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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petitions of SOUTHERN BELL) DOCKET NO. 880069-TL
TELEPHONE AND TELEGRAPH COMPANY for)
rate stabilization and implementation) ORDER NO. 25482
orders and other relief)
ISSUED: 12/17/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
BETTY EASLEY
MICHAEL MCK. WILSON

ORDER DISPOSING OF MOTIONS FOR RECONSIDERATION

BY THE COMMISSION:

By Order No. 24066, we extended Southern Bell Telephone and Telegraph Company's (Southern Bell's) rate stabilization plan until December 31, 1992. In initially setting rates for the plan, we targeted Southern Bell's earnings at 13.2% return on equity (ROE) for the years 1988, 1989 and 1990. We utilized Southern Bell's 1988 Commitment View as the basis for the projections of earnings for those years. Under the provisions of the rate stabilization plan, we determined that Southern Bell only be allowed to retain earnings in excess of a "normal" level of productivity gains, using the 1988 Commitment View as the measure for a "normal" level.

By Order No. 24066, we extended the rate stabilization plan through 1992. In the course of that decision, we declined to recalibrate Southern Bell's earnings for 1991 and 1992. We determined that to reset earnings would eliminate the productivity gains of the Company achieved since the plan was implemented.

The Department of Defense on behalf of all Federal Executive Agencies (DOD) filed a motion for reconsideration on February 20, 1991 and the Office of Public Counsel (Public Counsel) filed a motion for reconsideration on February 19, 1991. DOD's motion seeks reconsideration of our decision to continue a 13.2% rate setting point and our decision to not recalibrate rates for 1991 and 1992. Public Counsel's motion also seeks the resetting of rates for 1991 and 1992 based on the company's 1988 commitment view to a targeted return on equity of 13.2%. In addition Public Counsel asks the Commission to reduce rates in recognition of the effects of stimulation of Southern Bell's revenues from prior reductions in this case.

In its motion, DOD requests that the rate setting point be revised from 13.2% to 12.5%. DOD acknowledges the conflicting testimony between DOD's, Public Counsel's and Southern Bell's

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witnesses and argues that the Commission should reduce the rate setting point to 12.5%, the top of DOD's witnesses proposed range of reasonableness. Upon review of DOD's motion, it is clear that DOD simply reargues the weight of the evidence. DOD's motion for reconsideration fails to show any matter of law or fact that the Commission failed to consider or overlooked. Therefore, upon consideration, we find that DOD's motion should be denied on the issue of the rate-setting point.

Public Counsel's and DOD's respective motions ask that we reconsider our decision to not recalibrate Southern Bell's rates. DOD argues that the Commission should have used Southern Bell's most current "views" of 1991 and 1992 in resetting rates. Public Counsel argues that at an absolute minimum, Southern Bell's 1988 Commitment View should be used to reset rates in 1991 and 1992 to a targeted return on equity of 13.2%. Public Counsel and DOD argue that failure to recalibrate rates constitutes an abandonment of the rate stabilization plan. With respect to stimulation, Public Counsel argues that since Order No. 24066 allowed inclusion of the impact of the elimination of TMAs, then we should also include stimulation effects in rate reduction.

Southern Bell responded to Public Counsel's and DOD's arguments on recalibration arguing that Order No. 24066 expressly rejected rate recalibration because it would eliminate Company's achieved productivity gains and would be inconsistent with the decision to continue the plan with as few changes as necessary. As to the matter of recognizing stimulation, Southern Bell states that the Supreme Court has previously addressed the Commission's decision not to take into account the effects of stimulation by affirming the Commission's decision.

After reviewing the arguments of DOD and Public Counsel it is clear that their arguments are precisely the same arguments raised previously during the hearing. Since Public Counsel and DOD have failed to show any matter of law or fact which we overlooked or failed to consider, we find that their request for reconsideration on the issue of rate recalibration should be denied. Regarding, the stimulation argument, we declined to include the effects of stimulation in our decision in Order No. 20162. Public Counsel has shown no error in our decision in this case. Therefore, Public Counsel's motion is denied on this part.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motions for Reconsideration of Order No. 24066 filed by the Office of Public Counsel and the Department of Defense on behalf of all Federal Executive Agencies are denied as set forth in the body of this Order. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 17th day of DECEMBER, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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Commissioner Easley dissented from the Commission's decision to deny reconsideration on the issue of resetting rates.

NOTICE OF 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 judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the

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