

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the regulatory)	DOCKET NO. 880149-TL
assessment fee calculations for 1985 and)	
1986 of UNITED TELEPHONE COMPANY OF)	ORDER NO. 21364
FLORIDA)	
	ISSUED: 6-9-89

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

NOTICE OF PROPOSED AGENCY ACTION

AND

ORDER REQUIRING UNITED TELEPHONE COMPANY OF FLORIDA
TO PAY ADDITIONAL REGULATORY ASSESSMENT FEES
AND INTEREST

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

United Telephone Company of Florida (United) entered into a publishing agreement with Directories America (DA), a subsidiary of United's parent company, covering the production, publishing and distribution of United's telephone directories. 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. Uni-Don co-mingles the revenues and expenses of publishing this directory.

On May 10, 1989, the Commission issued Order No. 21206, compelling United Telephone Company of Florida (United) to show cause why it should not pay Regulatory Assessment Fees, plus interest, on all gross intrastate revenues derived from directory advertising and not merely on those net revenues retained by the company. Order No. 21206 indicated that United should report all gross operating revenues from advertising in its directories irrespective of recipient. We said 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.

On April 19, 1989, United filed a proposal to pay additional Regulatory Assessment Fees of \$35,565 for 1986 and

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\$41,804 for 1987 as settlement of the issues in this docket. These fees were calculated by taking into consideration all of the revenues from directories relating to United's territories and 96.5 percent of the total revenues from the Central Florida directory. The remaining 3.5 percent of these revenues would be the responsibility of Vista. However, United's offer makes no provision for paying interest on these fees.

The proposal further offers to calculate additional Regulatory Assessment Fees for 1988 under the methodology used in computing the additional 1986 and 1987 fees and pay them within 30 days of the resolution of this matter. For periods beyond 1988, United would pay Regulatory Assessment Fees on gross revenues in accordance with this methodology. Additionally, United offers to submit consolidated directory operations information annually when it files its earnings surveillance report for the twelve months ended December 31st of each year. United does not intend to record the directory revenues and expenses of DA or Uni-Don on its books and records. Moreover, for directories that are published by DA and Uni-Don which are wholly outside United's territory, the company does not intend to recognize the associated revenues and expenses for the purposes of calculating Regulatory Assessment Fees or for meeting any of the requirements of Section 364.037, Florida Statutes.

Upon consideration, we approve the proposed payment by United of \$35,565 for 1986 and \$41,804 for 1987 as additional Regulatory Assessment Fees. However, we disagree with United's argument that our assessment of interest on these amounts is not appropriate. We find ample statutory obligation to assess interest; Section 350.113(2), Florida Statutes, provides for interest on Regulatory Assessment Fees paid after the due date. Accordingly, we believe it appropriate for United to pay interest in the amounts of \$9,958 for 1986 and \$6,689 for 1987 on these Regulatory Assessment Fees if they are received no later than May 30, 1989. Therefore, the total amount due for 1986 and 1987 is \$94,016.

We accept United's offer to pay additional Regulatory Assessment Fees for 1988 and each year thereafter using the methodology approved above. For 1988, the methodology that we approve shall include interest on the additional Regulatory Assessment Fees from their due date of January 31, 1989. United's offer includes the annual submission of consolidated directory operations of United and Vista when the company files its earnings surveillance report for the twelve months ended December 31st of each year. We adopt our Staff's recommendation that 96.5 percent of the total directory advertising revenues from the Central Florida directory be used for the purpose of calculating United's Regulatory Assessment Fee with the remaining 3.5 percent being the responsibility of Vista. These percentages are based on the last year that the operations were conducted separately by United and Vista and apportions the total actual revenues between each company.

We accept United's proposal that it not be required to record on its books and records the directory revenues and associated expenses of DA or Uni-Don. Our action approving the

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reporting requirements is subject to the company's submission of the necessary information discussed above. United is directed to maintain separate records which contain the necessary information needed to calculate Regulatory Assessment Fees in the manner set out herein.

United proposes that the revenues and expenses associated with directories that are published by DA and Uni-Don which are wholly outside United's territory should not be recognized for purposes of calculating the Regulatory Assessment Fee and of meeting any of the requirements of Section 364.037, Florida Statutes, concerning the determination of nonregulated directory gross profit. Since these two firms are not regulated by the Commission and because the directories would be distributed outside United's territory, the company's proposal will be accepted.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the April 19, 1989 offer of United Telephone Company of Florida to pay additional Regulatory Assessment Fees is hereby rejected. It is further

ORDERED that United Telephone Company of Florida shall pay additional 1986, 1987 and 1988 Regulatory Assessment Fees and interest as directed in the body of this Order. It is further

ORDERED that United Telephone Company of Florida shall comply with the directions contained in the body of this Order with respect to reporting and paying future Regulatory Assessment Fees on directory advertising revenues. It is further

ORDERED that this docket shall be closed at the expiration of the period established below if a proper protest has not been received and when United Telephone Company of Florida has paid the amounts approved in the body of this Order for 1986, 1987 and 1988.

By ORDER of the Florida Public Service Commission, this 9th day of JUNE, 1989.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

DLC

by: *Kay Thompson*
Chief, Bureau of Records

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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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), 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 June 30, 1989. In the absence of such a petition, this order shall become effective July 3, 1989, as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on July 3, 1989, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an 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 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.