

MEMORANDUM

JANUARY 9, 1995

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10:42
FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (NATCH) *TR*
RE: DOCKET NO. 951354-TL - NOTICE OF ELECTION OF PRICE
REGULATION BY BELL SOUTH TELECOMMUNICATIONS, INC. D/B/A
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

0036-fof

Attached is an ORDER ACKNOWLEDGING ELECTION OF PRICE REGULATION AND NOTICE OF PROPOSED AGENCY ACTION ORDER REQUIRING REDUCTION OF CERTAIN RATES to be issued in the above-referenced docket. (Number of pages in Order - 6)

TWH/clp
Attachment
cc: Division of Communications
I: 951354cr.twh

2/0

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Notice of election of) DOCKET NO. 951354-TL
price regulation by BellSouth) ORDER NO. PSC-96-0036-POF-TL
Telecommunications, Inc. d/b/a) ISSUED: January 10, 1996
Southern Bell Telephone and)
Telegraph Company.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN P. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER ACKNOWLEDGING ELECTION OF PRICE REGULATION

AND

NOTICE OF PROPOSED AGENCY ACTION
ORDER REQUIRING REDUCTION OF CERTAIN RATES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed in Section III of this Order is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. BACKGROUND

Section 364.051, Florida Statutes, created by Chapter 95-403, Laws of Florida, allows local exchange companies (LECs) to elect price regulation effective January 1, 1996. On November 1, 1995, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) filed notification of its election of price regulation effective January 1, 1996.

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FPSC-RECORDS/REPORTING

Pursuant to Section 364.051(2)(a), for a LEC electing price regulation prior to January 1, 1996:

[T]he rates for basic local telecommunications service shall be capped at the rates in effect on July 1, 1995, and shall not be increased prior to January 1, 1999. However, the basic local telecommunications service rates of a local exchange telecommunications company with more than three million basic local telecommunication service access lines in service on July 1, 1995, shall not be increased prior to January 1, 2001.

As discussed in greater detail below, we acknowledge Southern Bell's election of price regulation. In addition, Southern Bell also directed to reduce certain prices to their July 1, 1995, level in accordance with Section 364.051(2)(a).

II. ACKNOWLEDGEMENT OF ELECTION OF PRICE REGULATION

Southern Bell filed its notice of price regulation on November 1, 1995. Accordingly, we acknowledge the election and note that, effective January 1, 1995, the Company will be subject to the price regulation provisions set forth in 364.051.

III. REDUCTIONS TO CERTAIN RATES TO CAPPED LEVELS

Southern Bell's election of price regulation is effective January 1, 1996. Pursuant to Section 364.051, the company's rates for basic telecommunications service and certain protected non-basic services are to be capped at July 1, 1995, levels. Moreover, these rates can not be increased until January 1, 2001. See Sections 364.051(2)(a) and 364.051(6)(a).

Section 364.02(2), Florida Statutes, as amended by Chapter 95-403, Laws of Florida, defines basic local telecommunications service as:

voice-grade, flat-rate residential and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multi-frequency dialing, and access to the following: emergency services such as "911," all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a local exchange telecommunications company, such term

shall include any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995.

In addition to the basic local telecommunications services being capped, there are caps related to some non-basic services and network access services. See Sections 364.051(6) and 364.163. Both sections reference the July 1, 1995 date as the cap for rates. Section 364.051(6)(a) provides:

[F]or purposes of this subsection, the prices of:

1. A voice-grade, flat-rate, multi-line business local exchange service, including multiple individual lines, centrex lines, private branch exchange trunks, and any associated hunting services, that provides dial tone and local usage necessary to place a call within a local exchange calling area; and

2. Telecommunications services provided under contract service arrangements to the SUNCOM Network, as defined in chapter 282.

shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to January 1, 1999; . . .

Southern Bell has filed tariffs subsequent to July 1, 1995 that have resulted in increased rates for some basic local telecommunications services and certain of the protected non-basic services specified in Section 364.051(6)(a) above. The rates in question are the rate regroupings of the Jensen Beach, West Palm Beach and Holley-Navarre exchanges.

Rate regrouping is a rate design mechanism that has been used historically to insure that the rates for certain customer classes equalized. Rate groups are premised on the number of access lines an enduser can call on a local flat-rate basis. As the number of access lines an enduser can call increases, the rate for flat-rate local service also increases. The increase in rates is rooted in an historic value-of-service pricing philosophy; as the number of lines a person can call increases, the more valuable the person's local flat-rate service becomes. As the service becomes more valuable, customers should pay more for it. The rates for each rate group are set for each LEC. Pursuant to Rule 25-4.056, Florida Administrative Code, rate regrouping has been accomplished on an automatic basis by the LECs based on growth in subscribership in an exchange.

The Jensen Beach regrouping tariff became effective on October 20, 1995, the West Palm Beach regrouping tariff became effective on October 22, 1995, and the Holley-Navarre regrouping tariff became effective November 28, 1995. These regroupings resulted in increases in voice-grade, flat-rate residential and flat-rate single-line business local exchange services which are defined as basic local telecommunications services. In addition, the rates for multi-line business and PBX trunks also were increased. These services fall with the rate capped class of nonbasic services.

In response to the question of whether the rate increases from these rate regroupings should be rolled back to July 1, 1995, levels, Southern Bell argues that rate regrouping is a change in service and that it is not an increase in the rate for a telecommunication service. We disagree. Section 364.051, Florida Statutes, clearly states that basic local telecommunications services and protected non-basic services will be capped at the rates in effect on July 1, 1995.

We understand that there may be questions of the propriety of having differing rates for similar calling scopes that the Commission has recently implemented regrouping plans to revise the rates for smaller local exchange companies. However, the rate grouping plans are something that have originated from rate of return regulation. With the revisions of Chapter 364 and the encouragement of competition, current rate structures of the local exchange companies ultimately may vary greatly to respond to competitive pressures. As competition develops, particularly price competition, pricing plans such as regrouping will become an historic anachronism.

Accordingly, based on consideration of the above, we find that the rate increases stemming from the rate regroupings for the Jensen Beach, West Palm Beach and the Holley-Navarre exchanges that have become effective subsequent to July 1, 1995, should be eliminated and the affected rates for these exchanges shall be revised back to their July 1, 1995 levels, effective January 1, 1996. Southern Bell shall file tariffs reflecting the changes directed herein.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's election of price regulation is hereby acknowledged as set forth in the body of this Order. It is further

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ORDERED that Southern Bell shall revise the rates in the Jensen Beach, West Palm Beach and the Holley-Navarre exchanges to eliminate the rate increases stemming from the rate regroupings for the that have become effective subsequent to July 1, 1995, as set forth in the body of this Order. It is further

ORDERED that Section III of this Order shall become final and effective unless an appropriate petition is filed in accordance with the "Notice of Further Proceedings or Judicial Review" as set forth below. It is further

ORDERED that if Section III of this Order becomes final and effective on the date set forth below, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 10th day of January, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

TWH

Chairman Susan F. Clark and Commissioner J. Terry Deason dissented.

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.

As identified in the body of this order, our action in Section III of this Order is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 31, 1996. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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 the action on Section III of this Order becomes final and effective 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 effective date 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.

Any party adversely affected by the Commission's final action in Section II of this Order 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 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 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.