

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for review of rates and ) DOCKET NO. 860723-TP  
 charges paid by PATS providers to LECs ) ORDER NO. 22874  
 \_\_\_\_\_ ) ISSUED: 4-30-90

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

ORDER APPROVING TARIFF PROPOSAL AND  
 EXTENDING EXPIRATION DATE OF STIPULATION

BY THE COMMISSION:

On August 26, 1988, the following parties entered into a Stipulation to resolve the issues in this docket: Florida Pay Telephone Association, Inc. (FPTA), Southern Bell Telephone and Telegraph Company (Southern Bell), Central Telephone Company of Florida (Centel), GTE Florida, Inc. (GTEFL), United Telephone Company of Florida (United), and AT&T Communications of the Southern States, Inc. (ATT-C). Upon review of this Stipulation, we voted to defer our consideration of the issues addressed in the Stipulation until the September 6, 1988, Agenda Conference.

During the September 6, 1988, Agenda Conference, we voted to reject the Stipulation and continue with the hearing scheduled for September 8 and 9, 1988. However, at that hearing, upon further review of the Stipulation and the issues set forth in the Prehearing Order, we reconsidered our decision to reject the Stipulation. Upon reconsideration, we voted to adopt all portions of the Stipulation as resolution of all pending issues except as to those issues identified in paragraphs 3 and 4 of the Stipulation. Accordingly, on October 6, 1988, we issued Order No. 20129 accepting certain portions of the Stipulation. The Order established that the terms of the Stipulation shall remain in effect for a period of two years from September 8, 1988, or until September 8, 1990. As to those issues identified in paragraphs 3 and 4 of the Stipulation, we received evidence and testimony upon which we made a final determination, as reflected in Order No. 20610, issued January 17, 1989.

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Among other things, Order No. 20129 required Southern Bell to implement incremental billing of usage charges for additional minutes no later than January 1, 1990. Subsequently, it came to our attention that Southern Bell was not in compliance with this portion of the Order. In response to a February 6, 1990, inquiry from our staff, Southern Bell stated that confusion existed within the Company concerning the effectiveness of the various parts of the Stipulation, resulting in the delay in implementation of incremental billing.

On March 7, 1990, Southern Bell filed its proposed tariff (T-90-090) to implement six second incremental billing of additional minutes of usage to non-local exchange (nonLEC) pay telephone service (PATS) providers. Since this filing is late, Southern Bell has proposed to retroactively adjust the nonLEC PATS providers' bills to reflect an effective date of January 1, 1990. These adjustments will be shown in the "other charges and credits" section of the subscriber's bill after April 1, 1990; thus, lost revenues from January 1, 1990, to April 1, 1990, will be restored to the PATS providers.

Upon consideration, we find it appropriate to approve Southern Bell's tariff filing, with an effective date of January 1, 1990. While we find Southern Bell's proposal to adjust subscribers' bills laudable, we do not believe that action alone is sufficient. In signing the Stipulation, the Company made a commitment to implementation no later than January 1, 1990. Although we do not see how the language of the Stipulation could have been confusing, it was the Company's responsibility to request clarification if it was unsure of the intent of our Order. Accordingly, Southern Bell shall be required to retroactively adjust subscribers' bills, with interest, from January 1, 1990, to the date on which subscribers' bills are credited. As required by Rule 25-4.114, Florida Administrative Code, the interest rate shall be based upon the thirty (30) day commercial paper rate for high grade, unsecured notes sold through dealers by major corporations in multiples of \$1,000, as regularly published in the Wall Street Journal. Southern Bell shall file a detailed refund report within thirty (30) days after it has credited its subscribers' bills. Further, should Southern Bell fail to complete implementation on or before April 1, 1990, the Company's commitment date, additional action may be forthcoming from this Commission.

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When we issued Order No. 20129, we determined that the terms of the Stipulation which we adopted by that Order would remain in effect for two (2) years, or until September 8, 1990. Subsequently, in Order No. 20610, among other things, we set for hearing the issue of an appropriate rate structure for nonLEC PATS providers. This was an issue addressed in certain portions of the Stipulation which we adopted in Order No. 20129. The hearing on this issue, as well as on other related issues, is presently scheduled to take place on August 1 through 3, 1990. As a result, we will be unable to render a decision prior to the expiration of the Stipulation. In reviewing the terms of the Stipulation, we do not believe that any party would be adversely affected by an extension of the expiration date. Therefore, we find it appropriate, on our own motion, to extend the expiration date of the Stipulation from September 8, 1990, until a new order is issued resulting from the August 1 through 3, 1990, hearing.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the tariff (T-90-090) filed by Southern Bell Telephone and Telegraph Company to implement incremental billing for additional minutes of usage is hereby approved with an effective date of January 1, 1990. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall take all necessary steps to implement its tariff (T-90-090) no later than April 1, 1990, as specified in the body of this Order. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall credit its subscribers retroactively to January 1, 1990, including interest, in accordance with the terms and conditions detailed in the body of this Order. It is further

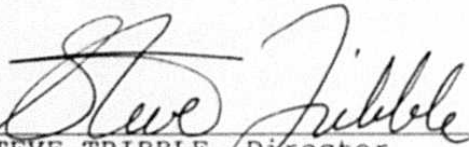
ORDERED that Southern Bell Telephone and Telegraph Company shall file certain reports as specified herein. It is further

ORDERED that the expiration date of the Stipulation adopted by Order No. 20129, is hereby extended as set forth herein. It is further

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ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission,  
this 30th day of APRIL, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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.

Any party adversely affected by the Commission's final action in this matter 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 sewer utility by filing a notice of

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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.