

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation to determine whether LEC PATS is competitive and whether LEC PATS should be regulated differently than it is currently regulated.) DOCKET NO. 920255-TL
) ORDER NO. PSC-93-1277-CFO-TL
) ISSUED: September 2, 1993
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)

ORDER ADDRESSING REQUESTS FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF DOCUMENTS NUMBERS 8531-92 AND 9598-92

This Order addresses an unopposed request for specified confidential classification filed by GTE Florida Incorporated (GTEFL or the Company). GTEFL asserts generally that the material for which confidential classification is sought is intended to be and is treated by GTEFL as private and has not been disclosed except pursuant to agreement to maintain confidentiality.

Under Section 119.01, Florida Statutes, documents submitted to governmental agencies are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the burden of proving that the materials qualify for specified confidential classification falls upon GTEFL. According to Rule 25-22.006, GTEFL must meet this burden by demonstrating that the materials fall into one of the statutory examples set forth in Section 364.183 or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

On August 3, 1992, GTEFL filed a Notice of Intent to Seek Confidential Classification for certain information provided in response to Staff's First Set of Interrogatories. This information is filed under Commission Document No. 8531-92. Then, on August 24, 1992, GTEFL filed its Request for Confidential Treatment (Request) for the same interrogatories. This information is filed under Commission Document No. 9598-92; portions of this information became Exhibits Nos. 17 and 39 at the hearing.

GTEFL requests confidential treatment of a number of Interrogatory Responses. Only Interrogatory Responses Nos. 6, 7, 8, 9, 10, 11, 19, 20, 21, 24, and 32 have become part of the record. The other responses will be returned to the Company and their confidentiality will not be addressed here.

DOCUMENT NUMBER-DATE

09483 SEP-23

FILE NUMBER-DATE

Interrogatory 6

GTEFL requests confidential treatment of information on page 7, lines 28-36 and 42, which describe the estimates of the cost to GTEFL of providing public payphone services. GTEFL argues that Section 364.183 provides that proprietary confidential business information includes "information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms." If this information were disclosed, GTEFL argues that the information would provide competitors and location agents with an unfair competitive advantage and enable them to potentially undercut GTEFL's bidding process, and would give its competitors commercially valuable information not otherwise available in the market. I agree that this information should be held confidential.

GTEFL requests confidential treatment of the information on page 7, line 42, which provides the total number of payphones in service in 1991. Knowledge of this figure is of little value given that lines 28-36 have been held to be confidential. Therefore, confidentiality shall be denied for this line.

Interrogatory 7

GTEFL requests confidential treatment of the information on page 8, lines 6 and 35-36, which lists the revenues of payphone service and the revenues less cost (profitability) of payphone service. GTEFL argues that disclosure of these figures to location agents would allow them a competitive advantage in negotiating contracts. I agree that this information should be held confidential.

Interrogatory 9, Parts a - e

GTEFL requests confidential treatment of the information on page 9, lines 11, 16, 19, 23, 26, 29, 32, 34, 35 and page 10, lines 3, 13, 31, 33, and 34. The figures on these lines deal with call durations from various types of payphones, as well as R-1 and B-1 lines, and PBX trunks. GTEFL claims knowledge of this information would provide location agents with information to negotiate commissions, thereby potentially decreasing the profitability of GTEFL's pay telephone operations. Other companies, most notably BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company, have provided this information in the past without requesting confidentiality. In addition, the information

is not timely, dating back to 1989. Finally, the information on lines 31 and 33-34 are averages for all toll calls. We do not believe that disclosure of this data would harm the Company or its ratepayers. Accordingly, this request shall be denied.

Interrogatory 10, Parts a - e

GTEFL requests confidential treatment of the information on page 10, line 44, page 11, lines 3, 6, 9, 12, 15, 20, 21, 29, 40, and page 12, line 11, which describes the call volumes from various types of payphones, PBXs, and B-1 and R-1 lines. GTEFL argues that knowledge of this data would provide location agents with information to negotiate commissions, thereby potentially decreasing the profitability of GTEFL's pay telephone operations. We agree that the knowledge of call volumes from pay telephones would provide location agents an advantage in negotiating commission payment terms and should be held confidential. However, the B-1, R-1, and PBX information will not be held confidential for the reasons stated for Interrogatory No. 9, Parts a - e, above.

Interrogatory 11

GTEFL requests confidential treatment of the information on page 12, lines 28 and 29, which provides data on the number of local calls from GTEFL's payphones, including a breakout of the number of local sent-paid and 0+ and 0- calls. GTEFL argues that knowledge of this information by the Company's competitors would give them an advantage in marketing to location providers. We disagree. This information is provided only in an aggregate form and we do not believe it would be useful for the purpose asserted by the Company. Accordingly, this request shall be denied.

Interrogatory 21

The Company requests confidential treatment of the information on page 17, line 22, which lists the flat rate commission paid by GTEFL. GTEFL argues that disclosure of this information would give GTEFL's competitors an advantage in setting their own commission rates to use in competing for locations and in negotiating commission payment terms. I shall grant this request for confidential treatment.

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Interrogatory 24

Finally, GTEFL requests confidential treatment of the information on page 18, lines 21-23, which lists commissions paid by GTEFL on both an overall and a per location basis. GTEFL argues that knowledge of these figures would provide GTEFL's competitors with an advantage in setting their own commission rates to use in competing for locations and in negotiating commission payment terms. I shall grant this request for confidential treatment.

Based on the foregoing, it is

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that GTEFL's August 24, 1992, Request for Specified Confidential Classification of Document No. 9598-92 (cross-referenced to Document No. 8531-92) is hereby granted in part and denied in part as set forth herein. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Chairman J. Terry Deason, as Prehearing Officer, this 2nd day of September, 1993.



J. TERRY DEASON, Chairman and
Prehearing Officer

(S E A L)

ABG/AQP

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.

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.