

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Confidential) DOCKET NO. 960356-TL
Classification of Periodic) ORDER NO. PSC-96-1080-FOF-TL
Report Schedules 1, 8, and 20 by) ISSUED: August 21, 1996
GTE Florida Incorporated)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER DENYING REQUEST FOR RECONSIDERATION
BY GTE FLORIDA INCORPORATED

On January 31, 1996, GTE Florida Incorporated (GTEFL) petitioned the Commission for confidential classification and a protective order under Commission Rule 25-22.006, Florida Administrative Code, for Schedules 8 and 20 of its Quarterly Report, and Schedule 1 of its Annual Report. This information was filed in accordance with Commission Rule 25-4.0185, Florida Administrative Code. On May 22, 1996, Order No. PSC-96-0673-CFO-TL was issued which denied GTEFL's request and provided that the information sought for confidential classification did not meet the criteria for proprietary confidential business information set forth in section 364.183(1), Florida Statutes, because the information was readily available through public sources.

GTEFL timely filed its request for confidential classification on January 31, 1996. The request was reviewed under Commission Rule 25-22.006, F.A.C. (Amended 4/26/90), which requires a company to file a line-by-line justification for the confidential classification it seeks and for the Commission to make a determination. On May 22, 1996, a determination was made to deny the request and Order No. PSC-96-0673-CFO-TL was issued. On June 3, 1996, GTEFL filed a Petition for Reconsideration.

The standard for determining whether reconsideration is appropriate is set forth in Diamond Cab Co. of Miami v. King, 146 So. 2d 889, 891 (Fla. 1962). In Diamond Cab, the Florida Supreme Court declared that the purpose of a petition for reconsideration is to bring to an agency's attention a point of law or fact which it overlooked or failed to consider when it rendered its order. In

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Steward Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974), the Court found that the granting of a petition for reconsideration should be based upon specific factual matters set forth in the record and susceptible to review. Staff has applied this rationale in its review of GTEFL's petition.

GTEFL's request was properly considered under Commission policy and the rule which was in effect at the time the request was filed. Until Rule 25-22.006, F.A.C., could be appropriately amended to reflect the 1995 changes of section 364.183(1), F.S., Commission policy was to require any request for confidential treatment of proprietary confidential business information to be accompanied by a line-by-line justification and redacted and highlighted versions of the information. GTEFL's petition was processed according to this policy and the rule in effect at the time.

Rule 25-22.006 (Amended 4/26/90), requires the Commission to make a determination upon the filing of a petition. In making that determination, the Prehearing Officer followed Commission policy to deny confidential classification of information that could be obtained through public sources. Where information could be obtained through public sources, it does not meet the definition of "proprietary confidential business information." Those sources were cited in the Order denying confidential classification. Previously, the schedules filed under 25-4.0185, F.A.C., have been made available for public inspection. The information contained in the schedules have changed little over the years as a result of the monopoly status of the local exchange companies (LECs).

Denial of a confidential classification for the information filed was consistent with Commission policy and rule effective at that time the request was filed. GTEFL's petition for reconsideration is denied.

IT IS THEREFORE,

ORDERED that the information contained in schedule 1 of its 1995 Annual Report be made available for public inspection. It is further

ORDERED that the information contained in schedules 8 and 20 of its quarterly report from the last quarter of 1995 be made available for public inspection. It is further

ORDERED that this docket be closed.

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BY ORDER of the Florida Public Service Commission this 21st
day of August, 1996.



Blanca S. Bayó, Director
Division of Records and Reporting

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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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.