

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed tariff filing
by GTE Florida Incorporated to
transfer a portion of the
Sarasota exchange into the
Bradenton exchange.

DOCKET NO. 970990-TL
ORDER NO. PSC-98-0413-PHO-TL
ISSUED: March 20, 1998

Pursuant to Notice, a Prehearing Conference was held on March 13, 1998, in Tallahassee, Florida, before Commissioner Joe Garcia, as Prehearing Officer.

APPEARANCES:

Kimberly Caswell, Esquire, P.O. Box 110, FLTC0007, Tampa, Florida 33601.
On behalf of GTE Florida Incorporated.

William McGinty, D.V.M., 8325 Whiskey Pond Lane, Sarasota, Florida 34240.
On behalf of Sarasota Equine Association.

Beth Keating, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff.

PREHEARING ORDER

I. CASE BACKGROUND

On July 10, 1997, GTE Florida Incorporated (GTEFL) submitted a proposed tariff that would transfer a portion of the Sarasota exchange (Lakewood Ranch area) into the Bradenton exchange. GTE serves both exchanges. There are 26 business customers and 29 residential customers currently in the area. In proposing this transfer, GTEFL sought the ability to provide service to the Lakewood Ranch area from one exchange. GTEFL asserted that the area transfer would insure that all Lakewood Ranch area residences and businesses pay the same rates and have the same local calling scope. To expedite its request, GTEFL also filed a proposed customer information notice, survey, and ballot. GTEFL requested that the customer information notice be mailed to the affected customers one day after we issue an order on GTEFL's proposed tariff.

DOCUMENT NUMBER-DATE

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FPSC TALLAHASSEE, FLORIDA

By Order No. PSC-97-1029-FOF-TL, issued August 27, 1997, we denied GTEFL's tariff proposal, and instead, required that the 26 business customers and 29 residential customers located in the Lakewood Ranch area of the Sarasota exchange be surveyed to determine if they are in favor of moving into the Bradenton exchange.

By letter filed September 16, 1997, Dr. William J. McGinty of the Sarasota Equine Associates protested the proposed boundary change. Dr. McGinty asserted that his business would face a significant financial burden in order to change its letterhead, its office supplies, and its advertising if GTEFL's tariff were ultimately approved. As a result of this protest, this matter has been set for hearing on March 27, 1998.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall

notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

IV. ORDER OF WITNESSES

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>ISSUE NO.</u>
<u>DIRECT</u>		
Charles M. Scobie	GTEFL	All issues
<u>DIRECT/REBUTTAL</u>		
William J. McGinty	SEA	All issues

V. BASIC POSITIONS

GTEFL:

GTEFL's proposal to transfer part of the Sarasota Exchange to the Bradenton exchange is reasonable and should be put to a vote by affected subscribers. A vote is the best way to ensure the best solution for the greatest amount of people. Unfortunately, Dr. McGinty's protest in this case has delayed that vote. This is particularly troubling considering that the sole basis for the original protest-the expense of changing letterhead, office supplies, and yellow pages advertising-was rendered moot by GTEFL's explanation that the number changes would be required in Dr. McGinty's area whether or not the requested transfer occurs.

Nevertheless, GTEFL has tried to work with Dr. McGinty to ease his continuing dissatisfaction with the transfer. For instance, GTEFL proposed to provide Local Remote Call Forwarding to Dr. McGinty at no charge until the next directory publication date for the area. None of the resolutions GTEFL has offered has been deemed acceptable by Dr. McGinty.

GTEFL believes it has been more than reasonable in this case and asks only that the Commission allow the Company to put the proposed transfer to a vote as soon as possible. The best way to know if the proposed transfer is, on the whole, in the interest of affected customers is to ask them.

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SEA: SEA does not believe that this exchange is reasonable nor should it be put to vote.

STAFF:

Staff has no position at this time.

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VI. ISSUES AND POSITIONS

ISSUE 1: Would transferring a portion of the Sarasota exchange to the Bradenton exchange create unreasonable expenses for affected customers?

POSITION:

GTEFL:

GTEFL does not believe so, and would caution the Commission against accepting Dr. McGinty's concerns as representative of all or most of the affected subscribers. The only way to definitively determine whether expenses would be too unreasonable for affected customers is to ask them, by the way of a vote, if they favor the proposed transfer. If the vote had not been delayed by the protest, the Commission would already have an answer to this question.

SEA: Yes, it will create unreasonable expense. Both in increased phone expense and loss of revenue.

STAFF:

Staff has no position at this time.

ISSUE 2: Should affected customers be balloted in order to determine if they are in favor of the boundary change?

POSITION:

GTEFL:

Yes, for the reasons GTEFL described above, in response to Issue 1. The only way to determine whether the proposed transfer is in the best interest of affected customers is to ask them. The vote should be done as soon as possible.

SEA: No, the area should not be balloted. The area is largely composed of transient people who do not represent the community's interest. It would not be indicative of the future development of the area.

STAFF:

Staff has no position at this time.

VII. EXHIBIT LIST

There are no exhibits at this time.

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

The parties have reached a stipulation that the testimony of both witnesses may be inserted into the record as though read. In reaching this stipulation, the parties note that they do not waive the right to cross-examination.

IX. PENDING MOTIONS

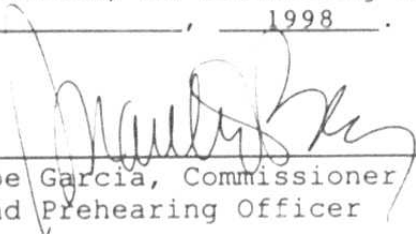
There are no pending motions at this time.

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It is therefore,

ORDERED by Commissioner Joe Garcia, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 20th day of March, 1998.



Joe Garcia, Commissioner
and Prehearing Officer

Asst. to:

(S E A L)

BK

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,

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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.