

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Comprehensive review of) DOCKET NO. 920260-TL
revenue requirements and rate)
stabilization plan of SOUTHERN)
BELL TELEPHONE AND TELEGRAPH)
COMPANY.)
_____)
In re: Investigation into the) DOCKET NO. 910163-TL
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)
TELEGRAPH COMPANY'S compliance)
with Rule 25-4.110(2), F.A.C,)
Rebates.)
_____)
In re: Show cause proceeding) DOCKET NO. 900960-TL
against SOUTHERN BELL TELEPHONE) ORDER NO. PSC-93-0334-PCO-TL
AND TELEGRAPH COMPANY for) ISSUED: 03/04/93
misbilling customers.)
_____)

ORDER GRANTING PUBLIC COUNSEL'S MOTIONS TO COMPEL

On July 2, 1992, Public Counsel filed a motion seeking an order compelling answers to deposition questions. Southern Bell filed its response on July 9, 1992.

The motion concerns the depositions of C. J. Sanders, Southern Bell's Vice President Network-South Operations and C. L. Cuthbertson, Jr., Southern Bell's General Manager-Human Resources. Public Counsel questioned the deponents regarding what acts or failures to act formed the basis of the Company's recommended discipline of Southern Bell craft and management employees. Southern Bell objected to this line of questioning on the basis that the deponents' knowledge of the acts or omissions to act which underpinned the Company's recommended discipline of the various craft and management employees was derived solely from Sander's and Cuthbertson's review of documents which Southern Bell claims are protected from disclosure as part of the Company's "privileged internal investigation". The documents which are the basis of Southern Bell's objection are witness statements and summaries, panel recommendations regarding craft discipline, panel recommendations regarding pay grade 5 and below discipline and a typed index of employee names and handwritten notes.

DOCUMENT NUMBER-DATE

02468 MAR-4 82

FPSC-RECORDS/REPORTING

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Through various production requests in this docket, Public Counsel has sought production of the witness statements and summaries, the panel recommendations regarding craft discipline and the panel recommendations regarding pay grade 5 and below discipline. Southern Bell objected to producing the documents on the basis of the attorney-client privilege and work product doctrine. Public Counsel has moved for orders compelling the production of these documents. These matters were considered after having reviewed the documents in camera, the moving papers, the opposition thereto and oral argument of counsel. In Orders Nos. PSC-93-0292-FOF-TL and PSC-93-0294-PCO-TL, it was concluded that the documents are not shielded from discovery under the attorney-client privilege and the work product doctrine; hence, this avenue of inquiry at deposition is proper.

Some of the questions concerned a typed index of employee names and handwritten notes which were inadvertently disclosed to Public Counsel in response to a document discovery request. These documents contain information which has its origin in the witness statements and summaries which have been found not to be protected from disclosure under the attorney-client privilege and work product doctrine. Hence, this line of questioning at deposition is proper.

Based on the foregoing, it is

ORDERED that the Office of Public Counsel's Motion to Compel answers to deposition questions is granted as set forth in the body of this Order.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 4th day of March, 1993.



SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)

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.