

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by ESCAMBIA COUNTY BOARD)	DOCKET NO. 871268-TL
OF COUNTY COMMISSIONERS for extended)	
area service between all Escambia County)	
communities)	
In re: Petitions of SOUTHERN BELL)	DOCKET NO. 880069-TL
TELEPHONE AND TELEGRAPH COMPANY for rate)	
stabilization and implementation)	ORDER NO. 22553
orders and other relief)	
	ISSUED: 2-15-90

The following Commissioners participated in the disposition of this matter:

BETTY EASLEY
JOHN T. HERNDON

ORDER DENYING MOTION FOR RECONSIDERATION AND
AMENDED MOTION FOR RECONSIDERATION AND CLARIFICATION

BY THE COMMISSION:

Order No. 21986, issued October 3, 1989, was our Final Order following the public hearing held in this docket. On October 18, 1989, the Escambia Board of County Commissioners (the County) filed a timely Motion for Reconsideration of Order No. 21986. Responses to the County's Motion were filed by Southern Bell Telephone and Telegraph Company (Southern Bell) and Southland Telephone Company (Southland). On January 16, 1990, the County filed another motion which it designated its Amended Motion for Reconsideration and Clarification of Order No. 21986. Responses to the January 16, 1990, Motion were filed by both Southern Bell and Southland.

The County's October 18, 1989, Motion asks us to reconsider the following portions of Order No. 21986: (1) the survey requirements; (2) the rates for countywide extended area service (EAS); and (3) the countywide calling plan itself. Additionally, the County's January 16, 1990, Motion asks us to prescribe alternative forms of relief in the event the survey results are not favorable.

Initially, we note that our rules do not expressly address a party's right to seek clarification of an order. However, Rule 25-22.060, Florida Administrative Code, outlines the procedures applicable to a party seeking reconsideration. A

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review of the County's January 16, 1990, Motion as a whole reveals that irrespective of its title, what it seeks amounts to no more than reconsideration. Further, our rules do not provide for amendment of motions for reconsideration, or other motions, for that matter. In substance, the January 16th Motion is no more than a belated attempt to make one more argument at a late date and, therefore, it shall be denied as untimely filed.

The purpose of a motion for reconsideration is to provide the tribunal with an opportunity to consider matters that it failed to consider or that it overlooked in reaching its decision. Thus, to justify granting reconsideration, the County must show that our decision is based upon a mistake of fact or a mistake of law. The County has failed to make such a showing.

The County has asked us to acknowledge that countywide EAS may not be the best solution in this docket, even though that is what the County itself requested when this docket was initiated. The essence of this particular argument is that other types of calling plans might adequately address the needs of those who have been most vocal in this proceeding. These are matters upon which we received extensive evidence during the hearing process. The County has not demonstrated a mistake of fact or law; thus, we stand behind our decision in Order No. 21986 on this issue. We believe the plan we have ordered is the most appropriate and reasonable for all subscribers in Escambia County, based upon evidence of record in this proceeding.

The County has also requested that we reconsider our requirement to survey the Century, Molino and Walnut Hill subscribers on a consolidated basis for implementation of countywide EAS. As grounds for its request, the County contends that the survey is doomed to failure because of inclusion of the Molino subscribers. There are simply no facts in evidence to support this contention; therefore, we shall not reconsider this portion of our Order.

Finally, the County has asked that we reconsider the rates we have established for the various exchanges. The Motion points to nothing we overlooked or failed to consider, but

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merely reargues the County's case for yet another time. As we stated in our Order:

...we have attempted to strike a fair balance between both the subscribers' desire for toll relief and the companies' concern with recovery of costs.... While the companies understandably favor rates that would provide full recovery of their costs, we find that to do so would result in unduly prohibitive rates...

Order No. 21986, at pages 8-9. Because the traffic data and related revenue losses and facilities costs were afforded confidential treatment by Orders No. 19769, 19978, 20057 and 21484, our Order cannot reflect the exact dollar amounts that are involved. However, we do find it appropriate, on our own motion, to clarify that the resulting rates for Century, Molino and Walnut Hill provide for partial cost recovery to the companies of no more than fifty-one percent (51%) of those revenue losses and costs incurred. Since the County has not demonstrated a mistake of fact or law relative to this issue, we will not reconsider the rates we set in Order No. 21986.

Upon consideration, we find that both of the County's Motions should be denied. The County has failed to disclose anything we overlooked or did not consider in reaching our decision. Moreover, we can find nothing in either of the County's Motions that was not also presented and considered during the hearing which preceded Order No. 21986. Finally, we believe it is premature to attempt to delineate now our course of action should the survey fail. The results of the survey will dictate future courses of action, the appropriateness of which should be determined at that time, as such need might arise.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion for Reconsideration of Order No. 21986, filed on October 18, 1989, and the Amended Motion for Reconsideration and Clarification of Order No. 21986, filed on January 16, 1990, by the Escambia Board of County Commissioners are hereby denied for the reasons set forth in the body of this Order. It is further

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ORDERED that Order No. 21986 is hereby affirmed in all respects. It is further

ORDERED that Southern Bell Telephone and Telegraph Company and Southland Telephone Company shall take all steps necessary in accordance with Order No. 21986 to begin the survey of the Century, Molino and Walnut Hill subscribers no later than March 1, 1990. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission,
this 15th day of FEBRUARY, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ABG

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.