

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of the revenue requirements and rate stabilization plan of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY.)	DOCKET NO. 920260-TL
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In Re: Show cause proceeding against SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY for misbilling customers.)	DOCKET NO. 900960-TL
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In Re: Petition on behalf of Citizens of the State of Florida to initiate investigation into the integrity of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY's repair service activities and reports.)	DOCKET NO. 910163-TL
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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 ORDER NO. PSC-93-0390-FOF-TL ISSUED: 03/15/93
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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER CONSOLIDATING DOCKETS
AND DENYING MOTIONS FOR REVIEW

BY THE COMMISSION:

BACKGROUND

Docket No. 920260-TL was initiated pursuant to Order No. 25552 in Docket No. 911109-TL, to conduct a full revenue requirements analysis and to evaluate the Rate Stabilization Plan under which BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) has been

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operating since 1988. Order No. 25552 required that the Company file Minimum Filing Requirements (MFRs) on May 1, 1992. This was done; however, the Company notified the Commission in its test year request letter of March 25, 1992, that it would not be submitting its testimony or proposals at the time of the MFR filing. The Chairman subsequently approved a revised case schedule that required Southern Bell to submit its testimony and updated MFRs by July 15, 1992. The Company, in a letter dated April 10, 1992, waived the eight and twelve month statutory time periods, and also agreed that all decisions in this case would be effective January 1, 1993.

In its filing, Southern Bell proposed to decrease revenues in 1993 by approximately \$13.3 million. In addition, it proposed permanent revenue reductions of \$47.4 million based on amounts identified by the Commission in Docket No. 880069-TL. The total 1993 impact, based on a July 1, 1993, effective date, was estimated to be a reduction of approximately \$60.8 million.

The Company's proposals include implementation of an Optional Expanded Local Service offering that would incorporate measured usage rates for all local and intraLATA calls within forty miles of the calling party's exchange. Southern Bell has also proposed that the Commission modify its current form of regulation from rate of return with earnings sharing to a form of price cap regulation.

Hearings have been scheduled to begin January 25, 1993. In addition, six service hearings have been held with one more scheduled in the West Palm Beach area on February 24, 1993.

On August 17, September 28, and October 9, 1992, issue identification workshops were held by our staff. At the conclusion of the third workshop, the parties were still unable to agree on an appropriate list of issues for this proceeding. A motion hearing was held on October 20, 1992, to determine how the issues should be framed for Docket No. 920260-TL.

Order No. PSC-92-1195-PCO-TL was issued October 21, 1992, establishing the prehearing procedure in Docket No. 920260-TL. Order No. PSC-92-1320-PCO-TL, an additional order on prehearing procedure, was subsequently issued November 13, 1992, as a result of the issue identification motion hearing. That Order required that evidence relating to Dockets Nos. 900960-TL, 910163-TL, and 910727-TL would not be incorporated into the main hearings to be held in Docket No. 920260-TL beginning January 25, 1993. Rather,

evidence relating to those dockets would be heard during hearings already scheduled for those dockets in April, 1993. Then, following the conclusion of the hearings in those dockets, additional time would be scheduled to take testimony and other evidence regarding the impact of Dockets Nos. 900960-TL, 910163-TL, and 910727-TL on the final outcome of the issues presented by Docket No. 920260-TL. Specifically, a final determination on both the present and the proposed incentive regulation plans would be held in abeyance, pending the outcome of Dockets Nos. 900960-TL, 910163-TL, and 910727-TL. In addition, this Order extended by approximately two weeks the filing dates for testimony and prehearing statements.

On October 26, 1992, the Office of Public Counsel (OPC) filed a Motion for Review of Order Establishing Procedure, directed to Order No. PSC-92-1195-PCO-TL (first Motion). On November 23, 1992, OPC filed a Motion for Review of Additional Order on Prehearing Procedure, directed to Order No. PSC-92-1320-PCO-TL (second Motion). Southern Bell filed responses opposing both motions.

DISCUSSION

We believe that the logical order in which to hear and decide these cases would have been to hear the investigation dockets first, then the rate case. However, this was not possible, primarily because the hearings for the investigation dockets could not be scheduled until after the Attorney General's investigation was complete. As a result, the earliest we could schedule those hearings was April, 1993. By then, the hearings for the rate case were already set to begin in January, 1993.

In an effort to set a logical order to the proceedings given these constraints, the procedural order (Order No. PSC-92-1320-PCO-TL) required that issues concerning incentive regulation would not be decided until after we had made our decisions in the investigation dockets. We believe that this decision by the Prehearing Officer was both reasonable and well-founded, based upon all of the information that was available at that time. Since that time, however, based upon discovery, motions filed by OPC, and information from our staff, we now believe it is appropriate to consolidate these proceedings for decisional and appellate purposes. The practical effect of this decision is to remove the restrictions on evidence and cross examination envisioned by Order No. PSC-92-1320-PCO-TL, and set the vote on all issues for after

all the hearings are completed. In effect, the four dockets would be considered as one proceeding, with the hearings held over two time periods.

The basis for this decision is our belief that to attempt to separate and isolate the issues between rate case and investigation matters would not be efficient and perhaps, not possible. For example, the result of the quality of service issues, as well as the investigation dockets which address Southern Bell's management practices, could affect our decision on return on equity and the incentive regulation proposals in the rate case. We believe that an undue amount of time could be needed in the rate case hearing, arguing and determining what evidence would be admissible in the rate case proceeding.

Moreover, given the unavoidable length of time between the January/February hearings and April hearings, some evidence and testimony would have to be reiterated at the later date. Based on the proceedings as currently scheduled, Southern Bell has already filed motions to strike the testimony of several witnesses concerning the quality of service issues in the rate case. In addition, parties are filing identical motions in both the rate case and investigation dockets, all of which must be dealt with separately at this time. By consolidating the dockets, the issues can be addressed fully, and decisions made in an orderly fashion.

In its first Motion, OPC has requested that we review the portion of Order No. PSC-92-1195-PCO-TL that required intervenors to file testimony on November 2, 1992. OPC cited various motions to compel that had not yet been ruled upon. These motions to compel relate to documents concerning non-contact sales and repair and rebate activities. Until the Commission has ruled and the discovery responses have been provided, OPC argues that it cannot file its testimony in the rate case. In addition, OPC argues that the Commission cannot rule on incentive regulation without first reviewing the improper activities during the pendency of the plan.

We find OPC's first Motion moot based on the Additional Order on Prehearing Procedure issued November 13, 1992. As we stated in the Background section above, that Order ruled that all matters involving the issues in the investigation dockets would be addressed in the April hearings and not in the January/February hearings. In addition, the Order provides that testimony on the impact of the investigation dockets on the Company's incentive regulation proposals and rulings on the incentive regulation issues

would be made following our decisions in the investigation dockets. Intervenor testimony was rescheduled and subsequently filed November 16, 1992, per the terms of that order. Rulings on the motions to compel are being addressed separately. As a result of the Prehearing Officer's ruling, the discovery which is the subject of the motions to compel would not be required for the January/February hearings. Accordingly, OPC's first Motion is now moot.

In its second Motion, OPC reiterates its requests for rulings on its motions to compel. Based upon our ruling on the first Motion above, these reiterated requests are now moot. In addition, OPC requested full Commission review of several other points in Order No. PSC-92-1320-PCO-TL.

OPC argues that an issue related to imputation of revenues and expenses from inside wire maintenance should be included in this proceeding. OPC asserts that such an issue was included in the recent United Telephone Company of Florida (United) and GTE Florida Incorporated (GTEFL) rate cases, that OPC raised the same issue in this case, and that the Order "inexplicably" does not contain such an issue.

This matter was argued during the motion hearing on issue identification. The Prehearing officer took the question under advisement. Upon issuance of Order No. PSC-92-1320-PCO-TL, the issue was not included in the final issues list. We believe it is appropriate that the Order be clarified to state that this issue has not been included based upon our rulings in the United and GTEFL cases that the appropriate means to address this is to institute a rulemaking proceeding (Orders Nos. PSC-92-0708-FOF-TL and PSC-92-1277-FOF-TL). Since inside wire installation and maintenance is currently unregulated, rule revisions to reregulate it would be required prior to addressing any policy changes in treatment of revenues and expenses.

OPC also argues that the hearing procedure as set forth in Order No. PSC-92-1320-PCO-TL would allow Southern Bell to present its side of the quality of service and incentive regulation issues in the January/February hearings, and would preclude introduction of opposing evidence at that time, if the evidence related to matters in the investigation dockets. To this end, OPC asserts that all quality of service issues, including the Company's performance under the incentive plan, as well as its sales and repair activities, should be heard at the same time as its proposal

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for further incentive regulation. In addition, OPC states that the parties are not the same in the rate case and the investigation dockets.

In order to resolve this, OPC proposes that we conduct a "plain vanilla" rate case during the hearing dates of January 25 through February 10, 1993. All quality of service items and incentive plan items would be deferred until combined hearings to be held in April. Alternatively, OPC proposes that all issues be heard in their entirety in the January/February hearings.

Southern Bell responds that "the problem with Public Counsel's argument is the implied contention that the isolated issues that are a part of [the Investigation dockets] are the primary and overriding matters to be considered by this Commission in judging Southern Bell's quality of service throughout the last four years." Southern Bell argues that the current procedure "will effectively deal with Public Counsel's concerns without resorting to the inappropriate procedure that it advocates." Finally, Southern Bell notes that parties in the rate case with a substantial interest in the investigation dockets' issues may intervene in those dockets.

Based upon our decision above to consolidate the dockets, OPC's request to hold a "plain vanilla" rate case shall be denied. We believe that consolidation of the dockets effectively deals with OPC's concerns.

Finally, OPC argues that we should include an issue about mismanagement by Southern Bell, even though such an issue is already included in the investigation dockets. Southern Bell opposes this position, arguing that no one has alleged any mismanagement apart from matters related to the investigation dockets. Based upon our decision to consolidate the dockets, OPC's request shall be denied on this point. Such an additional issue is unnecessary, since all issues in all four dockets will be decided at the same time.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Dockets Nos. 920260-TL, 900960-TL, 910163-TL, and 910727-TL shall be consolidated. It is further

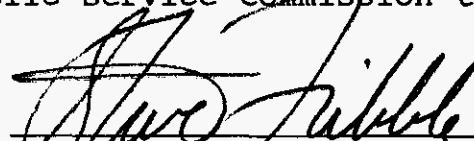
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ORDERED that the Office of Public Counsel's Motion for Review of Order Establishing Procedure, filed October 26, 1992, is hereby found to be moot. It is further

ORDERED that the Office of Public Counsel's Motion for Review of Additional Order on Prehearing Procedure, filed November 23, 1992, is hereby denied, except to the extent that Order No. PSC-92-1320-PCO-TL is hereby clarified, as set forth herein. It is further

ORDERED that these dockets shall remain open.

By ORDER of the Florida Public Service Commission this 15th day of March, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ABG

Commissioner Deason dissented from the decision to deny reconsideration of the inside wire issue.

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

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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.