

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Ronald Rollason )	DOCKET NO. 880424-TL
against Southern Bell Regarding )	ORDER NO. 22124
Alleged Unauthorized Telephone )	ISSUED: 11-1-89
Charges. )	
)	

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

PROPOSED AGENCY ACTION  
ORDER DENYING REQUEST FOR HEARING

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

The case herein involves a complaint filed against Southern Bell Telephone and Telegraph Company (Southern Bell) by its customer, Ronald Rollason. Mr. Rollason came to the Commission's attention in the spring of 1987, when he contacted our staff to question third-party billing charges that had appeared on his telephone statement. Our staff explained to Mr. Rollason that charges for third-party billing occurs when the calling party places and charges a particular call to a number other than his own. In this case, Mr. Rollason believed that someone had been billing their calls to his home number without his knowledge. At that time he also questioned certain direct-dialed toll calls.

During the spring of 1987, Mr. Rollason continued to contact our staff and express concerns over his telephone bills. At some point our Chairman was contacted, and the matter was referred to our General Counsel. After discussions between our Chairman and General Counsel a decision was made that Commission staff should attempt to address Mr. Rollason's concerns through an informal conference proceeding.

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In August of 1987, our staff met with Mr. Rollason at Southern Bell's office in Fort Lauderdale, Florida. Also present at that meeting were Southern Bell representatives who were there to answer any questions Mr. Rollason had regarding charges which had appeared on his telephone statement. The meeting began with Mr. Rollason stating that he was denying third-party calls that had been placed from his number, but billed to another account. Apparently, the telephone subscriber on whose bills these charges had appeared had complained to Southern Bell that the charges had been unauthorized. Southern Bell had initiated an investigation which traced these calls back to Mr. Rollason's phone number. The investigation revealed that Mr. Rollason's daughter had been given permission from a relative of the person in whose name the phone was listed to bill the calls to the number. After the situation was explained to Mr. Rollason he agreed to have these third-party charges rebilled to his number.

Mr. Rollason also denied having made numerous long distance calls which had been direct dialed from his home. However, Southern Bell reported that it had been able to verify, through its investigation, that over 100 of the called parties had admitted to having talked with Mr. Rollason's daughter. Our staff reports that the meeting ended with Mr. Rollason agreeing to pay the charges. Mr. Rollason also indicated that he would consider placing calling restrictions on his phone to block certain types of calling patterns from occurring in the future.

In the winter of 1987, Southern Bell contacted our staff and stated that Mr. Rollason's account was in arrears and that the company would be forced to permanently discontinue his service if payment was not made. On December 17, 1987, Southern Bell disconnected service to Mr. Rollason's phone. At the time his service was disconnected Southern Bell alleged that Mr. Rollason had an outstanding balance of \$3,476.49.

On March 7, 1988, Mr. Rollason requested a public hearing and the case was formally docketed. In his complaint Mr. Rollason disputed the accuracy of the charges which appeared on his telephone statements from August 1987, until February 1988. Our staff began its discovery, but it was halted when staff was contacted by Mr. Rollason's representative and asked that a second attempt be made to reach a resolution without a formal proceeding. Through our staff's discussions with the representative an agreement was made to attempt resolution of Mr. Rollason's complaints through another informal conference. Unfortunately, several unavoidable delays postponed the meeting until March, 1989.

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On March 10, 1989, the parties again met in an attempt to address the charges Mr. Rollason continued to dispute. During the meeting the October 1987, statement, with over 122 items, was reviewed item by item. Numbers that Mr. Rollason questioned were verified. Overlapping charges were explained. Called parties were identified. Our staff has informed us that by the end of the meeting they felt confident that Mr. Rollason or a member of his family had directly benefited from the phone calls Southern Bell had charged to Mr. Rollason's account. One argument that Mr. Rollason continued to make was that someone had tapped into his line and made charges to his account. However, Southern Bell explained that it had checked his facilities from the central office, to and including his premise wiring and customer loop, over a two-day period and could find no evidence of a wire tap.

Upon our review of the facts before us we find that Mr. Rollason has failed to produce evidence to support his dispute. A review of his bills clearly demonstrates that the vast majority of the charges in dispute are for collect calls to his number, local and toll calls placed with his calling card, or 976 calls placed from his number. With that information in mind, we conclude that there is a reasonable presumption that Mr. Rollason is responsible for the payment of these calls. Accordingly, we conclude that Southern Bell's charges are not unauthorized and Mr. Rollason is required to remit the outstanding balance.

As an aside to our discussion we note that the facts show that before the meeting ended Southern Bell and Mr. Rollason negotiated a payment plan that would restore only basic local telephone service to Mr. Rollason. However, Mr. Rollason later rejected the terms of the agreement and argued that some of the terms of the proposal were unconstitutional and violated his rights. Due to Mr. Rollason's failure to agree to the settlement proposal and our decision herein, the terms of the proposed agreement are no longer viable. However, due to the enormity of the bill and our understanding of Mr. Rollason's past history with telephone service from Southern Bell, we direct Southern Bell to restrict his service to only basic local telephone service until such time as the debt is satisfied.

Upon review of the facts in this case we find that there is no issue of material fact in dispute to justify a public hearing. We believe the facts clearly demonstrate that Mr. Rollason or a member of his family benefited from and is, therefore, responsible for the calls Southern Bell has billed to his account, with the exception of certain calls that Southern Bell charged to Mr. Rollason's account in violation of its tariff. These unauthorized charges shall be deducted from the amount due. Accordingly, we find that Mr. Rollason owes Southern Bell

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\$2,284.34 and that he must satisfy \$750.00 of this outstanding debt before Southern Bell shall be required to restore basic local telephone service to his residential account.

After Mr. Rollason has paid \$750.00 and Southern Bell has reinstated service Mr. Rollason shall resume timely payment of his monthly charges and then, begin within six months of the date his service is resumed, to repay the balance of his debt at a minimum of \$75.00 per month (not including his basic local telephone service charges). Thereafter, he shall continue to remit \$75.00 per month until the outstanding balance of \$1,534.34 is satisfied.

Therefore, based on the foregoing, it is hereby

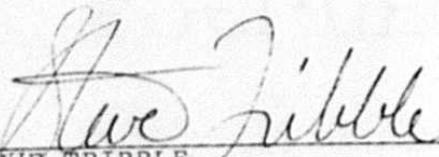
ORDERED by the Florida Public Service Commission that Ronald Rollason's request that a public hearing be held to resolve disputed telephone charges imposed by Southern Bell Telephone and Telegraph Company is hereby denied upon our finding that there are no disputed issues of material fact. It is further

ORDERED that Mr. Rollason is directed to remit \$750.00 of his outstanding balance of \$2,284.34 prior to Southern Bell Telephone and Telegraph Company being required to reinstate only basic local telephone service. It is further

ORDERED that Mr. Rollason shall be required, upon reinstatement of his residential telephone service, to resume timely payment of his monthly basic local service charges and begin, within six months of the date his service is reinstated, to repay the balance of his debt at a minimum of \$75.00 per month, not including his basic local service charges. It is further

ORDERED that the action taken herein is final if no protest is filed within the time set forth below.

By ORDER of the Florida Public Service Commission this 1st  
 day of NOVEMBER, 1989.

  
 STEVE TRIBBLE  
 Director 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on November 22, 1989.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 of the effective date 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.