

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the matter of :
 Comprehensive Review of the :
 Revenue Requirements and Rate : DOCKET NO. 920260-TL
 Stabilization Plan of SOUTHERN:
 BELL TELEPHONE AND TELEGRAPH :
 COMPANY :
 _____ :

PROCEEDING: STATUS CONFERENCE 4G

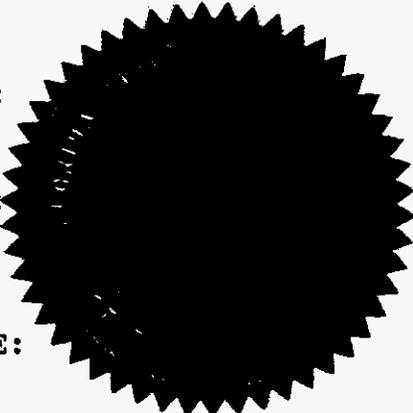
BEFORE: COMMISSIONER SUSAN F. CLARK
Prehearing Officer

DATE: Monday, November 22, 1993

TIME: Commenced at 1:00 p.m.
Concluded at 1:25 p.m.

PLACE: FPSC Hearing Room 106
Fletcher Building
101 East Gaines Street
Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting



DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

1 APPEARANCES:

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5 R. DOUGLAS LACKEY, 675 Peachtree Street,
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7 Telephone No. (404) 529-6361, on behalf of BellSouth
8 Telecommunications, Inc., d/b/a Southern Bell Telephone
9 and Telegraph Company.

10 MICHAEL W. TYE, 106 East College Avenue,
11 Suite 1410, Tallahassee, Florida 32301, Telephone No.
12 (904) 425-6360, on behalf of AT&T Communications of the
13 Southern States, Inc.

14 MICHAEL GROSS, Assistant Attorney General,
15 Department of Legal Affairs, The Capitol, Room 1603,
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18 State of Florida.

19 CHARLES J. BECK, Office of Public Counsel,
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23 State of Florida.

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1 APPEARANCES CONTINUED:

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5 ANGELA B. GREEN, TRACY HATCH and JEAN
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9 the Commission Staff.

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P R O C E E D I N G S

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(Hearing convened at 1:00 p.m.)

COMMISSIONER CLARK: Call this status conference to order. Angela, would you read the notice?

MS. GREEN: Pursuant to notice this time and place was set for a status conference before Commissioner Susan Clark as prehearing officer. This is Docket 920260 and the other four associated dockets.

COMMISSIONER CLARK: Let's take appearances.

MR. ANTHONY: Hank Anthony, Doug Lackey on behalf of Southern Bell Telephone and Telegraph.

MR. BELL: Donald Bell on behalf of AARP.

MR. BECK: Charlie Beck, Office of the Public Counsel, on behalf of Florida citizens.

MR. TYE: Michael W. Tye on behalf of AT&T Communications of the Southern States, Inc.

COMMISSIONER CLARK: Does anyone else want to make an appearance?

MR. GROSS: Michael Gross, Attorney General's Office.

Joy, did you get that?

Michael, would you come up. Go ahead and come on up. You need to turn on a microphone so Joy can pick it up.

1 MR. GROSS: Michael Gross, Florida Attorney
2 General's office.

3 MS. GREEN: Angela Green, Tracy Hatch and
4 Jean Wilson on behalf of the Commission Staff.

5 COMMISSIONER CLARK: Okay. Let me just run
6 through the parties and see who has something we need
7 to take up.

8 MR. ANTHONY: We don't have anything.

9 COMMISSIONER CLARK: Okay. Mr. Gross, do you
10 have anything?

11 MR. GROSS: The Attorney General has nothing.

12 COMMISSIONER CLARK: Okay. Mr. Bell.

13 MR. BELL: No, ma'am.

14 COMMISSIONER CLARK: Mr. Tye.

15 MR. TYE: Nothing.

16 COMMISSIONER CLARK: I'm coming to you.

17 MR. BECK: Charlie, you have some things we
18 need to discuss.

19 MR. BECK: Yes.

20 COMMISSIONER CLARK: Okay. Staff, do you
21 have anything?

22 MS. GREEN: Only in response to Mr. Beck.

23 COMMISSIONER CLARK: Okay. Go ahead,
24 Mr. Beck.

25 MR. BECK: Commissioner, we have a number of

1 items.

2 The first one is some additional issues. You
3 issued an additional order on prehearing procedure as a
4 result of the initial issues conference that the
5 parties had. At that time we discussed the fact we had
6 not prepared our testimony yet and might need to raise
7 additional issues after we had finished that. This
8 morning I faxed proposed additional issues to the Staff
9 and to Southern Bell. I think the Staff has some
10 proposed changed to them that I'm agreeable with. I
11 don't know if we should start going over of the
12 additional issues or how we handle that.

13 COMMISSIONER CLARK: Let me see. Has
14 Southern Bell seen those issues?

15 MR. ANTHONY: We received them this morning.

16 COMMISSIONER CLARK: Have you had time to
17 review them?

18 MR. ANTHONY: Briefly we have had a chance to
19 look at them.

20 COMMISSIONER CLARK: Okay. Can we now agree
21 to have them added as issues or do you need time to
22 look at them?

23 MR. ANTHONY: We have problems with at least
24 one or two of them.

25 COMMISSIONER CLARK: Okay.

1 MR. ANTHONY: I know Mr. Beck may have had
2 some conversations with Staff about it, so --

3 MR. BECK: Yes.

4 MR. ANTHONY: I don't know if any changes
5 have been proposed.

6 MR. BECK: Yes, there have. I know there's
7 one that's going to be in dispute, and that's on inside
8 wire maintenance, which is an old issue, I can briefly
9 address that, and I'm sure Southern Bell wants to
10 address it.

11 COMMISSIONER CLARK: I'm just wondering what
12 the most expedient way and effective way is to deal
13 with that.

14 MS. GREEN: One of the notable things is that
15 the Company hasn't seen any of the Staff's proposed
16 changes, so that may alleviate some of the concerns.
17 It will probably be better to let the parties work on
18 this after today's status conference.

19 COMMISSIONER CLARK: Would that be acceptable
20 for the parties to get together and then if I have to
21 work -- then if I have to be involved, Staff can bring
22 those issues to me?

23 MR. BECK: My educated guess is that we will
24 reach an agreement on everything except the inside wire
25 matter, and I think we could all address that very

1 briefly.

2 MS. GREEN: Well, I believe that's probably
3 the case, having reviewed these this morning. And you
4 might want to take that up, because as my memory serves
5 me, you've already made a ruling once in this docket
6 that that would not be an issue. I'll bring you a list
7 of the issues.

8 COMMISSIONER CLARK: Mr. Anthony, would you
9 be prepared to respond to Mr. Beck's argument that the
10 issue on inside wire should be part of this docket?

11 MR. ANTHONY: Mr. Beck is correct that we
12 would be opposed to it. I don't know what specific
13 arguments are raised today, but I think we can address
14 them. But as Ms. Green noted, it is an issue that's
15 already been proposed, argued about and you had ruled
16 that it should not be a part of the case. But if
17 there's something they want, I'm sure we can respond to
18 it this morning -- this afternoon.

19 COMMISSIONER CLARK: Go ahead. Let me hear
20 you on your --

21 MR. BECK: The matter of whether to impute
22 the profits from simple inside wire maintenance is
23 presently before the Commission in a rule proceeding.
24 I don't know the schedule of that rule proceeding. It
25 was put off until the next available time, or something

1 like that.

2 The purpose of having an issue in the case is
3 to quantify the effect so that if the Commission rules
4 in the rule proceeding that it will impute the revenues
5 and expenses from inside wire, at least there will be
6 some evidence in the record about what the numbers are
7 that go along with that. We're perfectly willing to
8 let the rule hearing conclude the matter or determine
9 the matter about whether to actually make the
10 imputation or not.

11 COMMISSIONER CLARK: So really what you want
12 is a quantification of an adjustment if the Commission
13 determines that it should be -- that the revenues and
14 expenses should be above the line?

15 MR. BECK: Yes. So there will be evidence in
16 the record that the Commission can act on.

17 COMMISSIONER CLARK: Mr. Anthony.

18 MR. ANTHONY: Commissioner Clark, it's an
19 issue that may or may not be pertinent to this case now
20 or in the future. It is a matter that's pending before
21 you in a current rulemaking proceeding. I think there
22 was a whole host of positions that were set forth to
23 the Commission when there was a meeting about that
24 previously. There's nothing to say that the Commission
25 will decide to impute any revenues or do anything else,

1 for that matter, with respect to inside wire that's
2 different from today.

3 This case is complicated. It's got a slew of
4 issues, it's got a slew of information that's being
5 gathered in discovery today. And I think it's putting
6 the cart before the horse to have to get into issues in
7 a rate case that may not ever come to pass. And we're
8 just one of 13 local exchange companies. If this is
9 going to be done, it's going to have to be done for all
10 13 companies. I don't think it's unreasonable for
11 Southern Bell to be treated the same. It's not going
12 to speed the process up or slow it down.

13 COMMISSIONER CLARK: Let me ask you this. It
14 seems to me in the rulemaking we will be involved in
15 the policy decision as to whether or not it's a good
16 idea to include those revenues and expenses above the
17 line. What's wrong with simply quantifying them in
18 this proceeding?

19 MR. ANTHONY: Because I don't think we know
20 what there is to quantify. As I understand it right
21 now we're talking about the simple maintenance,
22 maintenance of simple inside wire.

23 It would be Southern Bell's position that to
24 take that just out by itself would be inappropriate.
25 We think, and we said this in the rulemaking

1 proceeding, that things ought to stay the way they are.
2 But you have a whole host of other things that may or
3 may not go with it. Do you take the complex inside
4 wire, do you take the installation of both simple and
5 complex wire? Do you want to have just a tariffed rate
6 for it?

7 COMMISSIONER CLARK: I agree those are issues
8 to be considered.

9 MR. ANTHONY: My point is how do we know --
10 when you get into all of that, it's not something that
11 Southern Bell can just reach into its --

12 COMMISSIONER CLARK: You're saying that you
13 cannot determine what the revenues and expenses are
14 from simple inside wire maintenance.

15 MR. ANTHONY: If I recall correctly -- again,
16 I haven't had a chance to do my homework on this -- but
17 if I recall, from what we filed in response to some
18 data requests from the Staff in the context of the
19 rulemaking, that's what we told the Commission, that
20 it's a line of business, in effect, and it's very
21 difficult to extract one from the other. I could be
22 wrong about that. They may recall, but I believe that
23 was what was said. I apologize. I just haven't had a
24 chance to check on that.

25 COMMISSIONER CLARK: Mr. Beck, wouldn't we be

1 likewise quantifying these costs as part of the
2 rulemaking?

3 MR. BECK: I don't know. Now, if evidence is
4 going to be presented in the rulemaking, and we could
5 all agree to adopt or simulate the record from that
6 proceeding into this one, so that we could use it to
7 set rates, that would be fine with me also.

8 COMMISSIONER CLARK: Your concern is that the
9 Commission would make a decision to include it in
10 regulated revenues which would have an impact on the
11 rates ultimately approved in this case.

12 MR. BECK: Yes. And the manner in which we
13 get the evidence in the record matters not to me. All
14 I'm trying to do is make sure it gets in.

15 MR. ANTHONY: It seems to me, if I can, that
16 there are a number of other complications. Again, I'm
17 just going from memory now, but if I recall correctly,
18 again, Southern Bell showed a loss on its inside wire
19 operations in 1992; and is, I think, experiencing a
20 loss again this year.

21 I'm sure from having read some of Public
22 Counsel's interrogatories, testimony and so on, they
23 are going to take the position that's because of the
24 hurricane and some other factors. But I'm not sure
25 that it makes sense to get into that in any great

1 detail when we're not sure exactly what we're trying to
2 accomplish until the Commission decides what it wants
3 to do within the context of inside wire. It's just so
4 complicated that it's going to put a heck of a burden
5 on Southern Bell where we're already overburdened with
6 discovery. We've got over 3,000 interrogatories and so
7 on. There's only so much you can pour into a can
8 before it starts to overflowing, if there's another
9 context in which we can do it.

10 COMMISSIONER CLARK: Anything else, Mr. Beck?

11 MR. BECK: That's all I have on the issues.

12 COMMISSIONER CLARK: On that issue. Does
13 Staff want to add anything?

14 MR. HATCH: Only that the inside wire hearing
15 is currently scheduled for September 7th, 8th, and 9th.
16 And as I sort of understand, what Mr. Beck is
17 suggesting is that all of that would be included in the
18 '93 true-up anyway. To the extent that when we get to
19 the inside wire, we're going to have to have this
20 information for that case no matter what. I'm not sure
21 that doing it now and doing it again later is going to
22 serve much purpose. Certainly it's going to come into
23 the inside wire docket, and even if we did it now and
24 did it later, you'd end up redoing it because you'd
25 have to have updates and so forth so --

1 MR. BECK: I'd still like to get it in this
2 case. I didn't realize the inside wire had been set
3 for September.

4 COMMISSIONER CLARK: Okay. Well, I think
5 that's still an issue the parties can address when you
6 talk to each other, and then if it still needs to be
7 resolved I'll resolve it. Anything else, Mr. Beck?

8 MR. BECK: I have other matters beside the
9 issues.

10 COMMISSIONER CLARK: Okay.

11 MR. BECK. The next item concerns the Staff
12 testimony to be filed today, and I have a couple of
13 things on that.

14 First of all, it's my understanding that
15 Staff is filing a rate case audit and will be filing
16 the audit and the work papers today. However, the work
17 papers are being treated confidential. I'd like to
18 move that we be granted access to those work papers and
19 that I be able to get a copy of them.

20 I have been told that that's what I need to
21 do in order to get these things.

22 COMMISSIONER CLARK: Well, yes. The Staff
23 mentioned to me that you would want to see those, the
24 audit and the work papers, as soon as possible. And I
25 thought we could avoid a written motion to allow you to

1 see those if we could agree that it could be done, that
2 you would have the same access to the audit and the
3 work papers as were -- under the same terms and
4 conditions as was allowed in the previous order for the
5 previous audit.

6 MR. ANTHONY: I'm not sure what those terms
7 were, but as long as Public Counsel's receipt of those
8 would be considered to be confidential in effect under
9 a motion for temporary protective order, we would have
10 no objection to that.

11 MR. BECK: We would treat it as such, pending
12 the ultimate resolution of Southern Bell's claim of
13 confidentiality.

14 MR. ANTHONY: I don't know what the work
15 papers say either, so it's hard to argue the specifics
16 but at least a temporary motion for protective order.

17 COMMISSIONER CLARK: Then I'll grant that
18 motion. And if you --

19 MS. GREEN: That would be an interim or
20 temporary protective order as it was last time.

21 COMMISSIONER CLARK: Correct. Angela, am I
22 going to need an order to sign to that effect?

23 MS. GREEN: Yes, ma'am.

24 COMMISSIONER CLARK: And it will just be a
25 brief order.

1 MS. GREEN: Yes, ma'am.

2 COMMISSIONER CLARK: Okay. Go ahead,
3 Mr. Beck.

4 MR. BECK: Commissioner, the next item on the
5 list is Staff testimony. It's also my understanding
6 that the Staff will file testimony on two other audits
7 that they will -- the testimony will be adopting audits
8 that are not complete, that have not been filed. With
9 respect to those, I'd like to request that we be given
10 a day-for-day extension on responding in rebuttal
11 testimony until the time that the audits actually come
12 in.

13 COMMISSIONER CLARK: All right. Do you have
14 reference to an audit that is a WASP audit and a
15 continuing property audit, is that what we're talking
16 about?

17 MR. BECK: That's my understanding.

18 COMMISSIONER CLARK: Okay. My understanding
19 from Staff is that they will be done on or before
20 December 17th, which is the same date, I guess, the
21 NARUC audit is going to be done. And I have previously
22 allowed until December 30th for filing testimony, your
23 testimony, which would be responsive to that audit. I
24 will allow the same for the two audits on the
25 continuing property records and the work activities

1 sampling procedures. Okay?

2 MR. BECK: Thank you.

3 COMMISSIONER CLARK: As I understand it, it's
4 December 30th. Okay?

5 MR. ANTHONY: Commissioner Clark, I assume
6 Southern Bell will also have until the 30th to respond
7 to those audits?

8 COMMISSIONER CLARK: Yes.

9 MR. ANTHONY: Thank you.

10 MR. BECK: Commissioner, the next item on my
11 list is opening statements. I'd like to request the
12 opportunity to give an opening statement of up to ten
13 minutes at the beginning of the hearing.

14 COMMISSIONER CLARK: Southern Bell.

15 MR. ANTHONY: I don't have any objection to
16 that.

17 COMMISSIONER CLARK: I'll tell you what, I
18 think I would like to know what parties would like to
19 give opening statements, so I can alert the Chairman
20 that there have been requests so he can get some idea
21 of what the initial procedures are going to be in the
22 case. And if there is anyone else who desires to make
23 an opening statement, if you'd let Angela or Tracy
24 know, we can appropriately schedule for those.

25 MS. GREEN: What I could do, perhaps, we have

1 a prehearing conference scheduled for December 20th,
2 and I was just thinking quickly maybe I could put out a
3 memo to all of the parties to let them know that you
4 want this information for that prehearing conference.

5 COMMISSIONER CLARK: I think that's an
6 excellent idea.

7 MS. GREEN: Okay.

8 It is a big case with a lot of issues, and
9 there may be some desire to set the stage and focus the
10 Commission's attention on some issues that the parties
11 think are the major and more relevant issues.

12 Anything further?

13 MR. BECK: Yes. This has to do with the
14 pending Supreme Court ruling.

15 Again, the only way that we won't have some
16 problems is if we lose every issue pending before the
17 Supreme Court. If we should win anything, there's a
18 problem. And that is, we've been denied discovery that
19 the Commission has ordered Southern Bell to produce.
20 You're very familiar with almost countless, seems like
21 countless orders.

22 I was wondering, or at least I wanted to
23 raise the issue of whether the Prehearing Order would
24 address the contingency of what we're going to do if
25 the Supreme Court should rule and grant some of our

1 appeals sometime before the rate case. Because we
2 would want the opportunity to do discovery based upon
3 what we received and file additional testimony on
4 whatever we might win or not win at the Supreme Court.

5 COMMISSIONER CLARK: They've already issued
6 one order in a case that was argued that day, haven't
7 they?

8 MS. GREEN: Yes.

9 MR. BECK: I didn't know that.

10 MR. HATCH: That was the original privilege
11 order quite some time ago.

12 COMMISSIONER CLARK: No, no, there was a
13 case, completely nothing to do with this case, I'm
14 sorry.

15 MR. BECK: It must have been a simple one.

16 (Laughter)

17 COMMISSIONER CLARK: Let me clarify what I
18 just said.

19 Mr. Anthony, did you have anything you
20 wanted, any comments you wanted to make, because I
21 certainly think we're going to have to address that.

22 MR. ANTHONY: Well, I hope with all due
23 deference that the Supreme Court rules in my favor in
24 all of those issues. But I understand the problem; I
25 don't know what the solution to it is. I think it's

1 going to depend on when the rulings come out, how they
2 rule. And I agree that it's going to be a concern and
3 I understand Public Counsel's desire to take additional
4 discovery if some of those issues are decided against
5 me, but I don't have any specific ideas at this point.

6 COMMISSIONER CLARK: Let me ask a question:
7 Does it make sense to schedule a status conference that
8 is contingent upon an order coming out that says that
9 they are not privileged? In other words, within --
10 we'll let parties know within three days of that
11 decision. We're going to get back together to see what
12 we need to do in terms of discovery and filing
13 testimony.

14 MS. GREEN: Well, at this point in time,
15 today being November 22nd, and then we have the
16 Thanksgiving holidays, we do have a meeting set for
17 December the 20th. Given the testimony that's being
18 filed and the plan for depositions, it's hard for me to
19 imagine that the parties would be readily able to get
20 together much before December 20th.

21 COMMISSIONER CLARK: Well, I guess at this
22 point let's just -- I know that it's potentially a
23 problem. Really any solution, if there needs to be a
24 solution, has to await that decision. So you've
25 alerted me to the problem. And when we get that order,

1 if it comes out that, in fact, you are entitled to that
2 discovery, then we'll have to deal with it.

3 MR. BECK: That's all I have.

4 COMMISSIONER CLARK: Okay. The order on the
5 Cooper testimony, the draft and we -- as you know,
6 we've had more than a couple of attorneys leave, but at
7 least two of whom have been in the Telecommunications
8 Bureau, so they're struggling to get the work done.
9 But I can assure you I checked on it this morning, and
10 the order itself, a draft, is done and it should be out
11 soon.

12 MR. HATCH: Actually, I'm about ten minutes
13 away. I was on the last section when 1:00 rolls.

14 COMMISSIONER CLARK: Close enough. I mean,
15 I've see it, so --

16 MR. BECK: I should mention, Commissioner, on
17 the due date for filing testimony, we have five pieces
18 of testimony that we filed. I think everything is in
19 the mail in the process; that Southern Bell anticipates
20 filing a specific request for filing confidentiality a
21 week from today, is my understanding.

22 COMMISSIONER CLARK: Okay. So I know that's
23 coming.

24 MR. BECK: Yes.

25 COMMISSIONER CLARK: And I can tell you,

1 F L O R I D A)
2 :
3 COUNTY OF LEON)

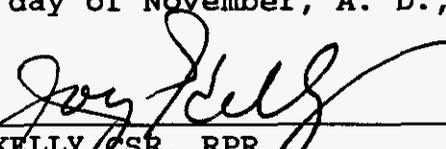
CERTIFICATE OF REPORTER

4 I, JOY KELLY CSR, RPR, Official Commission
5 Reporter,

6 DO HEREBY CERTIFY that Status Conference 4G
7 in this cause, Docket No. 920260-TL, was heard by the
8 Florida Public Service Commission at the time and place
9 herein stated; it is further

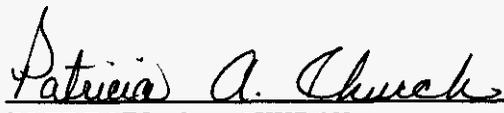
10 CERTIFIED that I stenographically reported
11 the said proceedings; that the same has been
12 transcribed under my direct supervision, and that this
13 transcript, consisting of 22 pages, constitutes a true
14 transcription of my notes of said proceedings.

15 DATED this 29th day of November, A. D.,
16 1993.


17 JOY KELLY CSR, RPR
18 Chief, Bureau of Reporting
19 (904) 488-5981

20 STATE OF FLORIDA)
21 :
22 COUNTY OF LEON)

23 The foregoing certificate was acknowledged
24 before me this 29th day of November, 1993, by JOY
25 KELLY, who is personally known to me.


26 PATRICIA A. CHURCH
27 Notary Public - State of Florida
28 Com. No. CC-90785
29 Notary Public, State of Florida
30 My Commission Expires April 20, 1995
31 Bonded Thru Troy Fain - Insurance Inc.