

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of SOUTHERN BELL)	DOCKET NO. 890256-TL
TELEPHONE AND TELEGRAPH COMPANY'S)	ORDER NO. 21941
capital recovery position)	ISSUED: 9-25-89
)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER DENYING MOTION
AND
GRANTING REQUEST FOR HEARING

BY THE COMMISSION:

By Order No. 20162, issued October 13, 1988, in Dockets Nos. 880069-TL and 870832-TL (the Rate Stabilization Proceeding), we ordered Southern Bell Telephone and Telegraph Company (Bell) to collect certain revenues, \$17,114,281 for 1989 and \$147,743,082 for 1990, subject to disposition in 1989 when the company files its next triennial depreciation study. The order states that, if Bell justifies a need for additional depreciation expense, these revenues can be applied to that purpose, but if the need for depreciation is not proven, they can be disposed of otherwise.

Usually, a docket to address represcription is not opened until a company files its triennial depreciation study. Our Staff opened Docket No. 890256-TL on February 17, 1989, for that purpose because the Office of the Public Counsel (OPC) began its discovery regarding this issue before the anticipated study was filed. In Order No. 20850, issued on March 3, 1989, intervention was acknowledged for OPC in this docket.

On May 12, 1989, OPC filed two motions: the first (the Motion to Close) seeks to close Docket No. 890256-TL and to address appropriate depreciation rates for Bell in Docket No. 880069-TL; and the second (the Implementation Motion) seeks to require a January 1, 1989 implementation date for any new depreciation rates and recovery schedules, or in the alternative, to refund the money held subject to disposition in

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1989. Bell filed responses in opposition to both of OPC's motions on May 24, 1989.

On May 1, 1989, Bell filed an updated capital recovery schedule (the Analog Schedule) for its analog switching equipment slated for retirement in 1989, 1990 and 1991, with a proposed implementation date of January 1, 1989. A complete depreciation study addressing all accounts was filed on May 22, 1989 (the Study), with a proposed implementation date of January 1, 1990.

On June 16, 1989, the Florida Cable Television Association (FCTA) moved to intervene and filed a request for hearing. Bell responded on July 6, 1989, asking us to deny FCTA's request for hearing but not opposing FCTA's intervention. In Order No. 21651, issued on August 1, 1989, intervention was authorized for FCTA.

The Motion to Close

The Motion to Close offers several arguments in support of OPC's position that Docket No. 890256-TL should be closed and that the Analog Schedule and the Study should be addressed in the Rate Stabilization Proceeding. OPC contends first that because Order No. 20162 directed that certain 1989 and 1990 revenues be collected subject to further disposition, our review of it should be made part of the Rate Stabilization Proceeding rather than taking place in a separate docket. OPC asserts that the Study should not be considered in a manner similar to one submitted by any other telephone company because no other rescription has had an effect on revenue held subject to further disposition. Finally, OPC complains that the Analog Schedule was not served on the parties to the Rate Stabilization Proceeding.

Upon review of the Motion to Close, we find that Docket No. 890256-TL was appropriately opened in accordance with our normal practice dealing with rescriptions. We do not find any language in Order No. 20162 indicating that Bell's rescription will be considered as part of the Rate Stabilization Proceeding. Rather, that order holds open until we complete our rescription the question of how we should dispose of potential excess revenues calculated for 1989 and

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1990. We conclude that proper depreciation rates and recovery schedules must be prescribed before we can deal with the revenues being collected subject to disposition.

The Rate Stabilization Proceeding remains open to monitor and review the earnings sharing plan adopted for Bell and to resolve the disposition of excess revenues for 1989 and 1990. Even though depreciation expenses do have an impact on earnings, depreciation rates should not be based on earnings levels. For this reason, we believe that Docket No. 890256-TL is the appropriate proceeding for represcribing Bell's depreciation rates and recovery schedules. Once this has been accomplished, the disposition of the revenues held subject to disposition in 1989 and 1990 can be addressed.

OPC's final argument regarding the lack of service of the Analog Schedule by Bell upon parties to the Rate Stabilization Proceeding is not germane to the Motion to Close. We note that OPC should have been served a copy of this document since it is a party to Docket No. 890256-TL. However, no other party had intervened when Bell filed the Analog Schedule; therefore, no other party should have expected to have been served a copy. Order No. 20162 placed the parties to the Rate Stabilization Proceeding on notice that we would be considering Bell's triennial depreciation study. This docket has been opened since February, and we believe that parties who wished to intervene would have done so.

The Implementation Motion

In support of the Implementation Motion, OPC states that Bell filed the Analog Schedule with a requested implementation date of January 1, 1989, and has further requested that the revenues, \$17,114,281, held subject to disposition in 1989 by Order No. 20162 be applied to recover these proposed additional expenses. This request ignores, in OPC's opinion, all other accounts which was not the action contemplated in that order. Additionally, during the hearings held in the Rate Stabilization Proceeding, Bell repeatedly referred, according to OPC, to the depreciation study that would be filed during 1989 to back up the company's request to reserve funds for additional depreciation expenses and to its inadequate reserve position.

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We generally grant a company's request for a specific implementation date for newly-prescribed depreciation rates and recovery schedules where the data submitted in its study support that date. Thus, if Bell demonstrates a need for an increase in depreciation rates in 1989, we will consider its request for implementation of these rates during that year. The Study is bifurcated: a portion is sought to be implemented in 1989 and the remainder would be implemented in 1990. In the past, several companies have followed this approach. Our main concerns are whether there is a need for additional depreciation expense in 1989, and if so, the extent of that need.

Our Staff is studying the merits and timing of Bell's requests as part of its review of the Analog Schedule and the Study and will make a recommendation of appropriate rates and recovery schedules when this review has been completed. Accordingly, a decision regarding the Implementation Motion will be deferred until we are prepared to take final action on the Study.

FCTA's Motion for Hearing

FCTA's motion for hearing is based on ten issues of disputed fact and policy. FCTA alleges that Bell's proposed depreciation rates and recovery schedules regarding the phase-out of existing switching equipment and copper cable are not justified on the basis of providing economical basic telephone services. Rather, FCTA claims they are an attempt to have the general body of telephone ratepayers subsidize Bell's video ventures. This motion raises the issue of whether Bell is installing fiber optic facilities in the local distribution loop, where it is not economically justified for "Plain Old Telephone Service (POTS)", in order to enable the company to engage in video programming. FCTA points out that copper facilities now in the local loop can deliver all services described in the Study except broad-band video. FCTA asserts that fiber optics should not be installed in the distribution portion of the local loop unless its use is economically justified on the basis of providing POTS alone. When all relevant costs are taken into account and properly evaluated, FCTA believes that the placement of fiber in distribution plant will be shown to be uneconomical. FCTA complains that Bell's depreciation proposals for copper cable are designed to enable

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the company to finance the construction of "end-to-end" fiber in the local loop with monopoly ratepayers' money. Fiber to the home is necessary to deliver so-called "information age" services, in FCTA's view, of which video is the only such service that cannot be delivered adequately by copper facilities.

On July 6, 1989, Bell filed its response to FCTA's hearing request, contending that FCTA's allegations are flawed because they are premised on the erroneous assumption that the Study is not based upon the provision of telephone service and also that Bell's customers only want and need basic voice-grade telephone service. The company further argues that the placement of fiber optics rather than copper facilities and the replacement of analog switching equipment is the most economically prudent means of providing the telecommunication services demanded by its customers. In addition, Bell charges that, because cable television is basically an unregulated monopoly, FCTA's interest is to do anything in its power to exclude any potential competitor including Bell from the cable television market.

The purpose of this docket is to represcribe depreciation rates and recovery schedules for Bell. The issue of whether the company's network plans to install fiber routes and to replace or upgrade its current switching equipment are cost justified is central to this proceeding. Our Staff's initial review of the Study concludes that Bell's proposals are the result of a forecasting analysis that we rejected during the 1983 rescription and may not be supportable by Bell's network plans. Certain plans and supporting cost justifications, not submitted as part of the Study, have been requested by OPC as part of a request for production of documents. The plans and cost studies that have been submitted to date appear vague and appear not to provide adequate support for the company's proposals. For these reasons, we grant FCTA's request for hearing.

However, this proceeding will not be a debate over whether Bell should provide video services. At this time, Bell can only provide the transport of video services in accordance with various legal restrictions. Our Staff believes that such transport is not a supportable basis on which to justify fiber to the home as being economical. The provision of unregulated services should not be an issue in this docket as long as the telecommunications network being developed is cost justified.

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Our Staff believes that depreciation rates and recovery schedules should be designed to recover a company's prudently-invested capital over the period of time this investment is serving the public. A part of any represcription is our review of the company's planning to assure prudence. Cost studies are generally requested in support of that planning to assure that replacements are being made on an economically-justified basis. To the extent that Bell's plans to replace its switches or to install fiber cable are not economically and prudently justified, we will take this into consideration in represcribing depreciation rates and recovery schedules. These issues will be considered in this proceeding.

Now therefore, it is

ORDERED by the Florida Public Service Commission that the Office of the Public Counsel's motion to close Docket No. 890256-TL is hereby denied. It is further

ORDERED that the request for hearing in Docket No. 890256-TL filed by the Florida Cable Television Association is hereby granted.

By ORDER of the Florida Public Service Commission, this 25th day of SEPTEMBER, 1989.

STEVE TRIBBLE
Director of Records and Reporting

(S E A L)
DLC

by: Kay Flynn
Chief, Bureau of Records

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.