BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Modified minimum filing report of VISTA-UNITED TELECOMMUNICATIONS.	DOCKET NO. 900920-TL ORDER NO. PSC-93-0582-FOF-TL ISSUED: April 14, 1993

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER RESOLVING MMFR REVIEW

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.

I. BACKGROUND

By Order No. 23949, issued January 2, 1991, Vista-United Telecommunications (Vista) was ordered to file certain financial and rate schedules by March 31, 1991. The Company filed the schedules on April 1, 1991, to meet the modified minimum filing requirements.

Vista was originally formed as a partnership in 1969 between Vista Communications, Inc. and Florida Telephone Satellite, Inc. Vista Communications, Inc. is a wholly-owned subsidiary of Walt Disney Company. Florida Telephone Satellite was a wholly-owned subsidiary of Florida Telephone Corporation which was a wholly-owned subsidiary of United Telecommunications, Inc. Currently, Vista-United Telecommunications is a partnership owned 51% by Disney and 49% by United Telecommunications through subsidiary corporations.

We initially examined Vista's MMFRs in January of 1992. At Vista's request, we deferred consideration of the Company's of the

MMFRs. However, in return, Vista Committed to place $1,543,314 of its revenues subject to refund pending the resolution of the MMFR review.

On September 28, 1992, Vista filed a proposal to resolve this docket. As discussed in greater detail we have declined to accept Vista's settlement offer and have further proposed a final resolution of Vista's MMFR review.

II. VISTA'S SETTLEMENT PROPOSAL

On September 28, 1992, Vista filed a proposal to resolve this docket. In its proposal, the Company addressed each of the issues raised in our Staff's December 23, 1991 recommendation. The proposal is summarized as follows: set ROE within a 11-13% range, agree with five of seven staff proposed adjustments to the MMFR data, no adjustment for Directories America advertising revenues, reduce BHMOC from $5.77 to $4.35, allow income tax expense for rate making, unbundle and separately state gross receipts tax, restructure service connection charges, consolidate and reformat exchange tariffs and restructure and reprice local private line tariff. In addition, Vista included a projection of its 1992's earnings.

Upon consideration, we disagree with several of Vista's proposals and with Vista's projection of 1992's earnings. Accordingly, we find that Vista's proposal should not be accepted.

III. REVIEW OF VISTA'S EARNINGS

Vista-United filed its MMFRs on April 1, 1991, based on a 1990 test year. A Staff audit of the MMFRs was completed on August 6, 1991. In addition, calendar year 1991 data and calendar year 1992 data has been reviewed. Our decisions herein are based on 1992 financial information and 1992 estimated separations factors.

The estimate of Vista's 1992 earnings has decreased significantly since December 1991 due primarily to two factors. Vista's actual access charge revenue has declined $700,000 from 1990 to 1992. Its interstate SPF has phased down faster than expected, thereby increasing intrastate revenue requirements $250,000 more than expected. In addition, other decreases to revenue and increases to expenses have occurred, which reduced Vista's earnings.

A. Accounting Adjustments

As mentioned above, Vista has agreed that certain adjustments initially proposed by our Staff are appropriate. We now address those adjustments that are in contention.

The Central Florida Directory is published by Uni-Don, which is a partnership owned in equal shares by Directories America, a subsidiary of United Telecommunications, Inc., and Reuben H. Donnelley Corp., a publishing company that is not affiliated with Vista. By Order No. 21375, issued June 13, 1989, the Commission

> " Ordered that Vista-United Telecommunications shall report 3.5% of the total gross profits as imputed directory advertising revenues from the Central Florida directory for the actual test year for purposes of the calculations contemplated by Section 364.037, Florida Statutes, and Rule 25-4.0405, F.A.C...."

Order No. 21375 also sets out the gross profit amounts to be imputed to Vista. The gross profit imputed to Vista is 3.5% of the gross profit included on Uni-Don's books and 3.5% of the gross profit on Directories America's books related to publishing the Central Florida Directory. The gross profit on Directories America's books was included because it is an affiliate of Vista. Vista argues that the application of the 3.5% should be limited to Uni-Don's gross profit and that 3.5% of Directories America's gross profit related to publishing the Central Florida Directory should not be imputed to Vista. We disagree. However, as discussed below, we decline to take any action regarding Vista's current earnings situation. Therefore, no adjustment will be made at this time.

Another adjustment involves the allowance of income tax expense for earnings surveillance and ratemaking purposes. Because Vista is a partnership it does not incur any income tax liability; that responsibility lies with the partners. Vista argues that it should be allowed to include income tax expense for earnings surveillance purposes on the basis that it is a unique case and should be treated like the other LECs, all of whom are corporations. We disagree. The tax status of the stockholder or owner has not historically been a consideration in determining the tax expense allowed a utility. However, as discussed below, we decline to take any action regarding Vista's current earnings situation. Therefore, no adjustment will be made at this time.

B. Return on Equity

An authorized ROE has never been specifically established for Vista. Vista's proposal utilizes a 12.0% return on equity (ROE). Premised on this, Vista has calculated a 1992 earnings deficiency. The Company has been using 12.0% as its midpoint for surveillance report purposes. The Company has stated that its current required ROE is in the range of 11.0% to 13.0%.

The adjustments discussed above, if made, would result in an increase in estimated 1992 earnings. However, even with these adjustments, it does not appear that Vista's earnings will rise to the level that would be produced under an appropriate ROE for 1992. Despite the level of estimated earnings, we do not believe that Vista's earnings should be increased through a general rate increase without a full investigation of the Company's earnings. Vista has not requested a general rate increase. Accordingly, we decline to set a specific ROE for Vista at this time.

We will continue to monitor Vista's earnings through our surveillance program. We will make adjustments to the surveillance report which we believe are necessary to calculate Vista's earnings in a manner consistent with current Commission policy. If Vista's earnings appear to be excessive based on staff's calculations, then staff will take the appropriate action at that time.

C. Gross Receipts Tax

Historically, the 1.5% Gross Receipts Tax (GRT) has been rolled into customers' base rates. Effective July 1, 1990 the Legislature increased the tax rate from 1.5% to 2.0%. The additional .5% was to be shown separately on the bill and not rolled into the base rate. The GRT was increased to 2.25% effective July 1, 1991, and to 2.5% on July 1, 1992. The separate billing for part of the tax has apparently caused some customer confusion as well as billing problems for some LECs. This is because 1.5% GRT is embedded in some rates but not in others. For example, the federal subscriber line charge has no embedded GRT, whereas intraLATA MTS rates do. This creates the appearance of different GRT rates being charged for different services.

Section 203.10, Florida Statutes, provides that utilities may separately state all the GRT on customer bills. The Commission has approved billing the entire GRT as a separate line item for ALLTEL, Centel, Florala, GTEFL, Gulf, Indiantown, Quincy, and United. In this proceeding Vista has committed to unbundling and separately stating the entire GRT amount. The revenue effect of rolling out the currently embedded 1.5% GRT from base rates is approximately $38,482 based on 1992 data.

Rule 25-4.110(7)(b), Florida Administrative Code, requires that tariffed rates which contain embedded GRT must be reduced so as to leave a customer's bill unaffected as a result of separately stating the tax. The Rule implies that each individually tariffed rate should be reduced by the GRT percentage. However, we do not construe it so. We continue to construe the rule to provide discretion in the rates that will be reduced as long as revenue neutrality is maintained. The disposition of the $38,482 generated by unbundling is described below.

D. <u>Disposition of GRT and Restructure of Other Rates</u>

1. <u>Reduction of MTS Rates</u>

In examining the rates that should be reduced to reflect the unbundling, we have determined that local rates will not be reduced in this case. The decrease would be minimal and Vista's current local rates are very low relative to calling scope and the rates charged by other LECs. The better course is to reduce MTS rates. The reduction, as shown below, will reduce revenues by approximately $62,532. This reduction will eliminate the GRT wind fall. The remainder of the revenue reduction will be offset by the impact of restructuring Service Connection Charges, also discussed below.

In keeping with recent Commission decisions, we find it appropriate to reduce Vista's MTS rates in order to align its rates more closely with those of other toll carriers with whom it competes in the intraLATA toll market. Vista-United's MTS rates have not been reduced since the Commission authorized non-uniform intrastate LEC toll rates in 1988. The proposed rates are as follows:

Mileage	Current	Proposed

	1st/Add'l	1st/Add'l
0 - 10	$.19/.09	$.25/per msg. -local
11 - 22	.28/.16	.25/.16
23 - 55	.40/.28	.25/.24
56 - 124	.51/.37	.25/.24
125 - 292	.58/.39	Delete

The off-peak discounts should be modified as follows:

	Current	**Proposed**
Evening:	35%	25%
Night/Weekend	60%	50%

These changes will make Vista-United's MTS rates identical to those in effect for United Telephone Company of Florida. United's territory surrounds Vista-United's territory. The change in the off-peak discounts reflects a move toward the structure that is evolving in the IXC industry.

The change in the 0-10 mileage band reflects the fact that Vista-United's only route in that mileage band, Lake Buena Vista to West Kissimmee, has been converted to local at $.25 per message. Vista-United has no toll routes in the last mileage band. Therefore, we find that it should be eliminated from the rate structure.

The revenue effect of these changes is a reduction of $62,532 annually based on 1992 data. This amounts to approximately a 14.4% reduction in Vista-United's MTS revenues. We note that the new MTS rates will still cover access charges, conforming to our requirements in Order No. 24859 in Docket No. 900708-TL.

2. <u>Restructure of Service Connection Charges</u>

Typical LEC Service Connection Charge tariffs have several rate elements that cover the range of service initiation and rearrangement activities. These elements include: Primary and secondary service order charges, access line connection charges, premises visit charges, premises work charges, plus number and record change charges.

Vista's current service connection charges have been in place since the Company initiated operations in 1971. They currently appear to be below cost and the rate structure does not follow the manner in which costs are incurred. Moreover, a new city, called Celebration, is being planned for development in Vista-United's territory. As development begins over the next few years, Vista will experience a substantial increase in the amount of service connection activity.

Vista's current tariff only contains new connection charges which are set at $11.00 for residential and $14.00 for business. They are the lowest in Florida. No charges exist for secondary service orders, premises visits or work, or miscellaneous administrative activities.

We find it appropriate to require Vista to restructure its Service Connection Charges as soon as possible on a compensatory basis. We note that Vista has recently completed a service connection cost study. The Company shall file a revised service connection charge tariff within 90 days of the effective date of this order.

Vista estimates that the revenue increase associated with this restructure will be approximately $25,000 annually. This revenue increase coupled with that of unbundling GRT will offset the decrease in MTS rates set forth above. If the revenue effect of the Service Connection restructure is substantially different from the estimate used here, we will true-up the results.

E. Customer Notification

In view of the rate changes, we find it appropriate to require the Company to notify its customers of proposed rate changes. The notice should include information on the MTS reductions, Service Connection Charges restructure, and Gross Receipts Tax unbundling. The Company should submit a proposed customer notice to staff for approval no later than March 31, 1993, for inclusion in the first bill mailed after staff approval. Tariffs should be filed no later than April 26, 1993, to become effective May 1.

F. General and Local Exchange Tariff Reformat and Reissue

In addition to the rate changes and restructuring, we also find it appropriate to require Vista to reissue its General Exchange and Local Exchange tariffs in standard format. Vista is one of several LECs whose tariffs are not in our standard format. We have encouraged LECs to standardize their tariffs whenever a practical opportunity arises. Vista's tariff is based on the format of the old Florida Telephone Company's tariff, and has remained essentially the same since 1971.

Exchange tariffs in standard format currently have about 20 common sections, plus additional ones for LEC specific offerings. Vista has 38 sections covering the common offerings. This is too many to be efficient and useful to us or the general public. Vista's tariff needs consolidating, rearranging, and general updating. Vista states that it will take about six months from the end of this case to complete the necessary revisions. Accordingly, Vista shall submit it reformatted General Exchange and Local Exchange tariffs within six months of the date this Order becomes final.

G. Restructure of Private Line and Special Access Tariffs

Vista's current rate structure for its Local Private Line Service is quite different from its rate structure for Interexchange Private Line Service and Special Access Service, even though these services are identical in every regard except for their respective jurisdictions. Vista concurs in Southern Bell's Interexchange Private Line tariff and Southern Bell's Special Access tariff. We restructured and repriced Southern Bell's Interexchange Private Line and Special Access Services in Docket 890505-TL. In doing so, it was our intent to convert all of Southern Bell's private line services to a single rate structure in order to reduce customer confusion and provide a common basis for pricing services. For the same reasons, we find that Vista should be required to adopt a single rate structure for its private line services. This necessitates the restructure of Vista's Local Private Line Services.

The Company states that it requires six months to price out all of its Local Private Line Services as well as the same amount of time to revise its entire tariff in standard format. Accordingly, Vista shall submit a filing to restructure and reprice Local Private Line Services at the same time it submits its general tariff revision. The filing should include a Local Private Line Services rate structure similar to the Company's Interexchange Private Line Services and Special Access Services rate structure. Consistent with our decisions in Order No. 23400 in Docket No. 890505-TP, Vista shall be allowed to mirror the rates and structure of another LEC whose tariff has already been approved. The company shall also provide the revenue impact of its proposed restructure with the filing.

H. Revenues Held Subject to Refund

Vista Committed to place $1,543,314 of its revenues subject to refund, effective January 7, 1992, pending the resolution of its MMFR review. Since it appears that Vista will not earn in excess of an appropriate ROE during the period for which revenues have been held subject to refund, we find it appropriate to release the revenues in question and to not require any refund.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each and every finding is approved in every respect. It is further

ORDERED that Vista-United Telecommunications' proposed settlement of the issues in this proceeding is denied for the reasons set forth in the body of this Order. It is further

ORDERED that an authorized Return on Equity shall not be set at this time as set forth in the body of this Order. It is further

ORDERED that Vista's decision to unbundle and separately state Florida Gross Receipts Tax is approved as set forth in the body of this Order. It is further

ORDERED that the amount of revenue equal to the gross receipts tax unbundled from Vista's rates shall be utilized to reduce Vista's MTS rates as set forth in the body of this Order. It is further

ORDERED that Vista's MTS rates shall be reduced as set forth in the body of this Order. It is further

ORDERED that Vista's off-peak toll discounts shall be modified as set forth in the body of this Order. It is further

ORDERED that Vista shall restructure its service connection charges as set forth in the body of this Order. It is further

ORDERED that Vista shall notify customers of the required rate changes as set forth in the body of this Order. It is further

ORDERED that Vista shall file a tariff to reprice and restructure its service connection charges within 90 days of the date this Order becomes final as set forth in the body of this Order. It is further

ORDERED that Vista shall consolidate its General Exchange Tariff and Local Exchange Tariff, and reissue in standard format within six months of the date that this Order becomes final as set forth in the body of this Order. It is further

ORDERED that Vista shall file a tariff to restructure its private line and special access services within six months of the date this Order becomes final as set forth in the body of this Order. It is further

ORDERED that the revenues held subject to refund by Vista are released with no further obligation as set forth in the body of this Order. It is further

ORDERED that this docket be closed if no timely protest is filed within the timeframe set forth below.

By ORDER of the Florida Public Service Commission this 14th day of April, 1993.

Steve Tribble

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 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 May 5, 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.