

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the)	DOCKET NO. 910163-TL
integrity of SOUTHERN BELL'S repair)	ORDER NO. 24952
service activities and reports.)	ISSUED: 8/21/91
)	

ORDER GRANTING POSTPONEMENT OF SCHEDULE

By Motion for Reconsideration filed August 2, 1991, the Citizens of Florida (the Citizens) have moved this Prehearing Officer to reconsider Order No. 24867, issued July 30, 1991, establishing the schedule of dates for the filing of testimony and other activities in this proceeding. As in Docket No. 900960-TL, the Citizens request that the schedule for this proceeding be postponed until the ongoing criminal investigation of Southern Bell Telephone and Telegraph Company, Inc., (Southern Bell or the Company) by the Attorney General and the Statewide Prosecutor is completed.

The Citizens state that discovery, other than depositions, should continue, but that the schedule of this proceeding should be delayed until the Attorney General and the Statewide Prosecutor's criminal investigation of Southern Bell is completed. The Citizens do not wish the Commission to stay this proceeding, but point out that more time is needed to investigate this complex case.

Southern Bell filed a Response to the Citizens' Motion for Reconsideration on August 13, 1991. In its Response, the Company states that it does not object to the Citizens' request to postpone the schedule for this proceeding. The Company points out that all of the reasons given in its request to stay the proceeding in Docket No. 900960-TL, or in the alternative to delay the schedule of that proceeding, also apply to the circumstances in this Docket. The Company requests that the Commission stay or delay the schedule of this proceeding because of the ongoing criminal investigation by the Attorney General and the Statewide Prosecutor into the activities that are the subject of this docket.

As in Docket No. 900960-TL, it is Southern Bell's position that the Commission has the discretion to stay this proceeding to avoid hindering the criminal investigation and to avoid duplication of proceedings regarding the same issues. Southern Bell asserts that if it were required to file testimony describing the events involved or to provide witnesses for cross-examination in this proceeding, it may be put in the position of compromising its defense of the Attorney General and Statewide Prosecutor's review of the activities at issue here.

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As we stated in Order No. 24885 in Docket No. 900960-TL, although we find we have the discretion to stay this proceeding until the Attorney General and the Statewide Prosecutor's criminal investigation is completed, we do not find such to be appropriate. We find that this Commission has exclusive economic jurisdiction over Southern Bell and a compelling mandate to investigate the activities that are the focus of this proceeding. However, we do wish to cooperate to the greatest possible degree with those agencies having criminal jurisdiction over these activities. Also, it is clear that the parties involved need additional time to develop the complex issues in this proceeding.

Accordingly, we find it appropriate to delay the schedule of this proceeding for six months. Therefore, we hereby modify Order No. 24867 only to postpone the schedule set forth therein. An order reestablishing the schedule for this proceeding will be issued no earlier than May 1, 1992. That schedule will provide at least two months' lead time prior to the due date for the filing of the Company's direct testimony.

All discovery appropriate under the Florida Rules of Civil Procedure may proceed. However, to the extent that the parties choose to refrain from taking depositions in deference to the Attorney General and the Statewide Prosecutor's investigation, they may certainly do so.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Thomas M. Beard, Chairman and Prehearing Officer, that Order No. 24867 is hereby modified to the extent set forth herein.

By ORDER of Chairman Thomas M. Beard, as Prehearing Officer, this 21st day of AUGUST, 1991.


THOMAS M. BEARD, Chairman and
Prehearing Officer

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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 this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.