

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed tariff filing by)	DOCKET NO. 891039-TL
SOUTHERN BELL TELEPHONE AND TELEGRAPH)	
COMPANY to adjust existing custom)	ORDER NO. 21912
calling services (CCS rates within)	
authorized rate bands).)	ISSUED: 9-19-89
)	

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

FINAL ORDER APPROVING TARIFF FILING

BY THE COMMISSION:

BACKGROUND

On May 12, 1987, Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) filed a tariff to introduce banded rate pricing for Custom Calling Services and Prestige Single Line Service. These services provide central office calling features that may be provided in association with an individual business or residence exchange line. Each service has a group of standard features and optional features available to subscribers. Such features include call hold, call forwarding, speed calling, and call waiting, as well as others. We approved that tariff filing by Order No. 18326, issued on October 21, 1987.

The flexible pricing concept we approved by Order No. 18326 established a specific rate band with a different minimum and maximum rate for each feature of the Custom Calling and Prestige Single Line services within which the Company may adjust the price, following a thirty day advance notice to this Commission and existing subscribers. Because of the innovative nature of banded rates for preexisting discretionary services, we required our Staff to monitor this specific tariff offering for eighteen months. At that time, we would consider whether

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it would be appropriate to allow the banded rates to continue.

It is important to note that our approval, by Order No. 18326, of Southern Bell's request for banded rates for CCS did not automatically preapprove tariffs reflecting individual rate changes within the band. That Order provided that each tariff filing altering rates for Custom Calling and Prestige Single Line Services would continue to be subject to the normal tariff-approval process. In that Order, we also approved the Company's request for the shortening of the statutory notice period for tariff filings from sixty days to thirty days.

Our objective in approving Southern Bell's request for banded rates was two-fold in nature. First, by giving the Company the authority to utilize banded rates, we intended to give the Company the flexibility to respond in market segments in which it is experiencing competition by altering prices within the band. Secondly, by granting it banded rates, we wished to give the Company the capability to set rates within each Custom Calling and Prestige Single Line Service rate band at price levels where contribution from those discretionary services would be maximized. Our intent was that such maximized contribution go towards maintaining low rates for local service.

By Order No. 18759, issued January 27, 1988, in Docket No. 871328-TL, we approved Southern Bell's request to reduce Speed Calling 30 to the minimum rate within its rate band. Based on the quarterly reports, the implementation of that rate reduction resulted in a decline in customer demand and company revenue. However, it is possible demand would have declined even further without the price reduction.

Subsequently, by Order No. 21338, we approved the continuation of the banded rate concept. However, because Speed Calling 30 was the only rate change proposed by Southern Bell during our eighteen month evaluation of the banded rate concept for the Custom Calling and Prestige Single Line Services, we required that Southern Bell file reports six months after any rate change to allow us to continue to analyze the impact of any rate changes.

DESCRIPTION OF THIS TARIFF FILING

On August 1, 1989, Southern Bell filed the instant tariff

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proposal to adjust existing Custom Calling Services rates within their approved rate bands. This is Southern Bell's first major request to alter rates within the approved rate bands. The rate changes proposed for residence features represent an increase of 10% and the rate changes proposed for the business feature rates represent an increase of 12%, with the exception of Speed Call 8, which is proposed to be reduced by \$.50, and Speed Call 30, for which no change is proposed. Southern Bell estimates that these rate adjustments will result in an estimated annual increase of \$10 million dollars and that the decline in usage from the rate change will be minimal.

Southern Bell's proposed rate adjustments for its Custom Calling Services are based on the Company's evaluation of its Custom Calling Service Residence/Business 1988 demand study of users and nonusers. That study indicates that the current rates are below the rates that their customers are willing to pay for these discretionary services. These proposed rates fall within the rate bands we approved by Order No. 18326. Therefore, the Company requests that it be allowed to respond to what it has determined is its customers' level of demand for these services and, in that way, to maximize the contribution from these services.

REVENUES FROM THIS TARIFF FILING TO BE
EXCLUDED FROM EARNINGS SHARING POOL
CREATED BY COMPANY'S RATE STABILIZATION PLAN

In addition, Southern Bell proposes to include the revenues from its Custom Calling Services tariff filing as a rate change on its Rate Changes/Exogenous Factors/Debt Changes/Technological Changes Report filed as an attachment to the monthly Florida Surveillance Report. The Company asserts, that as rate changes, the revenues from this tariff filing would be included in the netting of these four factors in determining its revenue requirement. These revenues would, therefore, be excluded from the earnings sharing pool we approved in Order No. 20162, issued in Docket No. 880069-TL in which we considered Southern Bell's Rate Stabilization Plan.

By Order No. 20162, if we permit Southern Bell to increase or decrease rates, those increases or decreases will be netted against the exogenous factors beyond their control. If there are any revenues in excess after the positive and negative revenues have been netted out, then 100% of the remaining

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revenue will be subject to refund. As of May 31, 1989, Southern Bell's surveillance report indicates rate changes for 1989 will result in a net increase in earnings of \$4,456,000 while exogenous factors will result in a net decrease in earnings of \$8,171,000. The exogenous factors are made up of depreciation increases of \$3,221,000 and separation changes of \$4,950,000. Based on the Company's figures, netting the rate changes and exogenous factors together results in a total decrease in earnings of \$3,715,000. However, we do not necessarily agree with these amounts and will not commit to these figures until we have an audit performed.

Again based on Southern Bell's figures, our approval of this tariff filing will result in a total increase in earnings for the remainder of 1989 of \$3,333,000 (33% of \$10,000,000), based on a September 1, 1989, effective date. Since netting the revenue increase of \$3,333,000 with the revenue decrease of \$3,715,000 results in a net decrease of \$385,000, there would be no refund for 1989. However, for 1990, all things being equal, there may be a refund or disposition of earnings of \$4 to \$5 million dollars. As of May 31, 1989, Southern Bell is currently achieving approximately 12.63% return on equity (ROE). Our approval of this filing will increase the Company's return on equity to approximately 12.94% on an annual basis.

In consideration of the foregoing, we find it appropriate to approve this tariff filing as an exercise of the authority to utilize banded rates for Custom Calling Services that we granted Southern Bell by Order No. 18326. Our approval is also based on the fact that these revenues will be netted against exogenous factors as we required by Order No. 20162. We find it appropriate to require Southern Bell to include bill stuffers in customer bills one month prior to the rate change going into effect.

Because Southern Bell has implemented only one rate change within the previously approved rate bands during the initial 18-month monitoring period, we find it appropriate to require Southern Bell to file reports with this Commission whenever there are rate changes within these bands. The Company shall file a report six months after each rate change to allow us to analyze its impact. The report shall include quarterly data for the corresponding period from the previous report (or effective date of the tariff for the first report).

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REQUEST FOR HEARING FILED BY OFFICE OF PUBLIC
COUNSEL DENIED; REQUEST WILL BE TREATED AS
A COMPLAINT AND SET FOR HEARING

On August 16, 1989, the Office of Public Counsel (OPC) filed a Request for Hearing on this tariff filing. The OPC's request for hearing preliminarily identified various disputed issues of material fact, law and policy including: whether these proposed rate increases take into account the price elasticities of demand for these services; whether offsetting rate reductions to other services should be ordered; whether Southern Bell's current earnings are within its authorized range of earnings; whether Southern Bell's projected earnings for the remainder of 1989 and 1990 are within its authorized range of earnings without these rate increases.

OPC argued at our Agenda Conference on August 29, 1989, that it was entitled to a hearing prior to this tariff filing going into effect. Based on Florida Interconnect Telephone Company v. Florida Public Service Commission, 342 So.2d 811, a party is not entitled to a hearing prior to a tariff filing going into effect. This is certainly not to say that a substantially-affected party is not entitled to a hearing. However, such hearing may be granted after the subject tariff filing goes into effect. Setting reasonable rates for utilities is a legislative function, not a judicial function.

As the Florida Supreme Court stated in the Florida Interconnect case, the "file-and-suspend" statute, Section 364.05(4), Florida Statutes, survived the adoption of the Administrative Procedure Act which is Chapter 120, Florida Statutes. OPC cited Chapter 120 as its authority for its right to a hearing prior to these rates going into effect. Upon the passage of thirty days, these rates would go into effect without any affirmative action by this Commission. In that sense, this Order is, as the Florida Supreme Court stated, "surplusage."

Based on the foregoing, we find it appropriate to deny OPC's request for a hearing prior to this tariff filing going into effect. However, we will accept OPC's filing as a complaint and, as such, we will set it for hearing in a separate docket.

Based on the foregoing, it is, therefore,

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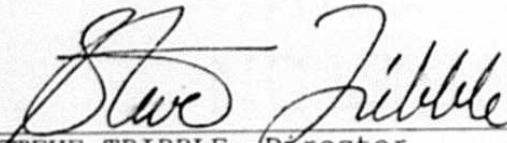
ORDERED by the Florida Public Service Commission that Southern Bell Telephone Company's tariff proposal to adjust existing Custom Calling Services rates within authorized rate bands is hereby approved. It is further

ORDERED that Southern Bell Telephone Company shall continue to file a report six months after each rate change as described within the body of this Order. It is further

ORDERED that the Office of Public Counsel's Request for Hearing is denied, but shall be treated as a complaint and set for hearing in a separate docket. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission,
this 19th day of SEPTEMBER, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

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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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.