

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of) DOCKET NO. 920260-TL
the revenue requirements and)
rate stabilization plan of)
SOUTHERN BELL TELEPHONE AND)
TELEGRAPH COMPANY.)

In Re: Show cause proceedings) DOCKET NO. 900960-TL
against SOUTHERN BELL TELEPHONE)
AND TELEGRAPH COMPANY for)
misbilling customers.)

In Re: Petition on behalf of) DOCKET NO. 910163-TL
Citizens of the State of Florida)
to initiate investigation into)
integrity of SOUTHERN BELL)
TELEPHONE AND TELEGRAPH)
COMPANY'S repair service)
activities and reports.)

In Re: Investigation into) DOCKET NO. 910727-TL
SOUTHERN BELL TELEPHONE AND) ORDER NO. PSC-93-0424-FOF-TL
TELEGRAPH COMPANY'S compliance) ISSUED: 03/22/93
with Rule 25-4.110(2), F.A.C.,)
Rebates.)

The following Commissioners participated in the disposition of this matter:

- J. TERRY DEASON, Chairman
- THOMAS M. BEARD
- SUSAN F. CLARK
- JULIA L. JOHNSON
- LUIS J. LAUREDO

ORDER REQUIRING RESPONSE TO AUDIT REQUESTS

BY THE COMMISSION:

I. BACKGROUND

On November 13, 1991, the National Association of Regulatory Commissioners (NARUC) approved Convention Floor Resolution No. 9 authorizing regional multi-state audits of the seven Bell Regional Companies, including BellSouth Corporation. In this instance, the audit will focus on BellSouth Corporation and its affiliates operating in nine southeastern states. A "Policy Management Group"

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(PMG) was established in each region to oversee the audit. The PMG for the southeast region consists of four commissioners, two from Florida and one each from Tennessee and South Carolina.

In early 1992, the Commission, at an Internal Affairs Conference, agreed to devote resources to this effort. Between three and six states, plus the Federal Communications Commission (FCC), were expected to participate.

The Audit Team was not able to reach an agreement with BellSouth with respect to handling of proprietary information among other matters. Therefore, the Audit Team proposed to this Commission that the audit be conducted pursuant to our statutory authority and be subject to our rules and regulations. This approach was approved by this Commission at our Internal Affairs Conference on October 19, 1992.

Since the Southern Bell rate case was pending, Docket No 920260-TL, we also viewed this audit as a complement to the rate case audit. The scope of the issues developed in the rate case extends to the scope of this audit.

On October 25, 1992, the Audit Team issued its first data request. Because it was voluminous, 103 items, the due date was set for November 30, 1992.

BellSouth insisted upon a meeting with the PMG before responding to the request. The Audit Team made it clear that such a meeting did not relieve the Company of its responsibility to respond to an audit request.

On November 25, 1992, the Company met with the PMG. Again, the Company was informed that the audit would be conducted under our statutory authority and our rules and in conjunction with its pending rate case.

The Audit Team cancelled its first field visit planned for the week of December 1, 1992, because the Company did not respond to the data request within the specified time. The first field visit was rescheduled for the week of January 11, 1993.

In addition to the data request, the Audit Team requested that the Company provide personnel to explain the affiliates' accounting systems and reports during the field visit. The Company stated it could not accommodate this request at that time. Of the 103 data

requests, the Company has failed to respond to 44 of them, has objected to 15 of them, and is substantially deficient with 14 of them.

II. ACCESS TO RECORDS

Section 364.183(1), Florida Statutes, provides, in part:

The commission shall have reasonable access to all company records, and to the records of the telecommunications company's affiliated companies, including its parent company, regarding transactions or cost allocations among the telecommunications company and such affiliated companies, and such records necessary to ensure that a telecommunications company's ratepayer do not subsidize the company's unregulated activities.

As of January 11, 1993, the Company had not responded at all to 44 of the 103 data requests which were due on November 30, 1992. The Company appears to be unwilling to supply specific information for states other than Florida. In certain instances the Company's response indicated a refusal to answer a data request without giving an adequate reason.

The Audit Team selected certain affiliates in which they believe an association with the Company exists. The Company has denied the Audit Team access to affiliate records such as the general ledgers. We believe we not only have the authority to access affiliate records, but a responsibility to do so. Otherwise, we cannot meet our statutory responsibility to ensure no cross-subsidy exists between regulated and non-regulated operations.

The Company's failure to appropriately respond is unacceptable. Southern Bell's failure to provide any grounds for refusal to produce is also unacceptable. We cannot emphasize this strongly enough. Section 364.183(1) grants us access to all company records, including those of affiliates, in the furtherance of our regulatory responsibility. Accordingly, Southern Bell shall:

1. Provide access to affiliate records in accord with Section 364.183. The Company shall provide upon

reasonable notice, personnel who can respond to the auditors questions relating to affiliate records and operations.

2. Provide complete responses to all outstanding data requests associated with the October 25, 1992, request by February 10, 1993. In the future, the Company shall respond in writing to all written data requests within five working days of the date of the data request.
3. Provide complete responses to data request items 3-017, 3-020, 3-021, 3-022, 3-023, 3-028, 3-034, 3-035 and 3-036 by February 10, 1993.
4. Provide state by state information to ensure there is no cross-subsidy between regulated and non-regulated operations. Non-Florida information is considered non-regulated.
5. In instances where the Company refuses to comply with a data request it shall show with sufficient explanation where the Commission lacks authority to obtain such information.
6. For all future audit requests, the Company shall respond to all written requests in writing within five working days from the date of the data request unless a longer period is specified by the Audit Team. If the Company cannot provide the requested information within five working days, it shall provide the Audit Team with a suggested provision date and an explanation why it could not respond within five days.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company shall provide access to all records as set forth in the body of this Order. It is further

ORDERED that this docket shall remain open.

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By ORDER of the Florida Public Service Commission this 22nd
day of March, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

TH

by: Kay Jeyan
Chief, Bureau of Records

Commissioner Johnson dissents from the Commission's decision herein as follows:

On October 25, 1992, the Commission issued a request for data. Because the request was extensive, the Commission set a due date of November 30, 1992. As of January 11, 1993, the Company had not responded to 44 of the 103 data requests which were due on November 30, 1992.

Pursuant to Section 364.183(1), Florida Statutes, the Commission is authorized to obtain the type information stated in the data request. The date stated for submittal of the information, November 30, 1992, was a reasonable time period.

The Company failed to provide all the responses to the data request on or before November 30, 1992. More than one-and-a-half months after the stated deadline, the Company had only responded to 59 of 103 data requests and had provided no explanation or justification for its failure to respond to the other requests.

The Company's failure to timely and appropriately respond without explanation or justification demonstrates a blatant disregard for the law and authority of the Commission.

Based on the foregoing, I dissent from the Commission's decision as to the February 10, 1993 extended deadline. The Company should not be allowed to object to any of the requests. The time period for objecting expired on November 30, 1992. The Commission should directly address the responses submitted to date. To the extent any are insufficient or inadequate, a show cause should be required.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.