

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by AT&T
Communications of the Southern
States, Inc. for arbitration of
certain terms and conditions of
a proposed agreement with GTE
Florida Incorporated concerning
interconnection and resale under
the Telecommunications Act of
1996.

DOCKET NO. 960847-TP
ORDER NO. PSC-98-0358-CFO-TP
ISSUED: March 5, 1998

ORDER GRANTING GTE FLORIDA INCORPORATED'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION AND MOTION FOR PROTECTIVE ORDER FOR
LATE FILED DEPOSITION EXHIBITS IN DOCUMENT NO. 11649-96

BY THE COMMISSION:

Pursuant to Rule 25-22.006(4), Florida Administrative Code, GTE Florida Incorporated (GTEFL or the company) requested confidential treatment for certain information. This information is contained in Document No. 11649-96.

Documents submitted to governmental agencies in Florida are public records. The only exceptions are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4), Florida Administrative Code, provides that it is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in section 364.183, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the company or its ratepayers harm.

Section 364.183(3), Florida Statutes, provides the following definition for proprietary confidential business information.

The term 'proprietary confidential business information' means information, regardless of form or characteristics, which is owned or controlled by the person or company, is

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intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. The term includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

Rule 25-22.006(4)(c), Florida Administrative Code, requires that the company demonstrate by a line-by-line or field-by-field justification how the information asserted to be confidential qualifies as one of the statutory examples listed in section 364.183(3), Florida Statutes. If no statutory example is applicable, then the company shall include a statement explaining how the ratepayers or the company's operations will be harmed by disclosure. The company has requested confidential treatment for Late-Filed Exhibit Nos. 1 and 4 through 13.

Late-Filed Exhibit Nos. 1 and 5

GTEFL describes the information in these exhibits as setting out the determination of the Annual Operating Expense Factors as described in GTEFL's Total Service Long Run Incremental Cost Workpapers. The company argues that these factors disclose information and assumptions about GTEFL's network operations that would help competitors tailor their own networks to better compete

with GTEFL's. The information in Exhibit Nos. 1 and 5 appear to fall within the definition of confidential business information as stated in section 364.183(3)(e), Florida Statutes. Cost factors contain financial components the determination and disclosure of which could lead to an erosion in GTEFL's competitive advantage.

Late-Filed Exhibit No. 2

GTEFL describes Exhibit No. 2 as an explanation of the development of central office land and building cost factors. The company believes that disclosure of the explanation will lead to competitors tailoring their networks to better compete with GTEFL's. Annual charge factors include components describing investment and expenses. Disclosing this information may give competitors insight into determining GTEFL's cost of providing service. Because this information may be of interest to competitors, it falls within the definition of confidential business information as set forth in section 364.183(3)(d), Florida Statutes.

Late-Filed Exhibit No. 4

GTEFL describes Exhibit No. 4 as a demonstration of the running of the Interim Number Portability model without the GTD-5 technology data. The company argues that disclosure of these Total Service Long Run Incremental costs will give the company's competitors an unfair advantage. This type of financial information may give insight into determining GTEFL's cost for providing interim number portability. This information may be of interest to competitors and as such falls within the category of confidential business information as set forth in section 364.183(3)(d), Florida Statutes.

Late-Filed Exhibit No. 6

This exhibit documents the determination of end office switching costs. The company argues that disclosure of this information would provide competitors with an unfair advantage. The information, if disclosed, would aid competitors in structuring their operations and marketing strategies. The argument is persuasive. The information is financial in nature and can provide a competitor with insight into the structuring of GTEFL's network, especially where end office switching and transport are concerned. Due to its nature, the information falls within the category of

confidential business information defined in section 354.183(3)(d), Florida Statutes.

Late-Filed Exhibit No. 7

This exhibit explains the determination of the DS1 and DS3 costs, including cost components for entrance facilities, direct trunked transport, tandem switching and end office switching. GTEFL contends that disclosure of this information would give competitors an unfair advantage in structuring their operations and their entry and marketing strategies. This is particularly true, argues the company, in the area of transport where it is very competitive. The argument is persuasive. This is information that relates to competitive interests and falls within the definition of confidential business information defined in section 364.183(3)(d), Florida Statutes.

Late-Filed Exhibit No. 8

GTEFL made corrections to its Total Element Long Run Incremental Costs for GTEFL's two-wire unbundled loop element. Basic network function costs are also provided with the corrections. GTEFL argues that competitors could use this information to effectively compete with the company. GTEFL argues further that since the company cannot get this information from their competitors the company should not be required to release the information. The cost information falls within the definition of confidential business information described in section 364.183(3)(d), Florida Statutes. This information, because of its value to competitors meets the statutory definition of confidential business information.

Late-Filed Exhibit No. 9

This exhibit provides an explanation of the determination of two and four-wire costs. The components include entrance facilities, direct trunked transport, DS1 and DS3 inputs. GTEFL argues that disclosure of this information would provide competitors with insight into structuring their operational and marketing entry plans. This cost information falls within the definition of confidential business information as defined in section 364.183(3)(d), Florida Statutes. It is information that competitors would find valuable.

Late-Filed Exhibit No. 10

GTEFL describes this exhibit as a detailed determination of direct trunked transport costs. The company contends that disclosure would give competitors an unfair advantage in that their ability to structure their operations, entry, and marketing plans would be enhanced. Because financial and costing information is of value to a competitor, the information falls within the definition of confidential business information as defined in section 364.183(3)(d), Florida Statutes.

Late-Filed Exhibit No. 11

GTEFL describes Late-Filed Exhibit No. 11 as an explanation of the rationale for decreasing average holding time. Average holding time plays a part in the determination of switching costs. Since cost determination is of a financial nature, holding time information may be of commercial value to a competitor. Holding time information falls in the category of confidential business information defined in section 364.183(3)(d), Florida Statutes.

Late-Filed Exhibit No. 12

This exhibit details the determination of GTEFL's tandem switching cost. GTEFL contends that disclosure of this information would provide competitors with an unfair advantage in structuring their operations, entry, and marketing plans. This information is financial in nature and would provide a competitor with insight into the structure of GTEFL's tandem switching. The company has made a persuasive argument regarding the value this information may have to a competitor. Since the information appears to have commercial value to a competitor, it falls within the category of confidential business information as defined in section 364.183(3)(d), Florida Statutes.

Late-Filed Exhibit No. 13

This exhibit provides the components of GTEFL's common costs. Among the components are total regulated revenues, the sum of Total Element Long Run Incremental Costs, total direct costs, estimated forward looking common costs, and plant costs. This information is financial in nature. Because of its financial nature it appears to be information that may have commercial value to a competitor. The information falls within the category of confidential business information as defined in section 364.183(3)(d), Florida Statutes.

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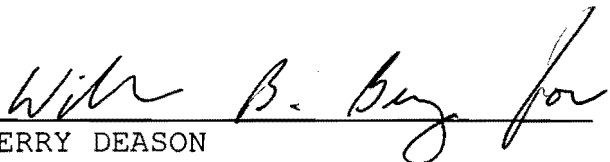
Based upon the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that GTE Florida Incorporated's request for Confidential Classification and Motion for Protective Order for the exhibits herein described in Document No. 11649-96 is granted. 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 Commissioner J. Terry Deason, as Prehearing Officer, this 5th day of March, 1998.



J. TERRY DEASON
Commissioner and Prehearing Officer

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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.