

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Comprehensive review of) DOCKET NO. 920260-TL
the revenue requirements and)
rate stabilization plan of)
SOUTHERN BELL TELEPHONE AND)
TELEGRAPH COMPANY.)
_____)
In Re: Show cause proceedings) DOCKET NO. 900960-TL
against SOUTHERN BELL TELEPHONE)
AND TELEGRAPH COMPANY for)
misbilling customers.)
_____)
In Re: Petition on behalf of) DOCKET NO. 910163-TL
Citizens of the State of Florida)
to initiate investigation into)
integrity of SOUTHERN BELL)
TELEPHONE AND TELEGRAPH)
COMPANY's repair service)
activities and reports.)
_____)
In Re: Investigation into) DOCKET NO. 910727-TL
SOUTHERN BELL TELEPHONE AND) ORDER NO. PSC-93-0318-PCO-TL
TELEGRAPH COMPANY's compliance) ISSUED: 03/01/93
with Rule 25-4.110(2), F.A.C.,)
Rebates.)
_____)

ORDER ON ORAL MOTION

On September 11, 1992, the Office of Public Counsel (OPC) filed a Motion to Require Sworn Testimony by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone & Telegraph Company (Southern Bell or the Company) Sponsoring its Quality of Service Reports (Motion). Southern Bell filed its Opposition to OPC's Motion (Response) on September 18, 1992. In its Motion, OPC requests that Southern Bell be required to file sworn testimony to sponsor its quality of service reports (Schedule 11 Reports) submitted to the Commission since January 1, 1988. In its Response, Southern Bell states that Mr. Joseph P. Lacher and Mr. A. M. Lombardo, both of whom have prefiled testimony, are available for examination about the Company's quality of service. In addition, Southern Bell asserts that OPC can obtain specific information through the use of appropriate discovery. Finally, Southern Bell disputes the need to provide an additional witness beyond the nine witnesses who have prefiled their direct testimonies in Docket No. 920260-TL.

DOCUMENT NUMBER-DATE

02261 MAR-18

FPSC-RECORDS/REPORTING

The Prehearing Officer heard arguments on this matter at the January 15, 1993, Prehearing Conference. OPC's Motion was granted to the extent that Southern Bell was required to designate a person or persons who can respond to questions regarding the truthfulness of the Company's quality of service reports. The Company was given two weeks to provide this information.

At the January 29, 1993, Motion Hearing, Southern Bell stated that Mr. Wayne Tubaugh would be the person available during the hearing process to respond to questions about the Schedule 11 Reports. The Company stated that Mr. Tubaugh has verified the input data with each of the individuals who compiled it.

At the February 12, 1993, Motion Hearing, OPC stated that he had deposed Mr. Tubaugh and did not believe that Mr. Tubaugh was competent to testify on behalf of the corporation that the reports are truthful. OPC requested that Southern Bell be ordered to file written testimony attesting to the truthfulness (or lack thereof) of their Schedule 11 Reports.

Upon consideration, Southern Bell shall not be required by the Commission to file such testimony. The concerns OPC raises go to the ultimate burden of proof in this case. To the extent Mr. Tubaugh or the other witnesses proffered by Southern Bell are incompetent to resolve issues related to the veracity of the filing or the Company's quality of service, then Southern Bell will have failed to meet its burden of proof. Whether, in fact, this will occur remains to be determined through the hearing process. Accordingly, OPC's oral motion shall be denied.

Based on the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the Office of Public Counsel's oral motion described herein is denied for the reasons set forth in the body of this Order.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 1st day of March, 1993.



SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)
ABG

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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.