

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of SOUTHERN BELL)	DOCKET NO. 880069-TL
TELEPHONE AND TELEGRAPH COMPANY for)	
rate stabilization and implementation)	ORDER NO. 23503
orders and other relief)	
<hr/>		ISSUED: 9-17-90

ORDER ON DISCOVERY
AND
SECOND ORDER MODIFYING PROCEDURAL SCHEDULE

On August 2, 1990, the Office of Public Counsel (Public Counsel) filed a Motion for Reconsideration of Order No. 23243, issued July 23, 1990, the Order on Prehearing Procedure which set forth the procedural schedule for the current activities in this docket. Order No. 23300, issued August 3, 1990, modified the filing schedule for testimony for the hearing then scheduled for September 28, 1990. On August 10, 1990, Public Counsel filed a motion for reconsideration of Order No. 23300. In its motion for reconsideration, Public Counsel states that it agreed with Southern Bell's request for a revision of the procedural schedule but not with the dates set forth in the Order. In support of its motion, Public Counsel incorporates its 8/2 motion by reference, arguing principally that, because it has not received all the discovery that it seeks, it does not have sufficient time to adequately prepare testimony on the issues in the proceeding. In its motion for reconsideration Public Counsel asks for the testimony filing date to be set for forty days after the date that the documents requested are produced.

I. Discovery

The discovery in question consists of three sets of requests for production of documents (POD), served by Public Counsel on Southern Bell on February 5, June 19 and July 6, 1990, respectively. Southern Bell's responses and objections were filed on March 12, July 24 and August 6, 1990, respectively. Public Counsel filed its respective motions to compel production on June 20, August 2 and August 8, 1990. Southern Bell responded to Public Counsel's 8/2 motion to compel on August 14, 1990. On August 20, 1990, the Company responded to Public Counsel's 8/8 motion and supplemented its response to the 8/2 motion.

DOCUMENT NUMBER-DATE

08276 SEP 17 1990

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In its 8/20 filing the Company maintains that the majority of documents sought are irrelevant to this proceeding; however, the Company also states that in an effort to avoid controversy and expedite this proceeding, it will produce the documents sought in Nos. 1-5 of Public Counsel's 6/19 POD and Nos. 1-11 and 15-18 of the 7/6 POD. The Company notes that it has already provided documents responsive to Nos. 12 and 13. The Company also states that the information contained in the documents provided will relate to total Company or Florida intrastate regulated or both. The Company further adds that "Pursuant to the Commission's previous Orders in this docket other state as well as unregulated information is being withheld." With respect to No. 14, Public Counsel has represented that it has reached an agreement with Southern Bell as to the documents that will be produced. In view of Southern Bell's commitment to provide the documents requested, Public Counsel's motions to compel dated August 2 and August 8, 1990, appear to be moot. To the extent the request seeks other states and nonregulated information, the motion is denied consistent with the Commission's prior decisions on this issue in this proceeding.

The remaining discovery in controversy relates to Nos. 1 and 2 from Public Counsel's 2/5 request. These requests seek documents discussing or evaluating Orders Nos. 20162 and 20503, reflecting the Commissions actions on Southern Bell's rate stabilization plan, and documents discussing or evaluating the company's performance under the "sharing of earnings" regulation during 1988-1990. To the extent such documents exist, Southern Bell has also agreed to produce these documents subject to any claims of work product privilege.

Since the parties have apparently reached agreement on the outstanding discovery currently at issue, the motion to compel may be moot. However, since Southern Bell has reserved certain objections to production depending on the results of its search for documents, the motions to compel are held in abeyance until all documents are produced and any final objections made. Any further objections shall be brought for resolution as expeditiously as possible.

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Pursuant to Rule 25-22.006(5), Florida Administrative Code, Southern Bell has asked for a temporary protective order exempting from Section 119.07(1), Florida Statutes, all documents produced in response to Public Counsel's February 5, June 19 and July 6, 1990, requests for production. Southern Bell asserts in its request that the documents sought are proprietary confidential business information. In order to facilitate the progress of this proceeding the request for an interim protective order is granted.

II. Modification of Procedural Schedule

In order to allow the parties time to complete the requested discovery prior to hearing the procedural schedule established to govern the key activities of this proceeding is revised as follows:

1. October 1, 1990 - Parties Direct Testimony to be filed
2. October 15, 1990 - Staff Direct Testimony, if any, to be filed
3. October 24, 1990 - Prehearing Statements to be filed
4. October 24, 1990 - Rebuttal Testimony to be filed
5. November 7, 1990 - Prehearing Conference
6. November 30 and December 3, 1990 - Hearings to be held.

Note that due to the Centel rate case, the Prehearing Conference will begin at 8:00 a.m. on November 7th and will last until the Centel case reconvenes later that morning. If all necessary business is not concluded on November 7th, the Prehearing Conference will continue day-to-day each morning after November 7th until the Prehearing Conference is concluded.

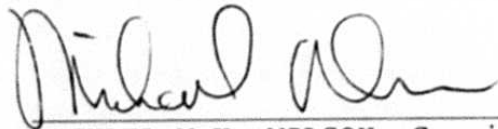
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It is, therefore

ORDERED by Michael Mck. Wilson, as Chairman and Prehearing Officer that the motions to compel filed by the Office of Public Counsel on February 5, June 19 and July 6, 1990, respectively, are disposed of as set forth in the body of this Order. It is further

OERDERED that the procedural schedule governing key activities is revised as set forth in the body of this Order.

By ORDER of MICHAEL MCK. WILSON, Chairman and Prehearing Officer, this 17th day of SEPTEMBER, 1990.



MICHAEL MCK. WILSON, 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.

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Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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.