

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: NOVEMBER 13, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF AUDITING AND FINANCIAL ANALYSIS (WRIGHT) *RW*
DIVISION OF COMMUNICATIONS (SIMMONS) *SAS* *DM*
DIVISION OF LEGAL SERVICES (BROWN, KEATING) *MCB* *K* *JMS*

RE: DOCKET NO. 920260-TL - COMPREHENSIVE REVIEW OF THE REVENUE REQUIREMENTS AND RATE STABILIZATION PLAN OF SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY.

AGENDA: 11/17/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\AFA\WP\920260.RCM

CASE BACKGROUND

Order No. PSC-94-0172-FOF-TL, Docket No. 920260-TL, provided that BellSouth Telecommunications Inc.'s (BellSouth) 1996 and 1997 earnings in excess of 12.5% return on equity (ROE), adjusted for the difference between the 1993 and 1996 average AA Utility Bond Rates for September through November of each year, respectively, would be shared with subscribers. The resulting thresholds for 1996 and 1997 are 13.11% ROE and 18.11% ROE before sharing. Amounts were to be shared as follows: 60% refunded to the customers, with the balance retained by BellSouth between 13.11% ROE and 18.11% ROE, plus 100% of earnings refunded above 18.11% ROE.

On November 13, 1998, BellSouth and the Office of Public Counsel (OPC) filed a joint proposal that BellSouth refund an additional \$38 million for 1996 and 1997, plus interest, based on the results of the final surveillance report for 1996 and preliminary reports for 1997. This recommendation addresses the joint proposal.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve BellSouth's (BellSouth) and the Office of Public Counsel's (OPC) joint proposal (Attachment A) to refund additional 1996 and 1997 earnings in excess of the sharing point of 13.11% on equity in the amount of \$40.033 million, during the December 1998 billing cycle?

RECOMMENDATION: Yes, the Commission should approve the joint proposal. In the final report submitted to staff after the refunds are made pursuant to Rule 25-4.114(7), Florida Administrative Code, BellSouth should include documentation (in the form of a priceout) showing the calculations for the actual refund amounts per type of access line. (Wright, Simmons)

STAFF ANALYSIS: In Order No. PSC-97-0632-FOF-TL, issued May 30, 1997, the Commission directed BellSouth to refund \$50.1 million to subscribers due to earnings before sharing for 1996 in excess of BellSouth's sharing point of 13.11% on equity. The \$50.1 million in earnings above the sharing point was based on BellSouth's preliminary surveillance report for the 12 months ending December 31, 1996. The staff completed an audit of BellSouth's 1996 surveillance report on January 15, 1998. In Order No. PSC-98-0693-FOF-TL, issued May 19, 1998, the Commission also directed BellSouth to refund \$126.675 million, based on a 1997 preliminary surveillance report, filed March 20, 1998.

On November 13, 1998 the OPC and BellSouth filed a stipulation and agreement to propose an additional refund of \$38 million for 1996 and 1997, plus interest. BellSouth and OPC have agreed that the final surveillance report for calendar year 1996 shows an additional amount of approximately \$10 million before sharing in excess of the sharing point of 13.11% on equity. The additional \$10 million is a result of staff audit adjustments, OPC adjustments, and company adjustments. Sixty percent of \$10 million, or \$6 million, is the additional amount that would be refunded to BellSouth subscribers based on the final 1996 surveillance report. BellSouth and OPC have also proposed a preliminary increase of \$32 million in sharing for 1997 be refunded to BellSouth's subscribers with interest. Interest on the total \$38 million refund amounts to \$2.033 million for a total refund of \$40.033 million. Prior years' sharing refunds have resulted in rate base reductions, thereby benefitting subscribers in subsequent years. Since 1997 is the last year of sharing, the subscribers will not receive a benefit from rate base reductions for 1998. It is necessary, therefore, to add interest for the time period from

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January 1, 1998 until December 15, 1998. Any future refunds based on 1997 earnings should also include interest from January 1, 1998.

1996 and 1997 BellSouth Refunds (millions)				
	June 1997	June 1998	December 1998	Total Refunds
1996	\$50.1		\$6	\$56.1
1997		\$123.5	\$32	\$155.5
Interest		\$3.175	\$2.033	\$5.208
Totals	\$50.1	\$126.675	\$40.033	\$216.808

BellSouth and OPC propose that these funds be returned to ratepayers using the same methodology approved by this Commission in Order No. 25367, issued on November 20, 1991, in Docket No. 880069-TL. Staff agrees that this is appropriate. Therefore, the additional amount of approximately \$40.033 million should be refunded to customers of record as of the end of September, 1998. Refunds should be made based on access lines, pro rata according to rate levels. ESSX and MultiServe customers should receive refunds based on applicable Network Access Register rates.

The refund to a R-1 customer in the highest rate group will be approximately \$4.63; for a B-1 customer it will be about \$12.65. 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 a) the flat rate surrogate, if applicable, or b) the full equivalent flat rate.

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 submitted to staff after the refunds are made pursuant to Rule 25-4.114(7), Florida Administrative Code, BellSouth should include documentation (in the form of a priceout) showing the calculations for the actual refund amounts per type of access line.

Refunds should be distributed during the December 1998 billing cycles.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If the Commission approves staff's recommendation in Issue 1, and no timely protest to the proposed agency action is filed within 21 days of issuance of the Order, the Order will become final, but the docket should remain open to address the final 1997 surveillance report and any outstanding issues. (Wright, Brown, Keating)

STAFF ANALYSIS: A final 1997 surveillance report must be filed and the staff audit completed, with all issues resolved by the parties; therefore, the docket should remain open.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive review of)
revenue requirements and rate) Docket No. 920260-TL
stabilization plan of Southern)
Bell Telephone and Telegraph) Filed: November 13, 1998
Company)
_____)

**Joint Motion Seeking Commission
Approval of Stipulation**

COMES NOW, The Office of Public Counsel (the "OPC") and BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Rule 25-22.037, Florida Administrative Code, and hereby files this Joint Motion to have the Florida Public Service Commission (the "FPSC") approve the Stipulation and Agreement between the Office of Public Counsel and BellSouth Telecommunications, Inc. (the "Stipulation and Agreement") and to take all the action specified therein. In support of this Joint Motion, the OPC and BellSouth show the following:

1. Presently pending before the FPSC is the implementation of the provisions of the Stipulation and Agreement between the OPC 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.
2. The issue of BellSouth's return on equity (earnings) for calendar year 1996 and the sharing therefrom remains to be concluded.

3. The OPC 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 1996 without the expenditure of further time, money, and other resources in litigating this issue before the Commission and the courts.

4. The issue of BellSouth's return on equity (earnings) for calendar year 1997 and the sharing therefrom remains in dispute. The parties, however, have determined that an additional \$32 million sharing for 1997 is appropriate at this time.

5. The OPC and BellSouth believe that it is in the public interest to make the additional \$32 million refund for 1997 sharing at the present time plus interest, rather than waiting for completion of the review of BellSouth's return on equity for calendar year 1997.

6. The OPC and BellSouth have negotiated a settlement of these issues. That settlement is set forth in the Stipulation and Agreement executed by the OPC and BellSouth. A copy of the Stipulation and Agreement is attached hereto as Attachment "A"

7. Because the Stipulation and Agreement is in the best interest of BellSouth's ratepayers, the OPC and BellSouth request that the FPSC expeditiously accept and approve the Stipulation and Agreement as filed.

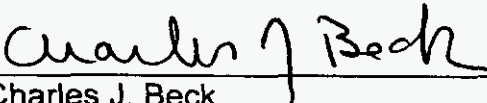
WHEREFORE, the OPC and BellSouth respectfully request that the FPSC
grant the relief sought in this Joint Motion.

Respectfully submitted this 13th day of November, 1998.

BELLSOUTH TELECOMMUNICATIONS, INC.

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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: November 10, 1998
Company)	
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STIPULATION AND AGREEMENT BETWEEN THE OFFICE OF PUBLIC COUNSEL AND BELLSOUTH 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 1996 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 1996 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:

1. 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 1996, as well as the appropriate amount of sharing therefrom.

2. The Parties agree that the preliminary Surveillance Report for calendar year 1996 resulted in a refund to BellSouth's Florida Subscribers of \$50.1 million, which refund was processed during 1997. This refund was

pursuant to Order No. PSC-97-0632-FOF-TL, issued on May 30, 1997.

3. The Parties agree that the final Surveillance Report for calendar year 1996 shows that BellSouth's earnings before sharing for that period exceeded 13.11% on equity by an additional \$10 million dollars. As a result, BellSouth's Florida subscribers are entitled to receive 60% of the additional earnings above 13.11% on equity, or \$6 million dollars.

4. The Parties propose that these refunds be returned to ratepayers using the same methodology approved by this Commission in Order No. PSC-98-0693-FOF-TL. The Parties propose that the additional 1996 amount of \$6 million dollars plus interest shall be refunded to customers of record as of the end of September, 1998. The Parties propose that refunds shall begin as soon as possible and shall be completed no later than the end of December, 1998.

5. The Parties agree that the preliminary Surveillance Report for calendar year 1997 resulted in a refund to BellSouth's Florida Subscribers of \$123.5 million plus \$3.175 interest, which refund was processed during 1998. This refund was pursuant to Order No. PSC-98-0693-FOF-TL, issued on May 19, 1998.

6. The Parties acknowledge that the issue of BellSouth's level of earnings for calendar 1997 and any sharing therefrom remains in dispute. BellSouth has tentatively completed its true-up of 1997 income taxes and determined that actual income tax is less than the amount previously journalized. Although this is a normal true-up function and will be reviewed by all parties prior to finalization of 1997 sharing, as well as other issues, BellSouth proposes that a preliminary increase of \$32 million sharing for 1997 be refunded to its subscribers at this time, plus interest.

7. The Parties, therefore, believe it is in the public interest to make the additional \$6 million refund for 1996 plus interest as well as an additional \$32 million in 1997 sharing at the present time plus interest, rather than to wait for completion of any review of BellSouth's earning/return on equity for calendar year 1997.

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

9. 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.

10. 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.

11. 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 13th day of November, 1998, 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.

OFFICE OF PUBLIC COUNSEL

BELLSOUTH
TELECOMMUNICATIONS, INC.

By: Jack Shreve
Jack Shreve
Public Counsel

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