

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Confidential) DOCKET NO. 921114-TL
Classification of Certain Items) ORDER NO. PSC-93-0469-CFO-TL
in Response to Data Request for) ISSUED: 03/29/93
Telecommunications)
Infrastructure)
_____)

ORDER GRANTING CONFIDENTIALITY REQUESTED
BY UNITED TELEPHONE COMPANY OF FLORIDA

BY THE COMMISSION:

On October 29, 1992, United Telephone Company of Florida (United) filed a Request for Confidential Classification of certain items of information which were included in documents that were submitted to the Florida Public Service Commission (Commission). The documents were provided to the Commission in response to a request by the Division of Research and Regulatory Review which is conducting a study of the telecommunications infrastructure in Florida. United claims that the documents contain "Confidential Information" as that term is defined in Rule 25-22.006(1)(a), F.A.C., and as such is exempt from the public records requirements of Section 119.07, Florida Statutes (1991).

Florida law provides, in Section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. This law derives from the concept that government should operate in the "sunshine." The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Accordingly, pursuant to Section 364.183, Florida Statutes, (1991), and Rule 25-22.006, F.A.C., it is the company's burden to show that the material submitted qualifies for specified confidential classification. Rule 25-22.006 provides that the Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set forth in Section 364.183 or by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the company or its ratepayers harm.

DOCUMENT NUMBER-DATE

03421 MAR 29 93

FPSC-RECORDS/REPORTING

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In its Request for Confidential Classification, United claims that the material for which confidential classification is sought is intended to be and is treated by United as confidential, and that the documents have not been publicly disclosed, and that the information is confidential business information, the disclosure of which will cause the ratepayer's harm. The information for which United requests confidentiality concerns the location, by exchange, of fiber facilities in United's telecommunications network. United states that the disclosure of the information would pin-point for competitors and potential competitors those areas where United has fiber capability and where it does not.

In its Request, United has demonstrated the proprietary nature of the information. Many of today's developing technologies use fiber, and knowledge of United's ability to implement these new technologies based on United's fiber deployment would provide insight that the competitors would not otherwise have. Thus, this information meets the definition of proprietary confidential business information as set forth in Section 364.183, Florida Statutes.

Therefore, based on the foregoing, it is

ORDERED by Commissioner Luis J. Lauredo, as Prehearing Officer, that United Telephone Company of Florida's December 23, 1992, Request for Confidential Classification is granted as set forth in the body of this Order.

By ORDER of Commissioner Luis J. Lauredo, as Prehearing Officer, this 29th day of March, 1993.



LUIS J. LAUREDO, 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 within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater 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.

WEW