

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed AFUDC Letter Request) DOCKET NO. 880413-PU
 Required by Rules 25-4.0171, F.A.C., for)
 LECs and 25-6.0141, F.A.C., for Investor-) ORDER NO. 22263
 Owned Electrics)
) ISSUED: 12-4-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 JOHN T. HERNDON

ORDER APPROVING PROPOSED PRIVATE LETTER RULING REQUEST

BY THE COMMISSION:

Pursuant to Rule 25-4.0171(2), Florida Administrative Code (the Rule), Southern Bell Telephone and Telegraph Company (Bell) has prepared a request (the Request) for submission to the Internal Revenue Service (IRS). The Request seeks a private letter ruling as to whether the treatment of all investment tax credits at a zero cost rate in calculating the allowance for funds used during construction (AFUDC) for companies electing Section 46(f)(2) of the Internal Revenue Code (IRC) would result in the forfeiture of these tax credits. The Rule requires that a proposed request should be filed with the Commission for our approval prior to its submission to the IRS. Each company not submitting a ruling request shall be governed by the first IRS ruling received by a company following the directives of the Rule.

The Commission calculates AFUDC by computing a weighted average cost of all available capital. In Docket No. 870148-PU, we approved a method of calculating AFUDC that assigns a cost rate of zero to the investment tax credits subject to the normalization provisions of IRC Section 46(f)(2). Bell submitted the Request in final form for our consideration on September 5, 1989, after it had been reviewed by our Staff and the Office of Public Counsel and found acceptable to the parties to this docket. The requested ruling would determine the tax treatment of Bell flowing from our application of this method of AFUDC calculation.

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Upon consideration of the Request, we conclude that the positions of the parties are adequately and completely stated. Therefore, we will approve the Request for submission by Bell to the IRS. Additionally, we will establish appropriate notification requirements to assure that the parties have sufficient opportunities to participate in IRS deliberations. Finally, Bell has agreed to give retroactive effect back to July 7, 1987, to the IRS's ruling on the Request, and we accept that commitment. Since this is the last request to be filed with the IRS in this proceeding, our Staff is delegated authority to close this docket administratively upon its receipt of a copy of the IRS's private letter ruling issued to Bell.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the proposed request submitted in final form on September 5, 1989, by Southern Bell Telephone and Telegraph Company, seeking a private letter ruling from the Internal Revenue Service, is hereby approved. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall submit the proposed request approved above to the Internal Revenue Service. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall inform the Florida Public Service Commission of any oral or written contact between the Internal Revenue Service and either the company, its parent, affiliates, agents or representatives, regarding the proposed request approved above or the subject matter discussed therein and that the Staff of the Florida Public Service Commission and the Office of the Public Counsel shall inform Southern Bell Telephone and Telegraph Company of any similar contacts between the Internal Revenue Service and those two parties. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall furnish the Florida Public Service Commission a copy of any additional information submitted to the Internal Revenue Service regarding the proposed request approved above or the subject matter discussed therein either before or after such request is submitted to the Internal Revenue Service. It is further

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ORDERED that Southern Bell Telephone and Telegraph Company shall clear dates with the Florida Public Service Commission and the Office of Public Counsel for conferences to be held with the Internal Revenue Service prior to establishing such dates. It is further

ORDERED that, upon the issuance of a ruling by the Internal Revenue Service on the proposed request approved above, Southern Bell Telephone and Telegraph Company shall revise its rate for the allowance for funds used during construction from July 7, 1987 forward. It is further

ORDERED that this docket be closed administratively by the Staff of the Florida Public Service Commission upon its receipt of a copy of the Internal Revenue Service's private letter ruling issued to Southern Bell Telephone and Telegraph Company.

BY ORDER of the Florida Public Service Commission,
this 4th day of DECEMBER, 1989.

STEVE TRIBBLE, Director
Division 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

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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.