

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the) DOCKET NO. 880149-TL
Regulatory Assessment Fee Calculation)
for 1985 and 1986 of UNITED TELEPHONE) ORDER NO. 20552
COMPANY OF FLORIDA)
ISSUED: 1-5-89

ORDER DENYING UNITED TELEPHONE COMPANY OF FLORIDA'S
REQUEST FOR SPECIFIED CONFIDENTIAL
CLASSIFICATION OF MATERIAL

On November 1, 1988, United Telephone Company of Florida (United) submitted Pages 13-15 and a chart (collectively, the Document) from a study entitled "Assessment of Proposed Directory Advertising Subsidiary" (the Study) prepared by a predecessor to United's parent organization, United Telecommunications, Inc. (the Parent). The Document was submitted in response to a request from our Staff made while they were reviewing documents produced in response to a request of the Office of Public Counsel. Accompanying the Document was a Request for Specified Confidential Classification (the Request), alleging that the materials relate to the Parent's competitive activities and constitutes confidential information.

The Request asserts that the public release of the Document, which is not its property but rather that of the Parent, "will impair the integrity of confidential business communications" between United and the Parent. Also, United maintains that such release "would represent an unearned commercial advantage to its competitors in directory business" through disclosing the Parent's future plans, the results of its research of the directory market and its marketing efforts and expertise. Additionally, the Request argues that public release would be detrimental to the Parent in its negotiations with a party identified in the material with whom it had a contractual relationship. Moreover, United charges that the Document discloses the financial prospects of the Parent's plan to market two directories outside its operating telephone companies' service areas.

United misconstrues our objective in this docket, and we should clarify this before addressing the Request. Paying the correct regulatory assessment fee is only one of United's obligations with regard to its directory operations. Of equal importance is United's compliance with Section 364.037, Florida Statutes, which directs that the benefits of directory advertising will be shared between ratepayers and shareholders according to a clearly-articulated procedure. On any matter involving directory operations, this statutory requirement must guide the Commission's consideration, and hence, we must make a determination in this docket that United's directory operations are in compliance with the statute. As a result, the scope of this docket is not nearly as limited as the Request asserts. For this reason, United can reasonably anticipate that discovery will extend into all aspects of directory operations, whether involving United, the Parent or any other entity engaged in such activities subject to statutory mandate.

In our view, United has failed to carry its burden of showing that the Document is qualified for specified confidential classification pursuant to Section 364.183,

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Florida Statutes, and Rule 25-22.006, Florida Administrative Code. The Document should therefore not be exempt from the requirements of Section 119.07(1), Florida Statutes. We must point out initially that it makes no difference whether the material is the property of the regulated utility or its parent organization. A request for confidential classification must stand or fall on the merits of the argument for exempting the material from public disclosure. Arguing that the Document is owned by the Parent is without merit here because this material relates directly to directory operations concerning which we have statutory duties to perform.

We find completely implausible the argument that confidential classification is justified because public disclosure of the Document will have a chilling effect on communications between a parent and its regulated subsidiary. The notion that communications between employees of the same organizational structure could be impeded by the prospect that they may be disclosed years later is simply ludicrous. Equally spurious is the argument that competitors would benefit from the Document's public disclosure. The Study was prepared in September of 1985; therefore, the data contained therein are entirely too outdated to be of use to a competitor. Consequently, we are forced to question how their public disclosure could possibly provide an advantage to either present or future directory competitors. The Document's chart shows actual financial data of no more recent vintage than 1984, and we believe that this information has already been publicly disclosed in the FCC's Form M filed for the United telephone companies.

It is specious to argue that the marketing plans contained in the Document deserve confidential classification because it refrains from identifying the locations under consideration for future marketing efforts. Additionally, the suggestion that disclosing the Document will damage the Parent's negotiating position with the identified other party to a contract is illogical in light of steps taken by the Parent in implementing the recommendation of the Study. Any harm to this relationship that could be wrought by disclosure at this late date is insignificant by comparison to that which must have occurred when the separate directory publishing subsidiary was formed and went into business many months ago.

The Document's discussion of regulatory perception is a matter of interest because it relates to our concern with whether the publication of directories by a subsidiary other than United in the manner determined by the Parent complies with this state's regulatory requirements. Since the Study is nationwide in scope, we do not believe release of the Document will inform competitors of any specific perception regarding the regulatory climate of a particular jurisdiction.

For the reasons stated above, we conclude that the Request is denied.

In consideration of the foregoing, it is

ORDERED by Commissioner Gerald L. Gunter, as Prehearing Officer, that the Request for Specified Confidential

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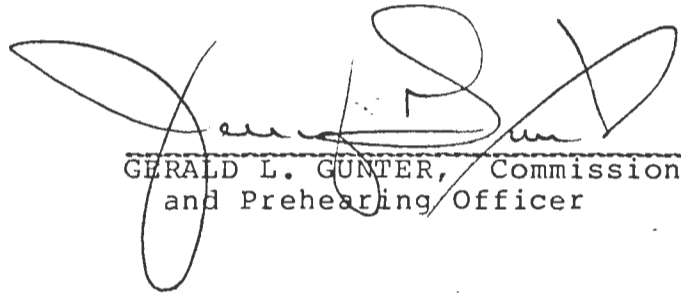
Classification filed by United Telephone Company of Florida on November 1, 1988, in Docket No. 880149-TL, is hereby denied. It is further

ORDERED that Pages 13-15 and the chart from a study entitled "Assessment of Proposed Directory Advertising Subsidiary" submitted by United Telephone Company of Florida in response to a request from our Staff shall not be kept confidential, pursuant to Section 364.183, Florida Statutes (1987), and shall not be exempt from the requirements of Section 119.07(1), Florida Statutes (1987). It is further

ORDERED that if a protest is filed within 14 days of the date of this order, it will be resolved by the appropriate Commission panel pursuant to Rule 25-22.006(3)(d), Florida Administrative Code. It is further

ORDERED that if no timely protest is filed, this ruling shall become final pursuant to Rules 25-22.006(3)(d) & (2)(f), Florida Administrative Code.

By ORDER of Commissioner Gerald L. Gunter, as Prehearing Officer, this 5th day of JANUARY, 1989.



GERALD L. GUNTER, Commissioner
and Prehearing Officer

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