

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request of GTE Florida) DOCKET NO. 930607-TL
Incorporated for Declaratory) ORDER NO. PSC-93-1223-FOF-TL
Statement Regarding Order No.) ISSUED: August 24, 1993
PSC-93-0084-FOF-TL)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER DENYING PETITION FOR DECLARATORY STATEMENT

By the Commission:

BACKGROUND

GTE Florida Incorporated (GTEFL or the Company) filed a Petition for Declaratory Statement (Petition) on June 22, 1993. As relevant thereto, the Commission on December 21, 1992, determined that rates embodied in GTE's tariffs filed December 31, 1992 would have an effective date of January 6, 1993. Commission Order No. PSC-93-0084-FOF-TL, January 19, 1993 (order).

On December 22, 1992, GTEFL filed a Motion For Extension of Implementation Date. GTEFL therein asked that the implementation date for WATS, 800 service and Shared Tenant Service rates be made effective February 1, 1993. GTEFL explained that the request was made to reduce customer confusion and to alleviate logistical problems that customers might experience if these bulk usage rates were not implemented on the first of the month. We granted the requested extension in an Order, stating that

It is further

Ordered that GTE Florida Incorporated shall implement new rates for WATS, 800 service and Shared Tenant Services on February 1, 1993.

GTEFL's Petition appears to request a statement by this Commission that, under the facts and circumstances, GTEFL may charge for WATS, 800 and Shared Tenant Services usage under its new

DOCUMENT FILED DATE

09094 AUG 24 83

rates beginning on January 6, 1993, even though GTEFL's request for the February 1, 1993 implementation date was granted.

On July 8, 1993, Fairchild Communications Services Company (Fairchild), a shared tenant provider, filed a Petition to Intervene and Answer, noting that it disputed GTEFL's attempt to charge for usage under the new rates beginning January 6, 1993, rather than February 1, 1993, in view of the Commission's Order.

On July 23, 1993, GTEFL filed a Response In Opposition, asking that Fairchild's Petition to Intervene be denied and its Answer stricken.

DISCUSSION

Rule 25-20.021, F.A.C., states the purpose and use of a declaratory statement:

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of any statutory provision, rule or order as it does, or may, impact upon petitioner in his or her particular circumstances only. The potential impact upon petitioner's interests must be alleged in order for petitioner to show the existence of a controversy, question or doubt.

Here, there does not appear to be any controversy or doubt raised by GTEFL's petition that could be resolved by a declaratory statement. In its Motion For Extension Of Implementation Date, p.2, GTEFL noted that "changes to WATS and 800 type services and Shared Tenant Service usage rates have always been implemented on the first of the month." [e.s.] GTEFL requested that and the request was granted.

Accordingly, our extension of the implementation date from January 6, 1993 to February 1, 1993, at GTEFL's request, is devoid of controversy or doubt. Though GTEFL explains in its Petition, p.2, that its intent "was to pick a point in time to begin applying new rates on all usage appearing on bills on and after that date," that does not raise any doubt or controversy as to what was

ORDER NO. PSC-93-1223-FOF-TL
DOCKET NO. 930607-TL
PAGE 3

requested by GTEFL in its Motion or granted in our order. Moreover, in view of our denial of GTEFL's Petition for Declaratory Statement, Fairchild's Petition to Intervene is moot.

In view of the above, it is

ORDERED by the Florida Public Service Commission that GTC Florida Incorporated's Petition for Declaratory Statement is denied. It is further

ORDERED that Fairchild Communications Services Company's Petition to intervene is denied. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission this 24th day of August, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Flynn
Chief, Bureau of Records

ORDER NO. PSC-93-1223-FOF-TL
DOCKET NO. 930607-TL
PAGE 4

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.