

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| In re: Comprehensive review of revenue requirements and rate stabilization plan of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY. |) | DOCKET NO. 920260-TL |
| _____ |) | |
| In re: Investigation into the integrity of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S repair service activities and reports. |) | DOCKET NO. 910163-TL |
| _____ |) | |
| In re: Investigation into SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY'S compliance with Rule 25-4.110(2), F.A.C, Rebates. |) | DOCKET NO. 910727-TL |
| _____ |) | |
| In re: Show cause proceeding against SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY for misbilling customers. |) | DOCKET NO. 900960-TL ORDER NO. PSC-93-0335-PCO-TL ISSUED: 03/04/93 |
| _____ |) | |

ORDER GRANTING PUBLIC COUNSEL'S MOTIONS 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 Dwayne Ward.

Public Counsel deposed Dwayne Ward, Operations Manager, Human Resources-Southeast Florida, on October 15, 1992. The questions concerned the acts or failures to act which underpin the company's recommended discipline of Southern Bell employees. At deposition, Southern Bell objected to this line of questioning on the basis that the answers called for the deponents to reveal information they learned from their review of documents concerning the company's internal investigation.

DOCUMENT NUMBER-DATE

02467 MAR-4 8

FPSC-RECORDS/REPORTING

In the Company's response to Public Counsel's motion, Southern Bell states that Ward "reviewed some of the factual findings of the investigation." Southern Bell argues that:

After Southern Bell refused to give Public Counsel access to the privileged written results of the investigation, Public Counsel simply tried the tactic of deposing... Mr. Ward to attempt to extract from them the same privileged information. Obviously, if this information is, as Southern Bell contends, privileged, then it is protected from a written disclosure and protected equally from an oral disclosure during a deposition. For this reason, Public Counsel's attempt to obtain this information from... Mr. Ward was objected to appropriately, and these objections should be sustained.


Southern Bell's Response at p. 4.

In Order No. PSC-93-0294-PCO-TL, it was held that the witness statements and summaries are not protected from disclosure 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 4th day of March, 19 93.



Susan F. Clark, Commissioner
and Prehearing Officer

(S E A L)

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.