of its competitors, both IXCs and ALECs, an interconnection rate other than switched access for originating and terminating ECS-like calls, switched access charges are the appropriate prices to be used in the imputation calculation.

number of pending requests for cross-connections for switched transport are insufficient to support a finding that potential competitors of Southern Bell have a viable alternative to continued use of Bell-provided switched local transport, particularly for the large number of residential customers targeted by the ECS plan. Southern Bell failed to carry its burden of proving that local transport is not a monopoly element of ECS service; therefore it is improper to exclude the price of local transport in calculating the price floor for ECS.

Third, Southern Bell made no attempt to quantify the direct costs of the components of ECS service that are not covered by imputed access charges. (See Hendrix, T 426) Under the price regulation provisions in effect on January 1, 1996, Southern Bell's ECS price must cover these direct costs, in addition to any imputed costs.[3] Arguably, under current Commission policy the ECS rates would not have to cover these costs prior to January 1, 1996. However, the Commission's decision should be based on the new statute, since the only rates that are grandfathered as valid under the new law are those rates which were approved, and were being lawfully charged, immediately prior to July 1, 1995. §364.385(1), Fla. Stat. It would not be sound policy to approve a rate to be effective October 1, 1995 when

[3] Mr. Hendrix' apparent interpretation that Southern Bell must cover either imputed access charges or its direct costs, whichever are higher (Hendrix, T 427-28), does violence to the legislature's intent to promote a competitive telecommunications marketplace.

that rate would violate an imputation requirement, and cease to be lawful, on and after January 1, 1996.

Legal Issue 4: 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?

MCI: In order to comply with revised Chapter 364, any residential ECS approved in this docket would have to be made available for resale to residential customers and any business ECS approved would have to be made available for resale to business customers.

MCI understands from the placement of the ECS service in the local service portion of Southern Bell's tariff that the current tariff restrictions on resale of local service are intended to apply to ECS service. (Gillan, T 301) Section 364.161(2) provides that a LEC may not impose any restrictions on the resale of its services except those which the Commission may determine are reasonable.[4] Southern Bell presented no testimony in this docket to support the reasonableness of any restriction on the resale of ECS. Therefore, to comply with the new statute, the service must be available for resale without restriction -- other than that resale must be of the same class of service (i.e.

[4] This limitation on resale restrictions does not apply immediately to currently tariffed, flat-rate, switched residential and business services. Since ECS is not a flat-rate service, it is subject to the general rule banning restrictions on resale other than those which the Commission has determined are reasonable.

residential ECS resold to residential customers and business ECS resold to business customers).

FACTUAL/POLICY ISSUES

Issue 1: Which of the following proposals to dispose of $25 million for Southern Bell should be approved?

* * *

(a) SBT's proposal to implement the Extended Calling Service (ECS) plan pursuant to the tariff filed on May 15, 1995. (T-95-304)

MCI: The Commission should reject the Southern Bell's ECS plan as anti-competitive in that it would effectively remonopolize a substantial portion of the intraLATA toll market and, as structured, would violate the recently enacted imputation requirements of Chapter 364.

The Commission should reject Southern Bell's ECS plan as anti-competitive. That proposal would remonopolize a substantial portion of the intraLATA toll market on the eve of 1+ intraLATA presubscription. (Gillan, T 296, 317-18; Guedel, T 203-05; Metcalf, T 250; Key, T 348) These are routes for which long distance competition exists today and for which competition should exist tomorrow. (Gillan, T 298; Stanley, T 55, 96) The 288 routes in Southern Bell's plan include routes that are much longer that any ECS routes approved to date (i.e. up to 135 miles); routes that do not meet the Commission's traditional community of interest standards; and 36 routes added on the eve of the hearing which do not meet even Southern Bell's relaxed criteria. (Stanley, T 118-121) Even Southern Bell acknowledges that these routes should remain open to competition by long distance carriers if its ECS plan is approved. (Stanley, T 55)

Since the routes proposed for ECS do not meet traditional community of interest standards, Southern Bell's proposal amounts to nothing more than a discounted toll plan. Yet the record shows that the proposed ECS rates do not cover the switched access charges that Southern Bell's competitors would be required to pay for the access necessary to provide a competitive service. While revenues from ECS average approximately 6.42 cents per MOU, switched access charges to competitors will average approximately 7.45 cents per MOU, even after the additional switched access charge rate reduction scheduled for October 1, 1995. (Gillan, T 299)[5] It is simply impossible for a long distance carrier to compete against Southern Bell retail prices which are below the wholesale prices it must pay Southern Bell for monopoly access service. This is particularly true where the residential ECS rate is a flat 25 cents per message, while access charges to a competitor are on a per MOU basis. This means that Southern Bell's retail price to a residential end-user for any call of four minutes or more (25 cents / 4 = 6.25 cents) is lower than the "wholesale" price (6.42 cents) paid by its competitors for access charges alone. (See Stanley, T. 110-112)

Southern Bell's own exhibit demonstrates the potential effectiveness of its ECS plan in quashing long distance competition. Although it is titled "Residence Calls Cheaper with

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[5] ECS revenues do not cover access charges even using Southern Bell's figures of approximately 6.6 cents per MOU revenue vs. access charges of 7.152 cents per MOU. (Hendrix, T 423)

IXC Toll," it actually shows that ECS would be priced below toll for the vast majority of residence calls. All calls of more than four minutes -- which is less than the 4.2 minute average length of a residential toll call (Stanley, T 81) -- are cheaper using ECS. Any daytime calls over 10 miles are cheaper using ECS. And, with the exception of evening and night/weekend calls in the shortest mileage bands, all calls over one minute are cheaper using ECS. (Exhibit 3) While there is nothing wrong with low prices in a competitive marketplace, there is something wrong with low prices for a toll substitute that do not cover imputed charges for monopoly access service. Prices that low violate both the Commission's current imputation order and the recently enacted provisions of section 364.051(6)(c), Florida Statutes.

The anti-competitive effect of these unreasonably low prices is compounded by the fact that Southern Bell proposes to offer ECS service on a 7-digit dialed basis. (Stanley, T 97) Thus even in those few situations in which a customer could save money by using his or her presubscribed IXC for a particular call, the customer must make a conscious decision to incur the inconvenience of dialing additional digits. Moreover, to make an intelligent choice, the customer would have to know in advance how long the call is going to last as well as the distance of the call. (Stanley, T 104)

In sum, unless the price for ECS is raised, the price for switched access is lowered, or a new interconnection rate for ECS-like calls is established, Southern Bell's plan is patently

anti-competitive and violates the price floor provisions of the new statute. It must therefore be rejected by the Commission in its current form.

* * *

(b) CWA's proposal to reduce each of the following by $5 million:

1. Basic "lifeline" senior citizens telephone service;
2. Basic residential telephone service;
3. Basic telephone service to any organization that is non-profit with 501(c) tax exempt status;
4. Basic telephone service of any public school, community college and state university;
5. Basic telephone service of any qualified disabled ratepayers.

MCI: The CWA proposal should be rejected because it proposes reductions in rates which are already subject to a five year price freeze at rate levels that are generally alleged to be below cost.

* * *

(c) McCaw's and FMCA's proposal that a portion be used, if necessary, to implement the decisions rendered in DN 940235-TL.

**MCI: MCI takes no position on the McCaw/FMCA proposal, which would not dispose of the entire $25 million at issue in any event. **

* * *

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

MCI: The Commission should dispose of the funds in a way that will encourage competition in the telecommunications markets. The Commission should fashion a plan which reduces the non-cost-based disparity between PBX trunk/DID rates and ESSX rates in order to remove an artificial barrier to competition in this segment of the business telecommunications market.

The legislature has recently taken action to promote the development of competition in all telecommunications market. The Commission should therefore consider disposing of the $25 million in rate reductions in a way that will encourage competition. (Metcalf, T 249-50)

The record demonstrates that there is a non-cost-based disparity between the rates for PBX trunks and DID trunks that are used by businesses who own or lease PBXs, and the rates for ESSX loops that are used by businesses who buy central-office based services directly from Southern Bell. (Metcalf, T 251-53) For example, PBX loop costs of $38.21 are significantly higher than ESSX loop costs ranging from $6.30 to $13.50. Similarly, DID service costs $21.80 per DID trunk, plus $4.00 per twenty numbers, while no charge is made when these monopoly services are supplied to an ESSX customer. (Guedel, T 208-12, 217) Application of the $25 million in rate reductions to reduce this disparity would remove an artificial barrier to competition in this segment of the business telecommunications market.

Although Southern Bell claims that its low market share is evidence that the existing rate disparity has not given it an unfair competitive advantage (Stanley, T 64, 66), the fact remains that Southern Bell customers are charged less for a monopoly service than the customers of its competitors. Southern Bell's claimed lack of market share may simply be evidence that it is unable to compete effectively even with an unwarranted price advantage. On the other hand, Southern Bell's market share

might be even less in a competitive market in which all customers of all competitors paid the same price for equivalent monopoly services.

The Commission's responsibility under the new statute is to promote competition; not to protect Southern Bell's market share by perpetuating a non-cost-based price advantage. Applying the $25 million to reduce this disparity would further the goal of enhancing competition in the telecommunications market.

Issue 2: If the Southern Bell proposal is approved, should the Commission allow competition on the Extended Calling Service routes? If so, what additional actions, if any, should the Commission take?

MCI: Yes, the Commission should allow competition on the ECS routes in the event the Southern Bell proposal is approved. In addition, the Commission should (1) leave the 1+ dialing pattern in effect on these routes; (2) ensure that the price for ECS covers its direct and imputed costs; and (3) allow the resale of ECS at a price which represents an appropriate discount from the retail price of the service.

If Southern Bell's proposal is approved, there are four steps the Commission should take to minimize the anti-competitive effect of the plan.

First, the Commission should allow IXCs to continue to compete on the ECS routes. No party seems to disagree with the imposition of such a requirement. (Stanley, T 55)

Second, the Commission should require Southern Bell to leave the 1+ dialing pattern in effect on these routes. (Gillan, T 300) This would convert ECS from essentially a mandatory service into a service which would compete head-to-head with IXC's toll and discounted toll offerings. In making a decision to presubscribe

to Southern Bell or an IXC for intraLATA calls, a customer would be able to consider the total toll package (ECS, MTS, discount plan, etc.) available from Southern Bell, compare it with the total toll package available from an IXC, and choose the plan which best meets his or her needs. Maintaining 1+ dialing would also keep the signal to customers that 7-digit calls are included in their flat-rate service while 1+ calls incur an additional message or minute-of-use charge. Maintaining 1+ dialing would also address the concern of business customers that they be able to control their employees' use of calls that incur a per-minute charge. (Metcalf, T 256-57, 264)

Third, to comply with the imputation requirements of the new statute and the Commission's existing orders, the Commission should require the revenues from ECS service, on a stand-alone basis, to cover the charges made to its IXC and ALEC competitors for the access and interconnection necessary to provide a competitive service.[6] In making this calculation, the Commission should reject Southern Bell's position that the price of local transport be excluded from the calculation of the switched access rates applicable to its competitors. While Southern Bell claims that it is facing competition for such local transport, the fact is that no competitors are yet authorized to provide local

[6] As discussed in Legal Issue 3, it is inappropriate to aggregate ECS revenues with long distance revenues for purposes of determining if the service is priced above the statutory price floor. The statute requires each service to cover its costs. This test is not satisfied by aggregating a group of services for purposes of the analysis.

transport for switched intrastate traffic. Moreover, Southern Bell identified only a few offices in which it believes that such competition may occur in the near future. The fact is that in most end offices, there will not be a meaningful competitive alternative available at any time in the near future. Like it or not, switched access, including local transport, is still an effective monopoly service. As such, its price must be imputed in calculating a price floor for ECS service. Of course, if a separate interconnection rate -- available to both ALECs and IXCS -- is established for services that compete with ECS, then this new interconnection rate would substitute for switched access as the appropriate imputed component of the price floor calculation.

Fourth, the Commission should require Southern Bell to remove any restrictions on the resale of ECS service. (Gillan, T 301) As discussed in Legal Issue 4, restrictions on the resale of non-flat-rated services are permitted only when the Commission determines that such restrictions are reasonable. Southern Bell made no showing in this docket to support any restrictions on the resale of ECS service. Therefore, Southern Bell should be required to make the service available for resale at the tariffed rates from the date the service is implemented.

Further, section 364.162(5) contemplates that a LEC must offer a discounted wholesale price for resold services in situations where a LEC experiences cost savings (such as avoided billing and collection costs) from selling the service at wholesale rather than retail. (Gillan, T 305-07) Under sections

364.161 and 364.162, parties have 60 days to negotiate any unbundling and/or resale requests. The Commission has the ultimate authority to fix the prices, terms and conditions of resale in the event the parties are unable to reach a mutually acceptable resolution. The Commission should not take any action in this docket that would prejudge the merits of any dispute that might be brought to it regarding the resale of ECS service, or the unbundling of ECS service into its component parts.

Issue 3: When should tariffs be filed and what should be the effective date?

MCI: Tariffs should be filed as soon as practicable after the Commission's decision in this docket and should become effective on October 1, 1995. If that effective date cannot be met, Southern Bell should make the appropriate refund in compliance with Paragraph 10 of the Stipulation incorporated in Order No. PSC-94-0172-FOF-TL.

The Commission should require Southern Bell to file tariffs implementing the required rate reductions as soon as feasible, with a specified effective date of October 1, 1995. If for any reason the effective date is delayed beyond October 1, 1995 as a result of the hearing process in this docket, the Stipulation Agreement provides that Southern Bell "shall return the pro rata portion of the rate reduction in question for the period of such delay to Southern Bell's customers in the form of a refund." (Order PSC-94-0172-FOF-TL, page 18, ¶10)

Issue 4: Should this docket be closed?

MCI: No. This docket should remain open to deal with future rate reduction and earning sharing issues under Order No. PSC-94-0172-FOF-TL.

Under Order No. PSC-94-0172-FOF-TL, Southern Bell must make an additional $84 million rate reduction effective October 1, 1996 and must share earnings above specified levels for 1995, 1996 and 1997. This docket should remain open to deal with these and other matters arising under that order.

RESPECTFULLY SUBMITTED this 17th day of August, 1995.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent by U.S. Mail this 17th day of August, 1995.

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