

State of Florida



Public Service Commission

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

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RECEIVED-FPSC  
DEC-7 AM 11:54  
RECORDS AND REPORTING

**DATE:** DECEMBER 7, 2000

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

**FROM:** DIVISION OF COMPETITIVE SERVICES (WRIGHT, SIMMONS) *RW SAS*  
 DIVISION OF ECONOMIC REGULATION (MAILHOT) *DM*  
 DIVISION OF LEGAL SERVICES (ELIAS) *used for RUE CRBB*

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

**AGENDA:** 12/19/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

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

CASE BACKGROUND

By Order No. PSC-94-0172-FOR-TL, issued February 11, 1994 in Docket No. 920260-TL, the Commission approved a settlement whereby BellSouth Telecommunications Inc.'s (BellSouth) 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 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. Any earnings above 18.11% ROE were to be refunded 100% to BellSouth customers. Order No. PSC-98-0693-FOR-TL, issued May 19, 1998, approved a preliminary refund for 1997 of \$126.675 million, including interest.

DOCUMENT NUMBER-DATE

15694 DEC-78

FPSC-RECORDS/REPORTING

DOCKET NO. 920260-TL  
December 7, 2000

On November 9, 2000, BellSouth and the Office of Public Counsel (OPC) filed a joint motion seeking Commission approval of a stipulation that BellSouth refund an additional \$47.928 million for 1997, including interest, based on the results of the final surveillance report for 1997.

This recommendation addresses the joint motion and stipulation.

Discussion of Issues

**ISSUE 1:** Should the Commission approve BellSouth's and the Office of Public Counsel's (OPC) joint motion and stipulation and agreement (Attachment 1)?

**RECOMMENDATION:** Yes, the Commission should approve the joint motion and stipulation and agreement. 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:** On November 9, 2000, the OPC and BellSouth filed a joint motion seeking Commission approval of a stipulation and agreement that includes an additional refund of \$40.3 million for 1997, plus interest. The staff completed an audit of BellSouth's surveillance report on March 11, 1999. BellSouth filed a revised surveillance report on March 10, 2000 which incorporated company and staff adjustments to its original filed surveillance report. The additional \$40.3 million appears to be reasonable as that refund amount is more than the resulting refund based on the revised surveillance report including any previous unclaimed refunds. Interest on the \$40.3 million refund is \$7.628 million, for a total refund of \$47.928 million. If the \$47.928 million refund is approved, it will result in total refunds for 1997 of \$208.636 million as shown in the table below:

BellSouth 1997 Refunds in Millions

	May 1998	Dec. 1998	Nov. 2000	Total Refunds
1997 refunds	\$123.5	\$32.0	\$40.3	\$195.8
Interest	\$ 3.175	\$ 2.033	\$ 7.628	\$ 12.836
Totals	\$126.675	\$34.033	\$47.928	\$208.636

BellSouth and OPC propose that these funds be returned to ratepayers using the same methodology approved by this Commission in Order No. PSC-98-0693-FOR-TL. Staff agrees that this is appropriate. The parties further propose that the amount of \$47.928 million will be refunded to customers of record as of the end of October 2000. Refunds are to begin as soon as possible but

be completed no later than February 2001. 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 an R-1 customer is estimated to be between \$3.50 and \$5.00 for each line, while business customers will receive a refund estimated to be between \$10 and \$15 per line. 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. The stipulation states that due to the fact that the refund brings the implementation of Order No. PSC-94-0172-FOR-TL to a close, any unclaimed refunds resulting from this final refund should escheat to the state. The staff would agree that this treatment of unclaimed refunds is appropriate.

Paragraph No. 6 of the stipulation states that BellSouth agrees to absorb the non-recurring cost for the operational support system upgrades necessary to implement rate center consolidation. It continues by stating that BellSouth also agrees to absorb the recurring cost of eliminating Extended Calling Service as a result of consolidating the seven Florida Keys rate centers into one. This appears to negate the requirement in Commission Order No. PSC-00-1937-PAA-TL, issued October 20, 2000, in Docket No. 990455-TL, to ballot customers of the Keys area because they would not experience a rate additive for the rate center consolidation. However, there is a possibility that customers in the Keys area may incur a cost should BellSouth seek to establish a new exchange due to rate center consolidation.

On November 13, 2000, in Docket No. 990455-TL, BellSouth filed a "Petition for Withdrawal or Modification of Proposed Agency

Action, or, in the Alternative, Formal Hearing." In this Petition, BellSouth states "BellSouth did not agree to waive and, indeed, does not waive seeking the establishment of a new exchange in the Keys as a result of rate center consolidation."

Staff understands the parties to the stipulation have agreed that any rate increase associated with establishing a new exchange in the Florida Keys will be addressed pursuant to Section 364.05(3), Florida Statutes.

Staff recommends, therefore, that the Commission approve the joint motion and stipulation and agreement between OPC and BellSouth.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** No. If no person, whose interests are substantially affected by the proposed action, files a protest of the Commission's decision within the 21-day protest period, the Commission's order will become final upon the issuance of a consummating order. Docket No. 920260-TL should, however, remain open pending the completion of the refund and receipt of the final report on the refund. After completion of the refund, the receipt of the final refund report, and receipt by the State of any unrefunded amounts, Docket No. 920260-TL may be closed administratively. (Elias)

**STAFF ANALYSIS:** Whether Staff's recommendation is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of the issuance of the Order, the Commission's Order will become final upon the issuance of a consummating order. This docket should remain open pending the completion of the refund and receipt of the final report on the refund. After completion of the refund, the receipt of the final refund report, and receipt by the State of any unrefunded amount, this docket should be closed administratively.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Filed: November 9, 2000

2000 NOV 13 AM 8:12  
DIVISION OF  
COMPETITIVE SERVICES

**Joint Motion Seeking Commission  
Approval of the 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 1997 and the sharing therefrom remains to be concluded.
3. The OPC and BellSouth believe that it is in the best interest of the customers of BellSouth and the Citizens of Florida to amicably resolve the issue of BellSouth's return on equity/earnings for calendar year 1997 without the expenditure of further time, money, and other resources in litigating this issue before the Commission and the courts.

DOCUMENT NUMBER-DATE

14536 NOV-98

FPSC-RECORDS/REPORTING

4. 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"

5. Because the Stipulation and Agreement is in the best interest of BellSouth's customers, the OPC and BellSouth request that the FPSC expeditiously accept and approve the Stipulation and Agreement as filed and close Docket No. 920260-TL upon the implementation of the Stipulation and Agreement.

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

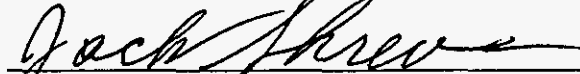
Respectfully submitted 9th day of November, 2000.

BELLSOUTH TELECOMMUNICATIONS, INC.



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive review of )	Docket No. 920260-TL
revenue requirements and rate )	
stabilization plan of Southern )	
Bell Telephone and Telegraph )	
Company )	
_____ )	Filed: November 9th 2000

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

COMES 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 1997 and the sharing therefrom remains to be concluded; and

WHEREAS, Public Counsel and BellSouth believe that it is in the best interest of the customers of BellSouth and the Citizens of Florida to amicably resolve the issue of BellSouth's return on equity/earnings for calendar year 1997 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 1997, as well as the appropriate amount of sharing therefrom.

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

3. The Parties agree that an additional \$32 million, plus interest of \$2.033 million, for 1997 sharing was refunded to BellSouth's Florida subscribers in 1998 pursuant to Order No. PSC-98-1654-FOF-TL, issued on December 9, 1998.

4. The Parties agree that, after resolving the issues raised by the Commission Staff and Public Counsel, the final Surveillance Report for calendar year 1997 shows that BellSouth's earnings before sharing for that period exceeded 15.11% on equity. The issues settled include, but are not limited to unclaimed amounts from both the prior refunds and the current refund.

5. The Parties agree that an additional \$40.3 million, plus interest of \$7.628 million, for a total of \$47.928 million, be refunded to BellSouth's Florida customers. The Parties propose that these refunds be returned to customers using the same methodology approved by this Commission in Order No. PSC-98-0693-FOF-TL. The Parties further propose that the amount of \$47.928 million shall be refunded to customers of record as of the end of October, 2000. Refunds shall begin as soon as possible and shall be completed no later than the end of February, 2001. Due to the fact that this refund brings the implementation of Order No. PSC-94-0172-FOF-TL to a close, any unclaimed refunds resulting from this final refund should escheat to the state in accordance with Chapter 716, Florida Statutes.

6. In addition, as part of this Stipulation and Agreement, BellSouth agrees to absorb the nonrecurring cost for the operational support system upgrades necessary to implement rate center consolidation. BellSouth also agrees to absorb the recurring cost of eliminating Extended Calling Service as a result of consolidating the seven Florida Keys rate centers into one.

7. The Parties agree that they shall jointly petition the FPSC to approve this Stipulation and Agreement and close Docket No. 920260-TL upon the implementation of this Stipulation and Agreement.

8. 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.

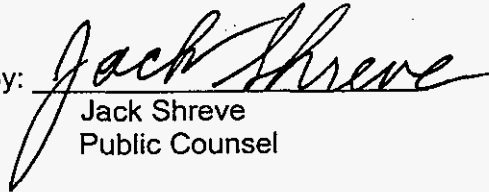
9. The Stipulation and Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida without regard to its conflict of laws principles.

10. 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 November 9, 2000, 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

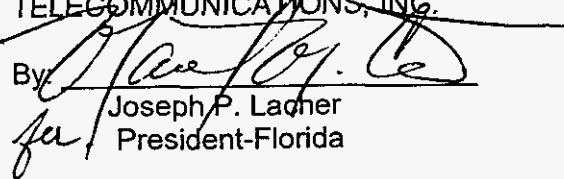
By:

  
Jack Shreve  
Public Counsel

# 209804

BELLSOUTH  
TELECOMMUNICATIONS, INC.

By:

  
Joseph P. Lagner  
President-Florida