BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 90-626-C - ORDER NO. 90-1148

DECEMBER 3, 1990

IN RE: Application of Southern Bell Telephone and Telegraph Company to Avail Itself of Incentive Regulation of its Intrastate Operations	) ORDER RULING) ON MOTION TO) DISMISS) APPLICATION

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Motion to Dismiss Application filed on behalf of the South Carolina Cable Television Assocation (SCCTA) seeking an order of the Commission pursuant to R.103-834 and R.103-840 of the Commission's Rules of Practice and Procedure dismissing Southern Bell Telephone and Telegraph Company's (Southern Bell's) application in the above-referenced matter. Alternatively, the SCCTA requests that processing of the application be delayed or stayed until basic financial data and other information as required by R.103-834 are filed and served upon all interested parties. SCCTA further requests that thereafter, a minimum of four (4) months should be allowed prior to any hearings being conducted on the application in order to give parties a fair and reasonable opportunity to file for discovery, analyze the information obtained through discovery, and develop testimony and exhibits necessary to be presented to and

considered by the Commission in arriving at any decisions that it may make in connection with Southern Bell's application. Southern Bell filed a Return to the Motion.

The Commission has considered the Motion filed on behalf of the SCCTA, as well as the Return of Southern Bell and has additionally considered its rules and regulations and the pertinent law regarding the filing of applications before the Commission. Based on the Commission's review of the above-mentioned documents, the Commission is of the opinion that the Motion to Dismiss filed by SCCTA should be denied. The Commission is of the opinion that the allegations contained in the Motion of the SCCTA do not require the relief requested in its Motion.

Southern Bell is not seeking to change any of its rates to any of its subscribers in its application. Therefore, the filing requirements of R.103-834 do not apply to this filing by Southern Bell. Moreover, the SCCTA's due process rights are not being violated by Southern Bell not filing this information. The SCCTA is able to avail itself of discovery and may seek and receive this information through the discovery process. The SCCTA asserts that while the application of Southern Bell may not be a "rate application", it will impact consumers greatly by imposing upon them the responsibility of "funding Southern Bell's operations at levels beyond a reasonable rate of return." The SCCTA further states that the justification for incentive regulation for Southern Bell is unknown and the application is not specific as to

this information. Order No. 90-1009, issued in Docket No. 90-266-C indicated that in addition to the monitoring guidelines outlined in Appendix A of that Order, the Commission would be considering additional suggestions in individual LEC filings. The SCCTA is free to propose its own economies efficiencies or improvements to be used as guidelines for incentive regulation for Southern Bell. Additionally, the SCCTA may, through means of discovery, request Southern Bell to provide any such information that it may deem relevant to discovery in that regard.

As to the SCCTA's request that the Commission post-pone its consideration of this Docket for a period of four (4) months from the time it receives the financial data that the SCCTA asserts to be required by R.103-834, that request, too, is denied. The hearing in this matter is set for February 19, 1991. The SCCTA has been an intervenor since the first part of November, 1990. The SCCTA has ample time to conduct discovery in this matter and participate in this proceeding. The Commission is of the opinion that the SCCTA has not set forth adequate grounds to support its Motion to Dismiss, therefore, the Motion is hereby denied.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:

VICE Chairman

ATTEST:

Deputy Executive Director
(SEAL)