

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Confidential) DOCKET NO. 960356-TL
Classification of Periodic) ORDER NO. PSC-96-0673-CFO-TL
Report Schedules 1, 8, and 20 by) ISSUED: May 22, 1996
GTE Florida Incorporated)
_____)

ORDER DENYING REQUEST FOR CONFIDENTIALITY

On January 31, 1996, GTE Florida Incorporated (GTE) filed a request for confidential classification of access line data by exchange contained in Schedules 8 and 20 of its Quarterly Report, as well as the annually filed Schedule 1.

Pursuant to 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. 1144-96 for which GTE has 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 and access lines by exchange and access lines in base rate area contained in Schedule 1 of their Annual Report. In its request for confidential treatment, GTE argued that the information on access line location and distribution is information relating to the competitive interests of GTE and will impair its business if revealed.

GTE argues that disclosure of the information would allow alternative local exchange carriers (ALECs) to discern the number of GTE's access lines by location and type of service. GTE claims that competitors will know the level of its presence in the specified locations and lines of business and more importantly, because the information is provided quarterly, the ongoing public disclosure would allow GTE's competitors to determine growth and market trends in its specific exchange areas and types of services. GTE argues that with this knowledge, competitors can tailor their marketing, entry, and expansion plans accordingly.

GTE argues that the information which GTE seeks to protect is analogous to interexchange carriers' (IXC) market share and

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traffic data, which reveals where a carrier's customers are located and their distribution across lines of business. GTE reasons that the Commission should grant the same protections afforded IXC's data to GTE's data because of the introduction of full competition in the local exchange market.

Finally, GTE argues that in a competitive business, any knowledge obtained about a competitor can be used to the detriment of the entity to which it pertains, often in ways that cannot be fully anticipated. This unfair advantage skews the operation of the market, to the ultimate detriment of the telecommunications consumer.

Though GTE argues and this Commission 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 (FTA). 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.

Section 364.183(3), Florida Statutes, states that the term "proprietary confidential business information" is 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

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be released to the public." That information which has been released to the public cannot 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 am careful to note that GTE's argument has merit. The time will come when all participants in a competitive marketplace must treat this information in a proprietary manner. However, given the point at which we are in our transition to a competitive marketplace, there is a question whether that time is now. Furthermore, a policy determination such as this is best left for the entire Commission to make. At this time, there is no compelling reason to deviate from existing Commission policy.

It is, therefore,

ORDERED by Commissioner Joe Garcia, as Prehearing Officer that the request by GTE Florida Incorporated for confidential classification of quarterly report schedules 8 and 20 and annual report schedule 1 is hereby denied.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 22nd day of May, 1996.



JOE GARCIA, COMMISSIONER
AND PREHEARING OFFICER

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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 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.