

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of CITIZENS OF THE STATE)	DOCKET NO. 890190-TL
OF FLORIDA to investigate SOUTHERN BELL)	
TELEPHONE AND TELEGRAPH COMPANY'S Cost)	ORDER NO. 25218
Allocation Procedures)	
	ISSUED: 10/15/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 MICHAEL MCK. WILSON

Pursuant to Notice, a Public Hearing was held in this docket on May 1-2, 1991, in Tallahassee, Florida.

APPEARANCES:

E. BARLOW KEENER, Esquire, c/o Marshall M. Criser, 150 So. Monroe Street, Suite 400, Tallahassee, Florida 32301, TIMOTHY F. COEN, Esquire, 4300 Southern Bell Center, 675 W. Peachtree Street, NE, Atlanta, Georgia 30375, and JOHN P. FONS, Esquire, Ausley, McMullen, McGehee, Carothers & Proctor, 227 S. Calhoun Street, Tallahassee, Florida 32302, on behalf of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY.

JACK SHREVE and CHARLES J. BECK, Esquires, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, on behalf of THE CITIZENS OF THE STATE OF FLORIDA.

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PRENTICE P. PRUITT, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862, on behalf of the COMMISSIONERS.

PARTIES

Florida Cable Television Association (FCTA)
 Florida Pay Telephone Association (FPTA)
 MCI Telecommunications Corporation (MCI)
 Office of Public Counsel (OPC)
 Southern Bell Telephone and Telegraph Company (Southern Bell)
 US Sprint Communications Company Limited Partnership (Sprint)

FINAL ORDER

BY THE COMMISSION:

I. BACKGROUND

On November 18, 1988, OPC filed a Petition to Investigate Southern Bell's Cost Allocation Procedures (Petition). Southern Bell (or the Company) moved to dismiss OPC's Petition. By Order No. 20735, issued February 14, 1989, we recognized Southern Bell's authority to provide customer premises equipment (CPE) on a nonstructural basis without obtaining a waiver of Rule 25-4.0345, Florida Administrative Code. However, as we expressly stated in that Order, this recognition was not to be construed as unconditional approval of Southern Bell's use of BellSouth's cost allocation procedures in its nonstructural provision of CPE.

OPC urged through the Petition that we initiate an investigation into Southern Bell's cost allocation procedures and

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that we set the matter for a hearing. The Petition demonstrated strong reservations regarding whether Southern Bell's cost allocation procedures adequately guard against cross-subsidization of its unregulated operations.

In response and in support of its motion to dismiss, Southern Bell argued that such an investigation was unwarranted, given the scrutiny applied to the cost allocation manual (CAM) in proceedings before the Federal Communications Commission (FCC). Additionally, Southern Bell pointed to routine staff reviews of its own internal and external audits as a further means of assurance against cross-subsidization.

By Order No. 20948, issued March 27, 1989, we granted OPC's Petition. In that Order, we noted, as Southern Bell itself conceded, that the FCC's conditional approval of the BellSouth CAM was in no way binding upon this Commission. We noted, as well, that many of the concerns expressed by OPC paralleled those raised by our staff. Finally, we stated our view that while audits can assure us that cost allocation procedures are being followed, the audits alone would not disclose the adequacy of the procedures themselves in preventing cross-subsidization. For those reasons, we initiated this proceeding.

Numerous orders have been issued in this docket regarding requests for specified confidential treatment. A good number of those orders have been through the reconsideration process. One series of orders (regarding documents alleged to be "like internal audits") is presently on appeal to the First District Court of Appeal. At the time of rendering this decision, two requests for specified confidential treatment remained pending.

A Prehearing Conference was held in this matter on April 9, 1991. The Hearing was scheduled for May 1-3, 1991. The procedures to govern the conduct of the Hearing were set out in Order No. 24366, issued April 15, 1991.

The Hearing was held on May 1 and 2, 1991. At that time, a number of items were stipulated into evidence, including: three staff audits, along with Southern Bell's responses to those audits; the Southern Accounting Task Force Report (SATF Report), along with Southern Bell's responses to the report and the Task Force's reply to the Company's response; and the transcript from the deposition of Ernest Bush. In addition, we took official notice of several

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orders, including the FCC's Order in Docket No. 86-111 (the Joint Cost Order) and the 9th Circuit's decision in California v. FCC (Computer Inquiry Three (CI-III)).

During the Hearing, we entered rulings on certain requests for confidentiality. Those rulings have been embodied in a separate order, Order No. 24634, issued June 7, 1991.

During the Hearing, Southern Bell objected to several portions of the prefiled testimony of OPC's witness Dismukes. We overruled the objection to witness Dismukes' reference to a certain NARUC report on page 25 of her testimony; however, we granted the objection to her reference to a staff report from the Washington, D.C. Public Service Commission and ruled that her testimony be stricken, from Line 16 on Page 48 through Line 6 on Page 51.

Following the Hearing, briefs were submitted by Southern Bell, OPC, FPTA, and FCTA. Neither MCI nor Sprint filed post-hearing briefs; therefore, they have waived their positions.

A final pending matter concerns the confidentiality of certain portions of the staff audit. The pending confidentiality request encompasses materials that are internal audits, as well as certain external audits that the Company argues are like internal audits. The ruling on this matter will be entered by separate order.

II. DISCUSSION

A. Cross-Subsidization

Southern Bell asserts that the CAM establishes a reasonable and supportable basis on which to determine the proper allocation of regulated and nonregulated costs, and that compliance with the CAM prevents cross-subsidization of nonregulated operations by regulated operations. The Company has also stated that when the revenue from a service does not cover the cost of that product or service, and these costs are recovered from revenue from another service, then a cross-subsidy exists.

An issue we attempted to answer in this proceeding was whether a cost allocation manual is an appropriate and effective way to prevent cross-subsidization between regulated and nonregulated businesses. When the FCC first began investigating methods to

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allocate costs between the regulated and nonregulated operations of telephone companies, it determined that a fully allocated methodology would be appropriate. In its order released in Docket No. 86-111 on February 6, 1987, the FCC stated:

We affirm our intention stated in the Notice of Proposed Rule Making to build our cost allocation scheme upon the premise of full allocation of costs. The reason for this is not that we deem full allocation to be synonymous with prevention of cross-subsidy. In fact, we do not entirely disagree with the parties who observe that cross subsidy could, in theory, be avoided when all of the long run incremental costs of an activity are borne by that activity. However, we also agree ... that our purposes should transcend prevention of cross-subsidy. We are seeking to promote an equitable sharing of common costs ...

Order, at Pages 56-57.

If one subscribes to the economic theory that, where a service's incremental costs are being recovered no cross-subsidy exists, then for a declining cost industry, Southern Bell asserts that the assignment and recovery of the service's fully distributed costs would more than protect against cross-subsidy. Under this theory, fully distributed costs allocate the total costs of the company, while incremental costs do not include the company's overheads. OPC's witness points out that when incremental costs are used as a basis for detecting cross-subsidy, it is important to determine how the incremental costs are derived. Also, other factors should be considered such as lost opportunity and whether or not the company would have benefitted by selling a service to someone other than itself. We believe that a fully distributed cost study is adequate for allocating costs between bulk categories since it is a tops down approach and starts with the total costs of the company. If these allocations were done on a service specific basis, the results would be too diluted and arbitrary to have any validity.

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Some of the parties believe that full structural separation should be required to prevent cross-subsidization. OPC, FPTA, and FCTA all believe that separate subsidiaries are a more effective means of deterring cross-subsidization between LEC regulated and nonregulated operations than a cost allocation manual. Whether to require separate subsidiaries was not an issue in this docket; however, OPC saw this matter as peripherally related to various issues. While fully separate subsidiaries may be an option for deterring cross-subsidization, based solely on the record in this docket, there is not enough evidence for us to find that separate subsidiaries are either appropriate or not appropriate.

We strongly believe that one of the concerns about the effectiveness of a cost allocation manual is the soundness of the inputs. In its order in Docket No. 86-111 the FCC stated:

We have chosen a particular method of forward-looking fully distributed costs that balances the desire for efficiency enhancing cost allocations with the practical requirements of basing decisions on data that can be provided by the carriers and audited by this Commission.

Order, at Page 59.

Southern Bell states that the CAM is an extension of Part 32 Uniform System of Accounts and utilizes the Company's accounting system. The CAM also incorporates Southern Bell's time reporting systems, job function codes, voucher coding system, and other measures currently in place. We endorse the fact that the CAM relies on inputs from systems currently in place and that these systems are accessible to our auditors. As with any cost methodology, if the inputs are not accurate then the outcome will surely be skewed. We will address the adequacy of the controls currently in place in a subsequent portion of this order.

We believe that a cost allocation manual, properly developed and implemented, is an appropriate vehicle to ensure fair and equitable distribution of costs between regulated and nonregulated operations. However, we find that the record in this docket does not support a decision regarding whether a cost allocation manual will prevent cross-subsidization between regulated and nonregulated operations. Southern Bell asserts that its CAM prevents cross-

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subsidization, while OPC, FPTA, and FCTA all express concerns about whether a CAM can effectively deter cross-subsidization. Moreover, no party has adequately defined cross-subsidy or clearly demonstrated that a cost allocation manual either prevents or allows cross-subsidization. In addition, we have not independently made a decision, to date, as to the definition of a cross-subsidy or a methodology for its prevention or detection. In summary, in the absence of sufficient evidence to resolve the issue, we shall not make a decision at this time regarding whether or not a cost allocation manual is effective in preventing cross-subsidization between regulated and nonregulated services. We note that we currently have a docket open, Docket No. 910757-TP, to investigate what constitutes a cross-subsidy and what the proper safeguards should be to prevent cross-subsidy. Our determination here shall in no way constitute a precedent in that docket.

B. Procedures and Controls

1. Time Reporting

Southern Bell asserts that adequate controls are in place to ensure accurate and complete time reporting and that these have been in place for many years prior to the implementation of the CAM. Because these traditional reporting requirements and controls have been implemented, audited, and tested for many years, Southern Bell states that it is able to ensure that it is accurately complying with the CAM time reporting requirements. The time reporting compliance controls include departmental reviews, employee training, internal audits, management review, and compliance audits by independent external auditors. OPC responds that the use of multiple job function codes to allocate employees' time between regulated and unregulated operations is completely inadequate, and even in those instances where positive time reporting is employed by Southern Bell, the reporting is inadequate. FPTA and FCTA agree with OPC.

Our staff reviewed Southern Bell's external and internal audits and workpapers. Following this initial review, our staff performed three audits (with field work completion dates of March 1, 1991; April 15, 1991; and April 25, 1991). The purpose of these audits was to determine if Southern Bell was in compliance with the CAM in the areas of time reporting, affiliated transactions, cost separations systems, BellCore, and the recombination of Advanced

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Systems Inc. (ASI) (the nonregulated separate subsidiary for customer premises equipment). In the course of the first audit, several problem areas were found in time reporting. The second audit concerned BellCore and BellSouth Services projects. The third audit addressed time reporting exclusively.

The staff audits indicate that there is room for improvement in the area of time reporting. If time reporting is not done properly, then allocations based on time reporting will be incorrect; therefore, it is imperative that Southern Bell actively monitor its time reporting system. Based on the evidence presented in this docket, we find that Southern Bell is not in substantial compliance with its own policy as regards time reporting. In addition, we find that some areas of company procedure should be changed. Each of these matters is discussed separately below.

a. Exception Time Reporting

The Company presently requires exception time reporting in increments of one hour. The time period should be revised to an increment of fifteen (15) minutes.

b. Service Technician Time Reporting

The reporting systems used to record service technician time should be kept for one year, on a going forward basis. This one year requirement would include all supporting documentation necessary to preserve an audit trail. The current systems utilize the Mechanized Time Reporting Ticket (RF-152) for recording time worked and the supporting documentation currently includes the Display Craft Work Summary (DCWS), the Detailed Long Extended Telephone History (DLETH), the Loop Maintenance Operation System (LMOS), and service orders.

The reporting system should not accept service activity that does not include travel time when travel was necessary to perform the service activity. Travel time consists of travel to, from, and between assignments, stocking and loading vehicles, daily safety checks of vehicles, preparing time reports, and relief periods.

Service Technicians should be assigned a unique identification code which does not change when work assignment crew changes. A suffix or prefix could be added to the identification code to identify the particular work crew that the employee is working on.

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Documentation for Special Circuit Technicians, currently kept on archive tapes, should corroborate time sheet information and describe the work that the technician performed.

Service Technicians should be required to sign the input document as well as the form generated by the mechanized time reporting system. Supervisors should review and sign each employee's mechanized time sheet, thus approving each employee's time sheet on an individual basis. These time sheets should be maintained for one year, on a going forward basis.

Time report input documents, currently RF-152, should be reviewed to insure that the front of the report and the reverse side are in agreement as to the number of hours worked, job function codes are the same, etc.

The Company should develop a time study that could be used to determine specific service technician functions. This time study could then be used as a replacement for the current method of having the service technician record time on a daily basis. It is envisioned that the Company would provide the time study for our review. After determining if a surrogate is feasible, it would then be used in the place of the present method of recording time on a daily basis.

c. Cost Separations Systems

Changes to the Cost Separations System (CSS) affect allocations to regulated/nonregulated; therefore, the approval/review process should be improved by requiring that the Controllers Department (currently BellSouth Services) be required to approve/review all changes before they take place.

d. Marketing Time Reporting

Marketing time reporting should be reviewed by Southern Bell internal auditors and a report sent to the Commission verifying that controls have been put into place to ensure marketing time is input on a daily basis, with no more than twenty-four (24) hours reported each day. The audit should also ascertain whether time reports have been approved and reviewed weekly by Southern Bell management.

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Marketing exception time reporting hours should be reviewed by Southern Bell internal auditors with a report sent to the Commission verifying that these hours have been properly allocated between regulated and nonregulated activities.

e. Time Studies

Any time study that is used in allocating regulated and nonregulated activity should be updated at least every two years. This would include the exception time reporting practices as well as direct time reporting.

f. Summary

In their post hearing briefs, OPC, FPTA, and FCTA all noted problems with the allocation procedures mentioned above. FPTA and FCTA recommended that we open an investigation of CPE. We believe it is more appropriate for Southern Bell's internal auditors to perform an audit and report back to the Commission, as it was the internal auditors who found and reported the problems in the first place. Also, as pointed out by Southern Bell, the marketing time reporting system referred to at the hearing has been replaced by a more accurate mechanized time reporting system. As this system was only installed on August 1, 1990, not even a full year's data had been accumulated as of the date of the hearing.

OPC asserted that we should require the Company to completely do away with job function codes and only use positive time reporting. The problems identified by OPC are not the function codes themselves, but rather how they are used. If the employees use job function codes properly, then the result should be that the proper amount of time goes to regulated and nonregulated activity. There is no question that in order to work properly and accurately the correct job function code must be used.

The last item mentioned by OPC in this area was noncontact sales. This matter is already the subject of another docket, Docket No. 900960-TL, a show cause proceeding against Southern Bell.

We wish to stress that the solutions noted above are suggestions to the Company for resolution of problems we have identified. Where other means of solving these problems exist, it shall be the Company's responsibility to select the solution it

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deems most appropriate for the circumstances. Our interest here is in seeing that appropriate corrective action is taken.

2. Assignment and Allocation of Costs

Southern Bell asserts that the BellSouth cost allocation procedures reasonably assign direct costs and allocate other costs to the proper regulated and nonregulated operations. Southern Bell notes that the allocation of costs between states is not addressed by its CAM. The Company further asserts that the allocation of costs between states uses a long-standing allocation methodology which has been repeatedly reviewed and approved by this Commission.

OPC responds that the BellSouth cost allocation procedures do not reasonably assign or reasonably allocate all costs between regulated and unregulated operations, and between and among affiliated companies of Southern Bell. OPC believes that the procedures allocate too much of the BellSouth corporate service costs to regulated operations because BellSouth uses a general allocator to allocate those costs not otherwise assigned or allocated, and this allocator is largely driven by the relative sizes of the affiliated companies. In OPC's view, its use is analogous to charging a 195 pound man a higher price to see a movie than a 105 pound woman, merely because he is larger. This allocator, OPC asserts, should be replaced by a factor distribution of costs to the three receiving entities: BellSouth Enterprises, Southern Bell, and South Central Bell.

While the staff audits conducted in this proceeding highlighted that the procedures need to be accurate to ensure that the allocated amounts are reasonable, there was no evidence that the allocated amounts were skewed toward either regulated or nonregulated operations. The CAM uses fully distributed costing to allocate costs from regulated to nonregulated operations. This allocation methodology relates to specific concerns of regulators in the FCC Joint Cost Order. The fully distributed cost methodology benefits the regulated operations by reducing regulated non-incremental, fixed costs. In effect, the nonregulated operations actually bear more than the actual incremental costs caused by nonregulated operations. This is also supported by OPC's witness who admitted that the allocations currently used by Southern Bell actually allocated \$4.5 million more than her analysis produced.

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Another point addressed by OPC was the use of the general allocator. This allocator was designed by the FCC so that costs which could not be allocated through a more direct method could be allocated by the use of a composite allocator. The FCC stated in its Order in Docket No. 86-111, at Paragraph 156, that when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated based upon a general allocator computed by using the ratio of all expenses directly assigned or attributed to regulated and nonregulated activities. This allocation process is used for only five (5%) percent of the total amount of allocated costs, and also provides a cost causative method for properly allocating costs.

FPTA and FCTA recommend that we perform periodic audits and fully prescribe the scope of external audits in order to ensure that cost allocations between regulated and unregulated activities are appropriately made. We believe we have addressed these concerns in Section B-1 above.

The allocations between states is not addressed by Southern Bell's CAM and is most appropriately reviewed in a rate case setting.

3. Affiliate Transaction Rules

Southern Bell asserts that the affiliate transaction rules appropriately guard against cross-subsidization, while OPC asserts that they do not and that they are not being followed. FPTA and FCTA expressed concerns about possible ratebase padding and subsidization of nonregulated affiliates through below cost transfer values.

The affiliate transaction rules are set forth in the FCC's Joint Cost Order, and Orders on Reconsideration, as an amendment to Section 32.27(d) of the Uniform System of Accounts. These rules generally state that charges for assets acquired by Southern Bell from nonregulated affiliates are required to be valued on Southern Bell's books at the prevailing price, or market rate, held out to the general public in the normal course of business by that nonregulated affiliate as evidenced by sales to nonaffiliates (General Rule). If, however, the assets received by Southern Bell are not marketed by the nonregulated affiliate to the general public, the charges recorded by Southern Bell for the assets should

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be at the lower of net book cost or fair market value (Residual Rule).

Assets sold by or transferred from Southern Bell to a nonregulated affiliate must be valued at tariffed rates if the rates for these assets are reflected in tariffs on file with a regulatory commission (General Rule). If no tariffed rate is applicable, then the transaction must be recorded at the market rate held out to the general public as evidenced by sales to nonaffiliates (General Rule). If no tariffed rate or market price is applicable, then the transfer should be recorded at the higher of net book cost or fair market value (Residual Rule).

Basically, this means that assets transferred out of regulated companies are valued at the higher of cost or market; assets transferred into regulated companies are valued at the lower of cost or market. Products and/or services are transferred at tariff rates (either federal or state); if not tariffed, at market rate; and if no market rate exists, then at fully distributed cost.

Southern Bell defines net book cost as the original cost of the asset less valuation reserve. However, the first staff audit found discrepancies in the definition of net book cost. In the staff audit of asset transfers it was noted that deferred taxes were not considered when computing net book value to compare with estimated fair market value, even though Southern Bell defines net book value as cost less accumulated depreciation, deferred taxes, and investment tax credits. The Company responded that BSS Comptrollers, BellSouth Corporation (BSC) and BSC Taxes worked together to clarify the procedures for transferring deferred taxes and investment tax credits and the definition of net book cost. The definition was revised and net book value was to be described as cost less accumulated depreciation effective January 1, 1990.

We find that the Company should define net book value as cost less: accumulated depreciation, deferred taxes, and investment tax credits. This is consistent with our handling of CPE transferred out of regulated operations where the transfers were made with the applicable deferred taxes and investment tax credits. The rationale for this is that the assets were responsible for the deferred taxes and investment tax credits, and these items should follow the asset being transferred.

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The staff audit also indicated that it appeared that affiliated companies were billing at less than fully distributed cost. While they were billing "within the spirit" of the Joint Cost Order, they were not in compliance with CAM. The costs that were not captured concerned BellSouth Advertising & Publishing Corporation (BAPCO). The audit results were based on staff's review of the external auditors' workpapers. The FCC stated that the external auditors needed to do more testing in certain areas, and one of those areas was BAPCO. We shall take no action on this matter, as the ratepayers are not being harmed by BAPCO's failure to use fully distributed costs in compliance with CAM.

OPC identified certain "matters for the attention of regulators" that were included in the SATF Report. The first item concerned BellSouth Services' (BSS') accounting procedures and the recommendation that BSS should implement Part 32 Uniform System of Accounts in place of a modified Part 31. The SATF Report pointed out that since BSS services and products are provided almost exclusively to the Bell operating companies (BOCs), alignment of the BSS accounts to coincide with the BOC accounts could help clarify confusion regarding account classification of BSS charges by the BOCs and regulated/nonregulated cost apportionments. The corporate restructure may require an accounting change for those services provided by BSS, since the operations of Southern Bell, South Central Bell, and BellSouth Services will be integrated into a new organization.

OPC also cited another "matter for the attention of regulators" from the SATF Report which stated that BellSouth did not adequately demonstrate a prevailing market rate for the BSS lease of office space at the Colonnade and warehouse space at various facilities. In response, Southern Bell states that rental rates paid by BSS are lower than the rental rates paid by nonaffiliated third parties. In addition, the rates being charged under the BSS leases are less than fully distributed cost (FDC) over the life of the leases. It appears to us that the lease rates are consistent with affiliate rule 64.901, as long as the rates remain below the rates that would be charged under FDC.

OPC's brief identifies certain charges being allocated to Southern Bell from BellSouth Corporation and BellSouth Services that were discovered during the SATF audit. These charges included items normally excluded from operating expenses such as memberships in social organizations, charitable contributions, corporate image

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advertising, and miscellaneous expenses such as a golf tournament sponsorship. In addition, the SATF report identified charges from BellSouth D.C. and recommended that fifty percent (50%) of these charges be recorded below the line. Southern Bell is currently excluding these types of charges from its surveillance reports and made adjustments to exclude these charges from its final 1988 and 1989 surveillance reports. OPC also pointed out that the SATF audit team was denied access to the unregulated entities' financial statements, which are necessary to verify the computations of the allocation factors. We agree that it is necessary to have access to the books and records of the unregulated entities in order to assure that the allocation factors are appropriate. Under Section 364.183, Florida Statutes, the Commission shall have reasonable access to the records of the telecommunications company's affiliated companies, including its parent company, regarding transactions or cost allocations among the telecommunications company and such affiliated companies, and such records necessary to ensure that a telecommunications company's ratepayers do not subsidize the company's unregulated activities. In addition, we receive information on affiliated transactions through the annual report. Additional information can be requested during earnings reviews, if necessary.

Finally, staff auditors reviewed a sample of the BellCore research projects being funded by BellSouth to determine the relevancy of the allocations between the regulated and nonregulated operations. These projects were chosen on the basis of their descriptions and the scope of the projects. After following the methodology and where the monies were being booked, based solely on the information available, our auditors found no reason to believe that the Company was incorrect in its allocations. The Company's accounting ruling for research and development costs and software development costs appears to be in agreement with our staff's analysis; therefore, no action needs to be taken on the BellCore charges.

4. Commission Review of CAM Compliance

We believe there are two main mechanisms by which we can assure ourselves of Southern Bell's compliance with the CAM: external audits and internal controls. Southern Bell has external audits performed on a calendar year basis. An attestation audit is performed to provide assurance that the Company is in compliance with its CAM. The opinion is sent to the FCC, as well as to this

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Commission in conjunction with the annual report each year. In addition, the FCC staff and our staff conduct compliance audits of the Company's CAM. Our staff also have opportunities to examine Southern Bell's allocation methodology in conjunction with other proceedings before this Commission.

OPC states in its brief that there were unacceptable scope limitations in the SATF audit because BellSouth denied the team access to essential information. We note that since the time of that audit, the Florida Legislature passed a statute that specifically addresses Commission access to company records. Section 364.183(1), Florida Statutes, provides in pertinent part:

The commission shall have reasonable access to all company records, and to the records of the telecommunications company's affiliated companies, including its parent company, regarding transactions or cost allocations among the telecommunications company and such affiliated companies, and such records necessary to ensure that a telecommunications company's ratepayers do not subsidize the company's unregulated activities.

According to Southern Bell's witness Lohman, our staff may review outside auditor's workpapers, internal audit reports and workpapers, training time reports, and all other aspects of the allocation process to be assured of CAM compliance. Additionally, Southern Bell's witness Paisant stated that there were no circumstances where the Commission would be denied access to records of affiliated companies if that information is required to carry out its responsibilities. Based on the above considerations, we believe that the external audits available to us provide one of the mechanisms to assure us of Southern Bell's compliance with the CAM.

Southern Bell's witness Lohman testified that the single most important internal control is proper and adequate training of direct reporting employees. He further stated that management review and approval of individual and summary time reports is also a control. Such reviews enable selective retraining of employees as necessary. He pointed out that another important control is internal audit operations. Audits provide critical self-analysis as to identify changes that would improve the procedures or be more cost effective.

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As discussed above, the two aspects of ensuring compliance with the CAM are controls and audits. Controls will be improved if the Company makes the changes suggested in Section B-1 of this Order. As to audits, the Company is to be commended on its endeavors to have an excellent and efficient internal audit effort. All parties have addressed the internal audits which the Company performed. Internal audits have proven essential in identifying internal control problems. External audits have also played a role in informing the Company of problem areas, and the external auditors have improved their testing procedures as they have had more experience in performing attestation audits required by this Commission. Our staff auditors played a significant part in testing time reporting and recommending changes in the time reporting process. Our recommendations concerning management controls, along with the extensive audits which are already required and being conducted, we believe, will provide adequate mechanisms to assure us of Southern Bell's compliance with its CAM.

5. BellCore Expenses

OPC's position in this proceeding is that today's customers pay for research and development (R&D) costs, but the benefits, if any, will accrue to future generations of customers (regulated or unregulated). Southern Bell asserts that R&D expenses have been handled appropriately by the Company.

Southern Bell's witness Paisant described the planning process that takes place between Southern Bell and BellCore to determine which projects will be approved and which projects will be performed for Southern Bell. He stated that there is a planning and budgeting process that takes place in advance of project approval, which can begin as much as twelve (12) to fourteen (14) months before the project. There are cost/benefit analyses which are performed in support of the approval of those projects, which include a description of the project details; why the project is needed; how it would benefit work operations, and ultimately the ratepayer; the operational benefits to be obtained from the project; what alternative ways were considered for the project; and how the cost compares to performing the work at BellSouth.

Paisant further explains that, in order to determine whether a project should be charged to regulated or nonregulated operations, there is a classification process which takes place during the approval process for the project. Once the project is

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approved by Southern Bell, the contract administrators oversee the overall billing process. An accounting classifications expert determines what classification should be assigned to that project, and then the information is passed on to the project subject matter experts for their concurrence on that classification. Any charges for that project would then be assigned that classification. Witness Paisant stated that BellCore projects are evaluated on an annual basis in order to determine Southern Bell's specific needs for each project.

Additional reviews of BellCore projects have been performed by managers in the BellSouth Services Incorporated Joint Cost and Accounting Principles group and accounting classification organization in order to determine that the projects are properly classified. Witness Paisant stated that "reviews by these subject matter experts assure proper and consistent classification." In addition, periodically (at least quarterly) the contract administrators who manage this process review the projects to assure that they retain their consistent classification between Southern Bell and South Central Bell. If there is some inconsistency, this group would initiate action to resolve the differences.

Witness Paisant believes that the procedure of yearly, quarterly, and monthly review of BellCore projects, and compliance with GAAP accounting treatment, gives a systematic and rational allocation of costs among the periods to which the benefits are provided.

In spite of the review process, some projects were misassigned between regulated and nonregulated. Witness Paisant did not know how the errors were detected by the Company. He admitted that without detection such errors would result in some misallocations. Southern Bell states in its brief that the fact that it reassigned the classification of certain projects in 1989 and 1990 is proof that BellCore classification reviews are functional and beneficial.

Southern Bell records all BellCore projects following the rules set forth in Part 32, which this Commission has adopted and which incorporates GAAP. GAAP requires that research and development costs be expensed as those costs are incurred. Southern Bell typically expenses its projects. The Company believes that deferral of applied research costs until after the project is completed is not a practical solution because it does

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not account for applied research costs which may never result in a specific product or service, and that waiting to capitalize or expense until the research was complete would provide a disincentive to develop new services.

OPC witness Dismukes points out that Southern Bell charged approximately ninety-nine percent (99%) of its research and development costs (account 6727) to regulated operations in 1988 and 1989. The bulk of costs included in this account represent research and development costs charged by BellCore. Dismukes questions the expensing of applied research projects in the year they are incurred because the benefits of this type of research are realized over many years. She believes that if more of Southern Bell's operations are deregulated in the future, the benefits of these research activities will be charged to the regulated customers, yet may never be received by these customers in a future unregulated environment.

Dismukes recommends that the Commission correct this problem by refusing to allow current ratepayers to fund R&D which will produce benefits only in the future, if at all. She believes that, to the extent any ratepayer support of R&D is appropriate, it should be deferred until after the project is completed and it is feasible to determine where (and over what time period) the benefits will flow.

The record from this proceeding shows that Southern Bell complies with GAAP and Part 32 in expensing R&D costs, rather than capitalizing. While OPC recommends that such charges should be deferred to the future, no means of doing that has been suggested. Furthermore, OPC has not discussed how projects which do not come to fruition should be handled. We find that there are no expenses assigned or charged from BellCore to Southern Bell which should be capitalized rather than expensed because the expenses benefit future periods. However, the utility's earnings are presently being reviewed as part of its rate stabilization plan in Docket No. 880069-TL. Additionally, Southern Bell will be filing MMFRs no later than March 31, 1992. It would be appropriate to review the R&D expense in those proceedings to determine if there are charges which should be capitalized for regulatory purposes that have not come to our attention in this docket.

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6. Recombination Costs

The marketing, installation, and repair of CPE is currently integrated with Southern Bell's operations since 1989. One of the stated reasons for the reintegration of CPE into Southern Bell effective January 1, 1989, was to make the corporation more efficient. One of the ways it became more efficient was to provide one point of contact for the marketing effort and the marketing focus. The integration also allowed the same repair personnel to repair both network and CPE problems. Another reason was to reduce corporate overhead and general support allocation functions.

Due to the recombination of ASI, Southern Bell accumulated some nonrecurring costs. The costs were divided into three "tiers." Tier 1 costs included the cost of the reintegration task force team who worked on the reintegration. The total cost of that team was captured. Tier 2 costs included people who were periodically loaned to the recombination team. Tier 3 costs arose when an employee was working on a project solely for the reintegration. The total cost for all three tiers on a combined BellSouth basis was approximately \$4 million, which included about \$300,000 intrastate for Florida. These charges were treated as period costs during 1988 and 1989. This is less than one basis point of Southern Bell's rate of return on equity.

Witness Lohman testified that written procedures for cost identification and assignment of the ASI reintegration costs, based on the CAM, were provided to the appropriate employees as a guide for cost identification and reporting. He stated that application of these guidelines along with normal CAM procedures assured appropriate allocation of the costs.

In addition to the reintegration costs, there were common costs that existed before the recombination of nonregulated operations into Southern Bell. After recombination, there were no additional common costs, but a portion of the common costs were allocated to the nonregulated. According to Southern Bell's witness Lohman, when Southern Bell was planning for the integration of CPE into the regulated operations, the Company anticipated there would be a reduction of expenses to the regulated operations. On the intrastate side, the recombination would have a positive effect on net income of about \$10.5 million. Southern Bell believes this indicates that for the period during which CPE was combined with

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the regulated operations, there was a benefit to the regulated ratepayers in the way of a reduction of regulated expenses.

OPC's witness Dismukes asserted, however, that the nonregulated side has not paid its fair share. Based on an analysis of eight of the Company's expense accounts, she claimed that the Company's nonregulated operations should have borne additional expenses of \$7,102,000. She maintained that "Either a portion of the additional costs due to the recombination of CPE operations is being borne by regulated ratepayers, or the overall amounts of these accounts are escalating well above the inflation rate."

The Company believes that witness Dismukes' analysis is flawed. Witness Klein stated, "A look at the comparison of 1988 and 1989 expenses by regulated and nonregulated accounts for the 6xxx categories illustrates this - regulated expenses decreased 1%, nonregulated expenses increased 149%, and total expenses increased only 3%." Klein went on to say,

A cursory review of Ms. Dismukes' so-called analysis used to reach the conclusion that [an appropriate level] of expense increases were not borne by nonregulated operations indicates an arbitrary decision on her part to exclude those facts that do not support her theory. In her analysis, Ms. Dismukes simply ignores accounts where the increase over the [6.6%] benchmark was a negative amount, and would have reduced the result of her calculation. Apparently, Ms. Dismukes arbitrarily assumed that if an account did not increase it should be excluded from her analysis. This assumption is without foundation and seriously distorts the results.... Based on this, Ms. Dismukes' purported analysis is absolutely worthless for purposes of analyzing the reasonableness of BellSouth's Cost Allocation Manual.

Witness Dismukes admitted that in every instance except one, the accounts she analyzed showed that the increase in the unregulated account was greater than the increase in the regulated. She also acknowledged that the nonregulated side was actually allocated some \$4,511,000 more in expenses than her benchmark would have produced.

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FPTA and FCTA take the position that increased costs were incurred by Southern Bell regulated operations when the advanced systems were recombined, and that the record demonstrates a real possibility that regulated operations were unfairly charged for much of these increased costs.

We believe that a larger portion of costs were borne by the unregulated side after the reorganization. In the accounts analyzed by witness Dismukes, the regulated side did not increase as much as her predicted inflation. The nonregulated expenses increased more than expected inflation. Overall, it appears that the regulated side benefitted from the shifting of some common overheads to the nonregulated side.

However, we note that, while Exhibit 8 shows a decrease to regulated expenses due to recombination, the accounts analyzed by witness Dismukes did not decrease as expected. In fact, as discussed above, for these accounts expenses increased. We note also that the analysis performed by witness Dismukes was limited to only a few selected accounts, and therefore, does not present the entire picture. Nevertheless, we wonder what happened to the benefits the Company purports to have given to the regulated ratepayers. Even so, it does not appear that the ratepayers picked up any additional costs due to the recombination.

A restructuring of the corporation was announced on March 4, 1991, effective March 1, 1991. Under the new structure, the four primary organizations (marketing, network and technology, regulatory and external affairs, and services) will not be separate corporations. They are divisions within BellSouth, with the exception of the marketing organization which will have one separate corporation. According to Southern Bell's witness Lohman, the new reorganization, which will once again take CPE out of Southern Bell, will not change the one point of contact for the marketing effort and the marketing focus.

As discussed above, even before this most recent reorganization, there was already an integrated marketing, installation, and repair force for CPE. OPC believes that the key question for cost allocation purposes concerns the formation of a separate corporation for one of the units in the marketing division, while none of the other units in the marketing division, nor the other divisions, are separate corporations. OPC alleges that the testimony filed by Southern Bell on March 8, 1991, gave

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the impression that there was little reason to be concerned about the reorganization. OPC points out that the prefiled testimony of Southern Bell's witness Lohman stated that it did not appear that the corporate restructure would have any impact on the principles underlying the CAM. Likewise, in response to a prefiled question about whether the Commission can approve Southern Bell's CAM before all of the effects of the reorganization are implemented, witness Lohman replied that it could be approved because the reorganization does not change the principles underlying the CAM.

OPC contends that from the standpoint of efficiency, the most recent reorganization will actually be a step backwards. In the present environment, one technician can perform a repair, without regard to whether the required repair turns out to be a CPE repair or network repair. In the new reorganized environment, on the other hand, two dispatches will be required for many trouble calls, which could conceivably result in two separate billings from two different companies. OPC also believes that BellSouth's financial processing will become less efficient and more costly.

Southern Bell's witness Lohman did not know why the customer contact unit within the marketing division would be a separate corporation, while none of the others would. He did state, however, that he believed the reason the Company is transferring premise sales and marketing employees to an unregulated corporation is to provide an efficient and effective marketing focus. Ernest L. Bush, an Assistant Vice President at BellSouth Services, Inc., did not know the reason for the separate corporation either.

OPC asserts that the purpose of forming a separate corporation for this unit, while not for the others, is to transfer overhead to Southern Bell's intrastate Florida regulated ratepayers. This last unit, which will be BellSouth Business Services, Inc., is the key behind the transfer of overhead costs to Southern Bell's regulated ratepayers.

The Company states that the documents on which OPC relies are clearly marked as preliminary scenario analysis. Southern Bell also contends that the figure which OPC asserts as showing the dollar effects of the reorganization on regulated ratepayers is actually a figure based on a scenario which is premised on Southern Bell's exiting the CPE business. The Company goes on to say that the record shows that Southern Bell has not decided to exit the CPE business, and, therefore, OPC misleads the Commission when it

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states that the figure shown in the composite Exhibit 6 will be the impact on regulated ratepayers. In the deposition of Ernest Bush taken by OPC prior to the hearing and inserted into the record as Exhibit 6, Bush explains that a final figure of the effect of the transfer of CPE operations to BellSouth Business Systems on intrastate Florida ratepayers is not known. However, he believes it will be less than the amount contained in Exhibit 8. As explained above, if Southern Bell chose to cease providing its nonregulated CPE services, the regulated operation would be required to bear that portion of the fixed costs which the CPE operations are currently bearing under the CAM.

Witness Lohman stated that Southern Bell anticipated a reduction of expenses to regulated operations due to integration of CPE into the regulated operations in 1989. On the intrastate side, this would have a positive effect on net income. He believes that, hypothetically, if the reintegration process was reversed and took the CPE out, the effects would reverse themselves, absent any other changes. This would mean that the overheads to the regulated would increase to the same level that they were prior to the ASI recombination.

FPTA and FCTA believe that once CPE operations become fully separated from regulated, the Commission should ensure that no inappropriate costs are allocated to regulated operations. For instance, CPE sales costs should not be charged back to the regulated company. Such charges are not necessary to the provision of monopoly network services. Additionally, all CPE vendors "sell" LEC network services, but only Southern Bell has the ability to charge some of its costs to regulated operations which are guaranteed a fair rate of return. Thus, it would be inequitable for Southern Bell to allow sales persons to charge any of their time to regulated operations. Finally, FPTA and FCTA assert that we should separately investigate this separation to prevent such misallocations.

We find based on the record in this proceeding, that the costs associated with the recombination of the advanced systems were appropriately allocated between regulated and unregulated operations. Due to the recency of the current reorganizational efforts, there was not enough information available at the time of the hearing to determine whether the costs were appropriately allocated. As discussed in Section B-5 above, the utility's earnings are presently being reviewed as part of its rate

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stabilization plan in Docket No. 880069-TL. Additionally, Southern Bell will be filing MMFRs no later than March 31, 1992. The costs of the reorganization effective March 1, 1991, should be examined more closely during these and any other relevant rate reviews.

C. Compensation by Unregulated Operations

The parties' positions are polarized concerning the issue of requiring the unregulated operations to compensate regulated operations for the tangible and intangible benefits it receives from affiliation or operation with the regulated company. OPC, FPTA, and FCTA are of the opinion that unregulated operations should provide some compensation to the regulated side for any benefits derived from the association with the regulated side. Southern Bell takes the view that where benefits do accrue, they can flow both ways and that it may in fact be the regulated side that benefits from the unregulated activities rather than the other way around.

The propriety of a compensation arrangement ultimately depends on the proponents of such an arrangement providing adequate support for their position. Southern Bell repeatedly points out that OPC's witness Dismukes makes several claims but offers little analytical support for her claims. Further, during the hearing, OPC did not cross-examine any of the three Southern Bell witnesses concerning their rebuttal testimonies; in particular, OPC did not contest witness Klein's analysis which was especially damaging to witness Dismukes' analysis.

OPC's witness Dismukes performed an analysis of Southern Bell's CAM, upon which she made several assertions that the CAM was deficient in properly allocating costs and was not capable of dealing with cross-subsidization. Prior to examining the amounts in any accounts, she went through the CAM and selected eight accounts that she considered to be "overhead" or "marketing" types of accounts, accounts where she thought it would be likely that "the costs allocated between the regulated and unregulated operations may be unfair." In her analysis, where she found cost increases, she believed that the majority of these increases were being applied to the regulated side. It is upon these findings that witness Dismukes suggests that a compensation payment be made. Specifically, she states:

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To avoid the problem of regulated operations subsidizing unregulated operations and to avoid the expense of lengthy auditing process associated with uncovering cross-subsidies, I believe that a compensatory fee arrangement would be a superior method of capturing and compensating the unregulated operations for the intangible benefits not captured in the allocation process.

Southern Bell contends that there are several safeguards in place to prevent cost shifting to the regulated side from the unregulated. These include the CAM itself, auditing of the Company as well as the CAM, and the affiliated transactions rules. In addition, Southern Bell is required by this Commission to file numerous reports on a regular basis that allow the Commission to monitor Southern Bell's affiliate activities.

As indicated above, witness Dismukes performed an analysis "to determine whether or not the costs allocated between the regulated and unregulated operations of Southern Bell were reasonable." She concluded that they were not. Southern Bell witnesses Lohman, Paisant, and Klein each submitted rebuttal testimony challenging witness Dismukes' conclusions.

Witness Lohman concentrated in part on witness Dismukes' royalty payment proposal. He does not agree that there is a need for additional compensation. In his rebuttal, he offers that the CAM, through utilization of a fully distributed costing methodology, ensures that the unregulated side "...do[es] not unfairly benefit..." from certain common functions. His contention is that the allocation employed in the CAM's fully distributed cost methodology charges a larger proportion of costs to the unregulated side than would be the case using another method.

In his rebuttal, witness Paisant discusses several irregularities in witness Dismukes' testimony. He notes that Ms. Dismukes indicates that Southern Bell's affiliated transactions should be closely monitored. As witness Paisant points out, the CAM methodologies are subject to extensive scrutiny by the FCC. In addition, various audits, both internal and external, provide considerable monitoring. Finally, he notes that witness Dismukes' recommendation of deferring research costs is inconsistent with generally accepted accounting procedures.

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Witness Klein determined that witness Dismukes' use of only eight expense accounts was unreasonable and yielded biased results. Consequently, his rebuttal consists of expanding witness Dismukes' analysis to include all fifty-eight expense accounts rather than just the eight she utilized. By doing so, his analysis yields substantially different results. His summary indicates that for the period 1988-1989 for the expense account series (the 6xxx categories), total expenses rose 3%, unregulated expenses increased 149%, and regulated expenses dropped by 1%.

This is not to suggest that there have been no questionable decisions made by Southern Bell in its procedures. The record indicates instances where benefits have been provided to the unregulated side by the regulated side. In the SATF audit, staff found that advertisements for BellSouth unregulated products were being included in customer phone bills, a benefit not available to BellSouth competitors. It also should be noted that these products carry the BellSouth name and logo, certainly an intangible benefit. In addition, there have been instances where misallocations have occurred. The 1990 audit of Southern Bell, performed by Coopers & Lybrand, discovered accounting errors in excess of \$1 million, thus requiring adjustments. Finally, the testimony of Ernest Bush indicates that the decision to move CPE operations to BellSouth Business Systems was expected to shift expenses to the regulated side.

We believe that there is some benefit when companies having differing outputs utilize the same input. Even Southern Bell agrees to that. While stating that witness Dismukes' assertion of benefits is "pure conjecture," witness Paisant also admits that "[t]his is not to say that Southern Bell and the other affiliates do not derive substantial benefits from the services provided by BellSouth." In addition, witness Paisant describes a situation where South Central Bell and Southern Bell contract with BellSouth Services for certain functions and that one company performs the functions "more efficiently" than the two would.

We have considered the appropriateness of a compensation payment on two previous occasions. In Docket No. 870285-TI, we were concerned with allowing United Telephone Long Distance (UTLD), which was applying for a certificate, to capitalize on the United name without compensating United Telephone Company of Florida (United). In particular, we determined that UTLD should compensate United for the use of United's name and logo, its reputation,

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name without compensating United Telephone Company of Florida (United). In particular, we determined that UTLD should compensate United for the use of United's name and logo, its reputation, immediate access to financing, and the ability to utilize a trained and skilled work force. See Order No. 18939. Our decision was upheld by the Florida Supreme Court. See United Telephone Long Distance v. Nichols, 546 So. 2d 717, 720 (Fla. 1989).

The compensation issue was also raised in Southern Bell's packet switching docket, Docket No. 870766-TL, in which we decided that some, but not all, layers of protocol conversion should be offered under tariff, with the idea that low level protocol conversion was a basic network function. Above that, the protocol conversion was considered an enhanced, non-monopoly service. Approval of a compensating payment for the unregulated protocol conversion service was denied on the basis that it is a very limited offering targeted for a unique and sophisticated market; it is offered in many cases as a facilitating or intermediate service rather than an end in itself; and it requires active subscription on the part of the subscriber.

It is clear to us that there are situations where a compensating arrangement would be appropriate. However, we believe that such an arrangement should be applied only after careful review. As indicated above, we have made two different decisions on compensation payments on two different services offered by two different LECs. The circumstances of each were reviewed for the particular case and resulted in differing outcomes. We believe this type of approach is correct. Many issues can be incorporated in a compensatory payment where an issue may be stronger or weaker, depending on the service, the company, and the market. Accordingly, we shall consider the application of compensation payments on a case-by-case, service-by-service, and company-by-company basis, as was done with UTLD and Southern Bell, rather than in the broad context of this docket. In addition, we shall not require a compensatory mechanism of Southern Bell's unregulated operations to its regulated operations at this time for the following reasons.

First, the position we took in the reconsideration of UTLD was to avoid being encumbered by a broad policy decision. To impose a compensation payment in this docket would be extending the concept beyond those boundaries implied in the reconsideration order. Southern Bell's recombination and subsequent restructure of CPE

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operations into a separate subsidiary certainly resembles the situation that prompted our actions in Docket No. 870285-TI. However, in the case of UTLD, the compensation payment was directed at specific services or a service category - in that case, long distance services. This docket is much broader in that the issue of the appropriateness of the CAM addresses the total assets of the corporation, not individual services or a service category.

Second, the issue of a compensation payment is not related to the CAM. The CAM is a device aimed at identifying and allocating "tangible" benefits. The concept of a compensation payment is directed at the identification of, and reimbursement for, "intangible" benefits. While the CAM may provide insight into the transfer of tangible benefits, it does not deal with those intangible benefits, such as use of the company name and logo, access to financing, etc., noted in Order 18939.

Third, this record does not provide adequate support for either installing or not installing a compensation arrangement. The proponents of a compensation arrangement did not take issue with any of Southern Bell's witnesses concerning their rebuttals of witness Dismukes' findings, leaving in question the soundness of her testimony. However, some of the points raised in the rebuttals of witness Dismukes were of interest. For example, in response to witness Dismukes' dissatisfaction with the general allocator, witness Paisant states that "only a small part of BellSouth's costs (less than 25% of BellSouth's total 1989 allocated costs) are allocated using this factor." We consider 25% of BellSouth's total costs to be anything but "only a small amount." Moreover, the record indicates problems have been found. Evidence was submitted attesting to questionable allocations and business practices such as the stuffing of phone bills with advertisements for unregulated products.

In summary, we believe there are situations where compensation for intangible benefits is called for and we will continue to utilize it for those situations. For Southern Bell, in this docket, we shall not adopt a contributory mechanism at this time for the reasons stated above.

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 hereby

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approved in each and every respect. It is further

ORDERED that Southern Bell Telephone and Telegraph Company's use of the BellSouth Cost Allocation Manual appears to be a reasonable means of distributing costs between regulated and nonregulated operations. It is further

ORDERED that we shall make no determination at this time as to whether a cost allocation manual is effective in preventing cross-subsidization. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall take appropriate steps to correct the problems we have identified in time reporting as set forth in the body of this Order. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall adopt the definition of net book value that is set forth herein. It is further

ORDERED that there are adequate mechanisms in place through which this Commission can determine Southern Bell Telephone and Telegraph Company's compliance with its cost allocation manual. It is further

ORDERED that we shall not determine in this docket whether the unregulated operations should be required to compensate the regulated company for benefits received from affiliation. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 15th
day of OCTOBER, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

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.