

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of ) DOCKET NO. 920836-TL  
tariff filing to change the ) ORDER NO. PSC-93-0069-FOF-TL  
definition of "Company" and ) ISSUED: 01/14/93  
allow denial of service for )  
monies owed in other states by )  
BELLSOUTH TELECOMMUNICATIONS, )  
INC. d/b/a SOUTHERN BELL )  
TELEPHONE AND TELEGRAPH COMPANY. )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

ORDER DENYING TARIFF

BY THE COMMISSION:

I. BACKGROUND

BellSouth Communications, Inc., d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) submitted a tariff filing (T-92-427) on July 13, 1992 seeking approval of a change in the definition of "Company" and the provision under which service may be refused to a potential Florida subscriber who left another state owing Southern Bell for telephone service in the other state. Southern Bell also submitted revised wording for the refusal of service, all of which was considered at the September 1, 1992, Agenda Conference. Because of concerns about the name change and the denial of service provision, the tariff filing was suspended by Order No. PSC-92-1038-FOF-TL. The Company was given until September 30, 1992, to submit acceptable tariff language.

The Company timely filed a revised tariff proposal. The revised filing would allow refusal of service to an applicant in Florida who left another state owing Southern Bell for telephone service in the other state. The filing would also redefine "Company" as used in its tariffs.

II. Proposed Tariff Filing

Southern Bell submitted two versions of its revised tariff dealing with the denial of service to a Florida subscriber who owes

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the Company money in Florida or any other state served by the Company. After analyzing these filings, we continue to have two concerns. The first deals with the request to change the definition of "Company" in Section A1, Definition of Terms. According to the proposed revision, the definition of "Company" would be amended to refer to BellSouth Telecommunications, Inc. The entity possessing a certificate in Florida is BellSouth Communications, Inc., d/b/a Southern Bell Telephone and Telegraph Company. It appears that the requested change would expand the scope of the tariff beyond the authorized authority. Depending on which name is used to define "Company," the proposed tariff would allow for refusal or disconnection of service to customers in Florida for outstanding debts in either four or nine states. If BellSouth Telecommunications, Inc. is the "Company," service could be denied for outstanding debts in Florida and eight other states in which BellSouth provides service. If BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company is the "Company", service could be denied for outstanding debts in Florida, Georgia, and North and South Carolina. Southern Bell has not addressed this concern in either of its revised tariff filings.

We are also concerned that the potentially far-reaching change to the definition of "Company" is being proposed in the context of a fairly narrow change in its tariff dealing with the reasons for refusing service to an applicant. The word "Company" probably occurs hundreds of times in the tariff and the new definition of "Company" may not be appropriate to all of those other occurrences of the term. These concerns were not addressed in the revised tariff filing.

Our second major concern is with the proposed changes to Section A2, Subsection A2.3.5 B of the tariff. This section currently reads:

The Company reserves the right to refuse service to any applicant who is found to be indebted to the Company for service previously furnished until satisfactory arrangements have been made for payment...

This wording in the revised tariff language would be changed to read:

The Company reserves the right to refuse service to any applicant who is found to be indebted for regulated charges to the Company for telephone service provided in Florida or in any other state

in which the Company operates, under the same conditions as stipulated for the state of Florida in A2.2.10.A.2.d of this tariff, until satisfactory arrangements have been made for the payment of all such indebtedness, ...

The conditions in Section A2.2.10.A.2.d of the Company's tariff outline the reasons for suspension or termination of service pursuant to our rules. Under the proposed revisions, Southern Bell would have the authority to deny service for debts incurred for regulated telephone service in other states.

Upon consideration, we find it appropriate to deny the tariff as proposed for the reasons discussed below. It is inappropriate to allow the Company to refuse service for circumstances beyond the control or review of this Commission. Even if a debt would otherwise be sufficient grounds for refusal of service, the Commission has no review of or control over the circumstances surrounding the creation of the debt in another state. A customer complaint dealing with refusal of service for a debt incurred in another state would require the Commission to adjudicate the factual and legal basis of a debt beyond the Commission's jurisdiction. In addition, Rule 25-4.113(4)(e), Florida Administrative Code, provides that nonpayment for a nonregulated service is not sufficient grounds to refuse service. By its terms this provision precludes a tariff of the nature proposed by the Company since any debt from another state is by definition a nonpayment "for a service rendered by a utility which is not regulated by this Commission."

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Communications, Inc., d/b/a Southern Bell Telephone and Telegraph Company's tariff filing seeking approval of a change in the definition of "Company" and the provisions under which service may be refused to an applicant for service in Florida is denied as set forth in the body of this Order. It is further

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

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By ORDER of the Florida Public Service Commission this 14th  
day of January, 1993.



STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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Commissioner Luis J. Lauredo dissented from the Commission's  
decision to deny the tariff filing.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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

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Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on February 21, 1993.

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

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

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