

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of OFFICE OF PUBLIC)	DOCKET NO. 900023-TL
COUNSEL regarding tariff filing by)	ORDER NO. 24461
SOUTHERN BELL TELEPHONE AND TELEGRAPH)	ISSUED: 5/1/91
COMPANY to adjust existing Custom Calling)	
Services within authorized rate bands.)	
_____)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
MICHAEL McK. WILSON

ORDER FINDING APPROPRIATE THE
RATE CHANGES APPROVED BY ORDER NO. 21912

BY THE COMMISSION:

I. Background

On May 12, 1987, Southern Bell Telephone and Telegraph Company (Southern Bell) filed a tariff to introduce banded rate pricing for Custom Calling Services (CCS) and Prestige Single Line Service (PSLS). These services provide central office calling features that may be provided in association with an individual business or residence exchange line. Each service has a group of standard features available to subscribers. Such features include call hold, call forwarding, speed calling, and call waiting, as well as others. We approved the tariff filing by Order No. 18326, issued October 21, 1987.

This flexible pricing concept established a specific rate band with a different minimum and maximum rate for each feature of CCS and PSLS. The Company was authorized to adjust the price within these rate bands, upon Commission approval, following a thirty day advance notice to the Commission and existing subscribers. Because of the innovative nature of banded rates for preexisting discretionary services, we required our Staff to monitor this specific tariff offering for eighteen months. However, we did not, by Order No. 18326, automatically preapprove tariffs reflecting individual rate changes within the bands.

By Order No. 18759, issued January 27, 1988, in Docket No. 871328-TL, we authorized Southern Bell to reduce Speed Calling 30 to the minimum rate within the band. By Order No. 21338, we approved the continuation of the concept of banded rates for CCS. We also required Southern Bell to file reports six months after any rate change to allow us to analyze the impact of the rate change.

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II. Southern Bell's Tariff Filing

On August 1, 1989, Southern Bell filed the tariff proposal at issue in this proceeding. This filing proposed to adjust existing CCS rates within their preapproved rate bands. The rate changes proposed for residence features represented an increase of 10%, and the rate changes approved for business feature rates represented an increase of 12%, with the exception of Speed Call 8, which was reduced by \$.50, three-way calling which was reduced by \$.25, and Speed Call 30, for which no change was proposed. Southern Bell estimated that these rate adjustments would result in an estimated annual increase of \$10 million and that the repression from the rate increases would be minimal. The Company stated that its proposed rate adjustments for CCS were based on its evaluation of its Custom Calling Service Residence/Business 1988 demand study of users and nonusers. That study indicated that the existing rates were below the rates their customers were willing to pay for these discretionary services.

On August 16, 1989, the Office of Public Counsel (OPC) filed a Request for Hearing on this tariff filing. We approved this tariff filing by Order No. 21912, issued September 19, 1989, in which we found that OPC, although certainly entitled to a hearing, was not entitled to a hearing prior to the implementation of these rate changes. This finding was based on our examination of established case law, especially the Florida Interconnect Telephone Company v. Florida Public Service Commission, 342 So.2d 811. We found that OPC's request for hearing should be considered a complaint which we then set for hearing. That hearing was held on September 28, 1990.

III. Impact of Order No. 20162 on Order No. 21912

By Order No. 20162, in Docket No. 880069-TL, this Commission implemented a "sharing of earnings" mechanism for Southern Bell. We set Southern Bell's rates at a level that would achieve an ROE at 13.2% each year during 1988, 1989 and 1990. We also set a sharing threshold at 14.0%. This sharing threshold was intended to encourage the Company to become more efficient and to introduce new services. If Southern Bell's ROE is greater than 14.0% during any of these years, earnings in excess of a 14.0% ROE are to be split 60/40 between customers and Southern Bell.

We excluded from the sharing process earnings from: all rate changes other than regroupings; changes resulting from significant government actions, such as tax changes, separations changes and depreciation changes, with a minimum impact of \$3 million on

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revenue requirements; and refinancing of higher cost debt instruments and major technological changes.

However, we allowed Southern Bell to net any rate increases against rate decreases and significant governmental actions. If the result of this netting process is an overall increase in earnings, the net amount would be refunded to ratepayers or disposed of in some other fashion. Southern Bell proposed that the revenue increase generated from its increase in CCS rates at issue here be included as a rate change to its report entitled Rate Changes/Exogenous Factors/Debt Changes/Technological Changes Earnings. Southern Bell is required to file this report as an attachment to its monthly Florida Surveillance Report. This report nets the revenue requirement of these four factors in accordance with Order No. 20162.

A. OPC's Position

OPC's Witness Montanaro testified that our Order No. 20162 has a direct bearing on the appropriateness of our decision to approve Southern Bell's CCS rate changes. She testified that, although Southern Bell claimed that the CCS rate increases would be offset against negative revenues accrued as a result of exogenous factors, Southern Bell had no actual net decrease in earnings during 1989 due to exogenous factors and rate changes. This is the case when the revenue impacts of the intrastate primary interexchange carrier (PIC) charge and the IXC compensation payments are taken into account. In addition, she argued that netting does not preapprove any rate increases for Southern Bell and the Company still must justify each rate increase it proposes.

B. Southern Bell's Position

Southern Bell's Witness Sims, however, testified that Order No. 20162 has no impact on the appropriateness of the CCS rate changes in Order No. 21912. She stated that Order No. 20162 simply directs how the revenues from those rate changes are to be treated. In Southern Bell's petition for authority to adjust existing CCS rates within their authorized rate bands, the Company recognized that the effects of the rate adjustments would be included in the netting process in accordance with the requirements of Order No. 20162.

Witness Sims further testified that, in Order No. 21912, this Commission recognized the effect of Order No. 20162 when it stated "...By Order No. 20162, if we permit Southern Bell to increase or decrease rates, those increases or decreases will be netted against the exogenous factors beyond their control." In addition, Order

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No. 21912 states "...Our approval is also based on the fact that these revenues will be netted against exogenous factors as we required by Order No. 20162."

Witness Sims testified that the revenue increase from the CCS would be included in the netting process of exogenous factors in accordance with the requirements of Order No. 20162. Therefore, Witness Sims stated her view that the rate changes approved in Order No. 21912 are appropriate because there was no decrease in demand for the service, because there was increased contribution, and because the revenue treatment afforded in Order No. 20162 is appropriate.

C. Conclusion

We disagree with Witness Montanaro's assessment that Order No. 20162 has an impact on Order No. 21912. The only impact Order No. 21062 has on our approval of Southern Bell's CCS rate changes is the disposition of the revenues generated. If, in fact, Southern Bell did not properly take into account the revenue impacts of the PIC charge and the IXC compensation payments, that would be determined when this Commission trued up the exogenous factors. The true up is not a part of this docket and has no impact on CCS rates. Therefore, regardless of whether certain rate increases were taken into account, Order No. 20162 has no impact on the appropriateness of Order No. 21912.

IV. Criteria for Rate Changes Pursuant to Order No. 21912

The propriety of the CCS rate changes at issue here must be viewed in conjunction with the several orders with which we authorized banded rates for CCS in Orders Nos. 18326, 18828, and 21338. We stated in Order No. 18326 that each tariff filing by Southern Bell altering rates for CCS is subject to the normal tariff approval process. Our decision in Order No. 18326 to authorize banded rates for Southern Bell was two-fold in nature. First, we gave Southern Bell the ability to respond to changes in a market segment in which it is experiencing competition by altering its prices within the bands. Second, we allowed Southern Bell to set its CCS rates within the bands for these discretionary services, at price levels where contribution from these services would be maximized. Such contribution would go towards maintaining reasonable rates for local service.

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A. OPC's Position

OPC's position is that our approval of banded rates for CCS in general has no bearing on whether we should have allowed Southern Bell to increase its rates in this instance. OPC's Witness Montanaro stated that, although this Commission approved banded rates for CCS features, we specifically stated that we were not preapproving tariffs reflecting the individual rates within the Company's proposed bands and that each tariff filing altering rates for CCS features would be subject to the normal tariff approval process.

OPC's Witness Montanaro also testified that Southern Bell did not adequately support this tariff filing to increase its CCS rates by \$10 million per year. Witness Montanaro further testified that Southern Bell ignored two rate increases for the intrastate PIC charge and the IXC compensation payments that, when netted against the exogenous factors, coupled with the rate increases to Southern Bell's CCS, would have resulted in a positive effect. Witness Montanaro argued that the netting process resulted in an increase in Southern Bell's earnings in excess of \$1 million during 1989 after the PIC charge and interexchange compensation is included. Therefore, since there was no shortfall from the netting process, Southern Bell cannot justify the \$10 million per year rate increase.

Additionally, Witness Montanaro testified that, at the time Southern Bell asked for the rate increase, Southern Bell's earnings were well within its authorized range of ROE. Southern Bell's June 1, 1989, commitment view forecasted that the Company would earn an ROE of 13.23% during 1989 without an increase in CCS rates. The projected 13.23% ROE slightly exceeds the Commission's rate setting point and far exceeds the bottom of its authorized ROE range. Only if Southern Bell was earning below the floor of its authorized ROE, should the Commission consider a proposed rate increase to be fair, just and reasonable. Witness Montanaro concluded that the enhancement of earnings simply by increasing rates within the bands is not an acceptable justification for changing CCS rates.

OPC has agreed that Southern Bell correctly forecasted that there would be little price elasticity of demand for these services. However, OPC believes that the fact that there was low price elasticity indicates the lack of effective competition for these services, which in OPC's view, means that increasing rates is inappropriate.

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B. Southern Bell's Position

Southern Bell argues that it properly complied with the Commission's rules and fully justified its proposed CCS tariff. With its tariff filing, Southern Bell filed a tabulation of a typical bill with the tariff changes, the estimated gross revenues, and a statement of justification. Southern Bell's Witness Sims testified that the CCS rate changes approved in Order No. 21912 comply in all respects with the guidelines established by this Commission in Orders Nos. 18326, 18828, and 21338.

Witness Sims stated that the rate adjustments were based on an updated 1988 CCS business and residential demand study for users and non-users. The new rates approved fell within the previously approved rate bands as well as within the customers' willingness to pay as demonstrated by the study. Therefore, Witness Sims concluded that approval of these rates within the bands allowed for a maximization or at least an enhancement to the level of contribution received from these services. Further, Witness Sims testified that this was entirely appropriate since CCS are discretionary services.

Southern Bell's Witness Sims defined effective competition as meaning that there is more or less an equivalent substitute to a service offered by Southern Bell in the market. Witness Sims further acknowledged that, with the exception of Speed Call 8 and Speed Call 30, Southern Bell's CCS are not subject to effective competition. However, Witness Sims believes that Voice Messaging can become a very effective competitor to CCS to the extent that the rates become competitive with Southern Bell's CCS rates.

Southern Bell's Witness Sims also testified that, based on Southern Bell's willingness to pay study, it was determined that stimulation or repression would be minimal. Based on its study, Southern Bell believed that any CCS feature that was priced at a rate below the top of its rate band would be accepted by the customer as having a good rate/value relationship. Witness Sims further stated that this belief was confirmed by the Company's actual experience--no decrease in demand and increased contribution.

C. Conclusion

We agree with OPC's Witness Montanaro that Order No. 18326 did not preapprove tariffs and that tariff filings altering rates within the preapproved bands would be subject to the normal tariff approval process. In Order No. 21338, which continued the banded rates for CCS, we were concerned with an inadequate evaluation of

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the effectiveness of banded rates because of Southern Bell's slow implementation of price changes within the band. By Order No. 21912, we allowed the continuation of information gathering on the impact of these rate changes to determine if this pricing concept should be continued.

It is our view that the criteria set forth in Orders Nos. 18326, 18828, and 21338 clearly establish that Southern Bell was required to demonstrate that its tariff filing to adjust its CCS rates within the authorized bands was designed to meet competition or demand. The Company did show that its filing was addressed to meet its customers' willingness to pay for these discretionary services. Therefore, the appropriate criteria were applied in the context of Orders Nos. 18326, 18828, and 21338 and Southern Bell adequately justified the rate changes approved in Order No. 21912.

We find that Southern Bell filed the necessary justification for the proposed rate changes to its CCS. Southern Bell demonstrated that the customer's willingness to pay was greater than the current rates and that there would be minimal repression on demand for CCS. While our approval of this CCS filing was independent of Order No. 20162, Southern Bell also justified this tariff filing with the disposition of these revenues. Southern Bell stated in its tariff filing that the revenue increase will offset negative exogenous factors.

We find that Southern Bell's forecasted revenues properly took into account the price elasticity of demand for these CCS features. Southern Bell accurately forecasted that there would be little, if any, repression of demand for these services. In fact, from September 1989 through February 1990, the penetration rate for CCS features has increased.

We agree with OPC that the low elasticity of demand may be attributable to the lack of effective competition. Although we agree that there exists little effective competition, we do not find that this necessarily indicates that the low elasticity of demand is based on the lack of a competitive market.

We disagree with Witness Montanaro's view that Southern Bell's achieved or projected earnings at the time of the Commission's decision to approve these CCS rate increases are relevant. Order No. 20162 requires any rate increases, rate decreases, governmental actions in excess of \$3 million, and any debt refinancing to be netted against each other. If the net of these items is a positive amount, then the amount is subject to the disposition by the Commission, regardless of Southern Bell's level of earnings. Southern Bell could be earning at the floor of its authorized ROE

and would still be subject to give up any positive amount. It is clear from Order No. 20162, that Southern Bell's level of earnings at the time of this Commission's decision to increase Southern Bell's CCS rates is not relevant. The appropriate disposition of any revenues related to these rate increases will be addressed in the Rate Stabilization Docket No. 890069-TL.

V. OPC's Proposed Findings of Fact

OPC filed the following Proposed Findings of Fact in this proceeding:

1. Southern Bell's self-reported achieved return on equity in its May 31, 1989 surveillance report was 12.63%.

2. The self-reported achieved return on equity of 12.63% was within Southern Bell's authorized range of return on equity and more than a full percentage point above the bottom of the range authorized by the Commission in Docket No. 880069-TL.

3. The self reported 12.63% return on equity was understated because it did not include the company's PIC (primary interexchange carrier) revenues during the period.

4. Southern Bell's commitment view dated June 1, 1989 forecasted the company would earn a return on equity of 13.23% during 1989 without an increase in custom calling service rates.

5. The projected 13.23% return on equity exceeded the Commission's rate setting point for Southern Bell and exceeded the bottom of its authorized return on equity range by 173 basis points.

6. Southern Bell's June 1, 1989 commitment view forecasted that its earnings during 1990 without the custom calling service rate increase would remain even during 1990.

7. Southern Bell's June 1, 1989 commitment view predicted a return on equity of 15.02% in 1991 after sharing earnings above a 14% return on equity during 1991 on a 60/40 basis between customers and the company.

8. Southern Bell's only witness did not know whether there was any particular need for Southern Bell to increase its custom calling rates or any particular identifiable need to do so, other than maximization of contribution.

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9. Southern Bell's only witness had no knowledge of what the need was for the particular \$10 million rate increase.

10. Southern Bell's only witness did not know the reason for targeting the \$10 million figure for the rate increase.

11. Southern Bell had price elasticities of demand available to it when it projected the revenue effect of price increases in custom calling services.

12. Southern Bell did not use these price elasticities when forecasting the revenue effect of the custom calling service price increases.

13. Southern Bell did use price elasticities of demands when it determined the optimum prices for custom calling services.

14. Across the nine BellSouth states, the optimal residential price for call waiting, call forwarding, three-way calling, and speed calling is practically the same.

15. Customers put about the same value on call waiting, call forwarding, three-way calling, and speed calling: the optimal price for each, averaged across the nine BellSouth states, is around \$2.50.

16. Southern Bell's only witness did not know the specific optimal prices in Florida for these services.

17. Prior to the rate increases implemented September 1, 1989, Southern Bell's rates for three-way calling and call waiting already exceeded the average optimal price for these services across the BellSouth states. The price increases for three-way calling and call waiting implemented September 1, 1989, increased the rates for three-way calling and call waiting even more above the average optimal price for these services.

We adopt each of OPC's proposed findings of fact except No. 12. Regarding Proposed Finding of Fact No. 12, we do not believe this proposed finding is uncontrovertibly supported by the record. Southern Bell's Witness Sims refers to Exhibit No. 1 as "these particular runs." She states that the Company ran various scenarios. It is unclear from the record that the particular run which was placed into the record as Exhibit No. 1 was or was not utilized by the Company in its development of its tariff filing and the projected revenue effect. Therefore, we reject Proposed Finding of Fact No. 12.

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Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that our approval in Order No. 21912 of Southern Bell Telephone and Telegraph Company's proposed tariff filing to adjust its rates for existing Custom Calling Services within authorized rate bands is appropriate. It is further

ORDERED that our finding herein that these rate changes are appropriate disposes of the Complaint of Public Counsel as set forth herein. It is further

ORDERED that all of the Public Counsel's Proposed Findings of Fact, except No. 12, are hereby approved. It is further

ORDERED that the Public Counsel's Proposed Finding of Fact No. 12 is hereby rejected. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 1st day of MAY, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

SFS

by: Kay Flynn
Chief, Bureau of Records

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 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.