

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show cause proceeding against)	DOCKET NO. 900960-TL
SOUTHERN BELL TELEPHONE AND TELEGRAPH)	ORDER NO. 24866
COMPANY for misbilling customers)	ISSUED: 7/30/91
<hr/>		

ORDER ON PREHEARING PROCEDURE

Pursuant to the provisions of Rule 25-22.038, Florida Administrative Code, all parties and Staff are hereby required to file with the Director of Records and Reporting a prehearing statement on or before October 25, 1991. Each prehearing statement shall set forth the following:

- (a) all known witnesses that may be called and the subject matter of their testimony;
- (b) all known exhibits, their contents, and whether they may be identified on a composite basis and witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue;
- (f) a statement of each policy question the party considers at issue and which of the party's witnesses will address the issue;
- (g) a statement of the party's position on each issue identified pursuant to paragraphs (d), (e) and (f) and the appropriate witness;
- (h) a statement of issues that have been stipulated to by the parties;
- (i) a statement of all pending motions or other matters the party seeks action upon; and
- (j) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.

DOCUMENT NUMBER-DATE

07639 JUL 30 1991

PSC-RECORDS/REPORTING

ORDER NO. 24866
DOCKET NO. 900960-TL
PAGE 2

The original and fifteen copies of each prehearing statement must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of October 25, 1991. Failure of a party to timely file a prehearing statement shall be a waiver of any issues not raised by other parties or by the Commission Staff. In addition, such failure shall preclude the party from presenting testimony in favor of his or her position on such omitted issues. Copies of prehearing statements shall also be served on all parties. Prehearing statements shall substantially conform to the Florida Rules of Civil Procedure requirements as to form, signatures, and certifications.

Each party is required to prefile all exhibits and all direct testimony it intends to sponsor in written form. Prefiled testimony shall be typed on standard 8 1/2 x 11 inch transcript quality paper, double spaced, with 25 numbered lines, in question and answer format, with a sufficient left margin to allow for binding. An original and fifteen copies of each witness' prefiled testimony and each exhibit must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the due date. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony. Copies of all prefiled testimony shall also be served by the sponsoring party on all other parties.

A final prehearing conference will be held on November 6, 1991, in Tallahassee. The conditions of Rule 25-22.038(5)(b), Florida Administrative Code, will be met in this case and the following shall apply:

Any party who fails to attend the final prehearing conference, unless excused by the prehearing officer, will have waived all issues and positions raised in his or her prehearing statement.

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: he or she was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully

ORDER NO. 24866
DOCKET NO. 900960-TL
PAGE 3

develop the issues; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, he or she shall bring that fact to the attention of the prehearing officer. If the prehearing officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify his or her position in a post-hearing statement of issues. In the absence of such a finding by the prehearing officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in his or her post-hearing statement.

To facilitate the management of documents in this docket, parties and Commission Staff shall submit an exhibit list with their respective prehearing statements. Each exhibit submitted shall have the following in the upper right-hand corner: the docket number, the witness's name, the word "Exhibit" followed by a blank line for the Exhibit Number and the title of the exhibit.

An example of the typical exhibit identification format is as follows:

Docket No. 870675-TL
J. Doe Exhibit No. _____
Cost Studies for Minutes Of Use by Time of Day

ORDER NO. 24866
DOCKET NO. 900960-TL
PAGE 4

Parties are directed to file copies of all prehearing statements, post-hearing statements of positions on issues or briefs, and proposed findings of fact and conclusions of law on diskette in word processing format. Specific details regarding the appropriate word processing software shall be obtained from the Director of the Division of Records and Reporting. Exceptions to this requirement may be granted by this Prehearing Officer for good cause shown.

The following dates have been established to govern the key activities of this proceeding in order to maintain an orderly procedure.

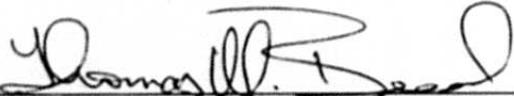
1. August 13, 1991 - Company's Direct Testimony to be filed
2. September 13, 1991 - Intervenor's Direct Testimony to be filed
3. September 30, 1991 - Staff Testimony, if any, to be filed
4. October 18, 1991 - Company's Rebuttal Testimony to be filed
5. October 25, 1991 - Prehearing Statements to be filed
6. November 6, 1991 - Prehearing Conference
7. December 9-11, 1991 - Hearings to be held.

Attached to this order as Appendix "A" is a tentative list of the issues which will be addressed in this proceeding. Prefiled testimony and prehearing statements shall be addressed to the issues set forth in Appendix "A".

The hearing in this docket is presently set for December 9-11, 1991. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by December 2, 1991. In addition, to facilitate their identification, all interrogatories, requests for admissions, and requests for production of documents shall be numbered consecutively. Each set of discovery requests shall be numbered sequentially from any previous set(s).

ORDER NO. 24866
DOCKET NO. 900960-TL
PAGE 5

By ORDER of Thomas M. Beard, Chairman and Prehearing Officer,
this 30th day of JULY, 1991.



THOMAS M. BEARD, Chairman
and Prehearing Officer

(S E A L)

SFS

ORDER NO. 24866
DOCKET NO. 900960-TL
PAGE 6

APPENDIX "A"

LIST OF ISSUES

1. Has Southern Bell Telephone and Telegraph Company charged customers for services not requested?
2. How many customers were charged for services not requested and what is the total amount of such charges that has been collected from customers of Southern Bell Telephone and Telegraph Company? Have these charges been refunded appropriately?
3. When did Southern Bell Telephone and Telegraph Company's management learn that customers were being billed for services not ordered and what actions were or were not taken?
4. Did Southern Bell Telephone and Telegraph Company have adequate internal controls to prevent customers from being misbilled?
5. Did any of Southern Bell Telephone and Telegraph Company's employees take any other inappropriate actions in regard to its marketing and sales of telephone services and, if so, should Southern Bell be held accountable?
6. What has been and/or is the impact of any other inappropriate actions taken by any Southern Bell Telephone and Telegraph Company employees in regard to its marketing and sales of telephone services?
7. What should the Commission require Southern Bell Telephone and Telegraph Company to do to make its customers whole?

ORDER NO. 24866
DOCKET NO. 900960-TL
PAGE 7

8. Has Southern Bell Telephone and Telegraph Company taken adequate steps to prevent any recurrence of these inappropriate activities and, if not, what should the Commission require Southern Bell Telephone and Telegraph Company to do to prevent these inappropriate activities from occurring again?
9. If Southern Bell Telephone and Telegraph Company did charge customers for services not requested and/or took any other inappropriate action in its marketing and sales of telephone services, did these actions violate Chapter 364, Florida Statutes, or the Commission's Rules?
10. If Southern Bell Telephone and Telegraph Company did charge customers for services not requested and/or took any other inappropriate action in its marketing and sales of telephone services, was this the result of mismanagement?
11. If Southern Bell Telephone and Telegraph Company has charged customers for services not requested and/or taken any other inappropriate action in its marketing and sales of telephone services, do these constitute willful misconduct and should the Company be fined by the Commission? If so, in what amount?