

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Confidential) DOCKET NO. 951369-TL
Classification of Quarterly) ORDER NO. PSC-96-0339-CFO-TL
Report Schedules 8 and 20 by) ISSUED: March 11, 1996
Central Telephone Company of)
Florida and United Telephone)
Company of Florida)

ORDER DENYING REQUEST FOR CONFIDENTIALITY

On November 15, 1995, United Telephone Company of Florida (United) and Central Telephone Company of Florida (Centel) filed a request for confidential classification of access line data by exchange contained in Schedules 8 and 20 of their Quarterly Report.

Under Section 119.01, Florida Statutes, all documents submitted to this Commission are public record. The only exceptions to this law are documents which are exempt pursuant to specific statutory terms or provisions. Moreover, under Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the person requesting confidential treatment of materials has the burden of demonstrating that the materials qualify for confidential classification.

The information in Document No. 11307-95 for which United/Centel have requested confidential classification concerns access line data by exchange and by class and grade of service contained in Schedules 8 and 20 of their Quarterly Report. In their request for confidential treatment, United/Centel argued that the information on access line location and distribution is information relating to the competitive interests of United/Centel and will impair their business if revealed.

United/Centel reasoned that disclosure of the information would allow other providers of services to determine the number of its access lines by location and distribution of service and reveals the size of its presence in specific locations and lines of business. It further argued that the information required to be provided on a quarterly basis, when accumulated, shows the rate of growth in specific geographic areas, as well as the rate of growth by line of business. United/Centel state that the information will enable other providers of services a competitive advantage in determining where to provide their service and can be used by them to develop business strategies to compete with United/Centel. United/Centel summarize its argument by stating that such an advantage would impair United/Centel's ability to

DOCUMENT NUMBER-DATE

02940 MAR 11 8

FPSC-RECORDS/REPORTING

compete in the market and give its competitors an unfair competitive advantage.

Finally, United/Centel argue that the information claimed to be confidential is similar to the market share and traffic data of IXC's in that it is an indicator of where United/Centel's customers are located and the distribution of United/Centel's lines of business. It states that when combined with prior and subsequent quarterly reports, the information shows market trends in particular geographic areas and lines of business. This information, if made available, would provide United/Centel's competitors with a substantial competitive benefit and impair United/Centel's ability to compete.

Though United/Centel argues and Staff agrees that the local service market is transitioning itself from a monopolistic structure to a competitive market place and that the data can be used to target high access line/traffic geographic areas, data that is similar to the data which the Company seeks to protect is readily available through public sources. These sources include previously filed data from earlier Quarterly Reports which have not been classified as confidential. A review of this data would reveal that the access line information has not changed dramatically from year to year. Thus, competitors would derive the same results using the previously filed data.

Another source of similar information is available through the Florida Telephone Association. Local exchange company access line data by exchange is published in FTA's annual membership directory. Local exchange company's business and residential access line data by exchange could also be derived, to varying degrees and depending upon the resources a company is willing to expend, by using the data contained in annual reports from the Commission's Division of Auditing and Financial Analysis and the Division of Research and Regulatory Review, as well as with the telephone directories. Finally, the Florida Department of Commerce, Bureau of Economic Analysis, publishes an annual County Comparison Report, which identifies the population densities of each county in Florida. Competitors could use this information to estimate the number of LEC business and residential access lines by exchange. Although these sources do not contain identical information to that at issue here, they illustrate the continuum of available access line information.

ORDER NO. PSC-96-0339-CF0-TL
DOCKET NO. 951369-TL
PAGE 3

Section 364.183(3), Florida Statutes, states that the term "proprietary confidential business information" that "has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public." That information which has been released to the public can not later be subject to a claim of confidentiality. Since this data is available or may be derived from other sources, pursuant to current Commission policy, it is not appropriate to consider the data as proprietary.


In so ruling, I feel compelled to note that United/Centel makes a strong argument that has merit. I am persuaded that the time will come when a level playing field will require that all participants in a competitive market place be entitled to treat this information in a proprietary manner. Whether this time has come is an open question.

At this time I am reluctant to make a marked change in policy through a prehearing officer's order. Such policy determinations should come from the full commission. It is for this reason that I am following existing Commission policy.

It is, therefore,

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer that the request by Central Telephone Company of Florida and United Telephone Company of Florida for confidential classification of quarterly report schedules 8 and 20 is hereby denied.

By ORDER of Commission J. Terry Deason, as Prehearing Officer, this 11th day of March, 1996.



J. Terry Deason, Commissioner
and Prehearing Officer

(S E A L)

DWC

ORDER NO. PSC-96-0339-CFO-TL
DOCKET NO. 951369-TL
PAGE 4

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 and 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.