

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Motion by the Citizens of the State of Florida to compel SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY to file a call trace tariff as required by Order No. 24546)	DOCKET NO. 910815-TL
)	ORDER NO. 25114
)	ISSUED: 9/24/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY

ORDER DENYING PROPOSED TARIFF FILING, DIRECTING COMPANY TO REFILE TARIFF, AND DENYING OPC'S MOTION

BY THE COMMISSION:

On May 20, 1991, we issued Order No. 24546, our final order after hearing in Docket No. 891194-TL. In that Order, we set forth the terms and conditions under which Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) could offer its Caller ID service to subscribers in Florida. An identified issue in that proceeding concerned how Southern Bell should offer its Call Tracing service.

Call Tracing is a TouchStar feature that enables customers to input a code that sends the last incoming number to the local exchange company's (LEC's) security department. By Order No. 24546, we determined that the use and availability of Call Tracing service had enough public utility value that it should be offered without presubscription, on a per usage basis. Southern Bell's Call Tracing service is currently offered only to customers who presubscribe to the feature at \$4.00 per month. In Order No. 24546, we directed the Company to file a tariff proposal providing a usage-based rate structure for Call Tracing service. Southern Bell made its filing on August 2, 1991.

Public Counsel's Motion

On July 23, 1991, the Office of Public Counsel (OPC) filed a Motion to Compel Compliance with Final Order of the Florida Public Service Commission and to Impose Fine (Motion). On July 26, 1991, Southern Bell filed its Response to Public Counsel's Motion to

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Compel Compliance. On August 5, 1991, the Attorney General of Florida filed a Motion to Adopt Public Counsel's Motion to Compel Compliance.

OPC's Motion requests that we compel Southern Bell to comply with the provisions of Order No. 24546. That Order, issued May 20, 1991, required Southern Bell to refile its Call Tracing tariff "within 60 days of the issuance date of the final order in this docket." Order No. 24546, at page 15. OPC's Motion asserts that since the Order was titled "Final Order" and was the final order on the Caller ID hearings, Southern Bell should have filed its tariff by July 19, 1991, to be in compliance with our requirement. OPC further asserts that Southern Bell should be fined for its failure to comply with our Order.

Our staff has informed us that its intention when writing and discussing its recommendation following the Caller ID hearings was to require Southern Bell to refile its Call Tracing tariff after all other issues had been concluded and all orders issued in that docket. Southern Bell refiled its Caller ID tariff on May 15, 1991, and we approved this tariff filing at our June 25, 1991, Agenda Conference. Order No. 24785, issued July 3, 1991, reflects this decision. Our staff then advised Southern Bell that its Call Tracing tariff would be due by September 1, 1991. This date was 60 days from the date of Order No. 24785, the last order in Docket No. 891194-TL. It appears to us that our technical staff's failure to recognize the difference between the legal definition of the final order in a docket and the last order in a docket resulted in this confusion. Southern Bell acted in accordance with instructions from our staff and did not willfully disregard any Commission order in the Caller ID docket. Accordingly, we find it appropriate to deny both OPC's Motion and the Attorney General's Motion.

Tariff Filing

Southern Bell's current Call Tracing tariff offers the service for a flat fee of \$4.00 per month. A customer must call the Company's business office to presubscribe to this feature under the Company's present tariff. We determined in the Caller ID docket that due to the unexpected and infrequent nature of harassing telephone calls (the primary "target" of Call Tracing), the major benefits of Call Tracing could be neutralized if a customer must presubscribe to the feature.

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Southern Bell's proposal would keep the \$4.00 per month rate as an option and add two new options to its Call Tracing service. First, the Company proposes to offer the feature without presubscription at \$6.00 per activation. Second, the Company is proposing to provide blocking of Call Tracing Service at no charge, although a secondary service order charge would apply.

Southern Bell filed cost support with its proposed rate of \$6.00 per activation. The incremental per-activation cost is reported by the Company to be \$4.35. We have reviewed this information and, although brief, it appears to be consistent with the costs and cost information provided for other TouchStar features. The actual costs will be difficult to project. The costs will depend greatly upon demand, and demand figures have varied widely across the country. We believe, however, that Southern Bell has attempted to accurately determine the demand and costs for this addition.

However, we do not find the proposed rate for the feature to be appropriate. A \$4.50 rate would more than cover projected costs and provide some contribution. Southern Bell's rationale for the \$6.00 rate is that because the demand varies widely, the costs could end up being much higher. We agree that this could occur. However, very large contribution levels are built into the other TouchStar features, so we see little risk that TouchStar, as a whole, would lose money as the result of a \$4.50 per use charge for Call Tracing. Further, we do not find banded rates to be appropriate for Call Tracing Service, although we have allowed them for other TouchStar features.

Because of the possibility of a revenue shortfall from this action, we shall require Southern Bell to file a report after this rate has been in effect for one year. The report shall detail costs and revenues for Call Tracing service, both presubscription and per-use, and outline the profits/losses from the feature. We may then revisit the rates, should actual cost levels significantly differ from the projections.

The second tariff change in Southern Bell's proposal is the addition of a provision to allow a customer to restrict access to Call Tracing from her access line. This will not impede the functioning of the service or allow someone to place a call that cannot be traced, but will function like blocking access to 900/976 service. This provision restricts the activation of Call Tracing

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at the subscriber's request to avoid unauthorized charges. With this feature, a person whose phone is easily accessible to others can assure that other users are not able to bill Call Tracing to that customer's access line. This feature was not considered in the Caller ID docket, but is a positive addition to the change to a usage rate for Call Tracing. Southern Bell has proposed providing this option for no monthly charge; however, a one-time secondary service order charge would apply.

We believe that since the Call Tracing blocking provision is modeled after the 900/976 blocking feature, the Company should offer it under similar terms and conditions. Accordingly, we shall require the Company to waive the nonrecurring secondary service order charge for all customers for a period of ninety (90) days following the introduction of Call Tracing on a usage basis in each area it is introduced. Also, new customers shall have ninety (90) days from their service starting date to request the blocking option at no charge.

We do not believe Southern Bell's tariff provision requiring two successful traces before action is taken by the Company is appropriate. Accordingly, we shall require the Company to eliminate this language.

Our final concern with Southern Bell's proposal concerns the language used to apply Call Tracing charges. The proposed language charging the customer "per activation" could be construed to mean that every time a customer initiated Call Tracing service she would be charged, whether the trace was successful or not. We find that language should be changed to replace "per activation" with "per successful trace" to avoid any confusion and ensure that customers only pay for the feature when it works. We recognize that Southern Bell had no intent to charge for unsuccessful traces and was following the language suggested in Order No. 24546. We believe that the term "per successful trace" is more appropriate in this instance.

Upon consideration, we find it appropriate to deny Southern Bell's tariff proposal. Although the filing complies with the provisions stated in Order No. 24546, that order was somewhat unspecific, requiring further Commission consideration of the Call Tracing tariff before implementation. The Company shall be required to refile its Call Tracing tariff by September 26, 1991,

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to become effective as soon as possible, but no later than November 25, 1991.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion to Compel Compliance with Final Order of the Florida Public Service Commission and to Impose Fine filed by the Office of Public Counsel on July 23, 1991, and the Motion to Compel Compliance filed by the Attorney General of Florida on August 5, 1991, are hereby denied for the reasons set forth herein. It is further

ORDERED that the proposed tariff filing by Southern Bell Telephone and Telegraph Company to offer Call Tracing on a usage basis (T-91-369) filed August 2, 1991, is hereby denied for the reasons set forth herein. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall refile its Call Tracing proposal in accordance with the terms and conditions specified herein. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 24th day of SEPTEMBER, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

As identified in the body of this order, our action to deny the tariff proposal is interim 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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 10/15/91. In the absence of such a petition, this order shall become effective on the date 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 the relevant portion of this order denying the tariff proposal becomes final and effective on the date described above, any party adversely 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 sewer 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.

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Any party adversely affected by the Commission's final action in this matter denying the motions 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 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.