

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Citizens of the State)	DOCKET NO. 890190-TL
of Florida to investigate SOUTHERN BELL )	
TELEPHONE and TELEGRAPH COMPANY's cost )	ORDER NO. 24143
allocation procedures )	
_____)	ISSUED: 2/21/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 BETTY EASLEY  
 FRANK S. MESSERSMITH  
 MICHAEL MCK. WILSON

ORDER DENYING MOTION FOR CLARIFICATION  
OF ORDER NO. 23523 AND GRANTING MOTION FOR  
EXTENSION OF TIME TO RESPOND TO ORDERS NOS. 23633 AND 23634

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 or the Company), 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. On February 14, 1990, OPC filed its Opposition to Southern Bell's Motion for Reconsideration of Order No. 22460.

Southern Bell's Motion for Reconsideration of Order No. 22460 came before us at our September 11, 1990, Agenda Conference, where both Southern Bell and OPC presented their arguments. We affirmed the Prehearing Officer's decision and denied the Motion for Reconsideration. This decision is reflected in Order No. 23523, issued September 20, 1990.

On October 5, 1990, Southern Bell filed a Motion for Clarification of Order No. 23523. As grounds for this request the Company states that:

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The Prehearing Officer's Order recognized the unique nature of the cost allocation proceeding and limited his holding regarding BellCore to the cost allocation docket.... It is not clear that the Commission's Order Denying Motion for Reconsideration of Order No. 22460 merely affirmed the Prehearing Officer's Order. Southern Bell therefore believes that the Commission should enter an order clarifying that it intended only to affirm the Prehearing Officer's determination in Order No. 22460.

Southern Bell claims that it is not clear that Order No. 23523 did no more than affirm the Prehearing Officer's Order. This argument is without merit. When we denied Southern Bell's Motion for Reconsideration of Order No. 22460, our action amounted to no more than an affirmance of the prior order. The order memorializing our vote was worded as follows:

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.

Order No.23523, at Page 2 (emphasis added). As the underlined language clearly demonstrates, Southern Bell's Motion to Clarify Order No. 23523 is wholly without merit. The Prehearing Officer

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and this Commission have now reviewed the identical issue no less than three times. Accordingly, we find it appropriate to deny Southern Bell's Motion.

On October 25, 1990, Southern Bell filed a Motion for Extension of Time requesting a fifteen-day extension of time to respond to Orders Nos. 23633 and 23634. As grounds for its request, Southern Bell stated that the five and ten-day time periods given to produce documents were too short. Southern Bell also represented that OPC had no objection to a fifteen-day extension of time from October 24, 1990, within which to produce the information as directed in those orders. In light of the parties' agreement to the extension of time, we shall grant Southern Bell's Motion.

Based on foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion for Clarification of Order No. 23523 filed on October 5, 1990, by Southern Bell Telephone and Telegraph Company is hereby denied for the reasons set forth herein. It is further

ORDERED that the Motion for Extension of Time filed on October 25, 1990, by Southern Bell Telephone and Telegraph Company is hereby granted 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 21st  
day of FEBRUARY, 1991.

  
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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 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.