

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive review of
the revenue requirements and
rate stabilization plan of
Southern Bell Telephone and
Telegraph Company

DOCKET NO. 920260-TL
ORDER NO. PSC-97-0632-FOF-TL
ISSUED: May 30, 1997

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER REQUIRING REFUND

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Order No. PSC-94-0172-FOF-TL, Docket No. 920260-TL, provided that BellSouth Telecommunication's (BellSouth's) 1996 earnings in excess of 12.5% return on equity (ROE), adjusted for the difference between the 1993 and 1996 average AA Utility Bond Rates for September through November of each year, respectively, would be shared with subscribers. The resulting threshold for 1996 is 13.11% return on equity. Amounts were to be shared as follows: Sixty percent refunded to the customers with the balance retained by BellSouth. In Order No. 20162, we created a mechanism for handling earnings exempt from sharing known as the "Box". Earnings exempt from sharing included all rate changes other than regrouping, changes resulting from significant governmental actions with a minimum impact of \$3,000,000 on revenue requirements, refinancing of higher cost debt instruments, and major

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technological changes. As of December 31, 1993, the Box was returned to zero. BellSouth filed a preliminary surveillance report on March 17, 1997, for the twelve months ending December 31, 1996, along with a proposal on how to treat \$83.5 million in earnings above their sharing threshold.

Preliminary refund of 1996 Sharing Amount

BellSouth proposes to refund \$50.1 million to subscribers due to earnings before sharing in excess of BellSouth's 1996 sharing point of 13.11% return on equity. BellSouth earned approximately 15.75% ROE before sharing for the 12 month period ending December 31, 1996. A 15.75% ROE equates to \$83.5 million in earnings above the sharing point of 13.11% ROE. Sixty percent of \$83.5 million or \$50.1 million is the amount that should be refunded to BellSouth's subscribers. The \$83.5 million in earnings above the sharing point is based on BellSouth's surveillance report for the 12 months ending December 31, 1996. The \$50.1 million refund is preliminary and subject to a true-up after final adjustments, if any, are included.

BellSouth proposes that these funds be returned to ratepayers using the same methodology approved by this Commission in Order No. 25367, issued on November 20, 1991, in Docket No. 880069-TL. This procedure was approved as part of the stipulation in Order No. PSC-94-0172-FOF-TL. Under that methodology, the 1996 amount of \$50.1 million should be refunded to customers of record as of March 28, 1997. We find that BellSouth's refund proposal is reasonable, and therefore and therefore approve the refund of \$50.1 million based on the preliminary calculation of the 1996 sharing amount. Refunds shall be distributed during the June, 1997 billing cycles. Refunds shall be made based on access lines, pro rata according to rate levels. ESSX customers shall receive refunds based on applicable Network Access Register rates.

The refund to an R-1 customer in the highest rate group will be approximately \$6.34; for a B-1 customer it will be about \$17.34. These amounts reflect the assumption that subscribers who pay usage rates plus some percentage of the equivalent flat rate, will receive refunds based on either a) the flat rate surrogate, if applicable or b) the full equivalent flat rate. This is equitable since most usage rate subscribers pay more for local service than the flat rate subscribers to the same service. Thus, they shall receive refunds that are at least equivalent to those based on flat rates.

In addition, Rule 25-4.114, F.A.C., requires the following:

- a. Refunds must be made within 90 days of the final order.
- b. Motions for reconsideration do not delay refunds unless a stay is requested and granted.
- c. The Company must file refund reports.

In the final report submitted after the refunds are made pursuant to Rule 25-4.114(7), BellSouth shall include documentation (in the form of a priceout) showing the calculations for the actual refund amounts per line.

Treatment of Adjustments to 1996 Sharing Amount

BellSouth's proposal states that while the surveillance report shows the amount of refund based on the best information that is currently available, certain tax and other information (such as out-of-period adjustments) related to the 1996 calendar year may result in the refund amount changing. Based on the final numbers, the refund amount approved in this Order may be under or over stated. Also, there may be adjustments that would result in the sharing amount being adjusted.

BellSouth proposes that if there is sharing for 1997 that the amount shared for 1997 be increased or decreased based on the 1996 results, once all of the appropriate data is available. If there is no sharing for 1997, then the Company proposes two alternatives. If the 1996 sharing amount is reduced as a result of the adjustments, then the Company proposes to treat the difference as an exogenous item in 1997. On the other hand, if the 1996 sharing amount is increased as a result of the adjustments, then the Company would either make another refund to its subscribers then in service or, if the amount is too small to make a refund practical, will petition the Commission for instructions as to how to treat the additional funds. We find that BellSouth's proposal for the treatment of adjustments to the sharing amount for 1996 is reasonable and find that it should be, and is hereby, approved.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth's proposal to refund earnings in excess of the sharing point of 13.11% return on equity in the amount of \$50.1 million is approved. It is further

ORDERED that BellSouth's proposal for the treatment of adjustments to the sharing amount for 1996 is approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that this Docket shall remain open.

By ORDER of the Florida Public Service Commission, this 30th day of May, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 20, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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

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within thirty (30) days of the effective date 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.