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December 7, 1995

ORIGINAL
FILE COPY

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

Re: Case No. 920260-TL

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Opposition to FIXCA's Motion for Stay.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

- ACK
- AFA 3
- APP _____
- CAF _____
- CMU Worton
- CTR _____
- EAG _____
- LEG Enclosures
- LIN 5
- OFC _____
- ROH _____
- SEC 1
- WAS _____
- OTH _____

Sincerely,

Charles J. Beck

Charles J. Beck
Deputy Public Counsel

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[Signature]
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DOCUMENT NUMBER-DATE

12303 DEC-7 95

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Comprehensive Review of the)
Revenue Requirements and Rate)
Stabilization Plan of Southern)
Bell Telephone & Telegraph Company)
_____)

Docket No. 920260-TL
Filed: December 7, 1995

CITIZENS' OPPOSITION TO FIXCA'S MOTION FOR STAY

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this opposition to the motion for stay filed by the Florida Interexchange Carriers Association ("FIXCA") on November 28, 1995.

1. Commission rule 25-22.061 provides that the Commission may, among other things, consider the following three criteria when determining whether to grant a stay pending judicial review: (1) whether the petitioner is likely to prevail on appeal, (2) whether the petitioner has demonstrated that it is likely to suffer irreparable harm if the stay is not granted, and (3) whether the delay will cause substantial harm or be contrary to the public interest.

2. Commission order PSC-95-1391-FOF-TL issued November 8, 1995 (hereinafter "order") extended the Commission's long standing ECS plan to additional routes in Southern Bell's territory. This action satisfied Southern Bell's obligation to reduce its rates by

\$25 million per year effective October 1, 1995.¹ The revenue effect of the order -- \$48 million per year -- far exceeds the amount by which Southern Bell must reduce its revenues under the settlement. Any stay of the order would therefore severely harm the public interest by substituting a \$25 million per year refund for a \$48 million per year rate reduction.

3. Moreover, any delay in implementation of ECS along the affected routes would harm the communities linked by ECS. Among the benefits of the plan is that it gives county wide calling in Palm Beach county and local calling between all of Dade and all of Broward county. Its also provides local calling between scores of other communities throughout Southern Bell's territory. ECS has a positive economic benefit along the affected routes. Any delay of these benefits would therefore harm these communities.

4. FIXCA has little chance of success on appeal. The Commission properly found these proceedings to be governed under the law as it existed prior to the recent legislative amendments to chapter 364, Florida Statutes, thus making FIXCA's other arguments inconsequential. The courts grant great deference to agency interpretation of statutes under their purview. Department of Agriculture & Consumer Affairs v. Edwards, 654 So.2d 628 (Fla. 1st

¹ Order no. PSC-94-0172-FOF-TL (codified by section 364.385(3), Florida Statutes) adopted a settlement between Southern Bell and the Office of Public Counsel. One provision of the settlement required Southern Bell to reduce its rates by \$25 million per year effective October 1, 1995.

D.C.A. 1995). In this case the Commission determined that the proceeding was pending on July 1, 1995, and therefore under section 364.385(2), Florida Statutes, it was governed by the law as it existed previously. FIXCA has little chance of overcoming this determination by the Commission.

5. The provision of ECS along these routes serves an important public interest. The Commission should not allow FIXCA to delay these benefits to the public.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 7th day of December, 1995.

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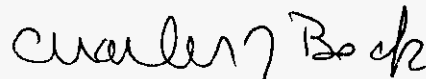
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