

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of CITIZENS OF STATE)	DOCKET NO. 890190-TL
OF FLORIDA to investigate SOUTHERN BELL)	
TELEPHONE AND TELEGRAPH COMPANY'S)	ORDER NO. 23523
cost allocation procedures)	
<hr/>		ISSUED: 9-20-90

The following Commissioners participated in the disposition of this matter:

- MICHAEL McK. WILSON
- THOMAS M. BEARD
- BETTY EASLEY
- FRANK S. MESSERSMITH

ORDER DENYING MOTION FOR RECONSIDERATION OF ORDER NO. 22460

BY THE COMMISSION:

On November 18, 1988, the Office of Public Counsel (OPC) filed its First Request for Production of Documents to Southern Bell Telephone and Telegraph Company (Southern Bell), Bell Communications Research, Inc. (BellCore), BellSouth Services, Inc. (BSSI), Southern Bell Advanced Systems, Inc., and BellSouth Advanced Systems, Inc. Following objections from Southern Bell, OPC filed a Motion to Compel on January 25, 1989. By Order No. 22460, issued January 24, 1990, the Prehearing Officer granted OPC's Motion to Compel, requiring Southern Bell and its affiliates to produce the requested documents. On February 6, 1990, Southern Bell filed a Motion to the Full Commission for Reconsideration of the Prehearing Officer's Order No. 22460 (Motion). On February 14, 1990, OPC filed its Opposition to Southern Bell's Motion for Reconsideration of Order No. 22460 (Opposition).

Southern Bell has requested reconsideration of Order No. 22460 only with respect to BellCore. In its Motion, Southern Bell argues that while it jointly owns BSSI with Southern Central Bell, BSSI itself only owns a 1/7 interest in BellCore. Thus, Southern Bell claims, it "is not in a position to direct or otherwise respond or mandate that BellCore produce any documents, materials or response to those requests." Southern Bell further contends that this corporate structure insulates it from the linkage requirement of Medivision of East Broward County, Inc. v. Department of Health and Rehabilitative Services, 488 So.2d 886 (Fla. 1st DCA 1986), and that there is "no factual basis to conclude that BellCore and Southern Bell have acted as one with regard to anything, much less the cost allocation manual which is at issue here."

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In its Opposition, OPC lists the numerous services provided to Southern Bell by BellCore. OPC points out that ratepayers pay substantial sums of money to support the allocation of costs from BellCore and that of the more than \$82 million in BellCore costs allocated to Southern Bell in 1988, the Florida portion was \$35.8 million, and the intrastate portion of that was \$25.9 million. OPC contends that since the inception of BellCore, there has been controversy regarding the extent to which regulated ratepayers should support these costs.

OPC further argues that BellCore is completely owned by Bell regional holding companies and that following Southern Bell's argument on this issue would result in a situation where "by spreading the investment in BellCore over several regional companies, no regulatory Commission would have authority to require the production of documents from BellCore." OPC concludes that "[t]he Commission should either order BellCore to produce the requested documents or disallow the tens of millions of dollars of BellCore costs allocated to Florida's intrastate ratepayers each year."

We find Southern Bell's argument that its corporate relationship with BellCore insulates the entities from "acting as one" under Medivision to be unpersuasive. As noted by OPC, the size of the allocations attributed to Florida ratepayers by BellCore through BSSI and Southern Bell is tens of millions of dollars per year. It is incumbent upon Southern Bell to justify these cost allocations in this docket which concerns Southern Bell's cost allocation procedures. A convoluted structuring of the corporate "family" cannot be allowed to prevent this Commission from determining the appropriateness of a regulated monopoly's cost allocation procedures. The magnitude of the costs allocated to Florida ratepayers by BellCore, and the fact that a contrary decision would put BellCore's cost allocation data beyond the reach of any regulatory commission further supports this conclusion.

The discovery issue was properly handled by the Prehearing Officer. Accordingly, we find it appropriate to deny Southern Bell's Motion for Reconsideration. Southern Bell has not shown either a mistake of fact or law by the Prehearing Officer, but has merely reargued its original objections to the discovery request.

Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that the Motion to the Full Commission for Reconsideration of the Prehearing Officer's Order No. 22460, filed by Southern Bell Telephone and Telegraph Company on February 6, 1990, is hereby denied for the reasons set forth herein. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 20th day of SEPTEMBER, 1990.


STEVE TRIBBLE, Director
Division 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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by

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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.