

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into United	)	DOCKET NO. 891239-TL
Telephone Company of Florida's	)	ORDER NO. 23694
authorized return on equity and earnings.)	)	ISSUED: 10-29-90
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ORDER GRANTING UNITED TELEPHONE COMPANY  
OF FLORIDA'S EIGHTH REQUEST FOR SPECIFIED  
CONFIDENTIAL CLASSIFICATION OF HIGHLIGHTED INFORMATION  
INCLUDED IN DOCUMENTS NOS. 8875-90, 8876-90, AND  
8877-90 AND ACKNOWLEDGING WITHDRAWAL OF ITS FIRST  
SEVEN REQUESTS FOR SPECIFIED CONFIDENTIAL  
CLASSIFICATION OF DOCUMENTS IN THIS PROCEEDING

By request filed October 16, 1990, United Telephone Company of Florida (United) has requested to withdraw its first seven requests for confidential classification of documents. United has also requested, pursuant to Rule 25-22.006, Florida Administrative Code, confidential classification of three documents entered into the record of the hearing which took place before the full Commission October 1, 3-5, 8, and 9, 1990. The three documents for which United has requested specified confidential classification were identified in the record as Exhibits Nos. 12, 13 and 14, which had previously been assigned, by this Commission's Division of Records and Reporting, Documents Nos. 8875-90, 8876-90, and 8877-90, respectively.

I. Exhibit No. 12 (Document No. 8875-90) entitled "November 29, 1989, Memo from Joe Thomas to Brennan/Seferyn Regarding Operator Services" consisting of three pages -

The specific information for which confidential classification is requested is:

- A. Page 2 - Cost per CCS in text, paragraph 14, lines 1 and 3; and
- B. Page 3 - Cost per CCS in text, paragraph 8, line 1.

II. Exhibit No. 13 (Document No. 8876-90) entitled "Minutes of the System Functional Task Force, March 21, 1990 (DR 15(1)(c))" consisting of eight pages -

The specific information for which confidential classification is requested is:

DOCUMENT NUMBER-DATE

09710 OCT 29 1990

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- A. Page 2 - Costs per work second, column A, lines 24 through 28; columns B, C and D, lines 26 through 28.

III. Exhibit No. 14 (Document No. 8877-90) entitled "Minutes of March 9, 1990 Operator Services Local Task Force Meeting" consisting of three pages -

The specific information for which confidential classification is requested is:

- A. Page 1 - Cost per CCS or Message in text, lines 32, 33, 35 and 36; and
- B. Page 2 - Cost per CCS in text, line 18.

For all of the above indicated information, United requests that it be classified specified confidential throughout this proceeding and thereafter because this information represents projections into 1991. The Company also requests that this information be returned upon the conclusion of this docket.

There is a presumption in the law of the State of Florida that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." In the instant matter, the value of the disclosure of the information contained in these documents must be weighed against the legitimate concerns of this Company regarding the disclosure of business information that it considers proprietary. It is our view that the burden to be met by one requesting specified confidential classification of documents submitted during a proceeding before this Commission is very high.

Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, it is the Company's burden to show that the material submitted is qualified for specified confidential classification. Rule 25-22.006, Florida Administrative Code, provides that the Company may fulfill its burden by demonstrating that the documents fall into one of the

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statutory examples set out in Section 364.183, Florida Statutes, or by demonstrating that the information is proprietary confidential information the disclosure of which will cause the Company or its ratepayers harm.

For all of the information specified by United in its eighth request, except for the one cost figure in Exhibit 14 (Document No. 8877-90), the Company provides the same justification. The Company's justification for its request for confidential classification of the information is that it is not generated and controlled by United. It is cost information which was provided to United by an affiliated corporation, Sprint Services, in the course of negotiations for the provision of operator services by Sprint Services. Sprint Services provides operator services to other telecommunications businesses, including interexchange carriers (IXCs) and local exchange companies (LECs). Sprint Services is not a rate base regulated telephone company and its costs and financial information are not regularly made available to state regulatory commissions. In addition, United states, the provision of operator services is a competitive business.

United states that disclosure of this information will disadvantage Sprint Services by revealing its cost of service which would allow competitors to price their services below Sprint Services' costs and to, thereby, attract both potential and current customers away from Sprint Services. United also asserts that no public benefit would be served which would offset the competitive harm to Sprint Services of the disclosure of its cost components and levels. In addition, the Company states that the public may be harmed by the lessening of competition caused by giving competitors an advantage over Sprint Services.

Regarding the figure in Exhibit 14 (Document No. 8877-90), United asserts that the cost per message set out there should be granted confidential classification because it is the price paid per message by AT&T to United under their operator service contract. Disclosure of this information, United states, would disadvantage United by revealing the amount it charges under its contract with AT&T for operator services. This would give competitors in the provision of such services an unfair advantage in negotiations with other customers if the amount charged by United is disclosed. In addition, United states, this information is customer specific in that it reveals the charge for service sold to AT&T by United.

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We find that United has adequately supported its request for specified confidential classification of the highlighted information in Documents Nos. 8875-90, 8876-90, and 8877-90 and we hereby grant specified confidential classification to this information. The competitive nature of the provision of operator services and the potential harm to United's ratepayers, as well as to Sprint Services and AT&T, by the disclosure of the terms of current contracts for the provision of these services justifies the confidential classification of this information. However, this information may not be returned to the Company because it has been entered into the formal record of this proceeding and must remain in the sealed portion of such record. Pursuant to the recent statutory change to Section 364.183(4), Florida Statutes, effective October 1, 1990, and reflected in Section 23, Chapter 90-244, Laws of Florida (1990), this information shall remain confidential for no longer than 18 months. At a point sufficiently earlier than the expiration of that period, the Company shall, if it desires such confidential classification to continue, file a request with its justification for an extension of that 18 month period. The Commission will determine at that time if such an extension would be appropriate.

We also find it appropriate to acknowledge United's withdrawal of its first seven requests for specified confidential classification filed in this proceeding. We find this appropriate because these documents were not requested to be entered into the record of this proceeding by any party. The information currently protected under those requests shall remain so and shall be returned to the Company within 30 days of the date of this Order by the Public Counsel and by our own Division of Records and Reporting.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Betty Easley, as Prehearing Officer, that United Telephone Company of Florida's requests for specified confidential classification for the highlighted information included in Documents Nos. 8875-90, 8876-90, and 8877-90 are hereby granted as set forth in the body of this Order. It is further

ORDERED that all the information included in United Telephone Company of Florida's first seven requests for

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specified confidential classification, not represented by Documents Nos. 8875-90, 8876-90, and 8877-90, shall remain confidential and shall be returned to the Company within 30 days of the date of this Order by the Office of Public Counsel and by this Commission's Division of Records and Reporting.

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 25-22.005(3)(d), Florida Administrative Code. It is further

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

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 29th day of OCTOBER, 1990.

  
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BETTY EASLEY, COMMISSIONER AND  
PREHEARING OFFICER

( S E A L )

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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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration from the full Commission within 14

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days pursuant to Rule 25-22.006(3), Florida Administrative Code, for rulings on confidentiality issued by a Prehearing Officer; 2) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, for any rulings on issues other than confidentiality if issued by a Prehearing Officer; 3) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 4) 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 sewer 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.