

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Southern Bell	)	DOCKET NO. 890256-TL
Telephone and Telegraph Company's	)	ORDER NO. 22797
Capital Recovery Position	)	ISSUED: 4-11-90
	)	

The following commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

ORDER DENYING MOTION FOR FULL  
 COMMISSION REVIEW OF ORDER NO. 22636

BY THE COMMISSION:

Southern Bell Telephone and Telegraph Company (Bell) served its First Set of Interrogatories (the First Set) on the Florida Cable Television Association (FCTA) on August 18, 1989. Interrogatories 25, 26, 27, and 28 concern services currently provided, or anticipated, by the members of FCTA. On September 18, 1989, FCTA responded to the First Set, objecting to these four questions. FCTA argued that the contested questions are irrelevant to Bell's depreciation rescription, not reasonably calculated to lead to the discovery of admissible evidence, and beyond the permissible scope of discovery.

Bell served its Seventh Set of Interrogatories (the Seventh Set) on FCTA on January 26, 1990. Interrogatories 1(a), 1(b), 2, 3, 5, 6, 8, 9, 11, and 14 concern studies made, nomenclature used, equipment used and depreciation practices employed by the members of FCTA. On February 8, 1990, FCTA responded to the Seventh Set, objecting to these ten questions. Again, FCTA argued that the questions are irrelevant to this proceeding and not calculated to lead to the discovery of admissible evidence. These questions were also characterized by FCTA as being unduly burdensome, oppressive, and intended to harass.

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On February 9, 1990, Bell filed a Motion to Compel, seeking an order compelling FCTA to respond to the disputed interrogatories. On February 21, 1990, FCTA filed a Reply to the Motion to Compel and Alternative Motion for Protective Order. By Order No. 22636, issued March 5, 1990, the Prehearing Officer denied Bell's Motion to Compel, finding that Bell had not met its burden of establishing the relevancy of the contested interrogatories.

On March 6, 1990, Bell filed a Motion for Full Commission Review of Order No. 22636. Bell argues that the information sought by these interrogatories is relevant to this proceeding because it will assist the Commission in setting Bell's depreciation rates by providing depreciation rates used in a similar industry. Bell reiterates its argument that the industries are similar and repeats its concern that the cable industry may be about to enter the telephone business. On March 9, 1990, FCTA filed its Response to Bell's Motion for Full Commission Review of Order No. 22636. FCTA argues that the information is not relevant to this proceeding which concerns the represcription of Bell's depreciation rates and that, should the full Commission reverse the Prehearing Officer, it must address confidentiality issues raised in FCTA's Alternative Motive for Protective Order.

The members of FCTA are not regulated by the Commission. Moreover, the cable television service that the FCTA members furnish their subscribers is not similar to the telephone services furnished by Bell to its subscribers. For these reasons, the answers sought by Bell are not relevant to the subject matter of this proceeding, which is to determine the appropriate depreciation rates to be prescribed for Bell. Additionally, the answers are not reasonably calculated to lead to the discovery of admissible evidence. Therefore, information about the depreciation practices of the cable television industry would not be helpful to the Commission in represcribing Bell's depreciation rates. Accordingly, we hold that the Prehearing Officer correctly decided that the contested interrogatories are beyond the scope of the eleven issues involved in this proceeding. We deny Bell's Motion for full Commission Review of Order No. 22636 and affirm the holding in that decision.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Southern Bell Telephone and Telegraph Company's Motion for Full Commission Review of Order No. 22636 is hereby denied.

By ORDER of the Florida Public Service Commission,  
this 11th day of APRIL, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

CWM/DLC

NOTICE OF 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 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

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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.