

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for review of rates)	DOCKET NO. 860723-TP
and charges paid by PATS providers)	ORDER NO. 23075
to LECs)	ISSUED: 6-14-90
)	

ORDER DENYING MOTIONS FOR RECONSIDERATION
OF ORDER NO. 22824

On April 13, 1990, the Prehearing Officer issued Order No. 22824, the Order on Prehearing Procedure in this docket. With regard to discovery, the Order states at Page 4:

When interrogatories or requests for production are served on a party and the respondent intends to object to or ask for clarification of an interrogatory or request for production, the objection or request for clarification shall be made within ten (10) days of service of the interrogatory or request for production. This procedure is intended to reduce delay time in discovery.

On April 23, 1990, Southern Bell Telephone and Telegraph Company (Southern Bell) filed a Motion for Reconsideration of Order No. 22824. Southern Bell has asked that the Prehearing Officer reconsider his requirement of a shortened time frame for setting forth objections to discovery requests. On April 30, 1990, GTE Florida, Inc. (GTEFL) filed a Motion in Support of Southern Bell's April 23rd Motion. On April 30, 1990, Central Telephone Company of Florida (Centel) also filed a Motion for Reconsideration of Order No. 22824. Both GTEFL and Centel concur with the substance of Southern Bell's Motion. On May 8, 1990, the Florida Pay Telephone Association, Inc. (FPTA) filed its Response to the Motions for Reconsideration of Order No. 22824.

Upon review of the arguments contained in the pleadings outlined above, I find it appropriate to deny all three requests for reconsideration of Order No. 22824. The standard for judging a motion for reconsideration is whether, in making the decision, the Commission (or Prehearing Officer) overlooked or failed to consider some matter. In other words, to justify granting reconsideration, the movant must show that the decision under scrutiny was based on a mistake of fact or law. Southern Bell, GTEFL, and Centel have all failed to make such a showing. Order No. 22824 was issued by the Prehearing Officer

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pursuant to the provisions of Rule 25-22.038, Florida Administrative Code, and Rule 25-22.034, Florida Administrative Code. As Southern Bell itself admits on Page 2 of its Motion:

the Prehearing Officer has the discretion to shorten or lengthen the time for objections . . .

While Southern Bell does not agree with the Prehearing Officer's use of his discretion, Southern Bell has not claimed, nor has it shown, that this discretion was exercised either arbitrarily or capriciously. Absent evidence of an abuse of discretion, the ruling of the previous Prehearing Officer shall be affirmed by the current Prehearing Officer for this docket.

Based on the foregoing, it is


ORDERED by Commissioner Thomas M. Beard, as Prehearing Officer, that the Motion for Reconsideration of Order No. 22824 filed on April 23, 1990, by Southern Bell Telephone and Telegraph Company is denied as set forth in the body of this Order. It is further

ORDERED that the Motion in Support of Southern Bell Telephone and Telegraph Company's April 23, 1990, Motion filed on April 30, 1990, by GTE Florida, Inc. is denied as set forth in the body of this Order. It is further

ORDERED that the Motion for Reconsideration of Order No. 22824 filed on April 30, 1990, by Central Telephone Company of Florida is denied as set forth in the body of this Order. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission,
 this 14th day of JUNE, 1990.


 THOMAS M. BEARD, Commissioner
 and Prehearing Officer

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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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration from the full Commission within 14 days pursuant to Rule 25-22.006(3), Florida Administrative Code, for rulings on confidentiality issued by a Prehearing Officer; 2) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, for any rulings on issues other than confidentiality if issued by a Prehearing Officer; 3) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 4) 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. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.