

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of) DOCKET NO. 920260-TL
revenue requirements and rate)
stabilization plan of SOUTHERN)
BELL TELEPHONE AND TELEGRAPH)
COMPANY.)
_____)
In Re: Investigation into the) DOCKET NO. 910163-TL
integrity of SOUTHERN BELL)
TELEPHONE AND TELEGRAPH)
COMPANY'S repair service)
activities and reports.)
_____)
In Re: Investigation into) DOCKET NO. 910727-TL
SOUTHERN BELL TELEPHONE AND)
TELEGRAPH COMPANY'S compliance)
with Rule 25-4.110(2), F.A.C,)
Rebates.)
_____)
In Re: Show cause proceeding) DOCKET NO. 900960-TL
against SOUTHERN BELL TELEPHONE) ORDER NO. PSC-93-0317-PCO-TL
AND TELEGRAPH COMPANY for) ISSUED: 03/01/93
misbilling customers.)
_____)

ORDER GRANTING PUBLIC COUNSEL'S MOTION TO COMPEL

On November 12, 1992, Public Counsel filed a motion seeking an order compelling answers to deposition questions. Southern Bell filed its response on November 24, 1992.

The motion concerns the depositions of Shirley T. Johnson, BellSouth Telecommunications Operations Manager for Internal Auditing and Dwayne Ward, BellSouth Telecommunications Human Resource Operations Manager. This Order will address the motion to compel concerning the deposition of Shirley T. Johnson.

Public Counsel deposed Shirley T. Johnson, BellSouth Telecommunications Operations Manager for Internal Auditing on October 14, 1992. In general, the questions inquired into the preparation and contents of the company's 1991 third quarter audit reports entitled "Customer Adjustments (MOOSA)", "KSRI - Network Customer Trouble Report Rate", "Customer Adjustments - LMOS", "PSC Schedule 11" and the 1991 Operational Review Audit. At deposition, Southern Bell objected to this line of questioning on the basis that the audit reports are protected under the attorney-client privilege and work product doctrine.

DOCUMENT NUMBER-DATE

02271 MAR-18

FPSC-RECORDS/REPORTING

Through various requests for production to Southern Bell in this docket, Public Counsel has sought production of the audit reports. Southern Bell objected to producing the documents on the basis of the attorney-client privilege and work product doctrine. Public Counsel moved for an order compelling the production of these audit reports. These matters were considered after having reviewed the documents in camera, the moving papers, the opposition thereto, the affidavits and oral argument of counsel. In Final Order No. PSC-93-0292-FOF-TL, this Commission has concluded that the documents are not shielded from discovery under the attorney-client privilege and work product doctrine; hence, this avenue of inquiry at deposition is proper.

Based on the foregoing, it is

ORDERED that the Office of Public Counsel's Motion to Compel answers to deposition questions is granted as set forth in the body of this order.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 1st day of March, 1993.



Susan F. Clark, Commissioner
and Prehearing Officer

(S E A L)

JRW

¹See OPC's Motion to Compel filed on April 8, 1992 (MOOSA Audit); OPC's Seventh Motion to Compel filed on July 23, 1992 (KSRI Audit, LMOS Audit and PSC Schedule 11 Audit); OPC's Eleventh Motion to Compel filed on December 16, 1992 (1991 Operational Review Audit).

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 wastewater 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.