

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of FLORIDA TELEMESSAG-	)	DOCKET NO.	900687-TL
ING COALITION against SOUTHERN BELL	)		
TELEPHONE AND TELEGRAPH COMPANY for	)	ORDER NO.	23921
alleged unfair marketing and technical	)		
practices	)	ISSUED:	12-21-90
	)		

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 THOMAS M. BEARD  
 FRANK S. MESSERSMITH

ORDER ACCEPTING PROPOSED SETTLEMENT AGREEMENT

BY THE COMMISSION:

On August 13, 1990, the Florida Public Service Commission served a Complaint by the Florida Telemessaging Association (FTMA) on Southern Bell Telephone and Telegraph Company (Southern Bell). The Complaint alleges that Southern Bell's unregulated MemoryCall service is unfairly competing with the answering services operated by FTMA's members.

By Order No. 23655, issued October 23, 1990, we set the matter for an expedited hearing, to be held November 26, 1990. At that time, Southern Bell agreed to market MemoryCall in the residential marketplace only during the interim, allowing the TAS/VMS providers to maintain their primarily business customer market. During that period of time the parties also conducted settlement discussions, with the objective of resolving the existing differences between them. On November 26, 1990, FTMA and Southern Bell presented a Joint Settlement Agreement to the Commission with the request that we approve the agreement, not hold the scheduled hearing, and dismiss all further activity in this docket.

In addition, the parties submitted a Joint Request and Motion for Confidential Classification and Motion for Permanent Protective Order, in which they request that certain portions of the Agreement be treated as confidential proprietary business information. That Motion will be addressed in a separate Order to be issued in this docket. However, pursuant to Rule 25-22.006, Florida Administrative Code, those parts of the Agreement for which the parties have requested confidential treatment are exempt from public disclosure while the ruling on confidentiality is pending. Therefore, some of the terms and conditions negotiated by the

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parties as part of the Settlement Agreement, shall not be disclosed in this Order.

The Settlement Agreement allows, in part, that Southern Bell shall permit members of the FTMA to become its agents and sell MemoryCall and auxiliary services to Southern Bell's business customers on behalf of Southern Bell. The parties also agree that Southern Bell shall certify, based on terms and conditions agreeable to both, those members of the FTMA who may become agents. Those certified agents must agree to abide by certain terms and conditions by which they may act as Southern Bell's agent. Additionally, the parties acknowledge that this Agreement shall not have precedential value for other proceedings and has been entered into solely for the purpose of resolving the issues identified in this docket. Further, the parties agree that upon approval of this Agreement, FTMA shall withdraw its Complaint. Accordingly, the parties have requested dismissal and cessation of all further activity in this docket.

Upon consideration of the terms of this Settlement Agreement, we believe that it is in the public interest and does, in fact, further a certain amount of effective competition from which customers and ratepayers should benefit. We therefore, accept the Agreement as proposed by Southern Bell and FTMA.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint Settlement Agreement proposed by Southern Bell Telephone and Telegraph Company and the Florida Telemessaging Association, is hereby approved. It is further

ORDERED that with our approval of the Settlement Agreement, the Florida Telemessaging Association does hereby withdraw its complaint. It is further

ORDERED that this docket shall be closed subsequent to the ruling on confidentiality and the issuance of that Order.

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By ORDER of the Florida Public Service Commission, this 21st  
day of DECEMBER, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

PAK

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

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notice of appeal must be in the form specified in Rule 9.900 (a),  
Florida Rules of Appellate Procedure.