

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Public Counsel)	DOCKET NO. 900023-TL
regarding tariff filing by Southern)	
Bell Telephone and Telegraph Company)	ORDER NO. 23538
to adjust existing custom calling)	
services within authorized rate bands.)	ISSUED: 9-27-90
)	

Pursuant to Notice, a Prehearing Conference was held on September 19, 1990, in Tallahassee, Florida, before Commissioner Betty Easley, as Prehearing Officer.

APPEARANCES: E. BARLOW KEENER, Esquire, c/o Marshall M. Criser, III, 150 S. Monroe Street, Suite 400, Tallahassee, FL 32301
On behalf of Southern Bell Telephone and Telegraph Company.

CHARLIE BECK, Esquire, Office of Public Counsel, c/o the Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens.

SUZANNE F. SUMMERLIN, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862
On behalf of the Commission Staff.

PRENTICE P. PRUITT, Esquire, Florida Public Service Commission, Division of Appeals, 101 E. Gaines Street, Tallahassee, Florida 32399-0861
Counsel to the Commissioners.

PREHEARING ORDERI. BACKGROUND

On May 12, 1987, Southern Bell Telephone and Telegraph Company (Southern Bell) filed a tariff to introduce banded rate pricing for Custom Calling Services and Prestige Single Line Service. These services provide central office calling features that may be provided in association with an individual business or residence exchange line. Each service has a group of standard features available to subscribers. Such features include call hold, call forwarding, speed calling, and call

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waiting, as well as others. This Commission approved that tariff filing by Order No. 18326, issued on October 21, 1987.

The flexible pricing concept we approved by Order No. 18326 established a specific rate band with a different minimum and maximum rate for each feature of the Custom Calling and Prestige Single Line services within which the Company may adjust the price, upon Commission approval, following a thirty day advance notice to this Commission and existing subscribers. Because of the innovative nature of banded rates for preexisting discretionary services, we required our Staff to monitor this specific tariff offering for eighteen months. At that time, we would consider whether it would be appropriate to allow the banded rates to continue. Our approval, by Order No. 18326, of Southern Bell's request for banded rates for Custom Calling Services did not automatically preapprove tariffs reflecting individual rate changes within the band.

By Order No. 18759, issued January 27, 1988, in Docket No. 871328-TL, we approved Southern Bell's request to reduce Speed Calling 30 to the minimum rate within its rate band. Subsequently, by Order No. 21338, we approved the continuation of the banded rate concept. However, because Speed Calling 30 was the only rate change proposed by Southern Bell during our eighteen month evaluation of the banded rate concept for the Custom Calling and Prestige Single Line Services, we required that Southern Bell file reports six months after any rate change to allow us to continue to analyze the impact of any rate changes.

On August 1, 1989, Southern Bell filed the tariff filing at issue in this proceeding which proposed to adjust existing Custom Calling Services rates within their preapproved rate bands. This was Southern Bell's first major request to alter rates within the approved rate bands. On August 16, 1989, Public Counsel filed a Request for Hearing on this tariff filing. We approved this tariff filing by Order No. 21912, issued September 19, 1989, in which we found that Public Counsel, although certainly entitled to a hearing was not entitled to a hearing prior to the implementation of these rate changes. This finding was based on our examination of established case law, especially the Florida Interconnect Telephone Company v. Florida Public Service Commission, 342 So.2d 811. We found that Public Counsel's request for hearing should be considered a complaint which we then set for hearing. This proceeding ensued.

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II. TESTIMONY AND EXHIBITS

Upon insertion of a witness's testimony, exhibits appended thereto may be marked for identification. After opportunity for opposing parties to object and cross-examine, the document may be moved into the record. All other exhibits will be similarly identified and entered at the appropriate time during hearing. Exhibits shall be moved into the record by exhibit number at the conclusion of a witness's testimony.

Witnesses are reminded that on cross-examination, responses to questions calling for a yes or no answer shall be answered yes or no first, after which the witness may explain the answer.

In order to efficiently organize the numbering and presentation of exhibits the parties have been assigned the following witness identification number sequences:

III. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Date</u>	<u>Issues</u>
N. H. Sims	Southern Bell	9/28/90	All
V. A. Montanaro	Public Counsel	9/28/90	All

IV. BASIC POSITIONS

SOUTHERN BELL: The Custom Calling Services rate changes approved by the Commission in August of 1989 were thoroughly evaluated and considered and were properly approved. The Commission had previously examined and approved, as set forth in Order No. 18326, a range of rates for Custom Calling Services and held that it could approve future rate changes within the approved bands in an abbreviated 30 day notice period. On August 1, 1989, Southern Bell filed the proposed Custom Calling Services tariff rate changes in question in this docket, all of which were within the previously approved bands. At that time, the Commission examined the proposed rates, as well as Southern Bell's justification for those changes. Southern Bell had fully explained in its tariff filing

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that an updated 1988 study showed that customers were willing to pay higher rates for enumerated Custom Calling Services and that competition warranted a reduction in two rates. Southern Bell also computed the revenues and contribution that the proposed rates were expected to provide.

As described in Order No. 21912, the Commission reviewed how the banded rates concept had been used by Southern Bell since 1987, evaluated Southern Bell's reasons for seeking the particular rate changes in question and found the proposed changes to be appropriate. In addition, the Commission referred to its Order in Southern Bell's Rate Stabilization Docket and found that the increased revenues resulting from the rate changes would be accounted for in the manner required by that Order.

Thus, the Commission, after careful consideration of both Southern Bell's reasons for filing its proposed tariff changes and the earlier banded rate orders, properly approved these tariff changes. Southern Bell was thereby allowed to maximize its contribution from the Custom Calling Services in question, while the increased revenues were treated in conformity with the requirements of Order No. 20162.

Finally, Southern Bell's expectations regarding contribution levels have been borne out by experience. For all these reasons, the Commission's approval of Southern Bell's proposed Custom Calling Services tariff changes in 1989 was appropriate in all respects.

OFFICE OF PUBLIC COUNSEL: At the time it asked for the \$10 million per year rate increase, Southern Bell's earnings were well within its authorized range of return on equity.

The Commission's Order in Docket No. 880069-TL used a process to net rate increases against exogenous factors, but this process, contrary to what Southern Bell represented to the Commission, resulted in an increase to Southern Bell's earnings in excess of \$1 million during 1989, even without the \$10 million per year rate increase in custom calling services. The netting process argues in favor of denying the rate increase.

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In addition, even while Southern Bell's actual earnings were well within its authorized range when it asked for the rate increase, Southern Bell forecasted earnings slightly above its rate setting point during 1989 and 1990, and earnings far above its rate setting point in 1991, even without the \$10 million per year rate increase. At all times Southern Bell projected its earnings to be far above the bottom of its authorized range of return on equity.

The Commission should order Southern Bell to immediately rescind this rate increase. In the alternative, the Commission should order an offsetting decrease of \$10 million per year to local rates to offset the increase in custom calling service rates.

STAFF: Staff believes that the rate changes to Southern Bell's Custom Calling Services approved in Order No. 21912 are appropriate.

V. ISSUES AND POSITIONS:

1. ISSUE: What impact, if any, does Order No. 20162, the Rate Stabilization Order, have on the appropriateness of custom calling rate changes approved in Order No. 21912?

POSITION OF PARTIES

STAFF: It is Staff's position that the rate increases in custom calling services approved in Order No. 21912 are appropriate. Order No. 20162, the Rate Stabilization Order, does not have any impact on the appropriateness of the Custom Calling Services rate changes approved by Order No. 21912. Order No. 20162 addresses the appropriate disposition of revenues generated by rate changes.

SOUTHERN BELL: Order No. 20162 does not directly address the appropriateness of the 1989 custom calling rate changes. It does, however, specify the accounting for revenues from rate changes, such as the Custom Calling Services rate changes. That Order mandates that rate changes are to be netted together with exogenous items,

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such as governmental actions. If the result of the netting is an overall increase in earnings, permanent disposition of the net amount will be made as appropriate. If the net result is a decrease in earnings, Southern Bell is to absorb the loss. The Custom Calling Services rate changes approved by the Commission in Order No. 21912 have been and will be accounted for in this manner.

OPC: Although it is not clear what standard the Commission used to approve Southern Bell's request for a \$10 million per year rate increase, Order No. 20162 did appear to have a bearing on the Commission's decision to increase rates. Order No. 20162 used a process to net rate increase against exogenous factors, but this process, contrary to what Southern Bell represented to the Commission, resulted in an increase in Southern Bell's earnings in excess of \$1 million during 1989, even without the custom calling rate increase. The netting process argues in favor of denying the \$10 million per year rate increase, not in favor of it.

- 2. ISSUE: What impact do Orders Nos. 18326, 18828 and 21338, the orders granting Southern Bell banded rates for custom calling services, have on the appropriateness of the rate changes approved in Order No. 21912?

POSITION OF PARTIES

STAFF: It is Staff's position that Order No. 21912, which granted rate increases and decreases to Southern Bell's Custom Calling Services is consistent with Orders Nos. 18326, 18828, and 21338. In Section 364.05(2), Florida Statutes, the Commission has the authority to waive the 60 day notice requirement as discussed above. Additionally, the rate changes approved in Order No. 21912 are consistent with Order No. 18326, which required that such rate changes be subject to the normal tariff approval process.

SOUTHERN BELL: The Commission issued Orders Nos. 18326, 18828 and 21338 to allow it to approve rate changes for Custom Calling Services within a previously approved band or rates with 30 days' as opposed to 60 days' notice. the

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Custom Calling Services rate changes approved by the Commission in Order No. 21912 are within the bands approved in Order No. 18326. The Commission fully evaluated the 1989 rate changes proposed by Southern Bell, all of which were within the previously approved bands.

OPC: The banded rate orders have no bearing on whether the Commission should have allowed Southern Bell to increase its rates \$10 million per year. While the Commission approved banded rates for custom calling services, the Commission specifically stated that it was not preapproving tariffs reflecting the individual rates within the company's proposed band. The Commission stated that each tariff filing altering rates for custom calling services would be subject to the normal tariff approval process. Therefore, this \$10 million per year rate increase must be justified on its own merits.

3. ISSUE: Were appropriate criteria applied and did Southern Bell make an adequate showing to justify the custom calling rate changes approved in Order No. 21912?

POSITION OF PARTIES

STAFF: Staff believes that Southern Bell provided adequate justification for the Custom Calling Services rate changes approved in Order No. 21912.

SOUTHERN BELL: Yes. As set forth in Order No. 21912, the Commission appropriately considered and approved the Custom Calling Services tariff rate changes. In the same fashion, Southern Bell properly complied with the Commission's rules and fully justified its filing of its proposed Custom Calling Services tariff. With its 1989 Custom Calling Services tariff, Southern Bell filed a tabulation of a typical bill with the tariff changes, the estimated gross annual revenues resulting from the changes, a statement of the justification for the changes, as well as supporting documentation and cost information relating to the proposed Custom Calling Services rate changes.

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As a part of its statement of justification, Southern Bell cited a 1988 study which demonstrated that customers were willing to pay higher rates for almost all of the Custom Calling Services¹ and that there would be minimal repression at the rate levels proposed. Southern Bell further recognized that the increased revenues resulting from the proposed rate changes would be accounted for in the manner required by Order No. 20162. Thus, as described in Order No. 21912, the Commission applied appropriate criteria and Southern Bell provided adequate justification for proper approval of the 1989 Custom Calling Service rate changes.

OPC: Southern Bell's earnings were already well within its authorized range of return on equity when it applied for the \$10 million per year rate increase. Even while its actual earnings were well within its authorized range when it asked for the rate increase, Southern Bell forecasted earnings slightly above its rate setting point during 1989 and 1990, and earnings far above its rate setting point in 1991, even without the \$10 million per year rate increase. Southern Bell had no justification to increase these rates.

4. ISSUE: Did the forecasted revenues from Southern Bell's custom calling rate changes properly take into account the price elasticities of demand for the services?

POSITION OF PARTIES

STAFF: No position at this time.

SOUTHERN BELL: Yes. Based upon Southern Bell's willingness to pay studies and its previous experience, it was determined that stimulation or repression of demand would be minimal. It was Southern Bell's opinion,

¹ The rates for two services were reduced by Order No. 21912.

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subsequently confirmed by actual experience, that any feature rate below the top of the band would be accepted by the customer as having a good rate/value relationship.

OPC: Southern Bell correctly forecasted there was very little price elasticity of demand for these services. This, however, does not justify the rate increase. On the contrary, the very low price elasticity of demand should make the Commission look particularly hard at the need for a rate increase. The low price elasticity of demand reflects the lack of effective competition for these services.

5. This issue was dropped: Did the custom calling rate changes approved in Order No. 21912 have an effect on customer demand? Did they have other effects?

6. ISSUE: Are the rate changes in Order No. 21912 for Southern Bell's custom calling services appropriate?

POSITION OF PARTIES

STAFF: Yes.

SOUTHERN BELL: Yes. For the reasons set forth in response to Issues 1-5, the Commission properly approved Southern Bell's Custom Calling Service rate changes.

OPC: No. See the Citizens' position on Issues 1 and 3.

7. ISSUE: If the answer to Issue 6 is no, what action should the Commission take?

POSITION OF PARTIES

STAFF: No position at this time.

SOUTHERN BELL: If the decision by the Commission regarding Issue 6 is no, then the Commission should order Southern Bell to file revised tariffs.

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OPC: The Commission should order Southern Bell to immediately rescind this rate increase. In the alternative, the Commission should order an offsetting decrease of \$10 million per year to local rates to offset the increase in custom calling service rates.

VI. EXHIBIT LIST

<u>Witness</u>	<u>Proferring Party</u>	<u>Exh. No.</u>	<u>Title</u>
N.H. Sims	Staff	NHS-1	Custom calling Services Report.
		NHS-2	Southern Bell's Response to Public Counsel's Interrogatories 1 and 2.
		NHS-3	Custom Calling Services Business Demand Study.
		NHS-4	Custom Calling Services Residential Demand Study.

VII. STIPULATIONS

No issues have been stipulated at this time.

VIII. PENDING MOTIONS

There are no pending motions at this time.

IX. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

In the event it becomes necessary to handle confidential information, the following procedure will be followed:

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1. The Party utilizing the confidential material during cross examination shall provide copies to the Commissioners and the Court Reporter in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material shall be provided a copy in the same fashion as provided to the Commissioners subject to execution of any appropriate protective agreement with the owner of the material.
2. Counsel and witnesses should state when a question or answer contains confidential information.
3. Counsel and witnesses should make a reasonable attempt to avoid verbalizing confidential information and, if possible, should make only indirect reference to the confidential information.
4. Confidential information should be presented by written exhibit when reasonably convenient to do so.
5. At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the owner of the information. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

If it is necessary to discuss confidential information during the hearing the following procedure shall be utilized.

After a ruling has been made assigning confidential status to material to be used or admitted into evidence, it is suggested that the presiding Commissioner read into the record a statement such as the following:

The testimony and evidence we are about to receive is proprietary confidential business information and shall be kept confidential pursuant to Section 364.093, Florida Statutes. The testimony and evidence shall be received by the Commissioners in executive session with only the following persons present:

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- a) The Commissioners
- b) The Counsel for the Commissioners
- c) The Public Service Commission staff and staff counsel
- d) Representatives from the office of public counsel and the court reporter
- e) Counsel for the parties
- f) The necessary witnesses for the parties
- g) Counsel for all intervenors and all necessary witnesses for the intervenors.

All other persons must leave the hearing room at this time. I will be cutting off the telephone ties to the testimony presented in this room. The doors to this chamber are to be locked to the outside. No one is to enter or leave this room without the consent of the chairman.

The transcript of this portion of the hearing and the discussion related thereto shall be prepared and filed under seal, to be opened only by order of this Commission. The transcript is and shall be non-public record exempt from Section 119.07(1), Florida Statutes. Only the attorneys for the participating parties, Public Counsel, the Commission staff and the Commissioners shall receive a copy of the sealed transcript.

(AFTER THE ROOM HAS BEEN CLOSED)

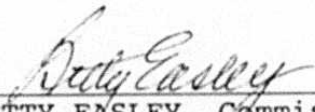
Everyone remaining in this room is instructed that the testimony and evidence that is about to be received is proprietary confidential business information, which shall be kept confidential. No one is to reveal the contents or substance of this testimony or evidence to anyone not present in this room at this time. The court reporter shall now record the names and affiliations of all persons present in the hearing room at this time.

It is therefore,

ORDERED by Commissioner Betty Easley, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

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By ORDER of Commissioner Betty Easley, as Prehearing
Officer, this 27th day of SEPTEMBER, 1990.



BETTY EASLEY, Commissioner
and Prehearing Officer

(S E A L)

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