BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Southern Bell Telephone and Telegraph Company's Public Packet Switching Network Tariff (T-87-183 filed 6/5/87)	DOCKET NO. 870766-TL ORDER NO. 20828 ISSUED:3-1-89

The following Commissioners participated in the disposition of this matter:

KATIE NICHOLS, CHAIRMAN
THOMAS M. BEARD
GERALD L. GUNTER
JOHN T. HERNDON
MICHAEL McK. WILSON

ORDER ON PACKET SWITCHING AND PROTOCOL CONVERSION

APPEARANCES:

LEN ANTHONY, 666 Northwest 79th Avenue, Miami, Florida 33126, Telephone No. (305) 263-2622, appearing on behalf of Southern Bell Telephone and Telegraph Company.

VICTORIA MONTANARO, Class B Practitioner, Office of the Public Counsel, c/o The Florida House of Representatives, The Capitol, Tallahassee, Florida 32399-1300, Telephone No. (904) 488-9330, appearing on behalf of the Citizens of the State of Florida.

TRACY HATCH, FPSC Division of Legal Services, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863, Telephone No. (904) 487-2740, appearing on behalf of the FPSC staff.

PRENTICE P. PRUITT, FPSC General Counsel's Office, 101 East Gaines Street, Tallahassee, FLorida 32399-0861, Telephone No. (904) 488-7464, appearing as Counsel to the Commissioners.

BY THE COMMISSION:

I. BACKGROUND

This docket was initiated upon Southern Bell Telephone and Telegraph Company's (Southern Bell's) filing of a tariff to introduce PulseLink(SM) Public Packet Switching Service. Packet switching is a means of transporting data through the economical and efficient use of a switched transmission network. In packet switching, a data transmission stream is comprised of a series of discreet units called "packets." Each packet contains network routing information and transmission error detection information as well as the actual data being transmitted. The packetized data is transported via high speed, multiplexed technology that has been used internally for years by the Company to increase the transmission capacity of existing transmission facilities. The principal function of packet switching is the efficient interconnection of customer computer terminals or host computers.

DOCUMENT NUMBER-DATE
02208 MAR-1 1989
FPSC-RECORDS/REPORTING

Essential to the transmission of data between computers is the ability of each computer to communicate with the other. Computers communicate according to certain rules of data transmission called protocols. There are numerous rival protocols in existence. In order to allow computers utilizing different protocols to communicate, the data transmission must be converted to a uniform protocol through the process of protocol conversion. Protocol conversion is the essential factor to the widespread availability of data base and other information services.

Protocol conversion has been classed as an "enhanced service" by the Federal Communications Commission (FCC). As a result, pursuant to the FCC's Computer Inquiry II Southern Bell was previously allowed to provide protocol conversion only on a structurally separated basis. BellSouth Advanced Networks (BSAN) was created by BellSouth to provide protocol conversion in conjunction with Southern Bell's packet switching service. Judge Greene, in the course of his triennial review of the MFJ, modified the MFJ's strictures to allow the Bell Operating Companies to provide protocol conversion. Despite this, the FCC retained the enhanced service designation for protocol conversion in its Computer III decision. The FCC did remove the structural separations requirements to allow the local operating companies to provide protocol conversion through accounting separations. Southern Bell currently has a waiver of the Computer II structural separations requirements. The FCC's Computer III decision has been appealed in the Ninth Federal Circuit. Southern Bell specifically appealed the FCC's retention of the enhanced service designation for protocol conversion in the D.C. Circuit. This appeal has been consolidated with the Ninth Circuit appeal.

By Order No. 18152, issued September 15, 1987, we approved Southern Bell's packet switching tariff. However, the issue of protocol conversion was set for further investigation and hearing. Only Southern Bell and the Office of the Public Counsel participated as parties in this proceeding. We conducted a hearing on September 22, 1988 at which Southern Bell provided the only witness. Our decision is set forth below.

II. TECHNICAL PACKET SWITCHING/PROTOCOL CONVERSION

A complete description of packet switching and its integral relationship with protocol conversion is essential to an understanding of our decisions discussed below. PulseLink(SM) is Southern Bell's public packet switching network (PPSN) intraLATA data transport switched service. It is an optional type of transport service. The charges for PulseLink(SM) are in addition to the ordinary charges associated with communication links (e.g. business or private lines).

Packet switching is analogous to the auto train wherein an automobile is sent via normal transportation routes (switched access or private lines) to the rail loading facility (access port concentrator) to be placed on a railroad car (packet) to go via the tracks (56 kbps line) to a rail yard (packet switch)

for switching to another location. Some autos may be loaded on the railroad car and transported with basic (x.25 or x.75 protocol) treatment. Others may require preshipment preparation by a separate subcontractor (protocol conversion; for example, from asynchronous to x.25) before they may be hauled. Once the railroad cars reach the switching station (packet switch), they may be routed to a local destination or to a distant location via a long-haul transmission provider.

Packet switching is the most economical data transport method yet developed for low to medium speed data due to the large scale multiplexing done in the network. The primary advantage is efficient sharing of network elements among multiple users, reducing transmission costs while increasing reliability and performance. In addition, because the packet is error-checked at each packet switch, it is also the most error-free form of switched data transport available to the data market.

A customer terminal presents a data message to the network broken into finite groups of characters called bits. These bits are collected into things called packets at an access concentrator. The access concentrator multiplexes the signal onto a high-speed transport facility to a packet switch. The brain of the PulseLink(SM) network is the packet switch. It reads the packet header and routes the packet on toward its destination. The network routes the packets in accordance with information contained in a part of the packet called the header. Each packet also contains a sequence number and error detection information. The protocol defines how the packet is constructed, and what it must contain. PulseLink(SM) packets contain a maximum of 4096 bits (512 octets) of user information, plus the transmission and error control information.

PulseLink(SM) may be accessed through two options, direct and dial. Direct access (private line) can be either analog or digital. Dial access is available only through vendors who market and enhance (convert to another protocol) the "basic" PulseLink(SM) service. BellSouth's vendor is BellSouth Advanced Networks (BSAN).

The provider (i.e. vendor) of the dial port must subscribe to a dial access line from Section A29.2 of the GSST. This dial access line gives the port provider a phone number associated with the port and a connection from the main distribution frame to the port. The vendor sells an enhanced (where the protocol was converted) version of the packet switching service to its customers (e.g. information services like CompuServ and Westlaw data bases). Enhanced packets, used in the context of this filing, are those to which a net protocol conversion has occurred. Thus, enhancements (protocol conversions) to the basic protocols offered in this tariff are available to the public only on a detariffed basis through vendors, like BSAN, who subscribe to PulseLink(SM) service.

There are three types of recurring rate elements involved in PulseLink(SM) service: 1) A Basic Protocol Transport which is billed in segments, 2) A Network Utilization Rate Element (N.U.R.E.), which applies to vendors who market

protocol converted service, which is a surcharge for enhanced protocols, and 3) an Access Port charge for the access line terminating into the PulseLink(SM) network.

Except for the call set up when the Fast Select option is used, all transport is billed in segments. Segments are based on actual usage. The customer is billed for the actual number of segments transported within each packet. The Fast Select call set-up option allows the customer to transmit up to 128 octets, composed of both the set-up information and user data. A separate charge applies per call set-up when the Fast Select option is used; however, standard segment charges apply for any additional segments transported after the initial call set-up.

There are several categories of purchasers of PulseLink(SM). First, there will be information providers (databases) like CompuServ, Lexis and Westlaw. Second, there will be record carriers like BSAN, Western Union, Tymnet and Telenet that wish to provide the long haul themselves and to purchase the local distribution service (packet switching) from Southern Bell. It is these subscribers that will be subscribing to the service from Southern Bell while end-users will, in turn, be their customers. It is important to note that packet switching, with or without protocol conversion, allows its subscribers to accommodate more of their customers without buying more ports because the service allows several end-users to share the same transport facility through multiplexing. This means that the subscribers' investments, all other things being equal, can be more efficiently utilized.

It is anticipated that 70% of the data transported on the PulseLink(SM) service will need some form of protocol conversion. Most of these are anticipated to be asynchronous (transmission in which time intervals between transmitted characters may be of unequal length e.g. keyboard terminals) to synchronous conversions. The classic example is from end-users with personal computers to information service providers' data bases.

In general, protocols are the rules which govern the transfer of information. With respect to data transmission, protocols define the manner in which data terminals, networks and computers interact and communicate with each other. For example, protocols may: 1) coordinate timing between transmitting and receiving terminals (synchronization); 2) set modem frequencies for sender and receiver; 3) detect and correct errors; 4) check the identity of the communicating parties; and 5) provide network features such as closed user groups or reverse charging. A precise inclusive definition of the functions of protocols is problematic because protocols are being designed to perform more and more functions as the cost of the electronics decreases.

Protocol conversion is the process of converting from one protocol to another. Low-level protocol conversion, simply stated, includes those protocol functions that do not manipulate the content of the data beyond that which is necessary for transparent transmission of that data. Technically, these include the first three layers (physical, link and network), defined by the International Standards

Organization, and which are embodied in the X.25 and X.75 "basic" packet switching protocols.

Companies have been finding better ways to handle data more efficiently through innovative protocols. However, businesses are not prone to share with one another their proprietary inventions. Even were they so benevolent, competitors may not wish to alter their operations to conform to a different protocol. Thus, not all terminals or systems follow the same protocol. Without the ability to convert one protocol to another, there would be no way to integrate the vast majority of computers for intercommunication. This is the most compelling reason for the necessity of integration of protocol conversion with data transmission.

III. AUTHORITY OVER PROTOCOL CONVERSION

The FCC has expressly declared that protocol conversion is an enhanced service. The FCC has also expressly preempted the regulation of enhanced services by the states. Southern Bell argues, and we agree, that protocol conversion is a basic service and that it should be offered on an intrastate regulated basis. The record amply demonstrates that protocol conversion is integral to an efficient packetized switched data transport network. As such, it is, and should be, classed as a basic service. This is the basic thrust of BellSouth's appeal in the D.C. Circuit which has been consolidated with the bulk of the various appeals of Computer III in the Ninth Circuit.

More importantly, the Communications Act of 1934 expressly reserves to the states the regulation of purely intrastate telecommunications services. As was argued by Southern Bell in its brief, the D.C. Circuit's decision upholding the FCC's preemption of state regulation of CPE and enhanced services in Computer II addressed only CPE. The basis of the decision was that a piece of CPE could not be practically separated into separate jurisdictions. The Court did not rationalize its decision to uphold preemption of state regulation of enhanced services. The FCC retained its Computer II preemption of state regulation of protocol conversion as an enhanced service in its Computer III decision. However, it is important to note that the Communications Act of 1934 makes no distinction between enhanced and basic services. By its classification scheme of enhanced versus basic, the FCC has neatly sidestepped the question of its authority to preempt the states on the provision of protocol conversion. The essential question is whether protocol conversion is an interstate or an intrastate service. Since the Communications Act of 1934, there has been a clear dividing line between inter and intrastate in the area of switched services. It is clear to us that in a packetized switched data transmission context, protocol conversion is at least, in part, an intrastate service. To that extent, the service is subject to the Commission's jurisdiction. Accordingly, we find that we have the authority to require Southern Bell to provide protocol conversion on a regulated basis.

We again note that Computer III is on appeal in the Ninth Circuit. The issue of FCC preemption of state regulation of protocol conversion will be decided by the federal appellate courts.

IV. PROVISION OF PROTOCOL CONVERSION ON A REGULATED BASIS

Having determined that we have jurisdiction over the provision of protocol conversion, the question arises as to whether it would be appropriate to require Southern Bell to provide protocol conversion on a regulated basis. The parties agree that it is best for the consumer that some entity provide protocol conversion. Further, the parties also agree that, because of the ubiquity of the telephone company's network it would be efficient for the telephone company to provide the service. We note that Southern Bell currently provides protocol conversion in certain of its central offices under an FCC structural separations arrangement. BSAN, Southern Bell's affiliate, markets the service as part of Southern Bell's PulseLink(SM) Service.

Southern Bell's position on this issue is, at best, clouded with rhetoric. The Company states that "protocol conversion must be offered on the same regulatory basis at both the state and federal levels." However, it ignores the fact that PulseLink(SM) is offered under different conditions in each of its operating states. The Company also alleges that different regulatory requirements could result in Southern Bell being forced to market this service in different ways depending upon the jurisdiction. However, Southern Bell's witness admitted that the rates in Kentucky and South Carolina are already different; they are allegedly market-based and a little higher than in Florida.

The Company complains that differences between jurisdictions would be especially troublesome from a customer confusion and inconvenience viewpoint given that the jurisdiction can change from call to call. We disagree. This type of difference is not unique to packet switching. That is, the average telephone user is familiar with the differences between a toll and local call. Furthermore, the average packet switching purchaser, for example, BSAN or an information service provider, is more sophisticated than the average telephone user.

When we initially approved Southern Bell's PulseLink(SM) tariff we did so because we believe that service to be an important step into the information age. However, we did not and do not subscribe to the FCC's "basic" and "enhanced" dichotomy with respect to packet switching or protocol conversion. This issue goes right to the heart of the question of whether we must accept the consequences of terms coined by the FCC without any apparent authority. The Southern Bell's witness stated that 85% of the packet switching transmissions require protocol conversion and that, without this service, packet switching service would die. Further, the ubiquity of Southern Bell's network among the ultimate end users makes it efficient for the Company to be in the protocol conversion business. As noted above, In fact, the company actually provides protocol conversion now. All that BSAN does is market the service for the Company. We see no real benefit in having a separate subsidiary perform this function. Upon

consideration of the above, we find it appropriate to require Southern Bell to provide low level protocol conversion on an intrastate regulated basis. Accordingly, Southern Bell is hereby directed to file a revised tariff offering protocol conversion as an integral part of its packet switching service within 30 days of the date of the issuance of this Order.

V. PROTOCOL CONVERSION RATES AND RATE STRUCTURE

As mentioned previously, PulseLink(SM) may be accessed through two options, direct and dial-up. The Company could recover the costs of providing low level protocol conversion with direct access (e.g. private line) with only a small increase in the segment charges to pick up the costs of protocol conversion. Dial access is more complex.

Currently dial access is only available to information service provides (ISPs) or enhanced service providers (ESPs) who market and enhance (provide protocol conversion to) PulseLink(SM). These entities, for example BSAN, obtain, and are billed for the dial access lines, central office data sets and asynchronous protocol access ports from the Company. They in turn bill their customers (end users) for the use of their networks including the costs of the above-mentioned items. If dial access is made available to anyone who dials the access line number, different billing must be arranged.

The Company suggested that, if the Commission requires it to provide low level protocol conversion, a usage sensitive charge should be billed for dial access in addition to the increase in the segment charge for protocol conversion.

We have not examined any specific rates or rate structure in the course of this proceeding. However, we conceptually agree with the Company's rate structure suggestions. Accordingly, when the Company files its tariff as directed above, it should include a rate structure as follows:

1) For direct terminations - add an amount to existing segment charges to recover conversion costs and

2) For dial-up terminations - add an amount to existing segment charges to recover conversion costs and add a new usage based element to recover the dial access line, central office data set and asynchronous access port.

When the tariff is filed we will examine the rates proposed by the Company. We note that Southern Bell considers BSAN's protocol conversion rates to be proprietary. However, we will consider the costs and revenues of this service in the setting the rates for protocol conversion.

VI. COMPENSATION PAYMENTS

In the course of the proceeding, the question arose as to if the Commission determines that protocol conversion should not be regulated, whether any form of payment other than

tariffed rates from BSAN to Southern Bell to compensate Southern Bell for the facilities, services, personnel and other advantages that BSAN receives from Southern Bell would be appropriate. Having determined above that protocol conversion shall be a regulated service, we normally would not need to address this issue. However, the previously noted Ninth Circuit litigation regarding protocol conversion may necessitate revisiting this issue. Accordingly, we include a discussion of this issue.

Initially it should be noted that Southern Bell argues that the Commission does not have the authority to impose any charge to an unregulated subsidiary other than the tariffed rate elements. In support of its argument, the Company states that Section 364.035, Florida Statutes, requires that all charges must be just, reasonable and compensatory for the services provided and that the statute does not allow for the imposition of charges that are not imposed for services rendered.

The Company further argues that since any additional charge will not be for service rendered that it must be a compensation payment or a surcharge. Southern Bell states that compensation payments are usually designed to compensate one company for trading on another company's name and reputation, i.e. "goodwill." Further, Southern Bell argues that the ratepayers are not entitled to any of the value of the company that is attributable to "goodwill". Public Counsel argues that the Commission has the authority to either impute a compensation payment from BellSouth Advanced Networks to Southern Bell or to consider the revenues and expenses of BSAN above the line for the purpose of setting rates.

We note that we previously held that the Commission has the authority to require a compensation fee from an affiliate of a local exchange company. By Order No. 19839 issued March 2, 1988 in Docket No. 870285-TI, the Commission required United Telephone Long Distance (UTLD) to pay a compensation fee to United Telephone Company of Florida (UTF). The compensation fee was imposed to compensate UTLD for the intangible benefits that it received from UTF. We also note that the compensating payment issue in the UTLD certification order has been appealed to the Florida Supreme Court. The Court will rule on the extent Commission's authority to exact compensation from LEC affiliates or to impute such compensation to the LECs.

With respect to whether some form of compensating payment should be imposed on BSAN to Southern Bell in the event that the Ninth Circuit litigation results in a loss of our authority to require protocol conversion to be offered on a regulated basis, on the limited record before us we would decline impose a compensation payment. Our decision is set forth below.

Southern Bell takes the position that the imposition of royalty payments or additional tariffed rates would severely limit the ability of BSAN to compete effectively. As a result, the revenues of Southern Bell would decrease, hence, the general body of ratepayers would be worse off. Finally, Southern Bell's witness DeHaney contends that contribution from the packet switching rates currently in effect is sufficient.

Public Counsel takes the position that the Commission should either impose royalty payments on BSAN or impute the revenues and expenses of BellSouth Advanced Networks to Southern Bell for the purpose of setting regulated rates.

In Docket No. 870285-TI, Application of United Telephone Long Distance (UTLD) for Resale Certificate, the Commission determined that a compensation payment was due the regulated local exchange company, United Telephone of Florida, for intangible benefits received by UTLD as a result of its affiliation with UTF. Those benefits were listed as including but not limited to "...use of the United name; use of the United logo; reliance on the United reputation; immediate access to financing; and the ability to capitalize on a trained, skilled workforce." See Order No. 18939.

The compensating payment is based on a formula. The payment consists of a percentage of the difference between net revenues (gross revenues minus uncollectibles) and originating and terminating access charges. The amount of the payment is capped at a specific percentage of net operating income. See Order No. 18939.

As discussed previously, packet switching employs digital technology to allow multiple users to share a single data transport circuit virtually simultaneously. It facilitates the transmission of data and the interaction between computers and data bases. Southern Bell currently provides packet switching service (PulseLink(SM)) pursuant to tariff. BSAN only provides protocol conversion. It markets this service in conjunction with its marketing and resale of Southern Bell's packet switching.

This situation is different from that found in UTLD's certification proceedings. No evidence in this case was provided regarding the logo of BSAN, the reliance of BSAN on the Southern Bell name, the immediate access of BSAN to Southern Bell financing, or the ability of BSAN to capitalize on a trained skilled workforce. Using the UTLD proceeding as guide, the basis for imposing a compensation payment on BSAN at this time has not been clearly established.

In addition, there are other significant differences from the UTLD situation. First, it does not appear that the general body of ratepayers currently exerts an overwhelming demand for packet switching and protocol conversion. Witness DeHaney stated that typical customers might include Dow Jones, credit card verification businesses, IXCs, Tymnet, Telenet and Lexis. Customers subscribing to packet switching must have a computer terminal or some type of acoustic coupler in order to access the packet network. Second, end-users that are subscribing to packet switching as a data transport service would be billed directly for the service. However, data base vendors and other service type providers will have the option to reverse bill usage such that their customers will not be billed except by the vendors. Finally, unlike toll customers who are forced to select a carrier through equal access balloting or initial service request, packet switching customers must seek out or request service.

While we agree with Southern Bell that compensating payments are not necessary in this case, we do not agree that simply maintaining cost compensatory rates is justification for not requiring a compensating payment. The issue is broader than whether rates charged to affiliates and competitors contain contribution.

Given the scarcity of evidence, the clear difference between packet switching and toll service, the limited demand for the service, and the apparent lack of interest by potentially effected parties, we do not find it appropriate to impose compensating payment requirements on BSAN. Should we later determine to revisit the issue of compensating payments, we will also explore the type of payment mechanism that should be used.

VII. RATES AND RATE STRUCTURE FOR ACCESS TO PACKET NETWORKS

One of the more troublesome questions that that has arisen regarding packet switching is the rate structure and rate levels imposed for access to the local network. One suggestion that has been raised is to apply switched access charges to PulseLink(SM). This is based on the idea that this use of the local exchange network is no different from that made by other users of exchange access. However, this issue is broader than just the PulseLink(SM) service. For example, companies such as Telenet and Tymenet also operate packet switched networks. If Southern Bell is to impose access charges for PulseLink(SM), other interLATA packet switched networks should have similar charges embodied in their rates for access. More importantly, this issue is related to the central question of whether access charges should apply to data communications and other enhanced services generally.

The issues of the rate structures and rate levels for information service features and access interconnection to the local exchange network related to the provision of information services are currently under consideration in the generic Information Services Docket (Docket No. 880423-TP). Since this proceeding is designed to address the access rate question for packet switching as well as enhanced services, we find it appropriate to address this issue in Docket No. 880423-TP. Once the full guidelines are established in the Information Services docket, we will have more clear indication of the appropriate rates and structure for access to PulseLink(SM).

VIII. INTERCONNECTION RATES FOR NONLEC PACKET SWITCHING USERS

In the course of this proceeding the question arose as to whether the rates charged by Southern Bell to BellSouth Advanced Networks for access to the PulseLink(SM) network should differ from the rates charged by Southern Bell to other enhanced service providers for access to PulseLink(SM) or other packet switching networks. Southern Bell takes the position that charges to BSAN for access to PulseLink(SM) should be the same as charges to ESPs for use of like facilities. However, Southern Bell also believes that BSAN

should not be required to pay for local loop facilities that it does not utilize. Southern Bell argues that the FCC allowed this difference in access connection rates when it granted the asynchronous to X.25 waiver order to the BOCs.

Southern Bell currently provides PulseLink(SM) directly from its central offices. Hence, the Company does not utilize any local loop facilities to obtain access to its packet network. The only problem with this is that Southern Bell does not desire to permit its competitors to collocate their services within the Company's central offices. Southern Bells proposal is to charge BSAN approximately $13.50 per month for a short "jumper" and its competitors approximately $22.00 per month for a loop to gain access to the packet switching network. Southern Bell's witness referred to this difference as a collocation efficiency.

Collocation problems are not new to this Commission. When developing interLATA special access charges, for example, the Commission addressed this problem by ordering that anyone connecting within a half mile of the central office would pay a "no loop" rate in order to "keep the playing field level." Since a subsidiary of Southern Bell is involved, it appears that it is even more important to keep a level playing field than when A.T.&T. was being divested.

PulseLink(SM) rates are established in the tariff and should be evenly applied to all those that wish to avail themselves of the service. The very purpose of a tariff is to publicize the rate(s) to avoid undue discrimination. There appears to be two equitable solutions to the problem created by Southern Bell's proposal; both involve charging all takers the same rate. First, everyone could be charged the same rate including the loop. This would result in Southern Bell over-recovering revenue on the loop element because the service provided to BSAN costs less than the revenues derived. Second, everyone could be charged the short jumper rate. This would result in Southern Bell underrecovering on this element. We would note, however, that the difference of $8.00 per line per month between the alternatives is relatively small compared to the revenues projected in the tariff's supporting documentation.

While the record does not reveal the level or geographic distribution of the demand for packet switching, it is logical that BSAN will connect at all locations that are projected to have enough packet traffic to support the incremental cost of Southern Bell adding packet switching to its existing access network. The record does indicate that BSAN is the source for approximately 85% of PulseLink's(SM) demand. Since competitors do not enjoy Southern Bell's network infrastructure, it is also logical that they will connect at fewer places. If the choice is to overcollect by charging BSAN more at many locations or, alternatively, to undercollect by charging competitors less at a few locations, it appears that the better course is to adopt the latter policy. Moreover, it does not appear that the latter policy will result in Southern Bell's provision of the access loop below its marginal cost.

It may also be in the best long-run interest of the ratepayers to foster this service for the fledgling information

services industry. In Southern Bell's Rate Flexibility Docket, the Commission allowed Southern Bell certain earnings flexibility in order that previous disincentives of rate base regulation be mitigated. Among these was the disincentive to provide new services. See Order No. 20162. We believe that charging all customers the same lower rate in this instance will serve to increase the marketability of PulseLink(SM) not only for BSAN but other customers as well.

Upon consideration of the above, we find it appropriate that all customers be charged the same rate for access to the PulseLink(SM) network and that this rate shall be the same as the rate Southern Bell charges for the access that utilizes the short "jumper." While it may encourage greater use of the service, this will cause a lesser degree of distortion from the ideal situation where customers were charged exactly what costs they cause.

XI. AVAILABILITY OF PACKET SWITCHING

With the technical advantages that packet switching provides for both information providers and end-use customers we are desirous that the availability of this service be as widespread as practically possible. At present, Southern Bell provides PulseLink(SM) in each of its Florida LATAs except the Pensacola and Panama City LATAs. The Company has no immediate plans to offer PulseLink(SM) in these two LATAs. According to the Company, when it performed its initial analysis three years ago, it did not find a sufficient market for the service in these two LATAs. The Company maintains that "these customers could still access the service via an interLATA private line or by placing a long distance telephone call."

While we would like all Southern Bell customers to have PulseLink(SM) available to them, we also believe that we should allow the Company to deploy the service based on its assessment of the economic viability in a specific location. It would not be in the best interest of the rate payers if the Company was forced, in all cases, to make investments where there was no hope of recovering the costs.

Upon consideration of the above, we find it appropriate that the Company be allowed to deploy the PulseLink(SM) service based on its assessment of the economic viability in a specific location. However, the Pensacola and Panama City LATAs are growing and we expect the Company to periodically reevaluate its PulseLink(SM) deployment decision(s) for these areas with a view towards implementing the service in those areas.

X. FUTURE ACTIONS

As described in the body of this Order we have ordered Southern Bell, among other things, to provide low level rotocol conversion on a regulated basis. This requires the filing of tariffs reflecting our decisions herein. We will examine these tariffs in the course of our normal review

process. This docket will remain open pending this review and any proceedings necessitated by such review.

Based on the foregoing it is

ORDERED by the Florida Public Service Commission that each and all of the specific findings herein be and the same are approved in every respect. It is further

ORDERED that protocol conversion is subject to the Commission's jurisdiction pursuant to Chapter 364, Florida Statutes as set forth in the body of this Order. It is further

ORDERED that protocol conversion shall be offered by Southern Bell Telephone and Telegraph Company on a regulated basis as set forth in the body of this Order. It is further

ORDERED that no compensation payments be imposed at this time as set forth in the body of this Order. It is further

ORDERED that the issue of the rates and rate structure to be imposed on access to packet networks shall be deferred to Docket No. 880423-TP, the Commission's generic investigation into information servives. It is further

ORDERED that Southern Bell shall charge the same rate for access to the PulseLink(SM) network and that it currently charges for the access that utilizes the short "jumper." as set forth in the body of this Order. It is further

ORDERED that Southern Bell shall make PulseLink(SM) available consistent with the discussion set forth in the body of this Order. It is further

ORDERED that Southern Bell shall file tariffs to offer protocol conversion consistent with the decisions in the body of this Order within 30 days of the date of issuance of this Order. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 1st day of March, 1989.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

TH

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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 sewer 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 after the issuance of this order, 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.