

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Tariff Filing by) DOCKET NO. 890505-TL
Southern Bell Telephone and Telegraph) ORDER NO. 22527
Company to restructure and reprice) ISSUED: 2-12-90
private line and special access services)
and to waive nonrecurring charges for)
high capacity services.)
_____)

ORDER GRANTING PUBLIC COUNSEL'S MOTION TO COMPEL
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
TO PRODUCE DOCUMENTS AND DENYING
SOUTHERN BELL'S MOTION FOR PROTECTIVE ORDER

Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) filed, on March 31, 1989, revisions to its Access and Private Line Tariffs which restructure both private line and special access line services. On October 19, 1989, the Office of Public Counsel (Public Counsel) served the Citizens' Second Request for Production of Documents to Southern Bell Telephone and Telegraph Company. Item No. 4 of the Public Counsel's request for production of documents (POD) requested the Company's private line cost study filed in this docket. Item No. 5 of the POD requested the Company's most recent study of ESSX loop costs and Item No. 6 requested each document relating to either the private line cost study filed in this docket or to the Company's most recent ESSX loop study. Southern Bell filed its Response and Objections to Public Counsel's Request for Production of Documents and Motion for Protective Order on November 27, 1989. In its response, Southern Bell stated that it would not produce its Private Line/Special Access Cost Study, pending a Commission decision on the Company's request for specified confidential classification of that document. Regarding Items Nos. 5 and 6, Southern Bell objected on the basis that its ESSX loop cost study is not relevant to this docket since this docket is ". . . solely concerned with Southern Bell's private line/special access services."

On November 28, 1989, Public Counsel filed a Motion to Compel and Opposition to Southern Bell's Motion for Protective Order specifically requesting the Commission to compel Southern Bell to produce the documents requested in Items Nos. 5 and 6 and specifically objecting to the Company's motion for a protective order regarding its Private Line/Special Access Cost Study requested in Item No. 4. On December 11, 1989, Southern

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Bell filed its Response to Public Counsel's Motion to Compel.

Based upon our review of the pleadings, we find that the information sought by Public Counsel in Items Nos. 5 and 6 regarding the Company's ESSX loop cost study may lead to admissible evidence regarding the appropriateness of the private line/special access rate increases and decreases proposed by Southern Bell. While it is true, as Southern Bell asserts, that this docket involves only Southern Bell's private line/special access tariff filing, the evaluation of the costing methodology utilized by the Company for this filing may be enhanced by the consideration of that used by the Company for its ESSX loop costs. The Company is correct that the issue is whether it has complied with our Rule 25-4.044, Florida Administrative Code, which provides how local exchange companies shall calculate their costs for the provision of private line/special access services. However, such compliance can only be determined by evaluating the reasonableness of numerous basic decisions that must be made by the Company in applying the requirements of Rule 25-4.044, Florida Administrative Code. It is very possible that an examination of such decisions made in the Company's ESSX loop cost study will provide a benchmark against which this Commission can test the wisdom of the decisions made herein. Therefore, Southern Bell shall produce this information, subject of course to appropriate requests for specified confidential classification, within 10 days of the issuance of this Order.

Regarding the motion for protective order filed by Southern Bell for its Private Line/Special Access Cost Study requested in Item No. 4, Order No. 22465, issued January 24, 1990, has disposed of the Company's request for specified confidential classification of certain highlighted portions of that document. Accordingly, Southern Bell shall produce that information within 10 days of the issuance of this Order.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner John T. Herndon, as Prehearing Officer, that Southern Bell Telephone and Telegraph Company shall produce the documents requested in Items Nos. 5 and 6 of Citizens' Request for Production of Documents served October 19, 1989, within 10 days of the issuance of this Order. It is further

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ORDERED that Southern Bell Telephone and Telegraph Company shall produce the information requested in Item No. 4 of the Citizens' Request for Production of Documents served October 19, 1989, for which specified confidential classification has been denied by Order No. 22465, within 10 days of the issuance of this Order.

By ORDER of Commissioner John T. Herndon, as Prehearing Officer, this 12th day of FEBRUARY, 1990.

John T. Herndon
JOHN T. HERNDON, Commissioner
and Prehearing Officer

(S E A L)

SFS

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 sewer 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

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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.