

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center, 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

August 17, 1995

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF APPEALS (HELTON) *Walt or DS*
DIVISION OF COMMUNICATIONS (TRUBELHORN, MCDONALD, NORTON) *ANT*
DIVISION OF RESEARCH & REGULATORY REVIEW (BUTLER) *mlb*

RE: DOCKET NO. 950778-TL - PETITION TO INITIATE INVESTIGATION
OF POTENTIAL CHANGES TO RULES 25-4.066 THROUGH 25-4.080,
F.A.C., BY BELL SOUTH TELECOMMUNICATIONS, INC. D/B/A
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

AGENDA: 8/29/95 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\APP\WP\950778TL.RCM

CASE BACKGROUND

In the Stipulation and Agreement Between the Office of Public Counsel (OPC) and BellSouth Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company), which was approved by the Commission in Order No. PSC-94-0172-FOF-TL, Southern Bell and OPC stipulated that they would "jointly petition the FPSC to conduct workshops on any issue or issues related to the FPSC's quality of service rules that either party believes need to be clarified or addressed." In re Comprehensive review of revenue requirements and rate stabilization plan of Southern Bell; In re Investigation into the integrity of Southern Bell's repair service activities and reports; In re Investigation in Southern Bell's compliance with Rule 25-4.110(2), F.A.C., Rebates; In re Show cause proceeding against Southern Bell for misbilling customers; In re Request by Broward Board of County Commissioners for extended area service between Ft. Lauderdale, Hollywood, North Dade and Miami, 94 F.P.S.C. 2:238, 257 (1994). In response to this stipulation provision, the Commission stated:

there are no provisions for any such action on our part. We do not believe that the terms of the Settlement were intended to restrict us or our staff from performing our duties, and we intend to continue working with Southern Bell and interested parties to address concerns raised in our investigation dockets. In addition, it is our intent

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to proceed with other work relating to Southern Bell in the same fashion as we normally do for other local exchange companies.

Id. at 2:243.

On July 7, 1995, pursuant to Rule 25-22.012, Florida Administrative Code, Southern Bell petitioned the Commission "to investigate and implement changes in [Rules 25-4.066 through 25-4.080], which relate to quality of service standards."

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the Petition of Southern Bell Telephone and Telegraph Company to Initiate Investigation of Potential Changes to Rules 25-4.066 through 25-4.080, F.A.C., which relate to quality of service standards?

RECOMMENDATION: Yes, the Commission should treat the petition as a petition to initiate rulemaking and it should be granted. Rulemaking should be initiated concerning Rules 25-4.066 through 25-4.080 to review all appropriate quality of service standards, not just customer satisfaction as argued by Southern Bell.

STAFF ANALYSIS: Southern Bell filed the petition at issue here pursuant to Rule 25-22.012, Florida Administrative Code, which establishes the procedure for filing petitions to initiate rulemaking. Although Southern Bell did not style its pleading as a petition to initiate rulemaking, it should be treated as such since the action Southern Bell seeks is a determination as to whether the Commission's quality of service rules should be changed.

Southern Bell argues that many of the quality of service rules are outdated because of technology changes and the 1995 telecommunications legislation. Staff agrees that some of these rules may need updating. Staff disagrees that the sole "appropriate standard for customer satisfaction should be the customers' opinions and views on whether they are receiving a satisfactory quality of service" as measured by the serving company. (Petition at p. 3)

Staff recommends that rulemaking should be initiated concerning Rules 25-4.066 through 25-4.080 to review all appropriate quality of service standards, not just customer satisfaction. Because the company did not submit a proposed rule or amendment as is required by Subsection 25-22.012(1), no suggested amendments are attached for the Commission's review. If

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the Commission approves staff's recommendation to initiate rulemaking, staff will return to agenda with a specific recommendation concerning a rule amendment proposal after it has gathered information from data requests and workshops.

ISSUE 2: Should the Office Of Public Counsel's Notice of Intervention be acknowledged?

RECOMMENDATION: No, it is not necessary to acknowledge Public Counsel's Notice of Intervention in a rulemaking docket.

STAFF ANALYSIS: On July 11, 1995, OPC filed a Notice of Intervention in this docket. Neither the Commission's rules or Chapter 120, Florida Statutes, however, require interested persons to formally intervene in a rulemaking proceeding. Therefore, it is not necessary to acknowledge Public Counsel's Notice of Intervention. Public Counsel and any other interested person can participate in these rulemaking proceedings without formally seeking intervention.

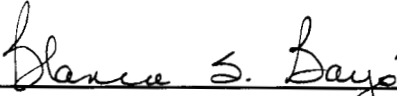
ISSUE 3: Should this docket remain open?

RECOMMENDATION: Yes.

STAFF ANALYSIS: If the Commission approves Issue No. 1, this docket should remain open so that Commission staff can conduct a workshop to address the adequacy of Rules 25-4.066 through 25-4.080. A workshop date of January 18, 1996 has already been reserved.

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By ORDER of the Florida Public Service Commission, this 5th
day of September, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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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 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.