

Harris R. Anthony
General Counsel-Florida

Southern Bell Telephone
and Telegraph Company
c/o Marshall Criser III
Suite 400
150 South Monroe St.
Tallahassee, Florida 32301
Phone (305) 530-5555

December 7, 1992

Mr. Steve C. Tribble
Director, Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

Re: Docket No. 920260-TL - Rate Stabilization

Dear Mr. Tribble:

Enclosed please find an original and fifteen copies of Southern Bell Telephone and Telegraph Company's Response and Memorandum in Opposition to the Motion for Review of Additional Order on Prehearing Procedure, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

ACK _____
AFA 3 _____
APP _____
CAF _____
CMU _____
EAG _____
LEG 1 _____
LIN 6 _____
OPC _____
RCH _____
SFC 1 _____
WES _____
C... _____

Sincerely yours,
Harris R. Anthony
Harris R. Anthony
(221)

Enclosures

cc: All Parties of Record
A. M. Lombardo
R. Douglas Lackey

[Handwritten signature]

DOCUMENT NUMBER-DATE

14223 DEC -7 1992

FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE
Docket No. 920260-TL

I HEREBY CERTIFY that a copy of the foregoing has been
furnished by United States Mail this *7th* day of *Dec*, 1992

to:

Robin Norton
Division of Communications
Florida Public Service
Commission
101 East Gaines Street
Tallahassee, FL 32399-0866

Angela Green
Division of Legal Services
Florida Public Svc. Commission
101 East Gaines Street
Tallahassee, FL 32399-0863

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Grandoff & Reeves
315 South Calhoun Street
Suite 716
Tallahassee, Florida 32301
atty for FIXCA

Joseph Gillan
J. P. Gillan and Associates
Post Office Box 541038
Orlando, Florida 32854-1038

Patrick K. Wiggins
Wiggins & Villacorta, P.A.
Post Office Drawer 1657
Tallahassee, Florida 32302
atty for Intermedia

Laura L. Wilson, Esq.
Messer, Vickers, Caparello,
Madsen, Lewis & Metz, PA
Post Office Box 1876
Tallahassee, FL 32302
atty for FPTA

Charles J. Beck
Deputy Public Counsel
Office of the Public Counsel
111 W. Madison Street
Room 812
Tallahassee, FL 32399-1400

Michael J. Henry
MCI Telecommunications Corp.
MCI Center
Three Ravinia Drive
Atlanta, Georgia 30346-2102

Richard D. Melson
Hopping Boyd Green & Sams
Post Office Box 6526
Tallahassee, Florida 32314
atty for MCI

Rick Wright
Regulatory Analyst
Division of Audit and Finance
Florida Public Svc. Commission
101 East Gaines Street
Tallahassee, FL 32399-0865

Peter M. Dunbar
Haben, Culpepper, Dunbar
& French, P.A.
306 North Monroe Street
Post Office Box 10095
Tallahassee, FL 32301
atty for FCTA

Chanthina R. Bryant
Sprint
3065 Cumberland Circle
Atlanta, GA 30339

Michael W. Tye
AT&T Communications of the
Southern States, Inc.
106 East College Avenue
Suite 1410
Tallahassee, Florida 32301

Dan B. Hendrickson
Post Office Box 1201
Tallahassee, FL 32302
atty for FCAN

Thomas F. Woods, Esq.
Gatlin, Woods, Carlson and
Cowdery
1709-D Mahan Drive
Tallahassee, Florida 32308
atty for the Florida Hotel
and Motel Association

Benjamin H. Dickens, Jr.
Blooston, Mordkofsky,
Jackson & Dickens
2120 L Street, N.W.
Washington, DC 20037
Atty for Fla Ad Hoc

C. Everett Boyd, Jr.
Ervin, Varn, Jacobs, Odom
& Ervin
305 South Gadsen Street
Post Office Drawer 1170
Tallahassee, Florida 32302
atty for Sprint

Florida Pay Telephone
Association, Inc.
c/o Mr. Lance C. Norris
President
Suite 202
8130 Baymeadows Circle, West
Jacksonville, FL 32256

Monte Belote
Florida Consumer Action Network
4100 W. Kennedy Blvd., #128
Tampa, FL 33609

Bill L. Bryant, Jr., Esq.
Foley & Lardner
Suite 450
215 South Monroe Street
Tallahassee, FL 32302-0508
Atty for AARP

Michael B. Twomey
Assistant Attorney General
Department of Legal Affairs
Room 1603, The Capitol
Tallahassee, FL 32399-1050

Douglas S. Metcalf (Ad Hoc)
Communications Consultants,
Inc.
1600 E. Amelia Street
Orlando, FL 32803-5505

Mr. Cecil O. Simpson, Jr.
General Attorney
Mr. Peter Q. Nyce, Jr.
General Attorney
Regulatory Law Office
Office of the Judge
Advocate General
Department of the Army
901 North Stuart Street
Arlington, VA 22203-1837

Harris R. Anthony
(25)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of) Docket No. 920260-TL
the Revenue Requirements and Rate)
Stabilization Plan of Southern) Filed: December 7, 1992
Bell Telephone & Telegraph Company)

**SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S
RESPONSE AND MEMORANDUM IN OPPOSITION TO PUBLIC
COUNSEL'S MOTION FOR REVIEW OF ADDITIONAL
ORDER ON PREHEARING PROCEDURE**

COMES NOW BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company ("Southern Bell" or "Company"), pursuant to Rule 25-22.037(2)(b), Florida Administrative Code, and files its Response and Memorandum in Opposition to the Motion for Review of Additional Order on Prehearing Procedure filed by the Office of Public Counsel ("Public Counsel") and states the following:

1. In the above-referenced Motion, Public Counsel rehashes arguments that it has previously made and has had rejected not only in this docket but in Docket Nos. 900960-TL and 910163-TL as well. In the course of restating these arguments, however, Public Counsel not only fails to satisfy, but fails even to address, the standard of review for a motion of this type and the burden that Public Counsel bears to obtain the relief it seeks.

2. Specifically, Public Counsel has moved for a review of Order No. PSC-92-1320-PCO-TL of the Prehearing Officer pursuant to Rule 25-22.038(2). The Florida Public Service Commission ("Commission") has previously held that the review of a

DOCUMENT NUMBER-DATE
14223 DEC -7 1992
PSC-RECORDS/REPORTING

Prehearing Officer's order pursuant to this section of the rules must be conducted according to the same legal standard that applies to a motion for reconsideration. The movant "must establish, therefore, that the prehearing officer made an error in fact or law in his decision that requires that the full Commission reconsider his decision." Order No. 25483, p. 2., Docket No. 910163-TL, issued December 17, 1991. As to each of its arguments, Public Counsel neglects even to attempt to establish that the order of the Prehearing Officer was premised upon an error of law or fact that would mandate that it be overturned. He has not done so because there is no such error. This reason alone is sufficient to establish that each of the points raised by Public Counsel should be rejected.

3. Nonetheless, even if Public Counsel could argue for a de novo consideration of the various points it raises, none of these points are supported by any reasonable justification for their acceptance, or for overturning any aspect of the Order under review.

4. Public Counsel first argues that an issue "related to the imputation of revenues and expenses from inside wire maintenance when setting regulated rates should be heard in this docket." (Motion, p.4) As Public Counsel is well aware, however, the Commission noted in the context of the United Telephone Company of Florida rate case, Docket No. 910980-TL, that this issue is most appropriately handled in a generic docket that

would address inside wire for all local exchange companies. For this reason, the Commission has stated that it will address inside wire questions in a separate generic docket. Order Nos. PSC-92-0708-FOF-TL and PSC-92-1277-FOF-TL. Thus, they should not be addressed here. To do otherwise would be a waste of the Commission's and the parties' limited resources.

5. Next, Public Counsel argues that taking testimony relating to the issues in Docket Nos. 910163-TL and 900960-TL at the time of the hearings in those dockets, rather than as part of the rate case hearing, will deprive Public Counsel of the opportunity to rebut effectively any testimony by Southern Bell regarding quality of service. This is not the case. The problem with Public Counsel's argument is the implied contention that the isolated issues that are a part of Docket Nos. 910163-TL and 900960-TL are the primary and overriding matters to be considered by this Commission in judging Southern Bell's quality of service throughout the last four years. To the contrary, the quality of service portion of the rate case will entail a consideration of Southern Bell's performance as measured by a wide variety of service indicators that go well beyond the limited matters that are at issue in the investigative dockets.

6. In any event, the Order of the Prehearing Officer in this docket sets out a procedure that will effectively deal with Public Counsel's concerns without resort to the inappropriate procedure that it advocates. Specifically, the Order at issue

states that there will be a portion of the April hearings in this docket in which the Commission will hear "testimony and other evidence regarding the impact of [the investigative dockets] on the final outcome of the issues presented in this docket." Order No. PSC-92-1320-PCO-TL. This procedure gives Public Counsel a full and fair opportunity to make its case as to whether these investigative dockets should have any such impact.

7. While acknowledging the process set out in the Order, Public Counsel also criticizes the Order because it ostensibly "sheds little light" on the question of whether the Commission will base its decision in this docket, in part, on a consideration of evidence from the other dockets. In point of fact, the Order in question is crystal clear on this point, as exemplified by the language of the Order that is quoted in the preceding paragraph.

8. Next, Public Counsel argues that this proposed procedure is unworkable because the parties in this docket and in the investigative dockets are not identical. The answer to this "problem" is exceedingly simply: to the extent that any parties to this docket have a substantial interest in the matters at issue in the investigative dockets, but are not presently parties therein, then they are certainly free to intervene in those dockets. This intervention would present a simple, and exceedingly more workable, solution to this problem than the intermixing of the various hearings advocated by Public Counsel.

9. Public Counsel further argues that the issues to be considered in this docket should include one concerning "mismanagement at Southern Bell." Public Counsel, of course, acknowledges that a mismanagement issue is included in both Docket No. 910163-TL and No. 900960-TL. It contends, however, that there should be an additional, separate mismanagement issue in the rate case. The fallacy of this argument can be demonstrated by the fact that neither Public Counsel, nor any other party, has alleged any sort of mismanagement by Southern Bell apart from the claimed mismanagement related to the matters at issue in Docket Nos. 910163-TL and 900960-TL. Again, the Order of the Prehearing Officer provides specifically that the matters at issue in those dockets will be considered for their possible impact on the issues in this docket. Thus, it is obvious that a provision exists to consider whether ostensible mismanagement in the subject isolated areas should affect the overall result of this case. Beyond this, there is simply no basis for, nor purpose to be served by, the inclusion of the a more generic "mismanagement issue" in the instant docket.

10. Finally, Public Counsel's arguments concerning discovery related issues simply prove that the Prehearing Officer's decision was correct. The substance of this issue has been briefed numerous times and need not be repeated here. Suffice to say that these disputes relate to discovery in the investigation dockets and should not be permitted to affect the

process for Docket No. 920260-TL. Rather, permitting testimony regarding these disputes in April, as ordered by the Prehearing Officer, will allow for an orderly resolution of the discovery questions.

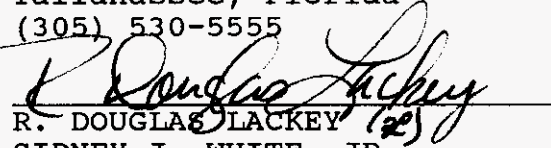
WHEREFORE, Southern Bell respectfully requests the entry of an order denying in full Public Counsel's Motion for Review of Additional Order on Prehearing Procedure.

Respectfully submitted,

ATTORNEYS FOR SOUTHERN BELL
TELEPHONE AND TELEGRAPH COMPANY


HARRIS R. ANTHONY

J. PHILLIP CARVER
c/o Marshall M. Criser III
150 So. Monroe Street
Suite 400
Tallahassee, Florida
(305) 530-5555


R. DOUGLAS LACKEY
SIDNEY J. WHITE, JR.
4300 Southern Bell Center
675 W. Peachtree St., NE
Atlanta, Georgia 30375
(404) 529-3862