

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the proper)	DOCKET NO. 890216-TL
application of Rule 25-14.003, F.A.C.,)	
relating to tax savings refund for 1988)	ORDER NO. 23703
and 1989 for GTE FLORIDA, INC.)	
)	ISSUED: 10-31-90

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 FRANK S. MESSERSMITH

NOTICE OF PROPOSED AGENCY ACTION
ORDER CLARIFYING TREATMENT OF HSN LITIGATION EXPENSE

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. 22733 issued March 26, 1990 as a Notice of Proposed Agency Action, this Commission proposed that no further adjustment should be made to GTE Florida, Inc.'s (GTEFL's) 1988 tax savings refund amount for any expenses related to the Company's litigation with Home Shopping Network, Inc. (HSN). On April 13, 1990, the Office of Public Counsel (Public Counsel) filed a protest of Order 22733.

Subsequent discussions between Public Counsel and our Staff indicate that Public Counsel does not wish to contest our proposed resolution of the HSN litigation expense issue relative to GTEFL's 1988 tax savings and the Company's 1988 tax savings refund. Public Counsel's concerns with Order No. 22733 are related to GTEFL's tax savings for 1989 and later. Public Counsel's principal concern is to avoid being foreclosed from raising issues related to the HSN expenses and settlement amounts in any earnings review of 1989 and subsequent years.

Accordingly, we find it appropriate to clarify that the intent of our actions proposed in Order No. 22733 are limited to 1988 and are not intended to foreclose Public Counsel or this Commission from proposing a different treatment of the HSN litigation expenses related to 1989 and subsequent years. Rather than repeat the text of our analysis and decision from Order No. 22733, the text of that order is incorporated herein by reference subject to the clarification

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tion set forth in this Order. A copy of Order 22733 is attached to this Order as Attachment A. For the reasons set forth in Order No. 22733, we find that no further adjustment should be made to GTEFL's 1988 tax savings refund amount. Any issues related to the HSN litigation for 1989 and subsequent years will be decided if and when those years become the subject of a proceeding.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the text of Notice of Proposed Agency Action, Order No. 22733, is incorporated into and made a part of this Order. It is further

ORDERED that Order No. 22733 is clarified and limited to the extent set forth in the body of this Order. It is further

ORDERED no further adjustment shall be made to the refund amount for 1988 tax savings related to the Home Shopping Network litigation as set forth in the body of this Order. It is further

ORDERED that the above-referenced docket shall remain open.

By ORDER of the Florida Public Service Commission, this
31th day of OCTOBER, 1990.


 STEVE TRIBBLE, Director
 Division of Records and Reporting

(S E A L)

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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

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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 November 21, 1990

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 sewer 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.