

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Tariff Filing by ) DOCKET NO. 881323-TL  
 Southern Bell Telephone and Telegraph ) ORDER NO. 21019  
 Company to Introduce Two-way Measured ) ISSUED: 4-11-89  
 Service in the West Palm Beach Exchange.)

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, CHAIRMAN  
 THOMAS M. BEARD  
 BETTY EASLEY  
 JOHN T. HERNDON  
 GERALD L. (JERRY) GUNTER

ORDER DENYING REQUESTS FOR HEARING

BY THE COMMISSION:

On October 3, 1988, the Southern Bell Telephone & Telegraph Company (Southern Bell) filed a tariff proposal to price local service by incoming and outgoing usage, in a specific area and for a specific class of customers. On October 26, 1988, MCI Telecommunications Corporation (MCI) filed a Petition to Suspend and Investigate Southern Bell's tariff. On November 15, 1988, the Coalition of Open Network Architecture Parties (CONAP) and Committee of Corporate Telecommunications Users (CCTU) filed a Petition to Reject or Suspend and a Request for Hearing on the tariff.

In Order No. 20521, issued December 27, 1988, this Commission determined that the two-way measured usage tariff should be approved, but only for Southern Bell's West Palm Beach exchange, to coincide with the simultaneous approval of a group of features and functions as Limited Service Offerings (LSOs) facilitating an experiment of a voice message service (VMS). It was specifically decided that this decision carried no weight as to Commission policy on network elements that should be offered to information services providers. All substantive issues were deferred to the generic investigation in Docket No. 880423-TP, of information services and the network prerequisites thereof. Consequently, all revenues from the two-way tariff were ordered held subject to refund until the completion of Docket No. 880423-TP. Our approval implicitly denied the Petitions to Suspend the tariff, and Order No. 20521 so stated.

Outstanding in the Petitions of MCI and CONAP/CCTU are the requests for investigation and hearing respectively. Both petitions raise essentially the same arguments, although CONAP/CCTU carries them to greater detail. First, the parties state that no [cost] support is offered for the rates and structures proposed in the two-way tariff. Second, Southern Bell's rational for singling out ISPs for this tariff is challenged. CONAP/CCTU argues first that there is no evidence of excess usage or costs imposed by ISPs. Secondly, it argues that the two-way tariff is not a valid tool to recover any costs not already recovered by existing outward-based local exchange rates.

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We agree that these are valid and material issues of dispute regarding this tariff. We find however, that it would be redundant to conduct a specific hearing on the tariff in this docket. Southern Bell has proposed this pricing approach as a permanent policy toward ISPs in Docket No. 880423-TP. There is evidence to be included in the record of that docket, where our statewide, permanent policy on this matter will be established, that addresses the issues raised by the Petitioners herein. The parties will have full opportunity to litigate the issues relating to the two-way proposal in the generic docket. Therefore, the respective Petitions for hearing should be denied.

We expressly find that the Petitioners should be allowed to argue the points raised herein in subsequent proceedings. Therefore, this decision does not preclude either MCI or CONAP/CCTU from raising their arguments in either Docket No. 880423-TP or other related dockets.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the Petition to Suspend and Investigate filed by MCI Telecommunications Corporation, and the Request for Hearing filed by the Coalition of Open Network Architecture Parties and Committee of Corporate Telecommunications Users are hereby denied. It is further

ORDERED that these Petitioners shall be allowed to raise the issues and arguments raised herein in related proceedings. It is further

ORDERED that this docket remain open pursuant to Order No. 20521.

By ORDER of the Florida Public Service Commission, this 11th day of April, 1989.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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.

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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.