

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-93-1136-PCO-TL
AND TELEGRAPH COMPANY for) ISSUED: August 4, 1993
misbilling customers.)
_____)

**ORDER GRANTING PUBLIC COUNSEL'S MOTION TO COMPEL
ANSWERS TO DEPOSITION QUESTIONS**

On February 24, 1993, Public Counsel filed a motion seeking an order compelling Southern Bell employees Etta Martin and Danny King to answer deposition questions and to strike the affidavit of Danny King. Southern Bell filed its response to these motions on March 8, 1993. This order will address the motion to compel answers to deposition questions. The motion to strike the affidavit of Danny King will be addressed in a subsequent order.

Public Counsel deposed Etta Martin, BellSouth Telecommunications Manager, Information Systems and Danny King, BellSouth Telecommunications Assistant Vice-President, Central Operations on January 12, 1993. 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", the 1991 Operational Review Audit and a statistical analysis performed under the direction of Danny King. The questions concerned the methodology followed, the databases used, the contents of the various reports and statistical analysis,

DOCUMENT NUMBER-DATE

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the specific findings which resulted in remedial measures which were taken by the Company and the reason various individuals in the BellSouth organization were informed of the findings of the various audits and the analysis. At deposition, Southern Bell objected to these lines of questioning on the basis that the audit reports and the statistical analysis are protected under the attorney-client privilege and work product doctrine.

Through various requests for production to Southern Bell in this docket, Public Counsel has sought production of the audit reports and the statistical analysis. 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 documents. 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 affirmed on reconsideration the Prehearing Officer's holding that the audit reports are not protected from discovery under the attorney-client privilege and work product doctrine. Likewise, in Final Order No. PSC-93-0517-FOF-TL, this Commission has affirmed on reconsideration the Prehearing Officer's holding that the statistical analysis performed under the direction of Danny King is not shielded from discovery under the attorney-client privilege and work product doctrine. Hence, inquiry into these areas 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 August, 1993.



Susan F. Clark, Commissioner
and Prehearing Officer

RCB
(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.