

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Richard Lee ) DOCKET NO. 930364-TL  
Reporting against GTE FLORIDA ) ORDER NO. PSC-93-1254-FOF-TL  
INCORPORATED regarding alleged ) ISSUED: August 30, 1993  
improper assignment of a )  
telephone number. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER AFFIRMING, IN PART, AND DENYING,  
IN PART, COMPLAINT OF RICHARD LEE REPORTING

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.

CASE BACKGROUND

Sometime in the mid 1970s, GTE Florida Incorporated (GTE) assigned telephone number (813) 229-1545 to Mr. Richard H. Lee, Jr. In 1984, Mr. Lee and Ms. Thelma Dreyer formed a corporation, Lee & Dreyer, Inc., and Mr. Lee's telephone number became that corporation's telephone number. On or about November 30, 1989, Mr. Lee left Lee & Dreyer, Inc., moved to another office in the same building, and formed a new business, Richard Lee Reporting.

GTE's records reflect that, on December 1, 1989, Ms. Dreyer telephoned GTE to advise it that Mr. Lee and his son, Warren, were no longer officers of Lee & Dreyer, Inc. Ms. Dreyer also requested that Mr. Lee's name be removed from the corporation's credit information. GTE's records also show that, on December 7, 1989, Mr. Lee requested new service. According to Mr. Lee, he requested that GTE transfer telephone number 229-1545 to his new location. GTE's records do not indicate whether Mr. Lee requested that the telephone number be transferred.

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On December 11, 1989, David A. Townsend, Mr. Lee's attorney, wrote to GTE to request that the telephone number in controversy be reassigned to Mr. Lee. Mr. Townsend followed up this correspondence by subsequent letters dated January 10 and January 18, 1990.

On or about December 28, 1989, Thelma Dreyer formed a new corporation, Thelma Dreyer & Associates, Inc. d/b/a Dreyer & Associates, which remained at the same location as Lee & Dreyer, Inc. and retained telephone number 229-1545.

In his letter of January 18, 1990, Mr. Townsend stated that an impasse had been reached regarding telephone number 229-1545. Mr. Townsend requested that GTE assign a new number to Dreyer & Associates and place an intercept on 229-1545 to refer clients to either Richard Lee Reporting or Dreyer & Associates. When Dreyer & Associates was informed of GTE's intentions in this regard, it had its attorneys contact GTE to oppose the intercept. Apparently they were successful, since the intercept was never placed. Telephone number 229-1545 has remained with Dreyer & Associates to this date.

By letter dated June 10, 1992, Mr. Lee filed a complaint against GTE with this Commission's Division of Consumer Affairs. According to Mr. Lee, the reason for his 2 1/2 year delay in filing this complaint was that he had only recently become aware that we consider complaints of this type. Mr. Lee also stated that he "had given up any hope of winning a dispute with a company as powerful as GTE."

GTE responded to Mr. Lee's complaint by letter dated July 28, 1992. According to GTE, there are few contemporaneous records of the transactions and it is, therefore, somewhat unsure of the precise course of events. Nevertheless, GTE believes that, if the number was reassigned to Mr. Lee, not only would such action tend to harm Dreyer & Associates, but Mr. Lee's business as well. GTE, therefore, suggested that since the controversy lay dormant for over 2 years, the number should remain with Dreyer & Associates.

GTE also stated that, under its tariff, telephone numbers belong to it and that no property interest inures to the customer by virtue of its assignment of such numbers. Therefore, GTE argued that "[t]o the extent that Mr. Lee's complaint to the PSC rests on a claim of a property interest in the telephone number, it lacks merit and should be considered unfounded."

On August 13, 1992, the Staff of this Commission (Staff) advised Mr. Lee that, in accordance with Rule 25-22.032(2) and (3), Florida Administrative Code, it had determined that the telephone number should remain with Dreyer & Associates. On August 25, 1992, Mr. Lee called the Division of Consumer Affairs and requested supervisory review of his complaint. His case was reviewed and Mr. Lee was again advised that it appeared the number should remain with Dreyer & Associates.

By letter dated February 16, 1993, Mr. Lee alleged that GTE violated Rules 25-4.032(1), 25-4.107(1), 25-22.113(2), 25-4.116, and 25-4.131, Florida Administrative Code, in its assignment of the telephone number. Mr. Lee also alleged violations of Rules 25-4.020(3) and 25-4.111(1), Florida Administrative Code. Mr. Lee, therefore, requested an informal conference, as provided under Rule 25-22.032(4), Florida Administrative Code.

Staff held an informal conference in Tarpa on March 11, 1993. Staff met with Mr. Lee and Shan Smith, of Richard Lee Reporting, and GTE representatives Kim Caswell, Debby Kampert, and Stephanie Nicholson. In a final effort to resolve the matter short of the formal complaint process, Staff requested that GTE contact Dreyer & Associates and ask if they would be willing to have their number changed and have the number in question placed on an intercept. By letter dated April 2, 1993, GTE advised Staff that Dreyer & Associates was unwilling to accept a number change.

#### ALLEGATIONS OF RULES VIOLATIONS

Since the parties were not able to resolve the matter at the informal conference, this docket was opened in order to process this case along more formal lines. As noted above, Mr. Lee alleges that GTE violated a number of rules in both its assignment of telephone numbers and with regard to recordkeeping. We have listed those rules, and our proposed resolution of Mr. Lee's allegations concerning those rules, below.

#### **Rule 25-4.107(1): Information to Customers**

Each company shall provide such information and assistance as is reasonable to assist any customer or applicant in obtaining telephone service adequate to his communications needs.

Although Mr. Lee did not receive the telephone number that he wanted, no allegation has been made that he did not have telephone service adequate to his needs. Accordingly, it does not appear that GTE violated this rule when it did not assign the requested telephone number.

**Rule 25-4.113(2): Refusal or Discontinuance of Service by Company**

In case of refusal to establish service, or whenever service is discontinued, the utility shall notify the applicant or customer in writing of the reason for such refusal or discontinuance.

Again, no allegation has been made that GTE either refused to establish or discontinued service to Richard Lee Reporting. Therefore, it does not appear that GTE violated this rule when it did not assign to Mr. Lee the requested telephone number.

**Rule 25-22.032(1): Customer Complaints**

Any customer of a utility regulated by this Commission may file a complaint with the Division of Consumer Affairs whenever he has an unresolved dispute with the utility regarding his electric, gas, telephone, water, or sewer service. The complaint may be communicated orally or in writing. Upon receipt of the complaint a staff member designated by the Director of the Division shall notify the utility of the complaint and request a response. The response should explain the utility's actions in the disputed matter and the extent to which those actions were consistent with the utility's tariffs and procedures, applicable state laws, and Commission rules, regulations, and orders.

GTE was notified of Richard Lee Reporting's complaint, and responded thereto by letter dated July 28, 1992. Although GTE has few contemporaneous records of the incidents complained of, it appears that GTE attempted to comply with the rule, in good faith, to the best of its ability. Accordingly, we do not believe that it violated this rule.

**Rule 25-4.116: Telephone Number Assignment Procedure**

Each company shall maintain written standard operating procedures for the assignment of telephone numbers. The standard operating procedure shall be applied in a non-discriminatory manner to requests for assignment of telephone numbers.

At the informal conference, Mr. Lee stated that "the violation of this code is obvious from the GTEFL response of July 28, 1992" and that "by their own letter it is apparent that they have no records, no memory, and no written standard procedure."

GTE does have written standard operating procedures that deal with the assignment of telephone numbers, a copy of which has been filed in this docket. According to GTE, when a customer places an order for service, the service representative keys in the customer's class of service and then its mechanized assignment and record keeping system will assign a vacant telephone number out of all available numbers for that particular central office. GTE advised that its number selection is 100 percent random. As far as we can tell, Mr. Lee was assigned his present number in accordance with this procedure.

Mr. Lee's actual objection concerns GTE allowing Dreyer & Associates to retain the telephone number of his former business, Lee & Dreyer, Inc., the name under which the account was registered. In support of his claim, Mr. Lee points to GTE's Service Handbook which states, under the heading Telephone Number Assignment, Request for Left-In Number, that "[i]n all cases (residence or business), a request for a telephone number of a former customer will require the consent of the former customer." It further states that "[o]n business accounts it will be the responsibility of the new customer to obtain the signature of the former customer on a Relinquish Claim and Acceptance Agreement, Form 020057." Finally, at the bottom of this section, there is a note which states that "[a] Relinquish Claim and Acceptance Agreement will only be required if there is any indication that a dispute may arise regarding the number."

The problem with premising a violation upon the above provisions is that, when GTE was first apprised of the situation, it was advised that Mr. Lee was no longer an officer of Lee & Dreyer, Inc. Lee & Dreyer, Inc. was the customer, not Mr. Lee.

GTE's procedures do not require the Relinquish Claim and Acceptance Form when there is only a change in officers of a corporation. Moreover, at the time that Thelma Dreyer & Associates, Inc. was formed, Ms. Dreyer was a principal of both the former and the present customer. Accordingly, we cannot say that GTE's handling of the matter constituted a violation of either its standard operating procedures or Rule 25-4.116, Florida Administrative Code.

**Rule 25-4.131: Location and Preservation of Records**

This rule appeared in Part VIII of the Commission's rules, which dealt with radio common carriers. Part VIII was repealed May 14, 1991. Mr. Lee was apparently under the impression that this rule dealt with local exchange companies, such as GTEFL. Since this rule was repealed, and since it dealt with radio common carriers in any event, we do not believe that this rule is applicable to the matter at hand.

**Rule 25-4.020(3): Location and Preservation of Records**

All records shall be preserved for the period of time specified in the current edition of Part 42 of the Rules and Regulations of the Federal Communications Commission entitled "Preservation of Records of Communication Common Carriers."

Under 47 C.F.R. §42.9 (1976), the period of retention for "[c]orrespondence and memoranda of contacts relative to customers' service requests or inquiries and miscellaneous matters" is "[o]ptional after significant data have been transcribed to service orders or other records."

In the case at hand, GTE has no record of Mr. Townsend's letters or of Mr. Lee's alleged telephone conversations with GTE prior to December 7, 1989. It appears, therefore, that GTE neither retained these contemporaneous documents nor transcribed them "to service orders or other records", in violation of Rule 25-4.020(3), Florida Administrative Code. Accordingly, GTE is hereby directed to review and correct its recordkeeping practices to ensure that it is able to fully respond to inquiries regarding such records in the future.

**Rule 25-4.111(1): Customer Complaints and Service Requests**

Each telephone utility shall make a full and prompt investigation of all complaints and service requests made by its customers, either directly to it or through the Commission and respond to the initiating party within fifteen (15) days. The term "complaint" as used in this rule shall be construed to mean any oral or written report from a subscriber or user of telephone service relating to a physical defect, difficulty or dissatisfaction with the operation of telephone facilities, errors in billing or the quality of service rendered.

Mr. Lee has provided copies of correspondence to GTE and has alleged that GTE failed to respond to these concerns. As noted above, GTE has few, if any, contemporaneous records of the events. Since it is unable to refute Mr. Lee's claims, we can only conclude that GTE failed to make a full and prompt investigation of, or response to, Mr. Lee's complaint, in violation of Rule 25-4.111(1), Florida Administrative Code. Accordingly, we direct GTE to review its customer complaint practices to ensure that, in the future, customer complaints are recorded, promptly investigated, and that responses are provided to the customer.

OPERATOR INTERCEPT

Lastly, Mr. Lee requested that we order GTE to replace Dreyer & Associates' current telephone number with a new one, and place an intercept on the old number referring customers to either Richard Lee Reporting or Dreyer & Associates. As noted above, telephone number 229-1545 was not transferred in December, 1989, when Mr. Lee's and Ms. Dreyer's business relationship dissolved. Instead, the telephone number stayed with Lee & Dreyer, Inc., at the same location, without interruption, for 2 1/2 years before Mr. Lee made his complaint. It appears that GTE's actions were in accord with its tariff and its standard procedures when it did not transfer the number to Mr. Lee or place an intercept on the line in 1989, although, as discussed above, GTE's handling of his complaint and its recordkeeping are questionable. We, therefore, believe that it would be inappropriate, at this time, to discontinue service to or place an intercept on the line used by Dreyer & Associates.



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Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the complaint of Richard H. Lee, Jr. is hereby affirmed to the extent that GTE Florida Incorporated shall review its recordkeeping and customer complaint procedures, as set forth in the body of this Order, to ensure that they comply with the requirements of this Commission's rules and regulations. It is further

ORDERED that Mr. Lee's complaint is denied in all other respects. It is further

ORDERED that, unless a person whose interests are adversely affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 30th day of August, 1993.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

RJP



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 September 20, 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.