

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by RONALD ROLLASON	)	DOCKET NO. 880424-TL
against SOUTHERN BELL TELEPHONE AND	)	
TELEGRAPH COMPANY regarding alleged	)	ORDER NO. 23632
unauthorized telephone charges	)	
	)	ISSUED: 10-18-90

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD  
BETTY EASLEY

ORDER DISMISSING WITH PREJUDICE MR. RONALD ROLLASON'S  
COMPLAINT AGAINST SOUTHERN BELL TELEPHONE AND  
TELEGRAPH COMPANY

BY THE COMMISSION:

On November 1, 1989, the Commission issued Order No. 22124, a Proposed Agency Action denying Ronald Rollason's request for a hearing. The Order outlined, in detail, the circumstances surrounding Mr. Rollason's Complaint against Southern Bell Telephone and Telegraph Company (Southern Bell) concerning substantial charges on his telephone bill.

On November 20, 1989, we received a timely protest by Mr. Rollason to Order No. 22124. A hearing was scheduled for April 24, 1990. Since Mr. Rollason changed his residence about this time but did not report this change of address us, he did not receive official notice of the April 24, 1990, hearing. When Mr. Rollason's hearing notice was returned by the Post Office, our staff began efforts to locate Mr. Rollason, finally locating him through one of his relatives. The hearing was cancelled, at Mr. Rollason's request, and rescheduled for June 28, 1990. Mr. Rollason failed to appear at the June 28, 1990, hearing and has made no contact with this Commission since that date. Southern Bell moved to dismiss the Complaint, with prejudice, and this Motion was taken under advisement, with the decision to be made by the panel at a subsequent agenda conference.

We have attempted to accommodate Mr. Rollason in his pro se representation. To this end, most prehearing procedures were dispensed with and no prehearing orders were issued. Thus, Mr. Rollason's failure to appear for the hearing did not violate a Commission order and the Complaint is not subject to dismissal under our general dismissal provision. See Rule 25-22.042, Florida Administrative Code. However, the Florida Rules of Civil Procedure apply to Commission proceedings, to the extent the Florida Rules

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are not inconsistent with our own rules. Under the Florida Rules, an involuntary dismissal of Mr. Rollason's Complaint is appropriate, since he is the party seeking affirmative relief and, under the Florida Rules, dismissal is appropriate where, "on the facts and the law the party seeking affirmative relief has shown no right to relief." Rule 1.420(b), Fla. R. Civ. P. On its face, this Rule is not inconsistent with any of our own rules. A dismissal under this Rule is "on the merits," *id.*, meaning the Complaint is dismissed with prejudice.

Upon our review of the facts and circumstances in this case, we find it appropriate to dismiss the Complaint, with prejudice. Accordingly, this docket shall be closed.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that Southern Bell Telephone and Telegraph Company's Motion to Dismiss Mr. Ronald Rollason's Complaint is granted. This dismissal is with prejudice as discussed in the body of this Order. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this  
 18th day of OCTOBER, 1990.

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 STEVE TRIBBLE, Director  
 Division of Records and Reporting

( S E A L )

by: Kay Flynn  
 Chief, Bureau of Records

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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 the Commission's final action in this matter 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.