

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by GTE Florida
Incorporated for waiver of Rule
25-4.110(13), F.A.C.

DOCKET NO. 990547-TL
ORDER NO. PSC-99-1476-PAA-TL
ISSUED: July 30, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING TEMPORARY WAIVER OF RULE 25-4.110(13),
FLORIDA ADMINISTRATIVE CODE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

GTE Florida Incorporated (GTE) filed a Petition for Waiver of Rule 25-4.110(13), Florida Administrative Code, on May 3, 1999, which requires a notice regarding a service provider change to be placed on the first or second page of the customer's bill. On May 21, 1999, notice was published in the Florida Administrative Weekly that GTE was seeking a Waiver this rule. No comments were filed.

In its Petition, GTE requested waiver from the requirement that it place on the first or second page of the bill notice that a service provider of the customer's had changed. According to GTE, for the past year, it has placed a message regarding the change of service providers where the other carriers' billing and related information begins. GTE argued that simply placing the message at the front of the bill would not assure maximum effectiveness. GTE also stated that changing the placement of the carrier change notice from the other carriers' bill section to a new location would increase the likelihood of customer questions

DOCUMENT NUMBER-DATE

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FPC-RECORDS/REPORTING

and confusion. In addition, GTE argued that if it has to move the notice, the carrier change information currently provided on the bill would likely become shorter and less informative. Moreover, according to GTE, if the notice is moved, it would most likely be moved to page two of the bill, which, in GTE's opinion, is the most ignored section of the bill. Finally, GTE did not believe this notice required by the rule, accommodated the multi-line, multi-provider situation. At our July 6, 1999 Agenda Conference, GTE modified its request to state it would comply with the requirement to place notice of a service provider change on the first or second page of the customer's bill, but could not do so until March 31, 2000.

Rule 25-4.110(13), Florida Administrative Code, states:

(13) By January 1, 1999, or six months after the effective date of this rule, whichever is later, the customer must be given notice on the first or second page of the customer's next bill in conspicuous bold face type when the customer's provider of local, local toll, or toll service has changed.

The changes to Rule 25-4.110, Florida Administrative Code, were effective December 28, 1999, but the requirements of subsection (13) became effective June 28, 2000, by operation of the rule.

Rule 25-4.110, Florida Administrative Code, was recently amended as part of a rulemaking proceeding to address the problems created by companies that switched customers' telephone numbers without their authorization (slamming). Rule development for the slamming rules started in 1997 and the rules were proposed in 1998. The specific provision was added after customers testified in ten workshops around the state that they wanted some notification on the first or second page of their bill that their carrier had changed. Many customers stated that they had failed to read their bill carefully and, therefore, had not noticed the change.

The waiver being requested is in accordance with the requirements of Section 120.542, Florida Statutes. Subsection (2) provides that variance and waivers shall be granted:

When the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when

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application of a rule would create a substantial hardship or would violate principles of fairness.

We believe, GTE has demonstrated that the purpose of the rule will be achieved. In addition, we believe GTE has demonstrated economic, technological, legal or other hardship caused to it by the application of the rule; and has GTE shown that application of the rule would affect it in a significantly different manner from the way it affects other carriers. GTE stated that it would need to spend hundreds of thousands of dollars to modify its systems to allow for the change notice to print on the first or second page of the bill. In addition, GTE stated that year 2000 issues were also creating technological hardships. Further, GTE has for some time provided the information required by the rule, but the information has not been placed on the first or second page of the bill.

Upon consideration, we conclude that the purpose of the rule has been met by granting the waiver temporarily because notice is currently provided on the page where other carrier's billing and related information begins. In addition, we believe GTE should continue to provide the informative customer-provider information in its current location, however, to meet the requirements of the rule, GTE must also provide a simple sentence on the first or second page of the customer's bill stating that one of the customer's service providers has changed. Accordingly, GTE shall, by March 31, 2000, provide notice on the first or second page of the telephone bill in order to alert customers that a change in service has occurred.

Based on the foregoing, it is

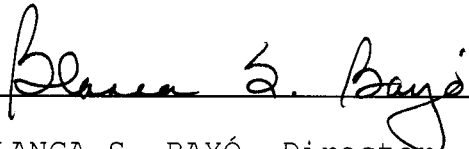
ORDERED by the Florida Public Service Commission that a temporary waiver of Rule 25-4.110(13), Florida Administrative Code, is granted to GTE Florida Incorporated until March 31, 2000. By that time, GTE Florida Incorporated's customer must be given notice on the first or second page of the customer's next bill in conspicuous boldface type when the customer's provider of local, local toll, or toll service has changed. GTE may continue to provide more complete information on service provider changes in a later portion of the bills. It is further

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ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 30th day of July, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DWC

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

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Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 20, 1999.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Date 8, 2, 99
 Number of Originals 5 Copies Per Original 19
 Requested By luth

Item Presented _____
 Agenda For (Date) _____ Order No. 99-1476 In Docket No. 990547-7
 Notice of _____ For (Date) _____ In Docket No. _____
 Other _____

Special Handling Instructions

Distribution/Mailing

Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>19</u>	<u>Commission Offices</u>		
<u>1</u>	<u>Docket Mailing List - Mailed</u>		
<u>0</u>	<u>Docket Mailing List - Faxed</u>		

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification

Job Number 22 Verified By Michael
 Date and Time Completed 8/5 Job Checked For Correctness and Quality (Initial) ll

Mail Room Verification

Date Mailed / Verified By /

M E M O R A N D U M

July 29, 1999

RECEIVED-FPSC

99 JUL 30 AM 10:39

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (CALDWELL) *own OB*
RE: DOCKET NO. 990547-TL - PETITION BY GTE FLORIDA
INCORPORATED FOR WAIVER OF RULE 25-4.110(13), F.A.C.

99-1476-PAA

Attached is an NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING
TEMPORARY WAIVER OF RULE 25-4.110(13), FLORIDA ADMINISTRATIVE CODE,
to be issued in the above-referenced docket. (Number of pages in
order - 5)

DWC/anc
Attachment
cc: Division of Communications
I: 990547or.dwc

HORAR

See 3,1