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November 21, 1996

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

RE: Docket No. 920260-TL

Dear Mrs. Bayo:

Enclosed are an original and fifteen copies of the Post Hearing Brief and Statement of Issues and Positions of AT&T Communications of the Southern States, Inc., along with a 3 ½" disc with the document in WordPerfect 7.0 format. Please file these documents 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 on the parties shown on the attached Certificate of Service.

Sincerely,

Mark K. Logan

MKL/ths

Enclosures

cc: All 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: November 21, 1996

<u>Post Hearing Brief and Statement of Issues and Positions of AT&T Communications of the Southern States, Inc.</u>

AT&T Communications of the Southern States, Inc.,("AT&T") pursuant to R. 25-22.056, Fla. Admin. Code and Commission Order No. PSC 96-1301-PHO-TL, files this Post Hearing Brief and Statement of Issues and Positions and states:

Background & Summary

On February 11, 1994, the Commission issued its <u>Order Approving Stipulation and Implementation Agreement</u>, Order No. PSC-94-0172-FOF-TL, reflecting a comprehensive settlement of five separate dockets concerning, among other things, an overearnings investigation of BellSouth Telecommunications, Inc. ("BellSouth"). The Stipulation approved by the Commission's Order provided for substantial rate reductions for BellSouth for the period of 1994-1997 in order to dispose of BellSouth's projected overearnings for that period. The Implementation Agreement approved by the Commission's Order provided for certain specified as well as other non-specified reductions to BellSouth's rates as follows:

Effective July 1, 1994 (Year 1)

- Intrastate switched access charge reduction of $50 million
- Unspecified rate reductions of $10 million

Effective October 1, 1995 (Year 2)

- Intrastate switched access charge reductions of $55 million
- Unspecified rate reductions of $25 million

Effective October 1, 1996 (Year 3)

- Intrastate switched access charge reduction of $35 million
- Non-LEC PATS rate reduction of $1 million
- Unspecified rate reduction of $48 million

All components of the Implementation Agreement have been implemented except the unspecified $48 million in year three, which is the subject of this proceeding.

Paragraph 4 of the Implementation Agreement provides the right for any signatory to the agreement to offer a proposal for the disposition of the remaining $48 million unspecified rate reduction required by BellSouth.[1] Paragraph 1.(C) of the Implementation Agreement expressly provides that a proposal may be made for any purpose, including the further reduction of BellSouth's Intrastate Switched Access Charge Rates closer to the cost of providing those services.

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[1] All parties to this hearing were signatories to the Implementation Agreement.

Since the issuance of the Commission's Order Approving the Stipulation and Implementation Agreement three significant events have occurred. First, the Florida Legislature re-wrote Chapter 364 in an effort to bring competition to the local exchange market. As part of the re-write, the Legislature expressly mandated that BellSouth reduce its rates as specified in Order No. PSC-94-0172-FOF-TL. Section 364.385(3), Florida Statutes (1995). Second, pursuant to newly-enacted Section 364.051, Florida Statutes, BellSouth elected to cease being regulated under the Commission's rate-of-return provisions in favor of price regulation. Finally, the federal Telecommunication Act of 1996 was enacted with its sweeping mandate of broad-based fair competition throughout all aspects of the telecommunications industry.

The joint proposal filed by AT&T and several other signatories to the Implementation Agreement is the single proposal that not only effectuates the goals and spirit of the Stipulation and Implementation Agreement but facilitates the arrival of meaningful competition throughout the telecommunications industry as envisioned by both the federal government and the Florida Legislature.[2] The joint proposal provides for the following

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[2] AT&T's co-sponsors in offering the proposal are the Florida Ad Hoc Telecommunications Corporation ("Ad Hoc"), MCI Telecommunications Corporation ("MCI"), the Florida Interexchange Carriers Association ("FIXCA"), Sprint Communications Company, Limited Partnership ("Sprint"), and AT&T Wireless Services of florida, Inc., formerly known as, McCaw Communications of Florida, Inc. ("McCaw").

disposition of the $48 million unspecified rate reduction requirement:

- $11 million dollar reduction in BellSouth's PBX trunks and DID service offerings associated with PBX trunk services;
- $35 million dollar reduction via elimination of the Residual Interconnection Charge ("RIC") within the local transport rate element of BellSouth's switched access service; and
- $2 million reduction in usage rates for BellSouth's mobile interconnection services.

Given the fundamental shift in the regulatory treatment of formerly rate-of-return regulated telecommunications companies such as BellSouth, the implementation of the final phase of this docket represents a true last opportunity to promote meaningful competition consistent with Florida law and the Telecommunications Act of 1996. Axiomatic to that effort is the elimination of non-cost based elements such as the Residual Interconnection Charge ("RIC") and Carrier Common Line ("CCL") components of access charges which Interexchange providers such as AT&T must currently pay to local exchange companies. Switched access charges remain over 1100% above cost, significantly above any mark-up BellSouth enjoys on other revenue producing aspects of its current operations. The Commission should use this opportunity to reduce this unnecessary anti-competitive relic of rate-of return regulation by approving the joint proposal co-sponsored by AT&T.

The Commission should also reject BellSouth's proposal in its entirety. The zone density pricing element of the proposal simply has no cost basis. The incremental cost of providing either the CCL or RIC charge is zero. Thus these costs cannot vary by zone. Since BellSouth has offered no competent evidence supporting zone-variable pricing for these switched access elements, the proposal must be rejected.[3] Similarly, the remainder of BellSouth's proposal should be rejected as an attempt to do here - with funds resulting from overearnings - what it will clearly be forced to do once true competition emerges. Implementation of BellSouth's proposed reductions would allow BellSouth to position itself competitively while denying consumers the opportunity for the real benefit further switched access charge reductions would bring to the market place. The Commission should reject this approach in favor of the joint proposal.

Issue Number 1:

Below are listed the proposals of various interested parties to this proceeding with respect to the disposition of the scheduled 1996 unspecified rate reductions. Which, if any, should be approved:

A)	**BellSouth Telecommunications, Inc.:**	**millions**
1)	Reduce switched access (introduce zone density)	$16.40
2)	Reduce PBX rates and introduce term contracts	13.45
3)	Waive certain business and residential Secondary Service Order charges	5.81
4)	Reduce First Line Connection charge (Business)	3.22

[3] All of the IXC's, which are the actual consumers of BellSouth's switched access elements, are opposed to implementation of zone-density pricing.

5)	Introduce Area Plus for Business	2.25
6)	Eliminate usage charge on Remote Call Forwarding	2.01
7)	Reduce DID recurring and non-recurring charges	1.88
8)	Credit for ECS routes implemented	1.10
9)	Reduce Business Line monthly rates in Rate Group 12	.62
10)	Reduce Megalink interoffice rates	.58
11)	Reduce WATS and 800 Service access line charges	.36
12)	Eliminate the Secondary Service Order charge for WatsSaver	.30
13)	Reduce SNAC charges for Business	.07
14)	Reduce DS-1 interoffice mileage rates	.04
		$48.09

B) Joint Proposal of ATT, MCI, Sprint Communications, FIXCA, Ad Hoc and McCaw Communications:

		<u>**millions**</u>
1)	Reduce PBX and DID trunk charges	$11.00
2)	Eliminate the Residual Interconnection Charges	35.00
3)	Reduce mobile interconnection rates	2.00
		$48.00

C) Public Counsel:
Establish a reserve fund to assist BellSouth Telecommunication, Inc. customers who have experience problems with conversion to the 954 NPA.

D) FCTA:
Eliminate nonrecurring charges for interconnection trunks and special access circuits ordered by ALECs.

E) Palm Beach Newspapers, Inc./Florida Today:
Reduce usage rates for N11 service to $.02 per minute.

AT&T:

The Commission should adopt proposal "B" - the joint proposal of AT&T, MCI, Sprint Communications, FIXCA, Ad Hoc and McCaw Communications.

The Commission Should Adopt the Joint Proposal Co-Sponsored by AT&T

The proposal co-sponsored by AT&T represents the best approach for the Commission to employ in implementing the unspecified $48 million final component of BellSouth's revenue reduction requirement. The first component of the joint proposal is an $11 million dollar reduction in the rates for BellSouth's PBX trunks, and for DID service offerings associated with PBX trunk services. This Commission has long recognized the need to reprice and restructure BellSouth's PBX trunk and DID rates relative to the functionally equivalent services that BellSouth offers with its ESSX service. Beginning with Docket No. 881257-TL in 1988, the Commission has recognized that the disproportionate rates charged to PBX users versus the rates paid by BellSouth's ESSX customers for similar loop and electronic facilities and the disproportionate levels of contribution from each service have resulted in anti-competitive pricing practices in the business services market. The Commission should further reduce these price differentials by applying $11 million of the $48 million dollar unspecified reduction in year 3 as indicated in the joint proposal.

The second and most important component in the joint proposal, is the further reduction of switched access charges via a $35 million dollar elimination of the RIC within BellSouth's local transport rate element. Even with the approval of the most recent <u>specified</u> reduction in switched access charges (approved by the Commission on an interim basis in Order No. PSC-96-1244-FOF-TL) the price of switched access will remain at a level of <u>12 to 15 times</u> that of underlying cost. (Guedel, T 151) This is a markup of at least 1100% and as much as 1400% over BellSouth's cost to provide these services and is significantly greater than the markup BellSouth enjoys on other major revenue-producing services it offers. Id.

Given the continued skewed relationship between access charges and cost, it is fully appropriate, even necessary, to devote a significant portion of this last remaining unspecified amount to bring those charges closer in line with costs. Indeed, that is what the parties envisioned when they adopted the Implementation agreement. Paragraph 1.C of the Implementation Agreement expressly provides that the unspecified $48 million rate reduction in year 3 could be used for: "further reduction of Southern Bell's [BellSouth's] Intrastate Switched Access Rates below...interstate levels, and closer to the cost of providing said Intrastate Switched Access Services." This, of course, is consistent with the recitations adopted by all of the signatories to the Implementation Agreement, including BellSouth, which clearly articulated as a goal of the agreement, the intent to move BellSouth's intrastate access charge rates closer to the costs of providing such switched access. Implementation Agreement at p. 3.

The joint proposal would reduce switched access charges by eliminating the vestigial RIC charge. The RIC is simply an anachronism of the rate-of-return regulation era that is no longer necessary and is, in fact, a barrier to effective competition as envisioned by state and Federal law. This Commission has recognized this fact in noting that:

> "...we do not believe that the long term public interest is served when all competitive local carriers are collecting the RIC from IXCs. We believe that none of them should collect it. The RIC should be phased out as soon as possible..."
>
> (Order No. PSC-96-0445-FOF-TP at 18-19)

Given the Commission's statements with respect to the RIC this hearing presents a unique, one-time opportunity to implement the "phasing-out" of an unneeded barrier to effective competition.

Elimination of the RIC is also consistent with and furthers the intent of the Telecommunications Act of 1996. Central to that Act is the movement towards cost-based pricing of all telecommunications services.(Gillan, T 107). Here, BellSouth's incremental cost of providing the RIC element is zero. (Guedel, T 152). Thus, the RIC is a pure contribution element, which essentially is a tax levied by BellSouth on all interexchange carriers purchasing BellSouth's local switched access service. Id. The lack of any cost basis for this element is clear justification for its elimination.

Even if the RIC is eliminated, the resulting level of BellSouth's average switched access charges would still be in excess of <u>ten times</u> BellSouth's underlying costs. Therefore, elimination of the RIC is especially important as a tool to move switched access charges in line with the actual costs of providing them. To do otherwise would leave a clear impediment to competition that could distort the economics of competitive local entry and obstruct the very significant implementation of competitively-drawn local calling areas. (Guedel, T 154; Gillan, T 107). Clearly the better result is to eliminate the RIC and promote cost-based competition.

The Commission Should Reject BellSouth's Proposal

BellSouth's proposal for zone density pricing of switched access rate elements should be rejected as BellSouth has offered no evidence of any actual cost basis to support the pricing strategy. BellSouth performed no cost studies in support of its zone density pricing proposal. AT&T does not oppose zone density pricing of certain local transport rate elements such as dedicated transport and common transport links as the costs of providing these elements may vary by density zone. (Guedel; T 156). However, BellSouth has offered no supporting cost data which would support such a recommendation. See Exhibit 15, Response to Interrogatory Number 3. Accordingly, the proposal must be rejected.

BellSouth's zone density proposal also includes elements that simply do not vary in cost by density. The incremental cost of providing the CCL or RIC is zero. A zero-based cost element cannot vary by zone density. (Guedel, T 157). Given this fundamental flaw in BellSouth's proposal the Commission should reject it as unsubstantiated.

The remainder of BellSouth's proposal is basically comprised of thinly-veiled attempts by BellSouth to retain the benefits of its overearnings by bolstering its competitive position for coming competition in the local market.[4] Adoption of these proposals would simply do what BellSouth will be forced to do with the arrival of meaningful local competition. The Commission need not further what will naturally and promptly occur in a competitive environment. Instead the Commission should focus its efforts where consumer benefits are optimized. AT&T suggests that this will be accomplished by approving the joint proposal.(Guedel, T 155).

Issue Number 2:

> **To the extent the Commission does not approve the plans proposed by Bell South, Public Counsel, FCTA, Palm Beach Newspapers, Inc./Florida Today, AT&T, MCI, Sprint, FIXCA, AD Hoc and McCaw, how should the Commission implement the scheduled rate reduction?**

*The Commission should adopt the proposal co-sponsored by AT&T. Whatever selection the Commission makes should focus rate relief on those Bell South rate elements that are: 1) in

[4] Some of BellSouth's proposals are blatantly <u>anti-competitive</u>. For example, BellSouth's proposed PBX reductions require the execution of long-term contracts which will lock up customers during a period when other competitive opportunities should be available to business customers. (Metcalf, T 81).

excess of cost today, and 2) not likely to positively influence competition or frustrate competition if rates remain at current levels.*

AT&T respectfully suggest that this Commission approve the joint proposal co-sponsored by it in this docket as the best allocation of the $48 million in unspecified rate reductions. Should, however, the Commission elect not to adopt the joint proposal, then the Commission should allocate the $48 million by applying the reductions to priced elements that are: 1) recognized to be priced in excess of cost today, and 2) either are not likely to be positively influenced by competition, or likely to frustrate competition if prices remain at current levels.

Issue Number 3:

What should be the effective dates of the approved tariffs?

AT&T:

The effective dates of the approved tariffs should be within 30 days of the date of issuance of the final order in this docket.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served by U.S. Mail or hand delivery this 21st day of November, 1996, to the following parties of record as listed below.

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