

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: INVESTIGATION INTO UNITED)	DOCKET NO. 891239-TL
TELEPHONE COMPANY OF FLORIDA'S AUTHORIZED))	ORDER NO. 22281
RETURN ON EQUITY AND EARNINGS)	ISSUED: 12-11-89
)	

Pursuant to Notice, a Prehearing Conference was held on December 1, 1989, in Tallahassee, Florida, before Commissioner Michael McK. Wilson, as Prehearing Officer.

APPEARANCES:

CHARLES J. BECK, Esquire, Office of Public Counsel, 111 W. Madison Street, Room 801, Tallahassee, FL, 32399-1400
On behalf of the Citizens of the State of Florida

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

MICHAEL W. TYE, Esquire, AT&T Communications of the Southern States, Inc., 315 South Calhoun Street, Suite 505, Tallahassee, Florida 32301
On behalf of AT&T Communications of the Southern States, Inc.

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

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

PREHEARING ORDER FOR LIMITED PROCEEDING

I. BACKGROUND

It has been over seven years since this Commission has

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thoroughly investigated United Telephone Company of Florida's earnings and set its authorized return on equity. Many changes have occurred in the last seven years in the communications industry, as well as the merger of four companies into the present United Telephone Company of Florida.

Therefore, pursuant to our authority set forth in Section 364.14, Florida Statutes, and by Order No. 22205, issued November 21, 1989, this Commission has set for hearing on Thursday, December 14, 1989, a limited proceeding to address the issue of what is a reasonable and appropriate return on equity for United Telephone Company of Florida. If the Company's current achieved earnings exceeds that return on equity, we will place the appropriate amount of revenues subject to refund. Subsequent to this proceeding, we will require the Company to file MFRs by a date certain and we will proceed with an investigation of United's earnings and rate structure.

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>Witness No.</u>	<u>Appearing For</u>	<u>Issues</u>
Dr. Charles M. Linke	1	United	1
James A. Rothschild	2	Public Counsel	1
Scott Seery	3	Staff	1

At the Prehearing Conference, the Prehearing Officer

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approved the parties' stipulation to insert as though read the testimonies (and attached exhibits) of the following witnesses on Issue 2: Public Counsel's Witness Mrs. Victoria A. Montanaro, United Telephone Company of Florida's Witness Mr. Richard D. McRae, and the Staff's Witness Mrs. Jane E. Brand. The parties also stipulated that these witnesses will not be cross-examined. Therefore, these witnesses will not be required to appear at the hearing.

IV. BASIC POSITIONS

UNITED'S BASIC POSITION: United's basic position in this phase of the docket is that, employing its own capital structure, United's required return on equity lies within a range of 13% to 15%.

PUBLIC COUNSEL'S BASIC POSITION: United Telephone Company of Florida is earning far more than a reasonable return on capital. Using the consolidated capital structure of United Telecommunications, Inc. and a cost of equity of 13%, the Commission should place \$29,480,000 subject to refund during the pendency of this docket. Anything less would fail to place United's customers in the same position as if the Commission reset United's rates on January 1, 1990, using a current and more reasonable cost of capital.

STAFF'S BASIC POSITION: An appropriate allowed return on common equity for UTFL for the purposes of this limited proceeding is 12.70%. This return is 100 basis points above staff's recommended midpoint and represents staff's estimate of the top of a reasonable range.

V. ISSUES AND POSITIONS:

ISSUE 1: What is an appropriate allowed return on common equity for United Telephone Company of Florida for the purposes of this limited proceeding?

UNITED'S POSITION: Employing its own capital structure, United's required return on equity is 14% and an appropriate range of return on equity is 13-15%.

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PUBLIC COUNSEL'S POSITION: The Commission should use the consolidated capital structure of United Telecommunications, Inc., using a capital structure containing 32.71% common equity and a cost of equity of 13%. While not recommended, if the Commission uses the capital structure reported by United Telephone Company of Florida (consisting of almost twice as much equity as reported for the consolidated capital structure of United Telecommunications, Inc.), the Commission should use a cost of equity of 11.25%. (Rothschild).

STAFF'S POSITION: An appropriate allowed return on common equity for UTFL for the purposes of this limited proceeding is 12.70%. This return is 100 basis points above staff's recommended midpoint and represents staff's estimate of the top of a reasonable range.

ISSUE 2: How should the revenue to be placed subject to refund, if any, be calculated?

UNITED'S POSITION:

1. Chapter 364 does not authorize the Commission to place revenues subject to refund during the pendency of this docket.
2. Notwithstanding 1., above, United is reviewing Public Counsel's calculations and believes them to be in error due to: (a) the capital structure and cost rates employed, and (b) other errors which United's review may reveal.
3. Notwithstanding 1., above, use of United's August, 1989, surveillance report as a proxy for United's calendar year return on equity will result in an overstatement of 1989 return on equity and the resulting placement of too much money subject to refund. If any amount is placed subject to refund, it should be trued up after United's December 31, 1989, surveillance report is filed on March 15, 1989.
4. Notwithstanding 1. and 3., above, normalizing adjustments must be made to the August, 1989, surveillance report to reflect a full year of 1989 jurisdictional cost shifts.

PUBLIC COUNSEL'S POSITION: The Commission should place \$29,480,000 per year subject to refund effective on

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January 1, 1990, in order to place United's ratepayers in the same position as if the Commission had reset United's rates on January 1, 1990, using a current and more reasonable cost of capital.

STAFF'S POSITION: Staff believes that the two adjustments testified to by Witness Brand should be made in calculating the amount of revenue to be placed subject to refund. Making these two adjustments results in an achieved return on equity of 14.68%. Therefore, Staff believes that the appropriate amount of revenues in excess of 12.70% to be placed subject to refund is approximately \$12,000,000.

VI. EXHIBIT LIST

<u>Witness</u>	<u>Proferring Party</u>	<u>Title</u>
Linke	United	Composite Exhibit 1: Schedules 1-6 attached to Mr. Linke's prefiled direct testimony
Rothschild	Public Counsel	Composite Exhibit 2: Schedules attached to Mr. Rothschild's prefiled direct testimony
Seery	Staff	Composite Exhibit 3: Schedules attached to Mr. Seery's prefiled direct testimony

The schedules attached to the testimonies of Witnesses Montanaro, McRae and Brand will be identified as Composite Exhibits 4, 5 and 6, respectively.

VII. STIPULATIONS:

As noted earlier, the parties have stipulated, and the Prehearing Officer has agreed, that the testimony and exhibits of each of the parties' witnesses for Issue 2 in this

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proceeding will be inserted as though read at the hearing. The parties have each waived cross-examination of the witnesses testifying as to Issue 2. Therefore, their appearance at the hearing will not be required.

VIII. PENDING MOTIONS:

The Public Counsel filed a Motion for Reconsideration and Clarification on December 4, 1989, regarding the Prehearing Officer's ruling that this limited proceeding will not consider the issue of the appropriate capital structure for United Telephone Company of Florida. This Motion will be addressed by the full panel at the outset of the limited proceeding on December 14, 1989. There are no other pending motions at this time.

IX. RULINGS:

As noted earlier, the Prehearing Officer has ruled that the scope of this limited proceeding does not include the issue of the appropriate capital structure for United Telephone Company of Florida. This proceeding will address only the issue of what is the appropriate return on equity for this Company and how the revenue to be placed subject to refund, if any, should be calculated.

In addition, the Prehearing Officer approved the parties' stipulation regarding the insertion of the parties' witnesses' testimony and exhibits regarding Issue 2, without cross-examination. Also, the Prehearing Officer agreed that these witnesses would not be required to appear at the hearing.

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

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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 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

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- 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.

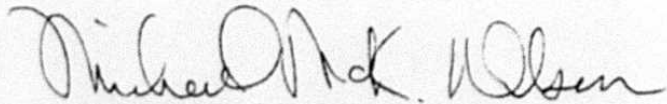
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It is, therefore,

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

By ORDER of Commissioner MICHAEL McK. WILSON, as Prehearing Officer, this 11th day of DECEMBER, 1989.



MICHAEL McK. WILSON, Chairman
and Prehearing Officer

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