

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Comprehensive Review of the)
Revenue Requirements and Rate)
Stabilization Plan of Southern)
Bell Telephone & Telegraph Company)

Docket No. 920260-TL
Filed: 7/15/93

ATTORNEY GENERAL'S REQUEST THAT THE FULL
COMMISSION RULE ON "JOINT MOTION OF ATTORNEY
GENERAL AND SOUTHERN BELL TELEPHONE AND TELEGRAPH
COMPANY FOR COMMISSIONER THOMAS M. BEARD TO BE RECUSED"

Pursuant to Rule 25-21.004(3), Florida Administrative Code,
Attorney General Robert A. Butterworth ("Attorney General")
requests the Florida Public Service Commission, absent
Commissioner Beard, ("Commission") rule on Joint Motion of
Attorney General and Southern Bell Telephone and Telegraph
Company for Commissioner Thomas M. Beard to be Recused ("Joint
Motion") and as grounds states:

1. On June 18, 1993 the Attorney General and Southern Bell

ACK
AFA 1 filed a Joint Motion in this docket requesting that Commissioner
APP Beard be recused from "participating in any Southern Bell matter,
CAF including but not limited to any votes that the Commission may
CIR take in such matters". The motion was founded on Commissioner
EAG Beard's publicly acknowledged personal relationships with two
LEG 1 w/m female employees of Southern Bell, the significant amount of
LIN 6 public controversy over the propriety of him participating in
OPC decisions involving Southern Bell and the resulting concerns
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regarding his independence and impartiality relating to Southern Bell matters.

2. Commissioner Beard considered the joint motion for recusal and declined to recuse himself from any Southern Bell matter by his issuance of Order No. PSC-93-0968-PCO-TL, on June 29, 1993.

3. Notwithstanding his denial of the motion that he recuse himself, Commissioner Beard had, a day earlier on June 28, 1993, issued a press release (copy attached as Attachment A) stating that he had married Alma Paruolo, an employee of Southern Bell, and that as a result of his marriage, he had voluntarily made a decision "to permanently recuse himself from any further matters filed on behalf of his wife's employer".

4. On July 6, 1993 Commissioner Beard sent Commission Chairman J. Terry Deason a memorandum (copy attached as Attachment B) informing him of his marriage to Ms. Paruolo and announcing his intention to recuse himself from "all matters filed on behalf of or directly related to Southern Bell". Commissioner Beard further announced his intention to "review these matters on a case by case basis and so inform Records and Reporting".

5. However, also on July 6, 1993, and notwithstanding his earlier statements that he would not vote on Southern Bell matters, Commissioner Beard cast the deciding vote in a 3-2 split by the full commission not to accept its staff recommendation in

Docket No. 930505. This docket concerns a request for rulemaking regarding the common telephone industry practice of rounding toll telephone calls up to the nearest full minute and the staff recommendation was to grant the petition and direct staff to begin a review of the rounding policy, although staff could not then recommend whether a new rule was needed or not.

6. It appears that no telephone company, including Southern Bell, had, as of July 6, 1993, sought intervention in the rulemaking docket as a formal party. Technically, intervention by the telephone companies would not have been necessary unless, and until, the Commission determined to begin the rulemaking process.

7. Notwithstanding their lack of formal "party" status, it is clear that Southern Bell and the other telephone companies had monetary interests that could be affected by the Commission's vote in Docket No. 930505-TL. In response to a staff questionnaire regarding the revenue impact of billing actual long distance minutes versus the practice of rounding up, Southern Bell responded that while no current analyses had been performed, a study in a 1987 docket showed an annual revenue loss of \$17 million to Southern Bell.

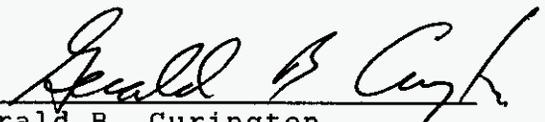
8. While it should be clear that Commissioner Beard, who is now the spouse of a Southern Bell employee, should not vote on matters filed by Southern Bell or in which it is a named party, his recusal from those types of cases, alone, is not legally sufficient. Rather, the Attorney General believes that it is now

legally improper for Commissioner Beard to vote on any matter in which Southern Bell's substantial interests will be affected by proposed agency action as that term is used in Chapter 120, Florida Statutes. Southern Bell's substantial interests were clearly involved in Docket No. 930505-TL and Commissioner Beard should have refrained from participating in that matter.

9. Since it is apparent that Commissioner Beard will not recuse himself from all cases in which Southern Bell's substantial interests will be affected, the Attorney General, pursuant to Rule 25-21.004, Florida Administrative Code, moves the full Commission, excluding Commissioner Beard, to rule on the Joint Motion of Attorney General and Southern Bell Telephone and Telegraph Company for Commissioner Thomas M. Beard to be Recused.

WHEREFORE, the Attorney General requests the Commission to recuse Commissioner Beard in all matters in which the substantial interests of Southern Bell will be affected by proposed agency action.

Respectfully submitted,


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**CERTIFICATE OF SERVICE
DOCKET NO. 920260-TL**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 15th day of July, 1993.

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Gerald B. Curington
Assistant Attorney General

FOR IMMEDIATE RELEASE

June 28, 1993

FOR MORE INFORMATION

Rev DeMello (904) 488-0733

(Tallahassee, FL) PSC Commissioner Tom Beard announced today that he has married Alma Paruolo, an employee of Southern Bell. Beard said that as a result of his marriage, he has voluntarily made a decision to permanently recuse himself from any further matters filed on behalf of his wife's employer.

"Even though the law gives no clear direction, I believe this is the most appropriate decision," said Beard. "It is my hope that this action will finally bring to an end the intense scrutiny under which my family and I have been placed over the many months of these investigations."

Beard reemphasized that all investigations completed to date have failed to uncover any evidence of wrongdoing and said that he is confident a pending report from the Florida Department of Law Enforcement will reach the same conclusion.

"There are major issues before the commission that are critical to the citizens of this state. That is where our attention should be focused, not on personal attacks and witch hunts based on unsubstantiated allegations," said Beard.

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State of Florida



THOMAS M. BEARD
Commissioner

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Public Service Commission

MEMORANDUM

JUL 7 1993

July 6, 1993

TO: COMMISSIONER J. TERRY DEASON, CHAIRMAN
FROM: COMMISSIONER THOMAS M. BEARD *TMB*
RE: RECUSAL FROM SOUTHERN BELL MATTERS

This is to inform you that I have married Ms. Alma Paruolo who is employed by Southern Bell Telephone and Telegraph Company. Accordingly, I will be recusing myself from all matters filed on behalf of or directly related to Southern Bell. It is my intention to review these matters on a case by case basis and so inform Records and Reporting.

Attachment

cc: Steve Tribble, Division of Records and Reporting

ATTACHMENT B