

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Confidential)
Classification of Information) DOCKET NO. 921304-PU
Regarding Executive Compensation)
by United Telephone Company of) ORDER NO. PSC-93-0215-CFO-PU
Florida.)
_____) ISSUED: 02/10/93

ORDER DENYING CONFIDENTIALITY REQUESTED
BY UNITED TELEPHONE COMPANY OF FLORIDA

On December 23, 1992, United Telephone Company of Florida (United) filed a Request for Confidential Classification pertaining to documents which fully describe United's executive compensation program (Document No. 14848-92) 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 an operational review of the executive compensation program of several utilities including United. 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

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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 and its parent, Sprint Corporation, as confidential, and that the documents have not been publicly disclosed. United also alleges that disclosure of the information would cause harm to the company because the documents as a whole will provide a "road map" to United's and Sprint's competitors on how to approach United and Sprint senior personnel and recruit them.

The information for which United requests confidentiality is employee personnel information related to compensation. Paragraph 364.183(3)(f), Florida Statutes, operates to include employee personnel information, generally, into the definition of "proprietary confidential business information." However, Paragraph 364.183(3)(f) makes an exception for employee personnel information which is related to compensation. In other words, the legislature has already determined that information related to employee compensation is not confidential and cannot be found to be confidential by the Commission.

Therefore, based on the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that United Telephone Company of Florida's December 23, 1992, Request for Confidential Classification is denied as set forth in the body of this Order.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 10th day of February, 1993.



Susan F. Clark, Prehearing
Officer and Commissioner

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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 hearings 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 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.