

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of) DOCKET NO. 920260-TL
the revenue requirements and) ORDER NO. PSC-96-0810-S-TL
rate stabilization plan of) ISSUED: June 21, 1996
SOUTHERN BELL TELEPHONE AND)
TELEGRAPH COMPANY.)
_____)

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING STIPULATION AND
REFUND RELATED TO DELAYED IMPLEMENTATION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein 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. Stipulation

On March 15, 1995, BellSouth Telecommunications, Inc. (BellSouth) refunded \$30.45 million to subscribers due to earnings in excess of BellSouth's sharing point of 12% on equity per Order No. PSC-95-0562-FOF-TL. The \$30.45 million in earnings above the sharing point was based on BellSouth's preliminary surveillance report for the 12 months ending December 31, 1994. Our staff completed an audit of BellSouth's 1994 surveillance report on October 20, 1995.

On April 18, 1996, the Office of Public Counsel (OPC) and BellSouth filed a joint motion for approval of a stipulation (Attachment A) which would result in a refund of \$7.2 million. BellSouth and OPC have agreed that the final surveillance report for calendar year 1994 shows an additional amount of approximately \$12 million before sharing in excess of the sharing point of 12% on equity. The additional \$12 million is a result of staff audit adjustments, OPC adjustments, and company adjustments. Sixty percent of \$12 million, or \$7.2 million, is the amount that would be refunded to BellSouth subscribers.

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BellSouth proposes that these funds be returned to ratepayers using the same methodology approved by this Commission in Order No. 25367, issued on November 20, 1991. We find this to be appropriate, and, therefore, the 1994 additional amount of approximately \$7.2 million shall be refunded to customers of record as of the end of April, 1996. Refunds shall be made per access line, on a pro rata basis, according to rate levels. ESSX customers shall receive refunds based on applicable Network Access Register rates.

The refund to an R-1 customer in the highest rate group will be approximately \$.96 and for a B-1 customer the refund will be approximately \$2.62. These amounts reflect the assumption that subscribers who pay usage rates plus some percentage of the equivalent flat rate will receive refunds based on either the flat rate surrogate, if applicable, or the full equivalent flat rate. This is equitable since most usage rate subscribers pay more for local service than the flat rate subscribers to the same service. Thus, they should receive refunds that are at least equivalent to those based on flat rates.

In addition, Rule 25-4.114, Florida Administrative Code, requires the following:

- a. Refunds must be made within 90 days of the final order.
- b. Motions for reconsideration do not delay refunds unless a stay is requested and granted.
- c. The Company must file refund reports.

In the final report filed after the refunds are made pursuant to Rule 25-4.114(7), BellSouth shall include documentation, in the form of a priceout, showing the calculations for the actual refund amounts per line.

Refunds shall be distributed during the July 1996 billing cycles.

II. Refund Related to Delayed Implementation

A Stipulation and Agreement between OPC and BellSouth was filed on January 5, 1994, and approved by this Commission on January 18, 1994. See Order No. PSC-94-0172-FOF-TL. The terms required, among other things, that rate reductions be made to certain BellSouth services while other rate reductions were unspecified. An unspecified rate reduction amount of \$25 million was scheduled to be implemented on October 1, 1995. This Commission approved BellSouth's extended calling service (ECS) plan effective January 1, 1996, and ordered BellSouth to issue a credit

ORDER NO. PSC-96-0810-S-TL
DOCKET NO. 920260-TL
PAGE 3

for the period October 1, 1995 through December 31, 1995 since the \$25 million rate reduction was not implemented on October 1, 1995. See Order No. PSC-95-1391-FOF-TL

By Order No. PSC-96-0020-FOF-TL, dated January 8, 1996, we granted BellSouth's request to extend the implementation date of the ECS plan to January 15, 1996. Since rate reductions were not implemented until the middle of January 1996, an additional \$1.0416 million, 1/24th of \$25 million, needs to be refunded for the period from January 1, 1996, through January 14, 1996. For ease of administration, we find that the \$1.0416 million refund shall be added to the \$7.2 million refund identified in the previous section.

BellSouth proposes that these funds be returned to ratepayers using the same methodology approved by this Commission in Order No. 25367, issued on November 20, 1991. We agree that this is appropriate. Therefore, the additional amount of approximately \$1.0416 million shall be refunded to customers of record as of the end of April, 1996. Refunds shall be made per access line, on a pro rata basis, according to rate levels. ESSX customers shall receive refunds based on applicable Network Access Register rates.

The refund to an R-1 customer in the highest rate group will be approximately \$.14 and the refund for a B-1 customer will be approximately \$.38. These amounts reflect the assumption that subscribers who pay usage rates plus some percentage of the equivalent flat rate will receive refunds based on either the flat rate surrogate, if applicable, or the full equivalent flat rate. This is equitable since most usage rate subscribers pay more for local service than the flat rate subscribers to the same service. Thus, the R-1 and B-1 customers shall receive refunds that are at least equivalent to those based on flat rates.

In the final report filed after the refunds are made pursuant to Rule 25-4.114(7), Florida Administrative Code, BellSouth shall include documentation, in the form of a priceout, showing the calculations for the actual refund amounts per line.

Refunds shall be distributed during the July 1996 billing cycles.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc.'s and the Office of Public Counsel's Joint Motion and Stipulation to refund additional 1994 earnings in excess of the sharing point of 12% on equity in the

ORDER NO. PSC-96-0810-S-TL
DOCKET NO. 920260-TL
PAGE 4

amount of \$7.2 million is approved as set forth in the body of this Order. It is further

ORDERED that a refund of \$1.0416 million related to the delayed implementation of BellSouth's scheduled October 1, 1995, \$25 million rate reduction is approved as set forth in the body of this Order and shall be added to the \$7.2 million refund approved in Section I of this Order. It is further

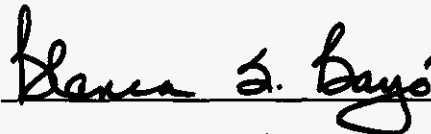
ORDERED that BellSouth shall file a final report after the refunds are made pursuant to Rule 25-4.114(7), Florida Administrative Code, and include documentation, in the form of a priceout, showing the calculations for the actual refund amounts per line. It is further

ORDERED that refunds shall be distributed during the July 1996 billing cycles. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 21st day of June, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DLC

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 action proposed herein 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 12, 1996.

In the absence of such a petition, this order shall become effective on the day 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 this order becomes final and effective on the date described above, any party substantially 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.

Attachment "A"

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive Review of)
the Revenue Requirements and Rate) Docket No. 920260-TL
Stabilization Plan of Southern)
Bell Telephone and Telegraph) Filed: April 18, 1996
Company)
_____)

STIPULATION AND AGREEMENT
BETWEEN THE OFFICE OF PUBLIC
COUNSEL AND BELL SOUTH TELECOMMUNICATIONS, INC.

COME NOW, the Office of Public Counsel ("Public Counsel") and BellSouth Telecommunications, Inc. ("BellSouth" or "Company") (sometimes hereinafter referred to as the "Parties") and hereby agree and covenant as follows:

WHEREAS, there is presently pending before the Florida Public Service Commission ("FPSC") the implementation of the provisions of the Stipulation and Agreement between the Office of Public Counsel and BellSouth filed on January 5, 1994 and approved by the Commission in Order No. PSC-94-0172-FOF-TL, issued on February 11, 1994; and

WHEREAS, the issue of BellSouth's return on equity (earnings) for calendar year 1994 and the sharing therefrom remains to be concluded; and

WHEREAS, Public Counsel and BellSouth believe that it is in the best interest of the ratepayers of BellSouth and the Citizens of Florida to amicably resolve the issue of BellSouth's return on equity/earnings for calendar year 1994 without the expenditure of further time, money, and other resources in litigating these issues before the Commission and the courts;

Now therefore, the Parties do hereby agree and covenant as follows:

6. The Parties agree that this Stipulation and Agreement is intended to and shall settle all issues with regard to the determination of BellSouth's return on equity and earnings for calendar year 1994, as well as the appropriate amount of sharing therefrom.

7. The Parties agree that the preliminary Surveillance Report for calendar year 1994 resulted in a refund to BellSouth's Florida Subscribers, which refund was completed during 1995. This refund was pursuant to Order No. PSC-95-0562-FOF-TL, issued on May 8, 1995.

8. The Parties agree that the final Surveillance Report for calendar year 1994 shows that BellSouth's earnings before sharing for that period exceeded 12% on equity by an additional 12.0 million dollars. As a result, BellSouth's Florida subscribers are entitled to receive 60% of the additional earnings above 12% on equity, or 7.2 million dollars.

9. The Parties propose that these refunds be returned to ratepayers using the same methodology approved by this Commission in Order No. PSC-95-0562-FOF-TL. The Parties propose that the 1994 amount of 7.2 million dollars shall be refunded to customers of record as of the end of April, 1996. The Parties propose that refunds shall begin as soon as possible and shall be completed no later than the end of July, 1996.

10. The Parties acknowledge that the issue of BellSouth's level of earnings for calendar 1995 and any sharing therefrom

remains in dispute. The Parties, therefore, believe it is in the public interest to make the refunds for 1994 at the present time, rather than to wait for completion of any review of BellSouth's earnings/return on equity for calendar year 1995.

11. The Parties agree that they shall jointly petition the FPSC to approve this Stipulation and Agreement.

12. The Parties agree that in the event the FPSC does not adopt this Stipulation and Agreement in its entirety, this Stipulation and Agreement shall become null and void and be of no effect.

13. The Stipulation and Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida, without regard to its conflict of laws principles.

14. Public Counsel and BellSouth acknowledge that this Stipulation and Agreement is being entered into for the purposes of settlement only and that the Parties are entering into this Stipulation and Agreement to avoid the expense and length of further legal proceedings, taking into account the uncertainty and risk inherent in any litigation.

IN WITNESS WHEREOF, this Stipulation and Agreement has been executed as of the 18th day of April, 1996, by the undersigned counsel of record for the Parties hereto and/or by the Parties themselves in multiple counterparts, each of which shall be deemed an original.

THE OFFICE OF PUBLIC COUNSEL BELLSOUTH TELECOMMUNICATIONS, INC.

By: *Jack Shreve*
Jack Shreve
Public Counsel

By: *Joseph P. Lacher*
Joseph P. Lacher
President - Florida