

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Citizens of Florida to compel compliance with Rule 25-14.003, F.A.C., by United Telephone Company of Florida regarding calculation of and method for refunding 1988 tax savings.)	DOCKET NO. 890486-TL
)	ORDER NO. 24289
)	ISSUED: 3/26/91
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)	

Pursuant to notice, a Prehearing Conference was held on March 11, 1991, in Tallahassee, Florida, before Commissioner Betty Easley, as Prehearing Officer.

APPEARANCES:

JERRY M. JOHNS, Esquire, Post Office Box 5000, Altamonte Springs, Florida 32716-5000
On behalf of United Telephone Company of Florida.

SUZANNE F. SUMMERLIN, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff.

HAROLD A. MCLEAN, Esquire, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida.

PRENTICE PRUITT, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862
On behalf of the Commissioners.

PREHEARING ORDERI. BACKGROUND

This docket has a long history. By Order No. 19726, issued July 26, 1988, in Dockets Nos. 871206-PU, 880444-TL, and 861616-TL, this Commission proposed to authorize a range of return on equity (ROE) with a midpoint of 13.5% for 1988 and 1989 for United Telephone Company of Florida (United). Further, we required United to record additional depreciation expense in an amount sufficient to reduce its earned ROE by 100 basis points, and we established an earnings cap of 14.5%. On April 10, 1989, the Office of Public

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Counsel (OPC) filed a Petition requesting that we order United to refund a portion of its 1988 earnings under Rule 25-14.003, Florida Administrative Code, the Tax Rule. OPC's Petition stated that the Tax Rule required a refund of United's tax savings in excess of its midpoint ROE of 13.5% authorized by Order No. 19726. OPC also argued that the refund must be made as a lump sum payment or in monthly installments and that any access charge reduction is immaterial by the terms of the Tax Rule and by application of Order No. 19726.

United filed an Answer to OPC's Petition on May 2, 1989, stating that its access charge reduction resolved the tax savings issue. United argued that the Petition should be denied because Order No. 17429, issued April 20, 1987, required United to reduce its access charges and to record additional depreciation expense for 1987 in order to offset tax savings. In addition, United asserts that Order No. 19726 excused the Company from further participation in Docket No. 871206-PU, which was this Commission's investigation into the 1988 effects of the Tax Reform Act of 1986 (the Act).

On May 8, 1989, OPC filed a Motion for Judgment on the Pleadings, requesting that this Commission affirm Order No. 19726 and apply the Tax Rule with a midpoint ROE of 13.5% for the purpose of disposing of United's 1988 tax savings. On May 19, 1989, United filed its Response.

By Order No. 22060, issued October 16, 1989, this Commission proposed to find, upon review of the many pleadings filed, that Order No. 17429 had the primary effect of reducing carrier common line access charges in recognition of the tax savings resulting from the Act and in lieu of the strict application of the Tax Rule. We proposed to find that the effects of both the access charge reduction and the Act would continue into 1988 and beyond.

We reviewed the Company's March 31, 1989, tax savings report which indicated that its 1988 tax savings were \$14,448,254. We reviewed the Company's calculation of the reduction in its 1988 revenues resulting from the access charge reduction implemented in 1987. This review indicated that United had, in fact, experienced a reduction in its 1988 revenues of \$14,738,446.

Therefore, by Order No. 22060, we proposed to find that we had disposed of all of United's 1988 tax savings and, as a result, we proposed to deny OPC's Petition and to dismiss its Motion for

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Judgment on the Pleadings. Also, by final agency action in Order No. 22060, we found that the reduction in carrier common line access charges implemented in 1987 by United was a relevant consideration in determining if the Company's 1988 tax savings had been properly disposed of.

Subsequently, OPC filed an appeal with the Florida Supreme Court of our final agency action in Order No. 22060. In addition, on October 20, 1989, OPC filed a protest regarding the proposed agency action in Order No. 22060. This proceeding ensued from the OPC's protest of our proposed agency action in Order No. 22060. The Florida Supreme Court issued, in October 1990, an opinion affirming the final agency action of this Commission taken in Order No. 22060. We have set OPC's protest for hearing in Tallahassee, Florida, on March 27, 1991.

II. TESTIMONY AND EXHIBITS

Upon insertion of a witness's testimony, exhibits appended thereto may be marked for identification. After opportunity for opposing parties to object and cross-examine, the document may be moved into the record. All other exhibits will be similarly identified and entered at the appropriate time during hearing. Exhibits shall be moved into the record by exhibit number at the conclusion of a witness's testimony.

Witnesses are reminded that on cross-examination, responses to questions calling for a yes or no answer shall be answered yes or no first, after which the witness may explain the answer.

III. ORDER OF WITNESSES

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>DATE</u>	<u>ISSUES</u>
<u>Direct</u>			
Richard D. McRae	United	3/27/91	All
<u>Rebuttal</u>			
Victoria A. Montanaro	OPC	3/27/91	All

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<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>DATE</u>	<u>ISSUES</u>
<u>Surrebuttal</u>			
Richard D. McRae	United	3/27/91	

IV. BASIC POSITIONS

UNITED'S BASIC POSITION: United has disposed of all tax savings for 1988 through the carrier common line reduction required by Order No. 17429. It is also United's position that tax savings should be calculated upon conditions which prevailed in and facts which were known as of 1988.

OPC'S BASIC POSITION: United Telephone Company of Florida achieved earnings in excess of the authorized maximum return on equity as established by Commission Order No. 19726. United Telephone Company of Florida should refund to the customers \$14,070,000.

STAFF'S BASIC POSITION: Staff believes United has earned over 14.50% return on equity for 1988 and 1989. Therefore, the revenues above 14.50% are subject to the Commission's disposition in this docket.

V. ISSUES AND POSITIONS:

RATE BASE

ISSUE 1: What is the appropriate level of rate base for 1988 and 1989?

UNITED: The appropriate level of intrastate rate base is \$684,932,000 for 1988 and \$773,576,000 for 1989 as reported on Exhibit RDM-1, Schedule 1, to Mr. McRae's direct filed testimony.

OPC: The appropriate level of rate base for United Telephone Company of Florida for 1988 is \$678,180,000 and for 1989 is \$766,935,000.

STAFF: The appropriate level of intrastate rate base for 1988 and 1989 is that reported on the December 31 earnings surveillance reports as adjusted by the stipulated amounts and the amounts from Issues 1a, 1b, 1c and 2. The amounts are \$685,408,225 for 1988 and \$772,770,022 for 1989.

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ISSUE 1a: What adjustment, if any, should be made to the allowance for working capital for UTF's NOI adjustments?

UNITED: The working capital adjustments reflected on the ESR and in the subsequent booked adjustments referenced on Schedule 1 of RDM-1, and utilized to arrive at the level of rate base identified at issue 1 above, are appropriate and should be recognized in this proceeding. Such adjustments, excluding the parent debt adjustment which is being removed at RDM-1, amounted to a decrease in rate base of \$476,215 in 1988 and an increase in rate base of \$806,283 in 1989.

Irrespective of whether the adjustments increase or decrease rate base it is appropriate to recognize them. In informal discussions, the Commission Staff has suggested that while it is appropriate to recognize adjustments to the income statement (NOI adjustments), the balance sheet side of the entry should be ignored.

As an example, United might have a subsequent booked entry to true up (increase) pole attachment rental expense. If the entry were known and recorded during the course of the ESR period, it would be recorded as an increase (debit) to expense and an increase (credit) to accounts payable. As a result NOI would decrease which would decrease the equity component of capital and accounts payable would increase which serves to decrease the working capital component of rate base. When the entry is complete, rate base and capital are synchronized.

If the true-up entry was recorded after the ESR period, it is appropriately recognized as a subsequent booked entry for both NOI and rate base purposes.

No further adjustments to the rate base as identified at issue 1 above should be made to negate the rate base side of these entries as has been suggested by the Commission Staff. United is taking this position as a matter of principle notwithstanding that recognition of such adjustments could, and often does, have the impact of reducing the Company's rate base.

OPC: The commission did not make adjustments to working capital for UTF's NOI adjustments in the 1991 rate case. While the citizens did include these adjustments, we would support an approach consistent with the commission's decision in the 1991 rate case concerning adjusting the allowance for working capital for NOI

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adjustments. Further, these types of adjustments were not made in UTF's last rate case (1982).

STAFF: No adjustment should be made to the allowance for working capital for UTF's NOI adjustments. Rate Base should be increased by \$107,524 in 1988 and decreased by \$1,198,192 in 1989 to remove these adjustments.

ISSUE 1b: What adjustment, if any, should be made to rate base for non-regulated dividends?

UNITED: No further adjustments should be made to the rate base identified in Issue 1 above. The two corrections to book entries that are included in the Company's adjusted rate base were made in order to appropriately reflect that a portion of the dividend payments were chargeable to nonregulated operations.

OPC: United's surveillance report should not be adjusted for alignment or synchronization of the non-regulated equity ratio.

STAFF: The adjustment increasing the 1988 rate base by \$1,009,077 to align regulated/non-regulated equity ratios should be retained and rate base should be further increased by \$1,628,171 to show the subsequent booked correction of this ratio. There should be no adjustment to the 1989 rate base.

ISSUE 1c: What adjustment, if any, should be made to rate base for subsequent booked items?

UNITED: The adjustment to rate base for subsequent booked items i.e., those items recorded on the books after the ESR was filed and therefore not included on the filed ESR, is that which is reflected on Schedule 1 to Exhibit RDM-1 and made a part of Mr. McRae's direct filed testimony.

OPC: The commission did not make adjustments to working capital for UTF's NOI adjustments in the 1991 rate case. While the citizens did include these adjustments, we would support an approach consistent with the commission's decision in the 1991 rate case concerning adjusting the allowance for working capital for NOI adjustments. Further, these types of adjustments were not made in UTF's last rate case (1982).

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STAFF: Rate base should be decreased by \$375,179 for 1988 and \$566,555 for 1989 to show subsequent booked items other than those discussed in Issue 1b.

Cost of Capital

ISSUE 2: What is the appropriate treatment for deferred taxes due to intercompany profits?

UNITED: The entries reflected on the Company's ESR for each of the respective years ended 1988 and 1989 are both appropriate and in compliance with Rule 25-14.010, F.A.C. As such, deferred taxes are treated as zero cost capital in accordance with Commission rules. While deferred taxes on intercompany profits are not reflected on the books of the Company due to U. S. Treasury Department regulations which preclude the parent company from passing back such deferred taxes to its subsidiaries, an off-book entry is made for ratemaking purposes. This entry increases the cost free component of the capital structure and increases affiliated accounts receivable.

OPC: As set out in the testimony of Victoria A. Montanaro, deferred taxes due to intercompany profits should be provided in the capital structure by debiting debt and equity rather than rate base. However, the commission decided in UTF's 1991 rate case to retain the GS&L credit in the income statement. The citizens would support consistent treatment. If the intercompany profits were handled in a consistent manner, then NOI would increase by \$758,000 for 1988 and \$706,000 for 1989, the rate base for the company would increase \$5,086,000 for 1988 and \$5,110,000 for 1989 and the debt and equity adjustments in the capital structure for 1988 and 1989 would be reversed.

STAFF: Deferred taxes of \$8,295,116 for 1988 and \$7,921,681 for 1989 due to intercompany profits should be included in the capital structure, as required by Rule 25-14.010, Florida Administrative Code. The GS&L credit of \$757,758 (intrastate NOI) for 1988 and \$706,269 (intrastate NOI) for 1989 should not be reversed and the effect of the reversal should be removed from working capital.

ISSUE 3: What capital structure should be used for determining the return on equity earned by United during 1988 and 1989?

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UNITED: The capital structure which should be used for determining the return on equity by United during 1988 and 1989 is as follows:

000's OMITTED

	1988	1989
Long Term Debt	\$188,714	\$218,436
Short Term Debt	31,384	32,589
Preferred Stock	7,008	7,005
Customer Deposits	4,060	3,635
Common Equity	330,040	378,418
ITC	29,600	26,804
Deferred Taxes	<u>94,126</u>	<u>106,689</u>
Total Capital	<u>\$684,932</u>	<u>\$773,576</u>

OPC: The capital structure contained in Attachment 3 and 4 should be used for determining the achieved return on equity for United for 1988 and 1989 respectively.

STAFF: 1988 and 1989 jurisdictional capital should be as follows:

	1988	1989
Long Term Debt	\$188,714,100	\$218,436,195
Short Term Debt	31,384,062	32,588,554
Preferred Stock	7,008,311	7,003,966
Customer Deposits	4,060,621	3,635,274
Common Equity	330,520,600	377,612,283
ITC	29,599,613	26,804,037
Deferred Taxes	94,120,918	106,689,713
Total Capital	\$685,408,225	\$772,770,022

Net Operating Income

ISSUE 4: Should there be an adjustment to the December 1988 and 1989 Surveillance Reports for SARs?

UNITED: No. Stock appreciation rights (SARs) are a proper form of compensation and were appropriately reflected in the ESRs for the two respective periods.

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OPC: Yes. The SARs remaining in the December 1988 and 1989 surveillance reports should be removed. The remaining accrued expenses represent costs which should not be charged to the utility operations.

STAFF: Staff has no position pending further discovery

ISSUE 5: Should there be an adjustment to the calculation of the directory advertising used in the surveillance report?

UNITED: No. Directory advertising revenues and costs as reflected in the surveillance report are in compliance with the Commission's directory advertising rule. No adjustment is necessary or appropriate.

OPC: Yes. Certain revenues and expenses should be excluded and/or included in the calculation pursuant to provisions of Commission Rule 25-4.0405, Commission Railway 25-4.018 (Annual Reports) and Chapter 364.037, Florida Statutes. The directory advertising gross profit exclusion to non-regulated should be reduced by \$2,250,462 for 1988 and \$2,278,102 for 1989.

STAFF: Yes, the utility failed to include unlisted/non-published revenues and data processing expenses in their calculation of the directory advertising adjustment. Intrastate NOI should be increased by \$1,403,613 for 1988 and \$1,571,847 for 1989.

ISSUE 6: Should an adjustment be made to NOI to reduce the GS&L allocations?

UNITED: No. No evidence exists which demonstrates that such costs are not proper expenses to the Company and therefore such costs should not be disallowed.

OPC: It is the citizens' position that the company, at a minimum, should have made an adjustment to their December 1988 and 1989 surveillance reports to reflect the approximate \$1 million (total company) disallowance of allocated corporate expenses ordered by the commission in their 1982 rate case.

STAFF: Yes, intrastate GS&L allocations should be decreased by \$1,170,599 for 1988 and \$1,290,507 for 1989 consistent with Dockets Nos. 810210, 810211 and 810212, which reduces intrastate NOI by \$730,103 in 1988 and \$804,889 in 1989.

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ISSUE 7: What is the appropriate ratemaking treatment of the sale of nondepreciable properties?

UNITED: Gains and losses on the sale of land should not be recognized for ratemaking purposes. Since the ratepayer does not provide for capital recovery of this nondepreciable investment the ratepayer should not expect to have to provide for any losses on the disposition of such investment. By the same token, neither should the ratepayer benefit if the proceeds from a disposition result in a gain.

OPC: Achieved NOI should be increased by \$62,300 for 1988 and \$66,000 for 1989 for such sales, consistent with the last (1982) rate case.

STAFF: Gains and losses from the sale of nondepreciable properties should be recognized above the line amortized over five years as they were in the prior rate cases. This increases intrastate NOI by \$62,301 in 1988 and \$66,538 in 1989.

ISSUE 8: Should an adjustment be made for the effect of parent debt in accordance with Rule 25-14.004, Florida Administrative Code?

UNITED: No parent debt adjustment should be made for these reasons:

- 1) The adjustment for parent debt is a reduction in federal income tax expense for ratemaking purposes which is attributable to imputed interest expense on parent debt supposedly incurred to support the parent's ownership of United's common stock. If United's common stock were owned by the general public rather than by United Telecommunications this adjustment would not be made even though individuals purchasing the stock may have borrowed funds to make the purchase.

An adjustment for parent debt discriminates against operating utilities which are part of a holding company relative to those that are owned directly by the public. It is, therefore, inappropriate.

- 2) For the reasons set forth in the Staff position on this issue.

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OPC: While the citizens do not agree with the position of the Internal Revenue Service, in an abundance of caution, the citizens believe the commission should hold subject to refund with interest calculated in accordance with Rule 25-14.171, F.A.C. \$3,396,233 for 1988 and \$3,614,086 for 1989 pending the issuance of the final Regulations by the Internal Revenue Service.

STAFF: No, a parent debt adjustment should not be made. However, revenue in the amount of \$3,172,482 for 1988 and \$3,599,362 for 1989 should be held subject to refund, or other disposition, with interest calculated at the commercial paper rate contemplated in Rule 25-14.171, F.A.C., pending the issuance of final Regulations by the Internal Revenue Service. Under proposed Regulations published on November 27, 1990, the parent debt adjustment would violate the normalization requirements of the Code.

ISSUE 9: What adjustment, if any, should be made to NOI for the costs associated with sporting events, Florida Night activities, political action committee expenses and lobbying/ski trip expenses?

UNITED: The Company concedes that \$774 in 1988 and \$1,617 in 1989 of political action committee expenses were charged to regulated operations in error and an adjustment to remove them would not be inappropriate. With regard to the other expenses, which would result in an additional disallowance of \$5,756 in 1988 and \$9,164 in 1989, the Company finds no basis for their disallowance but, due to the amounts, would not contest their removal.

OPC: These expenses, if incurred, were not reasonably incurred in the provision of telephone services to the customers of the company and should be excluded. The dollar amounts of the adjustments, if any, are subject to further discovery.

STAFF: Intrastate NOI should be adjusted to remove costs associated with sporting events, Florida Night activities, political action committee expenses and lobbying/ski trip expenses. Intrastate NOI should be increased by \$7,035 in 1988 and \$11,431 in 1989.

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ISSUE 10: What is the appropriate net operating income for 1988 and 1989?

UNITED: As reflected on Exhibit RDM-1, Schedule 1, United's intrastate net operating income is \$70,520,232 for 1988 and \$82,283,658 for 1989.

OPC: The appropriate achieved net operating income for 1988 and 1989 is \$74,548,000 and \$86,821,000, respectively. Under this issue the commission should consider the propriety of the out-of-period adjustments proposed by the company. While the citizens are in substantial agreement with the subsequent booked adjustments proposed by Mr. McRae, we have taken issue with two adjustments proposed by the company to account for the effect of non-regulated dividends. Further, we are not taking issue with the way the commission handled the GS&L credit in the 1991 rate case. If the intercompany profits were handled in a consistent manner, then NOI would increase by \$758,000 for 1988 and \$706,000 for 1989.

STAFF: The appropriate net operating income (NOI) for 1988 and 1989 is that reported on the December 31 earnings surveillance reports as adjusted by the stipulated amounts and the amounts from Issues 3 through 8. The NOI is \$73,444,914 for 1988 and \$85,452,681 for 1989 pending staff position on Issue 4.

Summary Issues

ISSUE 11: What was the achieved rate of return on common equity for 1988 and 1989?

UNITED: As reflected on Exhibit RDM-1, Schedule 1, United's intrastate rate of return on common equity for 1988 was 13.98% and for 1989 it was 14.49%. In case of both years the achieved return was less than the 14.50% maximum return authorized by the Commission.

OPC: 15.43% for 1988 and 15.89% for 1989.

STAFF: The achieved rate of return on common equity is 14.80% for 1988 and 15.32% for 1989 pending staff position on Issue 4.

ISSUE 12: What revenues, if any, with interest should be subject to the Commission's disposition in this docket?

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UNITED: Since United did not exceed the ceiling of its authorized return on equity for 1988 or 1989, no amount of revenues is subject to disposition in this docket.

OPC: For 1988, \$5,195,000, before interest, and \$8,887,000, before interest, should be subject to disposition for 1988 and 1989 respectively.

STAFF: All earnings in excess of 14.50% ROE are subject to the Commission's disposition. The revenue amounts are \$1,696,148 plus interest of \$501,927 for 1988 and \$5,287,369 plus interest of \$999,118 for 1989 pending staff position on Issue 4.

ISSUE 13: What is the appropriate disposition of the amounts determined in Issue 12?

UNITED: United believes that there are no revenues subject to disposition. In the event the Commission does identify some revenues to be subject to disposition, these amounts should be established as a deferred credit to be applied to United's next depreciation rescription, schedule to be filed in mid-1991.

OPC: The Commission should order a cash refund or order a credit to customers' bills plus interest.

STAFF: Staff has no position at this time.

ISSUE 14: Should this docket be closed?

UNITED: Yes!

OPC: Upon issuance of a satisfactory order, this docket should be closed.

STAFF: This docket should remain open pending disposition of the parent debt issue.

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VI. EXHIBIT LIST

<u>WITNESS</u>	<u>PROFERRING PARTY</u>	<u>EXHIBIT NO.</u>	<u>TITLE</u>
Richard D. McRae	United	RDM-1	Composite Exhibit - Schedule No. 1 - Achieved ROE 12 months ended 12/31/88 and 12/31/89; and Schedule No. 2 for advertise- ments
Richard D. McRae	Staff	RDM-2	Earnings Surveillance Report filed by United dated 12/31/88
Richard D. McRae	Staff	RDM-3	Earnings Surveillance Report filed by United dated 12/31/89
Richard D. McRae	Staff	RDM-4	General Services and Licenses Adjustments from last rate case

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<u>WITNESS</u>	<u>PROFERRING PARTY</u>	<u>EXHIBIT NO.</u>	<u>TITLE</u>
Richard D. McRae	Staff	RDM-5	Selected Pages from United's Revised Schedule E1a - United's Price Out of all Present and Proposed Rates and Units for Projected Average Test Year 1991
Victoria A. Montanaro	OPC	VAM-1	1/16/91 letter from Lehman to Montanaro with attached schedule
Victoria A. Montanaro	OPC	VAM-2	9/25/90 Lehman letter to Brand with attached schedules
Victoria A. Montanaro	OPC	VAM-3	OPC calculation of United's achieved ROE and tax savings for period ending 12/31/88

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<u>WITNESS</u>	<u>PROFERRING PARTY</u>	<u>EXHIBIT NO.</u>	<u>TITLE</u>
Victoria A. Montanaro	OPC	VAM-4	OPC calculation of United's achieved ROE and tax savings for period ending 12/31/89

VII. STIPULATIONS:

Rate Base

1. Rate Base per the December 31 Earnings Surveillance Report is \$684,810,053 for 1988 and \$774,534,769 for 1989.
2. The 1988 Rate Base per the ESR should be decreased by \$762,344 to show non-current assets and liabilities per the 1988 Staff audit.

Net Operating Income

3. Intrastate NOI should be increased by \$975,358 in 1988 and \$1,197,908 in 1989 to show subsequent booked items.

Summary Issues

4. The resolution of this proceeding will resolve all issues related to United's tax savings for 1988 and 1989.

VIII. PENDING MOTIONS:-

There are no pending motions at this time.

IX. RULINGS:

There have been no rulings at this time.

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X. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION:

In the event it becomes necessary to handle confidential information, the following procedure will be followed:

1. The Party utilizing the confidential material during cross examination shall provide copies to the Commissioners and the Court Reporter in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material shall be provided a copy in the same fashion as provided to the Commissioners subject to execution of any appropriate protective agreement with the owner of the material.
2. Counsel and witnesses should state when a question or answer contains confidential information.
3. Counsel and witnesses should make a reasonable attempt to avoid verbalizing confidential information and, if possible, should make only indirect reference to the confidential information.
4. Confidential information should be presented by written exhibit when reasonably convenient to do so.
5. At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the owner of the information. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

If it is necessary to discuss confidential information during the hearing the following procedure shall be utilized.

After a ruling has been made assigning confidential status to material to be used or admitted into evidence, it is suggested that the presiding Commissioner read into the record a statement such as the following:

The testimony and evidence we are about to receive is proprietary confidential business information and shall be kept confidential pursuant to Section 364.093, Florida Statutes. The

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testimony and evidence shall be received by the Commissioners in executive session with only the following persons present:

- a) The Commissioners
- b) The Counsel for the Commissioners
- c) The Public Service Commission staff and staff counsel
- d) Representatives from the office of public counsel and the court reporter
- e) Counsel for the parties
- f) The necessary witnesses for the parties
- g) Counsel for all intervenors and all necessary witnesses for the intervenors.

All other persons must leave the hearing room at this time. I will be cutting off the telephone ties to the testimony presented in this room. The doors to this chamber are to be locked to the outside. No one is to enter or leave this room without the consent of the chairman.

The transcript of this portion of the hearing and the discussion related thereto shall be prepared and filed under seal, to be opened only by order of this Commission. The transcript is and shall be non-public record exempt from Section 119.07(1), Florida Statutes. Only the attorneys for the participating parties, Public Counsel, the Commission staff and the Commissioners shall receive a copy of the sealed transcript.

(AFTER THE ROOM HAS BEEN CLOSED)

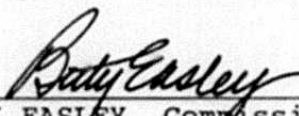
Everyone remaining in this room is instructed that the testimony and evidence that is about to be received is proprietary confidential business information, which shall be kept confidential. No one is to reveal the contents or substance of this testimony or evidence to anyone not present in this room at this time. The court reporter shall now record the names and affiliations of all persons present in the hearing room at this time.

It is therefore,

ORDERED by Commissioner Betty Easley, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

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By ORDER of Commissioner Betty Easley, as Prehearing Officer,
this 26th day of MARCH, 1991.



BETTY EASLEY, Commissioner
and Prehearing Officer

(S E A L)

SFS