

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Determination of funding) DOCKET NO. 950696-TP
for universal service and) ORDER NO. PSC-96-0982-CFO-TP
carrier of last resort) ISSUED: August 1, 1996
responsibilities.)
_____)

ORDER ON REQUEST FOR CONFIDENTIAL
CLASSIFICATION OF DOCUMENTS
NOS. 08646-95 AND 09509-95

On September 9, 1995, United Telephone Company of Florida and Central Telephone Company of Florida (United/Centel) served its responses to Staff's Third Request for Production of Documents, No. 8, which was designated as Document No. 08646-95, along with its notice of intent to request confidential classification. On September 26, 1996, United/Centel filed a highlighted version of its response to Request for Production No. 8, which was designated as Document No. 09509-95, along with its formal request for confidential classification.

Under Chapter 119, Florida Statutes, documents submitted to state, county, and municipal governments are public records. The only exceptions are documents exempted by statute and those exempted by governmental agencies pursuant to specific statutory provisions. Pursuant to Section 364.183, Florida Statutes, certain types of proprietary, confidential business information may be held exempt from the public records law, upon request of the owner of such information. Under Rule 25-22.006(5)(c), Florida Administrative Code, such materials shall be kept confidential until returned to the owner, unless those materials are used in a proceeding or are subject to a public records request pursuant to Section 119.07(1), Florida Statutes. The materials at issue herein, as discussed below, are part of the record in this docket.

United/Centel's request for confidential classification covers Bates stamped pages 107 through 114 and 121 through 132. Page 107 and an edited copy of page 108 comprise Exhibit No. 62, which is part of the record for this case. Pages 109 through 114 and 121 through 132 are not part of the record and, as such, will be returned to United/Centel. There is, therefore, no need to dispose of United/Centel's request with regard to pages 109 through 114 and 121 through 132.

Pages 107 and 108 consist of United/Centel's responses to AT&T's First Set of Interrogatories, Nos. 9, 10, and 17. The response to Interrogatory No. 17 is not part of the record; an edited copy of page 108 was used instead. Accordingly, the edited

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copy of page 108 will be substituted for the original, and the original, unredacted, and unedited copy of page 108 will be returned to United/Centel.

As for the responses to Interrogatories Nos. 9 and 10, these reflect United/Centel's estimates of their total service long run incremental cost (TSLRIC) of providing residential and business service, respectively. United/Centel argues that disclosure of this information would harm them because similar information is not freely available from their competitors. According to United/Centel:

Knowing with certainty a competitors [sic] estimate of its own incremental cost would allow another competitor to make informed decisions regarding whether to compete and/or what price to charge. If the Companies [United and Centel] do not have this same data from its [sic] competitors, they will be unable to compete on a level playing field.

United/Centel's estimates of the TSLRIC of providing residential and business service is completely aggregated. The estimates have not even been broken down as between Centel and United. In addition, similar cost information was provided by the other local exchange companies operating in Florida with no claim of confidentiality. Accordingly, United/Centel's competitors could just as easily decide "whether to compete and/or what price to charge" from information which is already in the public domain.

Because the information is so completely aggregated, and because similar information is already within the public domain, it is difficult to see how the estimates of the total company TSLRIC of providing residential and business service could be valuable to competitors. Accordingly, United/Centel's request for confidential classification of page 107 of Documents Nos. 08646-95 and 09509-95 is denied.

Based upon the foregoing, it is

ORDERED by Chairman Susan F. Clark, as Prehearing Officer, that United Telephone Company of Florida's and Central Telephone Company of Florida's request for confidential classification of Documents Nos. 08646-95 and 09509-95, insofar as it relates to Bates stamped page 107, is denied. It is further

ORDERED that the edited version of Bates stamped page 108, as included in Exhibit No. 62 of the record in this case, shall be

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substituted for the original, unredacted, and unedited copy of page 108. It is further

ORDERED that the remainder of Documents Nos. 06846-95 and 09509-95, including the original version of Bates stamped page 108, shall be returned to United Telephone Company of Florida and Central Telephone Company of Florida.

By ORDER of Chairman Susan F. Clark, as Prehearing Officer, this 1st day of August, 1996.


SUSAN F. CLARK, Chairman and
Prehearing Officer

(S E A L)

RJP

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.