

Mark Richard

Attorney At Law

**ORIGINAL
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August 16, 1995

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Attention: Director
Division of Records & Reporting

Re: Docket No. 920260-TL
Southern Bell/Locals 3121, 3122 and 310
Communication Workers of America, AFL-CIO

Dear Sir or Madam:

Enclosed please find an original and fifteen (15) copies of
Communication Workers of America, AFL-CIO, Locals 3121, 3122 and
3107's Post-Hearing Statement of Issues and Positions and Brief.
Copies of the foregoing were furnished today to the individuals
ACK listed on the enclosed Distribution List.

AFA 2 Thank you.

APP _____

CAF _____

CMU *Morton*

CTR _____

EAG _____

LEG 1 MR:bes

LIN 5 Enclosures

OPC _____

RCH *cwa/psc.6*

SEC 1

WAS _____

OTH _____

Sincerely,

Mark Richard / Bes
Mark Richard

Richard Legal Plan, PA
304 Palermo Avenue, Coral Gables, Florida 33134
(305) 442-8772
(305) 443-5125

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING



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4. Basic telephone service of any public school, community college and state university;

5. Basic telephone service of qualified disabled ratepayers.

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

CWA Position:

**** 1(a):** No. However, if the Commission does not approve the CWA proposal, then CWA takes the position that SBT's proposal should be approved.

1(b): Yes, either in whole or in part and in such manner as deemed appropriate by the Commission.

1(c): No. This proposal is absolutely unfair.

1(d): No.

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

**** CWA Position: Competition should be allowed on the Extended Services Calling routes. No additional actions need be taken.**

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

**** CWA Position: Tariffs should be filed so that all changes take place October 1, 1995. If the ECS is approved, the May 15, 1995 tariffs should be utilized.**

BRIEF

The three CWA Locals were the only "interested persons" to submit proposals on how the Commission should refund the \$25 million. These three organizations have taken the proceedings seriously and have advanced positions that were carefully weighed and deliberately considered.

The Commission is not bound by any fixed formula in distributing these refund monies. There is no litmus test or administrative mandate that takes away the Commission's plenary power to make a just decision in this rate case. The rallying cries of "competition" and "new legislation" are merely buzzwords offered by parties to advance their positions. The PSC can do as it sees fit.

Yet, in making its decision the Commission is urged to be

cognizant of two factors. First, the history behind this \$25 million refund mechanism. Second, the broad range of customers who deserve relief through this docket. If these two factors are considered, it is obvious that the CWA proposal (or any variation thereof) should be adopted.

**CWA's Plan Acknowledges the History of the
\$25 Million Refund Settlement**

By Order No. PSC-94-0172-FOF-TL the Commission approved the Stipulation and Agreement between the Office of Public Counsel ("Public Counsel") and Southern Bell Telephone and Telegraph Company ("Southern Bell"), as well as the Implementation Agreement for Portions of the Unspecified Rate Reductions and Stipulation and Agreement between the Public Counsel and Southern Bell, dated January 12, 1994. These documents represented a settlement of a major rate docket as well as an amicable resolution of allegations of improprieties committed by Southern Bell.

When the settlement was approved there was no direct mandate issued on how the \$25 million should be disbursed. However, against the background of the settlement, it seems appropriate that the refund should be at least considered as remedial. Should not those consumers' injuries which led to the settlement be recognized as a guiding light? Should not the broadest range of customers benefit from a rate reduction wrestled out of SBT?

Instead, the \$25 million has triggered a feeding frenzy by special interest groups. Hiding behind slogans like "competition" and "consumer popularity," the telecommunication giants have

devised plans that will best line their pockets, enrich their shareholders and, most importantly, used as chess pieces in the upcoming "star wars" marketplace confrontation.

The telecommunication corporations had to package their strategies as pro-consumer, but actual consumer benefit was surely a secondary goal. The real prize, where the mega-player can gain the most selfish advantage, is in winning the competition war.

This approach makes a mockery of the settlement. This use of big gun lawyers and administrative gamesmanship likely caused not one single other "interested party" to participate in this docket. Citizens have an instinctual belief that they don't count and that the democratic process is lost to the well financed corporations. (It is interesting to note that SBT, with the help of staff, tried to dismiss CWA from this proceeding, further fueling the perception that government is "owned" by special interests).

The CWA plan is the only one offered that does not help the proponent. Frankly, CWA would be better off just mimicking SBT. If a plan financially helps that carrier, surely it may trickle down to the workers. But selfish motives in the end not only offend CWA, but are actually bad business for SBT.

The CWA plan was designed to address the history behind the settlement. It attempts in part to fairly place refund monies into the hands of those customers who were in the pool targeted for alleged inappropriate business tactics. No other proposal addresses this history.

The CWA Plan is the Broadest in Application

The CWA plan would bring refund monies to the greatest number of consumers. Every residential customer would benefit. Additionally, all seniors, certain public educational institutions, qualified disabled citizens and specific non-profit organizations would benefit. No other plan reaches this mass of users.

The ECS only affects those who use long distance service. This plan also gives greater rate relief to business users for the first three minutes of use over residential customers. The third proposal (lowering mobile interconnection, PBX trunks and DID service rates) is the most narrow and offensive of any advanced to the Commission.

SBT witness Stanley could not estimate how many customers would benefit from ECS. He also could not advise the PSC on how much the average customer would save. Is this not pre-requisite information?

Conversely, some try to diminish the CWA plan because it provides for small refund amounts per each customer. However, its equitable nature cannot be ignored. Consumers in the end will only save pennies under any plan on a per capita basis. The key is regulatory fairness, not "getting the biggest bang for the buck."

The ECS Plan is the Second Best Alternative

CWA urges the Commission to adopt its proposal with any modification it deems appropriate. However, any monies that are

not distributed under the CWA proposal should be completely refunded pursuant to the ECS tariffs filed by SBT (as amended).

The foremost reason for this lies in the history of the settlement. The Public Counsel single-handedly obtained this \$25 million unspecified monies. The OPC did this on behalf of all consumers in the service area. The OPC's position should therefore be given great weight by the Commission.

Also, the ECS does seem to be popular with certain customers. While it is not as broad or far reaching as the CWA proposal, it nevertheless offers a valuable service to the customer.

**The Lowering of Cellular Interconnection Charges
and PBX Trunk Rates is an Improper Use of the Funds**

Not one other idea proposed is as offensive and improper as the one dealing with lowering mobile cellular interconnection rates and rates for PBX trunks and DID service. These proposals only assist a small, select group of large business users. These users are basically trying to pick the pocket of almost every other consumer in the service area. This selfish plan has been gift wrapped as fostering competition. In reality, it represents a hijacking of monies the OPC obtained to assist the broadest range of customers.

Again, the ATT witness could not testify to how many customers would benefit under this proposal. Further, there is no guarantee that any of these savings would ever be passed on (interconnection) or realized by residential customers (DID/Trunk). This is a plan worthy of rejection. This is a plan sponsored by large and

insensitive corporate users who are attempting to hoard this refund.

OTHER LEGAL ISSUES:

At the conclusion of the hearing, four legal issues were raised. (See Elias memo of August 3, 1995). CWA adopts the position of the OPC on issues 2, 3 and 4. As to issue one, CWA believes this docket should be decided under the former version of Chapter 364.

F.S. §364.385(2) indicates that all proceedings pending before July 1, 1995 shall be governed by the prior law (emphasis added). Note that SBT did file its application for ECS after March 1, 1995. This would at first glance raise a contradiction in the law. One might assume that the law implies applying the new version of Chapter 364 for ECS applications filed after March 1, 1995.

However, the instant proceedings are not about an ECS application. This proceeding is only about considering proposals on how the unspecified \$25 million should be spent. This is a long standing pending docket. The hearing was mandated in the settlement, well before 364 was amended. This docket cannot be turned into an ECS application simply because SBT chose to offer ECS as its "proposal." The old version of Chapter 364 should apply.

Proposed Findings of Fact and Conclusions of Law

CWA chooses not to file any proposed finding of fact and conclusions of law.



MARK RICHARD, ESQ.
Counsel for Communications Workers
of America Locals 3121, 3122 and 3107
304 Palermo Avenue
Coral Gables, FL 33134
Telephone: 305/443-5125

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to those individuals named on the attached distribution list on this 16 day of August, 1995.



MARK RICHARD, ESQ.

cwa/psc2/brief.mot

Docket No. 920260-TL

Distribution List

Robin Norton
Division of Communications
Florida Public Service Comm.
101 E. Gaines Street
Tallahassee, FL 32399-0866

Tracy Hatch, Esq.
Robert Elias, Esq.
Florida Public Service Comm.
101 East Gaines St.
Tallahassee, FL 32399-0863

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Grandoff & Reeves
315 S. Calhoun St., #716
Tallahassee, FL 32302

Michael W. Tye
AT&T Communications of the
Southern States, Inc.
106 E. College Ave., #1410
Tallahassee, FL 32301

Dan B. Hendrickson
P.O. Box 1201
Tallahassee, FL 32302

Robert G. Beatty
J. Phillip Carver
c/o Nancy Sims
Southern Bell Telephone
and Telegraph Co.
400 - 150 S. Monroe St.
Tallahassee, FL 32301

Robert G. Beatty
Southern Bell Telephone
and Telegraph Co.
150 West Flagler St.
Miami, FL 33130

Gerald B. Curington
Dept. of Legal Affairs
The Capitol, Room 1063
Tallahassee, FL 32399-1050

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

Michael J. Henry
MCI Telecommunications Corp.
780 Johnson Ferry Rd.
Suite 700
Atlanta, GA 30342

Richard D. Melson
Hopping Boyd Green & Sams
P.O. Box 6526
Tallahassee, FL 32314

Laura L. Wilson
Florida Cable Telecommunications
Assoc., Inc.
310 N. Monroe St.
Tallahassee, FL 32301

Chanthina R. Bryant
Sprint Communications Co. Ltd.
3100 Cumberland Circle
Atlanta, GA 30339

Nancy B. White
Southern Bell Telephone and
Telegraph Co.
4300 - 675 W. Peachtree St.
Atlanta, GA 30375

Benjamin H. Dickins, Jr.
Blooston, Mordkofsky, Jackson
& Dickins
2120 L Street, N.W.
Washington, D.C. 20037

C. Everett Boyd, Jr.
Ervin, Varn, Jacobs, Odom
& Ervin
305 S. Gadsen St.
P.O. Drawer 1170
Tallahassee, FL 32302

Mr. Douglas S. Metcalf
Communications Consultants, Inc.
631 S. Orlando Ave.
Suite 250
P.O. Box 1148
Winter Park, FL 32790-1148

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

Michael Fannon
Cellular One
2735 Capital Circle, N.E.
Tallahassee, FL 32308

Stan Greer
Division of Communications
Florida Public Service Comm.
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Ms. Angela Green
Florida Public
Telecommunications Assn., Inc.
125 S. Gadsden St.
Suite 200
Tallahassee, FL 32301

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

Donald L. Bell, Esq.
104 East Third Avenue
Tallahassee, FL 32303

Joseph Gillan
Joseph Gillan & Associates
P.O. Box 541038
Orlando, FL 32854-1038

Floyd R. Self, Esq.
Messer, Vickers, Caparello,
Madsen, Lewis, Goldman & Metz
P.O. Box 1876
215 S. Monroe Street
Tallahassee, FL 32302-1876