

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into) DOCKET NO. 891239-TL
UNITED TELEPHONE COMPANY OF) ORDER NO. PSC-93-0467-FOF-TL
FLORIDA'S authorized return on) ISSUED: 03/29/93
equity and earnings)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER CLOSING DOCKET

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

By Order No. 22205, issued November 21, 1989, the Commission initiated a limited proceeding to determine United Telephone Company of Florida's (United or the Company) appropriate Return on Equity (ROE) and to investigate the Company's earnings. On December 14, 1989, the Commission held a public hearing limited to the issues of determining an appropriate ROE for United and the method by which revenues subject to refund, if any, should be calculated. By Order No. 22377, issued January 8, 1990, the Commission set the ROE at 12.30% to 13.30% and placed \$7.6 million of revenue subject to refund with interest, effective January 1, 1990. Order No. 22377 also stated that Section 364.055, Florida Statutes, did not adequately address the factual particulars of the instant situation because the last authorized return on common equity set for this Company was set so long ago and in such a different financial climate, that it would be inappropriate to utilize it at that time. Accordingly, the Commission relied upon its general authority to regulate the telecommunications industry as provided in Section 364.14 to hold a limited proceeding in this case.

The Commission granted United's request for a prospective test year of calendar year 1991. On May 15, 1990, United filed its

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minimum filing requirements which, along with subsequently filed modifications, requested an increase in rates and charges to produce additional revenues of \$26.2 million for the projected 1991 test year. A public hearing was held in October 1990.

By Order No. 24049, issued January 31, 1991, the Commission addressed the rate case issues. The Commission ordered United to book \$6,151,700 of 1990 earnings which exceeded the authorized ROE as a deferred credit to be applied to a specific plant reserve at the time of the Company's next depreciation represetion. An additional \$1,453,300 was to be held subject to refund pending the IRS ruling on the parent debt adjustment and was subsequently given the same treatment as the \$6,151,700, for a total of \$7,605,000 in 1990 earnings booked as a deferred credit. United filed a motion for reconsideration of Order No. 24049 asking, in part, that the Commission reconsider the use of the June 1990 earnings surveillance report as a proxy for 1990 calendar year earnings. By Order No. 24595, issued May 29, 1991, the Commission denied United's motion. That order stated that the earnings surveillance report used was the latest and, presumably therefore, the most accurate reflection the Commission had of United's earnings during the interim period and the only evidence in the record as to the Company's 1990 earnings.

On June 21, 1991, United filed a notice of administrative appeal with the Supreme Court of Florida. United challenged the Commission's orders, asserting two issues: (1) that the Commission had no statutory authority to determine the Company's 1990 rate of return in the manner in which it did; and (2) that the Commission did not rely upon competent substantial evidence to determine the Company's 1990 rate of return. On January 14, 1993, the Supreme Court of Florida issued Order No. 78,173, which quashed the Commission's orders with respect to United's 1990 earnings and directed the Commission to hold a hearing on this issue.

On March 2, 1993, United filed a revised December, 1990, surveillance report, a waiver of its right to a hearing, and a request to close the docket. We have reviewed United's revised surveillance report and the calculations appear to be reasonable and in conformity with Commission rules. At issue is \$1,559,000 of the \$7,605,000 in 1990 earnings booked to the depreciation reserve. Order No. 24049 finalized all items in this case except United's 1990 earnings. United has waived its right to a hearing on this issue; therefore, the \$1,559,000 shall remain in the reserve and no further adjustment is necessary. With this issue settled, there is

ORDER NO. PSC-93-0467-FOF-TL
DOCKET NO. 891239-TL
PAGE 3

no further action to be taken in this case. Accordingly, we hereby grant United's request to close this docket without further proceedings.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 29th day of March, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative

ORDER NO. PSC-93-0467-FOF-TL
DOCKET NO. 891239-TL
PAGE 4

Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on April 19, 1993.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.