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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate increase by United Telephone Company of Florida.)	Docket No. 910980-TL
In re: Petition by Bonita Springs residents for extended area service between Bonita Springs and the Fort Myers and Naples Exchanges.)	Docket No. 910027-TL
In re: Request by Pasco County Board of County Commissioners for extended area service between all Pasco County Exchanges.)	Docket No. 910529-TL Filed: August 10, 1992

MOTION FOR RECONSIDERATION
<u>OF UNITED TELEPHONE COMPANY OF FLORIDA</u>

United Telephone Company of Florida (United), pursuant to Rule 25-22.060, Florida Administrative Code, moves the Florida Public Service Commission (FPSC) to reconsider certain portions of its Order No. PSC-92-0708-FOF-TL (the Order), issued in the above captioned Docket on July 24, 1992. The portions of the Order that United moves be reconsidered, and the reasons reconsideration is sought, are described below.

Set forth below are seven specific provisions of the Order which should be reconsidered. These are not the only provisions of the Order which should be revised, but within the context of what is required in a request for reconsideration (i.e., something the Commission overlooked or failed to consider), they are most clearly errors. Given the extraordinary lengths to which the Commission went to avoid giving United the increase in rates it needs to provide the quantity and quality of services our customers demand, the provisions for which reconsideration is requested are relatively modest.

While the Commission nominally allowed United a rate of return on equity of 12.5%, because of the extensive disallowances ordered and the imposition of expenses without rate recovery, the Company can earn at best a 9.7% return on equity. In other words, what is a 12.5% ROE to the Commission is a 9.7% ROE to investors. United's investors are as rational as most investors; if they have investment alternatives that yield more than 9.7%, they will not put their money into Florida. Those alternatives exist in most, if not all, of the other states in which United telephone companies operate. If Florida's telecommunications infrastructure begins to look more and more like its education and highway infrastructures, we should not lose sight of the fact that regulatory actions of the sort to which this reconsideration is addressed are driving investment funds to other states where it is still possible to earn a fair rate of return.

1. United requests reconsideration of that portion of the Order which establishes a hypothetical capital structure for United with an equity ratio of 57.5%. The Commission overlooked or failed to consider that no testimony or other evidence in the case supports such a hypothetical capital structure or an equity ratio of 57.5%. The Commission's decision is thus based on a mistake, oversight or misapprehension of law or fact.

United believes that the decision to cap its equity ratio will have very serious repercussions in capital markets and that the Commission is unaware of the significance of what it has ordered. The Commission has also ignored the fact that in January 1991, it approved a 61% equity ratio for United. No discussion of why 16 months later the equity ratio should fall to 57.5% (or 55% recommended by the Staff) was undertaken at the Special Agenda

Conference. *None of the Commissioners* expressed any interest in what had happened in the intervening 16 months to require this substantial interference with the company's ability to manage its capital structure to meet the financial and business risks it will face. From this lack of interest and discussion, it is fair to assume that the Commission failed to consider the impact of what it ordered.

In this case two parties presented evidence concerning the proper capital structure to use for ratemaking purposes, United and the Office of Public Counsel. Both presented cost of capital evidence and recommendations using United's actual capital structure. Although the Public Counsel expressed concern that United's common equity ratio was high, they did not in any way suggest using an arbitrary, hypothetical capital structure.

The idea of using a hypothetical capital structure was not raised until the Staff recommendation was presented. The Staff took no position on this Issue (Issue 12) in the *Prehearing Order* (See, Order No. PSC-92-0181-PCO-TL, page 24), nor did the Staff present any testimony on the issue. The Staff recommendation was based on factually incorrect information and was presented in a framework that ignored past Commission decisions and the disincentives to investment that it would produce. No other party was given the opportunity to address the factually incorrect information or the significant change in policy because they were not revealed to the parties until the Staff Recommendation was issued.

Staff member Maurey stated in the agenda conference, "When Staff arrived at its recommended equity ratio of 55 percent, we chose that level because it was at the top of the range for a single A-rated utility." (June 12, 1992, Special Agenda Transcript p. 53) In the Staff recommendation the Commission was advised, "Staff believes this level of equity [55%] . .

. is conservative at the top of the range for an A-rated company . . ." (Staff Recommendation p. 92)

Sixty percent equity is the top of the single A-rating range, not 55% as Staff advised the Commission and relied on in making their recommendation. Only one rating agency, Standard & Poor's, publishes financial ratio guidelines for their ratings. According to Standard & Poor's the top equity ratio for a single A-rating is 60%, not the 55% pointed out by Staff. Schedule 5 of Exhibit 8 presented by Mr. Coyle listed the local exchange companies rated by Duff & Phelps. This listing indicates that of the seven local exchange companies rated A or A+, two had equity ratios of 60% or more. If the Staff had just correctly applied their own standard their recommendation would have been 60%.

The Standard & Poor's minimum equity ratio standard for a double A-rating is 58%. If the Company finances itself in accordance with the Commission's hypothetical 57.5% common equity ratio it would fall short of S&P's minimum standard for a double A-rating, and never reach that level.

Recent decisions by this same Commission support the reasonableness of United's actual capital structure and the importance of using an actual capital structure rather than a hypothetical when the actual capital structure is judged to be reasonable. The Staff recommendation and presentation at the agenda conference did not provide this perspective and, in fact, Staff minimized the significance of deviating from use of the Company's actual capital structure.

In Order No. 24049, issued in January 1991, the Commission stated, ". . . we find United's test year equity ratio of 60.9% to be reasonable." (at p. 40) Based on this conclusion the Commission used United's actual test year common equity in determining the fair rate of return.

In Order No. 24178, issued in February 1991, the Commission stated, "We find that Centel's proposed test year equity ratio, although high, is reasonable." (at p. 36) Based on this conclusion the Commission used Centel's actual test year common equity in determining the fair rate of return. Centel's common equity ratio was 62%.

In December 1989 in Order No. 22352, concerning GTE of Florida, the Commission stated, "In our opinion, the use of a hypothetical capital structure, when the company's actual capital structure appears reasonable, could negatively affect the company's ability to meet investor requirements. Additionally, imputing a different capital structure in such a circumstance may force a company to move towards a less efficient capital structure, thereby reducing its ability to react to changes in its operating environment." (at p. 34)

The testimony of Mr. Coyle fully supported the conclusions of the Commission in the GTE case. He stated, "The effect on United of a change in the Commission's policy [of using the local exchange company's actual capital structure] would be a re-evaluation of the ratings of United's debt and preferred stock. The effect on investors' perceptions of the regulatory practices of the Commission would be negative." (Tr. 195) Mr. Coyle's testimony on this subject was unchallenged, yet it was totally ignored in the Staff recommendation and their agenda conference discussion.

The Commission's imposition of a hypothetical capital structure, with only 57.5% common equity, creates a disincentive for investment in the common equity of United. The common equity investor, whether a parent company or an individual, does not, and should not be expected to, bear risks unless there is a potential return commensurate with those risks. The use of a hypothetical capital structure sends a signal to common equity investors, by ensuring an inadequate return on existing investment, that future investment is discouraged. This new investment disincentive is particularly inappropriate at a time when the Commission desires to encourage investment in the Florida telecommunications infrastructure. Moreover, the use of a hypothetical capital structure creates an incentive for common equity investors to withdraw at least a portion of their existing investment. For example, United could attain the 57.5% common equity ratio by immediately dividending about $40,000,000 to its parent. Certainly, the parent would have no incentive to invest more than 57.5% common equity in United if the Commission would not permit a fair return on it.

In conjunction with the fact that investors can actually earn only 9.7% after the Commission's disallowances are taken into consideration, the Commission has removed any incentive for investment in United in Florida. Investment anywhere else in the United System will yield a better return.

The Staff presented other factors in their recommendation and agenda conference discussion to support their recommendation. In their recommendation Staff concluded, "Staff believes this level of equity [55%] is appropriate based on the level of risk faced by UTF, is conservative at the top of the range for an A-rated company, and is consistent with the ROE recommended in Issue No. 11 because it is within the range for the RBHCs on which the ROE recommendation is based." (Staff Recommendation p. 92) In addition to these factors, Mr. Maurey pointed out that 55% is, "significantly above the equity level that the parent company feels is reasonable for financing its non -- its largely nonregulated businesses." (June 12, 1992 Special Agenda Transcript p. 53)

Mr. Coyle, a recognized expert in the evaluation of telephone company risk and creditworthiness, presented evidence and testimony concerning United's business risk. He concluded that, "United has more business risk than the average local telecommunications company . . ." (Tr. 174) Mr. Coyle's conclusions were not challenged by any party to the case and they were not addressed in the Staff recommendation or agenda conference discussion.

Mr. Parcell testified, ". . . compared to the consolidated operations of the regional holding companies, United Tel. of Florida is probably a little bit more risky." (Parcell's Deposition, Ex. 7, p. 8)

The inaccuracy of Staff's statement that 55% equity is the top of the range for a single A-rated company has been addressed.

The equity ratio range for the Regional Bell Holding Companies was 52.2% to 61.9%. United, which according to Mr. Parcell is probably more risky than the RBHCs, has an equity ratio, at 60.4%, that is in that range. In addition, the evidence presented on Mr. Coyle's Exhibit 8, Schedule 5, and Mr. Parcell's Exhibit 6, Schedule 5, indicates United's equity ratio is within approximately one percentage point of the local exchange company industry average.

Staff characterized United's equity ratio as high compared to the current equity ratio of Sprint Corporation. This type of comparison is inappropriate because Sprint (the long distance carrier) is in the early stages of its life cycle, while United is in the mature stage of its life cycle. United has had the opportunity to appropriately develop its capital structure in response to business risk levels and investor requirements, while Sprint has not.

Since the parent company began making major investments in long distance communications in 1984, the percentage of revenues derived from long distance communications increased from 8.0% to 61.4%. Sprint's experience is not unlike any start-up operation. To finance the start-up of the capital intensive long distance venture, Sprint Corporation issued relatively large amounts of debt. The long distance venture, not surprisingly, also incurred losses during its start-up phase. The currently outstanding large amounts of debt and negatively impacted retained earnings are not representative of how Sprint Corporation was financed in the past or is expected to be financed in the future, given the business risk of the long distance venture. As Sprint (the long distance carrier) emerges from the start-up phase, the long term debt will gradually be paid down and common equity will increase as earnings are retained. Over the long run the parent capital structure is expected to gradually change to be representative of the business risk of its overall operations and in fact some of this change has already begun. Sprint's 1991 annual report indicates the company had a 42.2% common equity ratio at year end 1991, an increase of 3.8% over year end 1990. The 33.8% ratio for 1990 cited by Staff and included in the Order, which apparently was taken from Mr. Parcell's Exhibit 6, Schedule 4, inappropriately excludes minority interest.

Sprint Corporation's current capital structure is heavily influenced by the capital requirements resulting from the start-up of its long distance venture. It thus cannot serve as an appropriate standard of comparison for a mature local exchange company such as United. The local exchange company industry average capital structure, such as that shown on Mr. Coyle's Exhibit 8, Schedule 5, and Mr. Parcell's Exhibit 6, Schedule 5, is the appropriate standard of comparison for United. These standards clearly demonstrate that United's equity ratio is consistent with that of the local exchange company industry.

Witnesses Coyle and Parcell emphasized the need to evaluate United's equity ratio in comparison to companies of similar business risk. Mr. Coyle testified, ". . . investors compare United's financial characteristics with those of companies facing comparable business risks, specifically other local telecommunications companies." (Tr. 196) Mr. Parcell testified, "the capital structure of a firm can be compared to other firms of similar business risk to test its appropriateness in terms of being an efficient or 'least cost' capital structure." (Tr. 112) Based on the testimony of both witnesses local exchange companies must provide the appropriate comparison. United's common equity ratio of 60.4% compares with the independent telephone industry average common equity ratio of 59.5% (Mr. Parcell Ex. 6, Sch. 5) and the Duff & Phelps rated LECs equity ratio of 59.9% (Mr. Coyle Ex. 8, Sch. 5).

In summary, United was judged to have higher business risk than the industry average. United's common equity ratio is approximately one percent higher than the two most appropriate comparisons presented in the case. United's common equity ratio in this case is lower than the common equity ratios judged reasonable by the Commission in United's last case and in the Centel case.

The evidence clearly demonstrates that United's actual capital structure is reasonable. It clearly demonstrates that the Commission decision was based on incomplete information and further that the Commission relied on the inaccurate information provided by Staff.

2. United requests that the Commission reconsider that portion of the Order which does not allow rates to recover the costs associated with the accounting change mandated by the implementation of FAS 106.

The Commission overlooked or failed to consider that its decision to defer recognition of FAS 106 costs places the burden of post-retirement benefits on United's stockholders even though the ratepayer is receiving the benefit of the labor this cost supports. The Commission's decision is thus based on a mistake, oversight or misapprehension of law or fact.

The Commission ordered United to book an expense of $7.8 million and specified that the expense not be considered in setting rates. Since the expense must be incurred, it will have to be recovered from United's stockholders rather than its ratepayers. Expenses that are not recoverable from ratepayers (through rates that they pay for regulated services) can only be covered by reducing the return stockholders receive on their investment.

The Commission, without any analysis to substantiate its actions, has presumed that United will overearn in 1993 and 1994. In fact, without recognizing the fact, the Commission by not allowing recovery of this cost has presumed that United will overearn in 1995 and beyond as well, because unless United has another rate case the ratepayer will never have to support this expense.

Because it was not recognized in setting rates, the additional $7.8 million expense associated with FAS 106 will decrease United's achieved ROE by approximately 100 basis points beginning in 1993. If the company were to earn a return on equity of 12.5%, its allowed midpoint, or less in 1994, the 100 basis point impact of the FAS 106 cost will be funded entirely by the stockholders. That will happen again and again, year after year until the expense is recognized in setting rates. Thus, earnings to which the stockholder is lawfully entitled will be confiscated to the benefit of the ratepayer. The Order finds that United's 1994 "earnings" will be "sufficient to absorb the additional expense." (At p. 36) Substitute "stockholder" for "earnings" and you have what the Commission has ordered: the stockholders should absorb the expense, and not only for 1994, but forever and until another rate case would recognize the then ongoing cost in establishing the Company's overall revenue requirement.

At what point in time did it become lawful for the Commission to order United to book expenses that are incurred to benefit the ratepayer and require that the stockholder eat the cost? At what point did it become lawful for the Commission to confiscate earnings within the approved range of rate of return? At what point did it become lawful for the Commission to confiscate earnings two and a half years before the earnings were realized? What concepts of due process and regulatory principles provide for such a confiscation? Just because Public Counsel advances such bizarre proposals is no reason for the Commission to embrace such expediency.

Can we now expect that, if two years beyond a test period, a company's earnings are projected to decrease, the Commission will add a cushion of money today to accommodate the decrease? In other words, does confiscation work both ways and will the ratepayers' funds be confiscated too when future earnings are projected to decline rather than grow?

The Commission has no way of knowing what the company will earn in 1994. It believes United will earn more in 1994 than in the test period, but has no idea of whether 1994 earnings will be excessive in terms of the newly allowed range of return. The fact that the Commission made adjustments to United's test year budget, which had the effect of reducing revenue requirements, while accepting the company's 1994 budget without even cursory review demonstrates the barrenness of the Commission's reasoning upon this issue: a budget three years out is given more credence than a budget one year out.

The Commission overlooked or failed to consider that it has confiscated to the benefit of United's ratepayers earnings which are the lawful property of United's stockholders, an action that is clearly and unequivocally unlawful.

3. United requests reconsideration of that portion of the Order which disallows one-half of department 110, which is the President-Local Telecom Division (LTD), and the disallowance of the entire cost of department 136, which is that portion of the planning department known as the Corporate Research Center. The Commission overlooked or failed to consider that no testimony or other evidence in the case supports such disallowance. The Commission's decision is thus based on a mistake, oversight or misapprehension of law or fact.

Order No. PSC-92-0708-FOF-TL at page 31 states in part:

> We agree with the Company that these allocated costs do have the character of management costs and are of some benefit to the ratepayer. However, OPC's argument that these costs represent the cost of UTI as an owner/investor in UTF also have merit, particularly in light of our previous decisions. Therefore, we find it appropriate to disallow one half of executive departments 105, 110, 130 and 260 and the corporate secretary, as ownership costs. Additionally, we shall disallow the entire costs of the planning department and executive departments 160, 195 and 197. . . .

The only evidence of record on the allocation of these two departments was presented by Witness Wareham, Sprint/United Management Company, who supported the allocations, and Witness Brosch, Office of Public Counsel's Witness, who did not recommend an adjustment to either department.[1] (See Ex. 68, MLB-1, page 2 of 4) OPC did not argue as is stated in the Order that the two departments cited above represent cost of UTI as an owner/investor of UTF.

Since neither witness who addressed the subject recommended the adjustments which are contained in the Order, the only other basis for the adjustments must be the reference to prior decisions contained in the language quoted above.

Whether an allocation is proper or should be wholly or partial disallowed is a factual determination. It should be based on evidence presented in the case on which the factual determination is being made. A factual determination made in a prior case cannot be relied upon to establish facts in a subsequent case, particularly when the subject matter is raised again and is addressed in testimony. The doctrine of *stare decisis* relates only to the determination of questions of law, and has no relation whatever to the binding effect of determinations of fact. Forman v. Florida Land Holding Corp., 102 So.2d 596, 598 (Fla. 1958) The doctrine of *res judicata* does not support the Commission's action. It applies only in an "instance wherein a second suit is between the same parties and is predicated on the same cause of action as was the first." Gordon v. Gordon, 59 So.2d 40, 43 (Fla. 1952) *cert. denied* 344 U. S. 878 (1952) This rate case is based on completely different facts and circumstances from United's 1981 rate case and its 1990 rate case.

In fact, Witness Brosch did advocate disallowance of one-half of the President, LTD (Department 110) and full disallowance of the Corporate Research Center (Department 136) in

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[1] Witness Brosch did recommend a small disallowance of $7,184 in the 6711 account which includes the President-LTD which is unrelated to the issues addressed in the Motion for Reconsideration. He did not recommend an adjustment for the President-LTD based on S/MUC ownership costs as is made in the Order.

the 1990 rate case. (See, FPSC Order No. 24049, page 27) He examined those Departments again in this case and did not recommended their disallowance.

Prior decisions cannot be relied upon to overcome evidence on factual matters submitted in the current case on the same subject. If such a result were allowed, any changes made by United or S/UMC to its allocation procedures to make them comply with conditions stated by the FPSC could be ignored by simply relying on decisions in prior cases.

No evidence of record supports the two disallowances cited above, and reliance on prior decisions ignores the fact that the two departments were examined by Witness Brosch for the Office of Public Counsel in this case and no disallowance was recommended by him, nor does any other evidence exist supporting the disallowances.

4. United requests that the Commission reconsider that portion of the Order which addresses the cost of the SUIS CPU lease. The Commission overlooked or failed to consider that United did present testimony on the cost of the CPU lease after the testimony of Mr. Brosch was filed so the statement in the Staff Recommendation and the Order that Mr. Brosch's conclusions were not refuted is not correct. The Commission's decision is thus based on a mistake, oversight or misapprehension of law or fact.

The Commission accepted a proposed adjustment from OPC Witness Brosch concerning a decrease in CPU costs for United which included the "most recent estimate" of 1992 CPU expense based on United's response to the OPC's Twelfth Set of Interrogatories, Interrogatory No. 27. (See, Ex. 68 (MLB-2))

The Commission recognizes that United made an adjustment of $1,446,724 through the rebuttal testimony of Mr. McRae. However, the Commission accepted the adjustment of

$1,906,236 proposed by OPC Witness Brosch based on its conclusion that United did not refute the amount proposed by Mr. Brosch. United cannot find a specific adjustment in the amount of $1,906,236 in either Mr. Brosch's testimony or in his Exhibit 68 (MLB-2). United does note that Exhibit 68 (MLB-2) indicates that the 1992 CPU rental expense was the "most recent estimate." This estimate was based on responses to interrogatories submitted by United. United later updated this information in the rebuttal testimony of Mr. McRae, which was filed after the testimony of Mr. Brosch, and contained the most current information available. United most definitely responded to the adjustment submitted by Mr. Brosch with more current and accurate information. The Commission has chosen to ignore this response without examination or analysis.

Both the adjustment submitted by Mr. Brosch and the later adjustment submitted by Mr. McRae on this issue are based on information provided by United. Mr. Brosch's adjustment was based on the interrogatory cited in his Exhibit 68, and Mr. McRae's adjustment on his rebuttal testimony and Exhibit 17. The information on this matter provided by Mr. McRae in his rebuttal testimony and Exhibit 17 updates the estimate submitted earlier in the interrogatory response and relied upon by Mr. Brosch.

In addition, the adjustment made by Mr. McRae, in his rebuttal testimony and Exhibit 17, was discussed in his testimony and the testimony of Mr. Wareham. The amount of United's adjustment which was based on information more current than the estimate relied upon by Mr. Brosch was never refuted or even subjected to any questions from OPC.

The Commission had before it two adjustments based on information submitted by United, and elected to accept the earlier adjustment based on an estimate without discussion or analysis, but supported only by the incorrect statement that United did not refute Mr. Brosch's adjustment.

Mr. Brosch's adjustment was admittedly based on estimates available to him at the time he filed his testimony. The Company responded by filing more recent information on the amount of the adjustment. The Commission accepted all the other adjustments made in Mr. McRae's Exhibit 17 except the CPU adjustment in question. The Commission was willing to accept the first estimate without question or examination when incorporated by Mr. Brosch in his testimony, but will not accept the Company's more recent and accurate information on the same matter submitted in Mr. McRae's testimony and Exhibit.

United's more current data should be used in setting rates and the test year expenses should be increased by $459,512.

5. United requests reconsideration of that portion of the Order which reduces the working capital portion of rate base by $3,269,000 on an intrastate basis. The Commission overlooked or failed to consider that the $10,440,000 balance in materials and supplies for plug-in cards, which was the basis of the working capital reduction, consisted of primarily used cards and that rate base is unaffected by restocking or junking assets that are removed from service. The Commission's decision is thus based on a mistake, oversight or misapprehension of law or fact.

The Order reduces the working capital portion of rate base by $3,269,000 on an intrastate basis. The Commission concluded that United had overstated its test year requirements for plug-in cards by this amount. The basis for the Commission's conclusion was that usage levels for plug-in cards in 1990 and 1991 were lower than the company projected for the test year.

The Commission auditor who testified upon this subject did not state that the company's inventory of plug-in cards consisted of purchases made during the test period. To the contrary, documents available to him during his review clearly indicate, and he was thus aware, that the extended balance of plug-in cards is almost entirely based on cards that have been removed from service and restocked. He participated in a conference call with United's purchasing department during which United's practice of reusing cards was explained and learned that the greatest part of plug-in card stock is made up of restocked cards. Had the Staff witness ever asserted that the company was purchasing a 770 day supply of new cards, the Commission would have cause for concern, but the witness did not take such a position. The Witness' own exhibit (Ex. 70, CJW-2, p. 12) shows that more than $10 million of cards were salvaged over the period 1989-92. He did not argue that the cards should not have been salvaged nor that the balance of the account did not consist substantially of those salvaged cards. Indeed, he could not have made such arguments because the facts would not support it. The Commission misapprehends the evidence and incorrectly concludes that only Alcatel plug-in cards are reused. No one made such an assertion. Neither the Staff witness or company witness offered support for an adjustment to be made based on usage of plug-in cards in 1990 and 1991; consequently, there is no evidence of record to support the adjustment. Moreover, the Staff witness did not testify that it would be proper to adjust rate base to remove restocked cards.

The Commission also overlooked or failed to consider that rate base would be unaffected by restocking or junking assets that are removed from service. Had United junked $3,269,000 worth of previously in-service cards, which is in essence the effect of what the Commission ordered, salvage would have been reduced by $3,269,000 and rate base would have been unaffected. The order overlooks or fails to consider that keeping used assets in materials and supplies or junking them has no impact on rate base. Consequently, any rate base adjustment that depends upon an assumption that assets should have been junked rather than returned to stock is insupportable. Even the Commission's own witness did not propose or support such an adjustment. Clearly the company could not make an accounting entry to recognize this adjustment and be in compliance with the Uniform System of Accounts or Generally Accepted Accounting Principles. The Commission's order is not in keeping with any accepted accounting or regulatory practices of which United is aware.

6. United requests reconsideration and clarification of that portion of the Order which requires implementation of the $.25 calling plan on the Cape Haze to Port Charlotte, Moore Haven to Clewiston, Everglades to Naples, Immokalee to Naples and Immokalee to Fort Myers routes. The Commission overlooked or failed to consider that implementation time would be required to implement the $.25 calling plan on these routes. The Commission's decision is thus based on a mistake, oversight or misapprehension of law or fact. United requests reconsideration and clarification only to provide such implementation time.

The Order contains sections which require United to implement a $.25 message rate calling plan on the intracompany routes between Cape Haze and Port Charlotte, Moore Haven and Clewiston, Everglades and Naples, Immokalee and Naples, and Immokalee and Fort Myers.[2] The sections of the Order in question provide no time period for such implementation, and would require United to implement the required changes instantaneously upon the Order

[2] FPSC Order No. PSC-92-0708-FOF-TL also contains Proposed Agency Action, which requires United to implement a $.25 message rate calling plan on the intercompany routes between Williston and Gainesville and Trillachoochee and Brooksville. The PAA portion of the Order is addressed in a separate pleading.

becoming final. United must determine if existing facilities are adequate, add facilities if necessary, devise a method of recording such calls which will assure proper rating, change the rating for calls in its billing system, change its treatment of such calls from privately owned pay telephones from toll to local and test the changes for accuracy and reliability. United estimates that it can make these changes on all of the routes listed above on or before November 14, 1992.

United is unable to implement the changes required in the Order instantaneously, and will be in violation of an FPSC Order unless it implements the changes required at the time the Order becomes final.

United requests that the Commission reconsider and clarify the Order by allowing implementation time until November 14, 1992 to implement the $.25 calling plan on the routes listed above.

7. United requests that the Commission reconsider several calculation oversights and errors made in the Order. If these calculation oversights and errors are not corrected the Commission's decision will be based on a mistake, oversight or misapprehension of law or fact.

Following are errors which were made by the FPSC Staff in their adjustments in the Order:

a. Disallowed GS&L expenses

In its decision with respect to the disallowance of GS&L, the Commission accepted the data contained in Staff's Recommendation on Issues 22d and 22e. In so doing, the Commission disallowed expenses beyond those excluded by the Company in its filing in this Docket. The amounts used by the Commission in calculating the additional disallowances were total company amounts. The Commission should have used only the regulated amounts. The amounts also were not adjusted for the updated S/UMC allocation factors identified at Issue 22g. This necessary adjustment is similar to the adjustment discussed in Issue 22g of the Staff recommendation, which stated:

> Staff also agrees that an adjustment should be made to reflect the updated statistical data. UTF witness McRae also stated that if the Commission makes an adjustment to reflect the updated allocation factors, the Commission should also recognize that as a result of the lower allocation of costs to UTF due to the allocation revision, the amount which the Company had removed from the regulated expenses to recognize the Commission's prior disallowance of certain cost centers in the last rate case would be overstated. UTF identified the overstated amount to be $249,190. (McRae, TR 706) Staff agrees that this overstated GS&L adjustment in the MFR Schedule C-2a, Exhibit 14, should also be recognized. [at p. 228]

The action described in this quote only adjusts the GS&L expenses which the company excluded from its filing and not the additional adjustments made by the Commission in Issues 22d and 22e. The correct additional disallowance is $1,530,037 rather than the $1,796,966 as reflected in the Staff's adjustments. Applying the separation factor to the difference of $266,929 reveals that $206,503 of expenses were incorrectly removed.

b. Rate Base Adjustment Related to Postretirement Benefits

In deferring the incremental cost of FAS 106, the Commission removed from plant in service $1,451,000 of test year OPEBs that were capitalized and also removed the MFR adjustment which the Company made to reduce working capital by $2,704,000 to reflect the additional six months of OPEB liability which would accompany the adoption of FAS 106 at July 1, 1992, rather than at January 1, 1993 as contained in the budget. The above Commission actions resulted in a net increase in rate base of $1, 253,000.

The proper action attendant with the deferral would have been to increase the average rate base effect for the entire test year in the amount of $3,903,000. This represents the simple average of the OPEB liability, net of the amount capitalized, of $7,805,000. Therefore, if the Commission's decision stands with respect to deferral of the OPEB costs, an additional adjustment of $2,650,000 should be made to increase rate base.

There would be no additional rate base effect of the deferral entry itself inasmuch as the OPEB liability would be offset by a deferred regulatory asset.

c. Intrastate IntraLATA Private Line Pool

One of the assumptions used in United's filing was that the intrastate intraLATA private line pool would be in effect for the entire test period. Revenues from the pool reflecting test year expenses and increased depreciation were therefore included. The Commission made many expense adjustments to the filing in determining the revenue requirement. However, no adjustments were made to reduce the related loss of pool revenues resulting from lower expenses. The total effect is a $1,115,000 decrease to test year revenue.

United requests that these calculation errors be reconsidered and corrected. The amount of these calculations will need to be adjusted to reflect the Commission's rulings in United's requests for reconsideration described in paragraph 1 through 5 above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of United Telephone Company of Florida's Motion for Reconsideration has been furnished by U.S. Mail or hand-delivery to the following parties this 10th day of August, 1992:

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