

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of FLORIDA TELEMESSAG-)	DOCKET NO. 900687-TL
ING COALITION against SOUTHERN BELL)	
TELEPHONE AND TELEGRAPH COMPANY for)	ORDER NO. 23655
alleged unfair marketing and technical)	
practices)	ISSUED: 10-23-90
_____)		

The following Commissioners participated in the disposition of this matter:

- THOMAS M. BEARD
- BETTY EASLEY
- GERALD L. GUNTER
- FRANK S. MESSERSMITH

ORDER SETTING COMPLAINT FOR HEARING

BY THE COMMISSION:

By Order No. 20521, issued December 27, 1988, we approved Southern Bell Telephone and Telegraph Company's (Southern Bell or Company) tariffs introducing two-way measured service on a trial basis, and a Limited Service Offering (LSO) that provided for special features useful to Voice Messaging Service (VMS) and Telephone Answering Service (TAS) companies. Both tariffs were approved pending the outcome of the Information Services Docket.

Concerns raised by TAS/VMS competitors of Southern Bell plagued the trial from its inception. The TAS/VMS providers have complained that the Company's trial is not compatible with existing technology. We have urged the Company to work out the problems with the answering service providers. However, on August 10, 1990, the Florida Telemessaging Coalition (Coalition) filed a formal complaint requesting that Southern Bell stop marketing its MemoryCall voice mail service until the problems are resolved.

In Orders Nos. 21815 and 23183, we asserted jurisdiction over LEC provided information services, pursuant to Sections 364.02(3) and 364.03(1), F.S.; however, these decisions were made subject to the Ninth Circuit's ruling on the FCC's authority to pre-empt state regulation of enhanced services. We will assert this authority in this case only to the extent that we insure fair treatment of all voice mail/answering service providers.

We acknowledge the existing dispute between Southern Bell and the Florida Telemessaging Coalition over the Company's voice mail service, MemoryCall. The Coalition's complaint primarily revolves

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around three issues: (1) the rates charged by Southern Bell for its MemoryCall service cannot possibly cover its costs; (2) the call forwarding features Southern Bell uses to gain access to its voice mail service do not work unless one subscribes to Southern Bell's Simplified Message Desk Interface (SMDI) architecture; and (3) the method Southern Bell chose to implement and market its voice mail service neither allowed the existing industry time to adjust nor the ability to competitively market their own voice mail services.

The Coalition asks that we order Southern Bell to stop marketing its MemoryCall voice mail service until the problems are resolved. We are reluctant to resort to such an extreme measure based on the record before us. Instead, we order this matter to be set for an expedited hearing. In the interim, Southern Bell has agreed to market MemoryCall in the residential marketplace only. This should allow the TAS/VMS providers to maintain their primarily business customer market.

Based on the foregoing, it is

ORDERED that the complaint filed by the Florida Teleessaging Coalition regarding Southern Bell Telephone and Telegraph Company's MemoryCall Service shall be set for an expedited hearing. It is further

ORDERED that Docket No. 900687-TL shall remain open.

By ORDER of the Florida Public Service Commission, this
23rd day of OCTOBER, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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 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.