

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Florida Pay Telephone Association, Inc.) DOCKET NO. 910590-TL
against SOUTHERN BELL TELEPHONE) ORDER NO. PSC-92-0419-FOF-TL
AND TELEGRAPH COMPANY for ex-) ISSUED: 05/27/92
pedited relief to cease payment)
of commissions on monopoly)
revenues.)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER SETTING ORAL ARGUMENT

BY THE COMMISSION:

On May 10, 1991, the Florida Pay Telephone Association, Inc. (FPTA) filed a Complaint Against Southern Bell Telephone and Telegraph Company (Southern Bell) for Expedited Relief to Cease Payment of Commissions on Monopoly Revenues (Complaint). On June 7, 1991, Southern Bell filed a Motion to Dismiss FPTA's Complaint (Southern Bell's Motion to Dismiss). By Order No. 25150, issued October 1, 1991, we denied Southern Bell's Motion to Dismiss and directed Southern Bell to file its answer to FPTA's Complaint within ten days.

On October 11, 1991, Southern Bell filed its Answer, Affirmative Defense, and Counterclaim to FPTA's Complaint. On November 12, 1991, FPTA filed a Motion to Dismiss Southern Bell's Counterclaim (FPTA's Motion to Dismiss). On November 20, 1991, Southern Bell filed its Memorandum in Opposition to FPTA's Motion to Dismiss. By Order No. 25743, issued February 17, 1992, we granted FPTA's Motion to Dismiss and dismissed Southern Bell's Counterclaim, without leave to amend.

On November 12, 1991, FPTA filed a Request for Expedited Conference with Prehearing Officer for the purpose of establishing an expedited timetable for the docket, including resolution of its Motion to Dismiss Southern Bell's Counterclaim, as well as the setting of a final hearing date. Then, on February 11, 1992, FPTA filed a Motion for Expedited Disposition of its Complaint following our favorable ruling on its Motion to Dismiss Southern Bell's Counterclaim. In this Motion, FPTA renews its request for an

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expedited conference before the Prehearing Officer and alleges that there are no disputed issues of material fact that require a Section 120.57(1), Florida Statutes, formal hearing.

On February 18, 1992, Southern Bell filed its Response to FPTA's Motion for Expedited Disposition of its Complaint. Southern Bell cites two main reasons for its opposition to FPTA's Motion: (1) Docket No. 911053-TL should be resolved before FPTA's Complaint is addressed; and (2) Southern Bell believes there are disputed issues of material fact that remain to be resolved in this matter.

Our staff has attempted to bring the parties together to create a mutually agreeable list of issues that remain to be resolved in this proceeding. To this end, staff scheduled and conducted an Issue Identification Workshop on March 23, 1992. At the workshop, both FPTA and staff proposed two issues, neither of which the proponents believe involve disputed issues of material fact. Southern Bell, however, proposed six additional issues, five of which it asserts involve disputed issues of material fact that require resolution through a formal hearing. Staff then requested the parties to each file a memorandum in support of its own position by April 10, 1992. Both FPTA and Southern Bell have filed the requested follow-up memorandum.

Having reviewed the positions of the parties, we find it appropriate to set this matter for oral argument on our own motion. Our decision to hold oral argument should not be construed as any particular view of the merits of the positions taken by the parties to this proceeding. Rather, oral argument will allow us the opportunity to review the pleadings that have been filed up to this point, and to determine what further action, if any, is necessary and appropriate in this docket.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that oral argument be scheduled in this matter as set forth herein. It is further

ORDERED that this docket shall remain open.

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By ORDER of the Florida Public Service Commission, this 27th
day of May, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ABG

by: Kay Flynn
Chief, Bureau of Records

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.