

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the regulatory ) DOCKET NO. 880149-TL  
 assessment fee calculations for 1985 and )  
 of 1986 of UNITED TELEPHONE COMPANY OF ) ORDER NO. 21206  
 FLORIDA )  
 \_\_\_\_\_ ) ISSUED: 5-10-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

ORDER INITIATING SHOW CAUSE PROCEEDINGS AGAINST  
UNITED TELEPHONE COMPANY OF FLORIDA  
FOR FAILURE TO PAY REGULATORY ASSESSMENT FEES  
ON THE TOTAL REVENUES DERIVED FROM  
DIRECTORY ADVERTISING

BY THE COMMISSION:

Section 350.113(3)(b), Florida Statutes (1987), requires each telephone company licensed or operating under Chapter 364 to pay a Regulatory Assessment Fee equal to "one-eighth of one percent of its gross operating revenues derived from intrastate business." In its reports of the Regulatory Assessment Fees filed for the years 1985 and 1986, United Telephone Company of Florida (United) showed a marked decrease in directory advertising revenues from 1985 to 1986. Our Staff inquired about this decrease and learned that United changed its reporting practice because it entered into a publishing agreement with Directories America (DA), a subsidiary of United's parent company. This agreement, which became effective on January 1, 1986, covers the production, publishing and distribution of United's telephone directories.

United is obligated by the agreement to bill its customers for directory advertising and remit the revenues that it collects to DA. In return for the exclusive right to handle United's telephone directories, DA is required to pay United a fee. Until the arrangement with DA went into effect, United reported the gross revenues collected from advertisers in determining the Regulatory Assessment Fees due on revenues from directory operations. Thereafter, the company reported as such revenues only the fees paid to it by DA. As a result, the level of gross intrastate revenues decreased from 1985 to 1986.

Southern Bell Telephone and Telegraph Company and GTE Florida Incorporated have entered into arrangements with affiliated companies for publishing directories; however, both companies report all gross revenues from directory advertising, and they pay Regulatory Assessment Fees based on such revenues. United and Vista are the only local exchange companies that have filed reports for 1986 which calculate Regulatory Assessment Fees based only on the fees received from affiliated companies.

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DA participates in the publication of a directory for Central Florida on behalf of both United and Vista-United Telecommunications (Vista), a partnership owned by subsidiaries of United's parent company and Walt Disney Company. This directory is published by Uni-Don Partnership, which is owned in equal shares by United's parent company and Reuben H. Donnelley Corp., a publishing company that is not affiliated with United. Our Staff learned that Uni-Don co-mingles the revenues and expenses of publishing this directory.

Our Staff informed United of its belief that the Regulatory Assessment Fees for 1986 should be recalculated because the revenues retained by affiliated companies should have been attributed to United. Our Staff also indicated to United that the 1986 gross operating revenues from the Central Florida directory should be divided for reporting purposes between the two telephone companies based on their relative percentages of the total revenues received by each in 1985: 96.5% for United and 3.5% for Vista. United takes the position that its Regulatory Assessment Fees paid on gross operating revenues from directory advertising were correct as originally calculated because the fees paid to it by DA are the only revenues that are recorded on United's books.

Our Staff has computed the additional Regulatory Assessment Fees that United would owe under its proposal. For 1986, the additional amount would be \$46,953.70, and for 1987, the amount would be \$47,693.55. Additionally, interest on underpayments of the Regulatory Assessment Fee is required by Section 350.113(2) and by Rule 25-4.0161. We believe that United's 1986 and 1987 calculations of its Regulatory Assessment Fees on gross operating revenues from directory advertising are insufficient. United should report all gross operating revenues from advertising in its directories irrespective of recipient. We find that these revenues ought to be attributed to United in order to prevent the circumvention of Section 350.113(3)(b) through a redirection of revenues to affiliated companies.

Accordingly, we find it appropriate to require United to show cause in writing why it should not pay additional Regulatory Assessment Fees of \$46,953.70 for 1986 and \$47,693.55 for 1987, plus interest, which is due on the difference between the fees paid to it by DA and the gross operating revenues derived from directory advertising irrespective of recipient.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that United Telephone Company of Florida shall show cause in writing within twenty days of the date of this order why it should not pay additional Regulatory Assessment Fees in the amounts of \$46,953.70 for 1986 and \$47,693.55 for 1987, plus interest, on the gross operating revenues derived from directory advertising rather than on the fees paid to the company by an affiliated company that is handling directory operations. It is further

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ORDERED that any response filed by United Telephone Company of Florida must contain specific statements as to fact and law. It is further

ORDERED that upon receipt of a response as outlined above, and upon United Telephone Company of Florida's request, further proceedings will be scheduled by the Commission, at which time United Telephone Company of Florida will have an opportunity to contest the additional Regulatory Assessment Fees alleged above to be due. It is further

ORDERED that United Telephone Company of Florida's failure to respond within the prescribed time will constitute admission of guilt and a waiver of the right to a hearing.

By ORDER of the Florida Public Service Commission, this 10th day of MAY, 1989.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

DLC

by: Kay Flynn  
Chief, Bureau of Records

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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are adversely affected by the action proposed by this order may file a petition for a formal proceeding pursuant to Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 30, 1989. Failure to respond by May 30, 1989, shall constitute a admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida

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Administrative Code, and a default pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on May 31, 1989.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the 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 of the effective date of the default date set forth in 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.