

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for approval of) DOCKET NO. 941060-TL
tariff filing to introduce) ORDER NO. PSC-94-1528-POF-TL
Application Testing in the) ISSUED: December 12, 1994
Private Line Services Tariff by)
BELLSOUTH TELECOMMUNICATIONS,)
INC. d/b/a SOUTHERN BELL)
TELEPHONE AND TELEGRAPH COMPANY)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER APPROVING TARIFF

BY THE COMMISSION:

On September 30, 1994 BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) filed a tariff to introduce Application Testing in its Private Line Tariff.

The Company's Proposal

Southern Bell seeks to introduce a marketing concept referred to as Application Testing into Section B2 of its Private Line Tariff. The Company also proposes to modify Section B7 of its Private Line tariff to allow Application Testing for SynchroNet service. SynchroNet service provides for the simultaneous two-way transmission of synchronous digital signals at speeds of 2.4, 4.8, 9.6, 19.2, 56, and 64 kilobits per second between a customer's multiple locations.

Application Testing allows potential subscribers to test certain tariffed private line services for a period not exceeding sixty (60) days. Nonrecurring and recurring charges will not be assessed during the trial period. Southern Bell is reviewing its services to determine which services are feasible for application testing. For such services that are currently in Southern Bell's tariffs, Southern Bell will modify the tariffs to allow for their

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use in application testing. For such services for which initial tariffs would be offered and application testing is sought, those tariffs will be filed with special provisions that allow for application testing.

Upon completion of the test, if the customer finds that the performance of the Company's services are unacceptable, the application test service will be removed without charge to the customer. At the end of the test period, if the customer wants to retain the service and no service reconfiguration is necessary, the customer will be billed the appropriate nonrecurring charges and monthly billing will begin at that time. If the customer needs to have the service reconfigured at the end of the trial period, the customer will be responsible for nonrecurring charges for both the application test service and the reconfigured service as well as the monthly recurring charge.

Impact on Customers

There is no negative impact on potential private line service customers due to this proposal. Customers that try a service under this proposed tariff do not pay nonrecurring and recurring charges during the trial period.

There was concern that the proposed tariff language as filed in Section B2.1.16(B) could be interpreted to suggest that Southern Bell could apply the tariff in a discriminatory manner among customers when determining to whom it could provide application testing. Southern Bell stated that the language was designed to inform customers that at the Company's discretion only certain services would be deemed feasible for application testing. Subsequently, Southern Bell modified the proposed tariff language of Section B2.1.16(B) as follows:

Services that are utilized in an application test with a customer may be provided without charge for an application test period of up to sixty days. Such service is provided by the Company for the specific purpose of conducting an application test with a customer and is not intended to be utilized as a substitute for temporary service. (Emphasis added)

We find this modification to be appropriate, because it alleviates the concern that the tariff might be applied in a discriminatory manner.

Intermedia Communications of Florida, Inc. (Intermedia or ICI) raised concerns that approval of Southern Bell's tariff amounts to

additional pricing flexibility for Southern Bell. Intermedia argues that, in essence, Southern Bell plans to give away the service for 2 months. As a competitor, Intermedia states that it is not in a position to do that. ICI also states that the Commission has previously approved promotional opportunities with definite time periods. ICI asserts that this tariff, however, would be an open-ended tariff that would allow the company essentially to give away the service for 2 months. ICI notes that Southern Bell states that one of the purposes is to allow the customer to test this service before making a major financial commitment to this service. ICI suggests that could be done by just delaying the time the customer has to commit before signing a long-term contract.

Florida Cable Television Association, Inc. (FCTA) urges us to deny this tariff as a matter of fairness. FCTA suggests that Southern Bell will argue that it needs flexibility to do what competitors will do in the marketplace. FCTA submits that competitors cannot do what Southern Bell can do. First competitors cannot possibly afford to provide 60 days free service uniformly available to all their customers, because competitors have to cover their costs to stay in business. Second, competitors cannot effectively compete with the local exchange companies (LECs) until certain statutory barriers are removed from the private line market, such as offering private line service to unaffiliated entities or offering switched services. In addition, the private line market is overwhelmingly dominated by the LECs and will be until competitors are legally able to provide the same type of services as the LECs. FCTA requests us to maintain the status quo until private line services are deemed to be effectively competitive and suggests that Southern Bell could resubmit its tariff at that time.

Southern Bell responded that the market realities are such that there is competition. Also, customers have requested this type of service. Southern Bell states that the primary focus of this type of service is to ensure that its customers have an opportunity to test what they ultimately want to buy. The Company also asserts that the focus of this service is not to be anti-competitive. Southern Bell states that other entities in the marketplace are currently able to undertake this type of process to provide a trial period and are able to do so in a non-regulated environment. Southern Bell provides that it cannot.

We view Application Testing as a means of providing better customer service rather than as anti-competitive pricing flexibility. Application Testing allows customers to try a service

prior to making a purchase. This may increase the likelihood that customers will be satisfied with the service purchased.

Impact on the Company

The most obvious impact will be Southern Bell's foregone revenue due to not assessing the nonrecurring and recurring charges during the trial period. This revenue loss should be offset by the demand stimulated for the services via Application Testing as well as by revenues already being earned by the services. The Company will not provide Application Testing for services that require new or additional investment. The Company expects that as many as 85% of the customers that use Application Testing for a private line service will subscribe to that service. Southern Bell bases its success rate estimate upon information gathered from potential customers via the Company's marketing representatives.

The Company's current annual contribution from SynchroNet is \$9,073,084.80. The Company estimates that the first year's foregone revenues for providing Application Testing for SynchroNet service will be \$101,094.52. The estimated contribution that is expected from customers subscribing to SynchroNet after using Application Testing is \$77,913.72. SynchroNet's annual contribution after the first year of Application Testing is expected to decrease by \$23,170.80 or .3%. This is a very small portion of the contribution.

Conclusion

We approve Southern Bell's tariff as modified to introduce Application Testing into the general regulations section of the Private Line Tariff as well as introduce Application Testing into the SynchroNet service section of the Private Line tariff. The customers are not assessed a nonrecurring or recurring charge during the trial period. The Company has an opportunity to increase the number of subscribers to its private line service with very little change in its contribution.

It is therefore,

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company's tariff as modified to introduce Application Testing into the general regulations and SynchroNet service sections of its Private Line tariff is hereby approved with an effective date of November 29, 1994. It is further

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ORDERED that if a protest is filed in accordance with the requirements set forth below, the tariff shall remain in effect with any increase in revenues held subject to refund pending resolution of the protest. It is further

ORDERED that if no protest is filed in accordance with the requirements set forth below, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 12th day of December, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Ferguson
Chief, Bureau of Records

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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.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on January 3, 1995.

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In the absence of such a petition, this order shall become final on the day subsequent to the above date.

Any objection or protest filed in this docket before the issuance date of this Order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this Order becomes final on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the date this Order becomes final, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.