

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of GTE Florida
Incorporated's January 31, 1997,
Request for Confidential
Classification Regarding
Quarterly Report Schedule 8

DOCKET NO. 970226-TL
ORDER NO. PSC-97-0633-CFO-TL
ISSUED: June 3, 1997

ORDER DENYING REQUEST FOR CONFIDENTIALITY

On January 31, 1997, GTE Florida Incorporated (GTEFL) filed a request for confidential classification of Quarterly Report Schedules 8 and 20, for the period ending December 31, 1996 (Document No. 01188-97). GTEFL filed a supplemental request on March 3, 1997 (Document No. 02257-97), in response to Commission staff inquiry dated February 19, 1997. The purpose of the docket is to determine the disposition of GTEFL's request for confidential classification of its Quarterly Report Schedule 8 for the period ending December 31, 1996. This schedule provides access line data by exchange and class of service. The Commission needs to make a determination on this portion of GTEFL's request since the data is used in preparing a staff publication entitled "Comparative Costs Statistics."

Under Section 119.01, Florida Statutes, all documents submitted to this Commission are public record. The only exceptions to this law are documents which are exempt pursuant to specific statutory terms or provisions. Moreover, under Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the person requesting confidential treatment of materials has the burden of demonstrating that the materials qualify for confidential classification.

The information in GTEFL's Quarterly Report Schedule 8 for which GTEFL has requested confidential classification concerns access line data by exchange and by class and grade of service. In its request for confidential treatment, GTEFL argued that the information on access line location and distribution is information relating to the competitive interests of GTEFL and disclosure will impair its business. If revealed, GTEFL claims that competitors will know the level of its presence in the

DOCUMENT NUMBER-DATE

05498 JUN-35

FPSR-REGULATORY REPORTING

specified locations or exchanges and lines of business. GTEFL argues further that because the information is provided quarterly, the ongoing public disclosure would allow GTEFL's competitors to determine growth and market trends for specific exchanges and types of services. GTEFL believes with this knowledge, competitors can tailor their marketing, entry, and expansion plans accordingly.

GTEFL argues that the information which it seeks to protect is analogous to IXC market share and traffic data, which reveals where a carrier's customers are located and their distribution across lines of business. GTEFL reasons that the Commission should grant the same protection afforded IXC's data to GTEFL's data because of the competitive nature of the local exchange market.

Finally, GTEFL argues that in a competitive business, any knowledge obtained about a competitor can be used to the detriment of the entity to which it pertains, often in ways that cannot be fully anticipated. This unfair advantage skews the operation of the market, to the ultimate detriment of the telecommunications consumer. GTEFL notes that numerous ALECs have been certificated in Florida. Intermedia Communications, Inc., is already operating in GTEFL's service area, and prominent carriers such as AT&T and MCI are engaged in local service promotions. GTEFL argues that release of its competitively sensitive market information in no way obligates GTEFL's ALEC competitors to do the same. GTEFL believes that such a result is troublesome and unfair.

I agree that over time, competitors would be able to use the data to determine growth and market trends for specific exchanges and classes of services. Any trends discerned from this data would reflect the combined effect of changes in GTEFL's market share and changes in overall market size. In determining whether or not the data should be classified as confidential, the real question is when will competitive conditions warrant confidential classification. Much of the past year has been consumed with working out interconnection and resale agreements.

There is a basic premise that the greater public interest is served by keeping documents public to the extent possible. GTEFL's Schedule 8 for the period ending December 31, 1995, was denied by this Commission in Order No. PSC-96-0673-CFO-FL. I believe that while there is appreciably more ALEC activity as of

ORDER NO. PSC-97-0633-CFO-TL
DOCKET NO. 970226-TL
PAGE 3

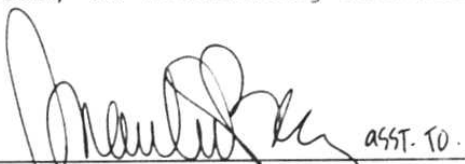
GTEFL's Schedule 8 for the period ending December 31, 1995, was denied by this Commission in Order No. PSC-96-0673-CFO-FL. I believe that while there is appreciably more ALEC activity as of December 31, 1996 (ALECs were authorized to operate effective January 1, 1996), ALECs have had a negligible effect on GTEFL's market share up to now. Thus, any trends discernable through end-of-year 1996 would reflect almost exclusively changes in overall market size. Moreover, much the same trends could be discerned by analyzing data through end-of-year 1995. Finally, I have noted that no other LECs have requested confidential treatment of the same data, for the period ending December 31, 1996.

In so ruling, I am careful to note that GTE's argument has merit. The time will come when all participants in a competitive marketplace must treat this information in a proprietary manner. However, given the point at which we are in our transition to a competitive marketplace, there is a question whether that time is now. Furthermore, a policy determination such as this is best left for the entire Commission to make. At this time, there is not compelling reason to deviate from existing Commission policy.

It is, therefore,

ORDERED by Commissioner Joe Garcia, as Prehearing Officer that the claim by GTE Florida Incorporated for confidential classification of Quarterly Schedule 8 is hereby denied.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 3rd day of June, 1997.


JOE GARCIA, COMMISSIONER
AND PREHEARING OFFICER

(S E A L)

DWC

ORDER NO. PSC-97-0633-CFO-TL
DOCKET NO. 970226-TL
PAGE 4

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.