

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into ) DOCKET NO. 930330-TP  
IntraLATA Presubscription ) ORDER NO. PSC-94-1103-PCO-TP  
\_\_\_\_\_ ) ISSUED: September 7, 1994

Order Granting in Part and Denying in Part OPC's Motion to Compel

On July 13, 1994, the Office of Public Counsel (OPC) propounded its second Request for Production of Documents on GTE Florida Incorporated (GTEFL). On August 17, 1994 GTEFL served its response on OPC. In its response, GTEFL objected to providing documents related to two of the Requests for Production, Nos. 2 and 5, on the basis that the requested information was not relevant to the instant proceeding. On August 19, 1994, OPC filed Citizens' First Motion to Compel Against GTE Florida Incorporated, seeking to compel production of the documents. GTEFL responded in opposition to OPC's Motion on August 31, 1994.

The specific requests for production subject to this dispute are:

2. Please provide each document in your possession, custody or control evaluating, analyzing, or commenting on the possibility or probability of filing a rate case before the Florida Public Service Commission.
5. Please provide each document in your possession, custody or control evaluating, analyzing, or commenting on your expected intrastate profitability during 1994, 1995, 1996, or 1997.

In support of its Motion, OPC states that the "prefiled direct testimony of Beverly Y. Menard repeatedly raises the specter of the company increasing local rates if the Commission should implement 1+ presubscription of intraLATA toll." OPC argues that the requests for production of documents are relevant to testing GTEFL's claim and to determine whether the Company's own projections of profitability support the Company's testimony. OPC further argues that requests are relevant to Issue 12 in this case relating to the recovery of revenue losses and revenue loss recovery mechanisms.

In response, GTEFL argues that the instant case is about intraLATA presubscription. GTEFL notes that neither Request No. 2 nor No. 5 address intraLATA presubscription. GTEFL further argues that Requests Nos. 2 and 5 must be viewed in conjunction with

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Requests Nos. 3 and 4 to which GTEFL did respond without objection. According to the Company, Request No. 3 seeks material about the effect of intraLATA presubscription on GTEFL's expected profitability in general and Request No. 4 asks for information about how intraLATA presubscription may affect GTEFL's decision to file a rate case. According to the Company, OPC has received all documentation about how intraLATA presubscription may affect the Company's earnings and its evaluation of whether a rate case may be necessary. GTEFL concludes that Requests Nos. 2 and 5 are impermissibly broad and are, therefore, irrelevant.

Upon consideration of the arguments of the parties, I find that OPC's Motion to Compel should be granted in part and denied in part. Request No. 2 seeks all possible information related to potential rate case filings with this Commission. This Request appears to be merely an extremely broad extension of Request No. 4. To the extent that the Company has supplied information responsive to Request No. 4, it appears that it has supplied the information related to Request No. 2 that would be relevant to this proceeding. Therefore, the Motion to Compel is denied with respect to Request No. 2.

Request No. 5 seeks information regarding expected profitability in future years. Such information may well be relevant to a determination as to the need, nature, extent and magnitude of any determination to implement revenue recovery loss mechanisms related to the implementation of intraLATA presubscription. Accordingly, the Motion to Compel production of documents responsive to Request No. 5 is granted. In view of the short time between now and the hearing, GTEFL shall produce the responsive documents by 5:00 p.m. September 9, 1994.

Based on the foregoing, it is

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that Citizens' First Motion to Compel Against GTE Florida Incorporated is granted in part and denied part as set forth in the body of this Order. It is further

ORDERED that GTEFL shall produce the documents described in the body of this Order by 5:00 p.m. September 9, 1994.

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By ORDER of Chairman J. Terry Deason, as Prehearing Officer,  
this 7th day of September, 1994.

  
J. PERRY DEASON, Chairman 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 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.