

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation to deter- ) DOCKET NO. 920255-TL  
mine whether LEC PATS is compet- ) ORDER NO. PSC-93-1514-CFO-TL  
itive and whether LEC PATS ) ISSUED: October 14, 1993  
should be regulated differently )  
than it is currently regulated. )  
\_\_\_\_\_ )

ORDER ADDRESSING REQUEST FOR SPECIFIED CONFIDENTIAL  
CLASSIFICATION OF DOCUMENT NUMBER 11506-92

This Order addresses an unopposed request for specified confidential classification filed by GTE Florida Incorporated (GTEFL or the Company). GTEFL asserts generally that the material for which confidential classification is sought is intended to be and is treated by GTEFL as private and has not been disclosed except pursuant to agreement to maintain confidentiality.

Under Section 119.01, Florida Statutes, documents submitted to governmental agencies are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the burden of proving that the materials qualify for specified confidential classification falls upon GTEFL. According to Rule 25-22.006, GTEFL must meet this burden by demonstrating that the materials fall into one of the statutory examples set forth in Section 364.183, or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

On September 11, 1992, GTEFL filed a Notice of Intent to Seek Confidential Classification for certain information provided in response to the Florida Pay Telephone Association, Inc.'s (FPTA's) First Set of Interrogatories. Portions of these responses became Exhibit No. 38 at the hearing. Then, on October 2, 1992, GTEFL filed its Request for Confidential Classification (Request). This information is filed under Commission Document No. 11506-92.

Interrogatory 9

GTEFL requests confidential treatment of information in Interrogatory No. 9, on page 1, columns b-g, lines 2-5, which is information regarding the profitability of GTEFL's pay telephone

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operations. GTEFL argues that Section 364.183 provides that proprietary confidential business information includes "information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms." If this information were disclosed, GTEFL argues that the information would provide competitors and location agents with an unfair competitive advantage and enable them to potentially undercut GTEFL's bidding process, and would give its competitors commercially valuable information not otherwise available in the market. I agree that this information should be held confidential.

Interrogatories 32-34

GTEFL requests confidential treatment of the information in Interrogatory No. 32, page 2, columns a-c, lines 1-3, and page 3, lines 1-2; Interrogatory No. 33, page 3, lines 3-9, columns a and b; and Interrogatory No. 34, line 10. This information refers to the level of commissions GTEFL pays to its location providers. GTEFL argues that disclosure of this information would adversely affect GTEFL's ability to compete for location providers against NPATS providers. I agree that this information should be held confidential.

Interrogatory 45

GTEFL requests confidential treatment of the information in Interrogatory No. 45, lines 1-10, columns a-f, which is information regarding GTEFL's costs of providing pay telephone service broken down into individual categories such as maintenance, depreciation, advertising, commissions, etc. I agree with GTEFL that the disclosure of this information would be to the disadvantage of GTEFL and shall grant confidential treatment to the following portions of Interrogatory No. 45, which is a breakdown of GTEFL's costs of pay telephone service:

Column A, rows 1-2  
Column B, rows 1-5, and 7  
Column C, rows 1-7, and 9  
Column D, rows 1-7, and 9  
Column E, rows 1-8, and 10  
Column F, rows 1-8, and 10

Interrogatory 46

GTEFL requests confidential treatment of the information in Interrogatory No. 46, page 5, columns A-F, lines 1-15, which is revenue and expense data broken down by local, interLATA, and intraLATA revenue and expenses categories. I agree that some of this information should be held confidential because disclosure of this information could benefit NPATS providers' ability to compete with GTEFL. Accordingly, I shall grant confidential treatment to the following portions of page 5 of this response:

Column A, lines 1-2, 9-10, 15  
Column B, lines 1-3, 9-10, 15  
Column C, lines 1-3, 9-10, 15  
Column D, lines 1-2, 9-10, 15  
Column E, lines 1-3, 6-7, 9-10, 15  
Column F, lines 1-4, 6-7, 9-10, 15

Confidential treatment shall be denied for the following portions of page 5 because GTEFL's responses are simply N/A and, therefore, GTEFL will not be harmed:

Column A, lines 3-8, 11-14  
Column B, lines 4-8, 11-14  
Column C, lines 4-8, 11-14  
Column D, lines 3-8, 11-14  
Column E, lines 4-5, 8, 11, 14  
Column F, lines 5, 8, 11, 14

I shall grant confidential treatment to the information in Interrogatory No. 46, on page 6, columns c-f, line 1, because this information represents GTEFL's total revenue for providing service to non-company pay telephones. However, confidential treatment for the information on page 6, columns a-b, line 1, and column a-f, line 2, shall be denied because these responses were also N/A and, therefore, would not harm GTEFL.

Interrogatory 47

GTEFL requests confidential treatment of the information in Interrogatory No. 47, lines 3-7, which pertains to call volumes broken down by call type; i.e., local 0+, 0-, 0+ intraLATA, etc. GTEFL argues that knowledge of this information could benefit NPATS providers in determining the levels of commission payments to

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location providers. I agree that disclosure of this information would be to the disadvantage of GTEFL and shall grant confidential treatment to this information.

Interrogatory 48

Interrogatory No. 48, page 7, was not highlighted in the confidential version of this filing; however, a redacted version of Interrogatory No. 48 was included with the complete set of redacted responses. The information at issue is GTEFL's revenues, operating expenses, net income, investment, and rate of return for pay telephone operations. I shall grant confidential treatment to this information because it could be used to the benefit of NPATS providers when marketing to location providers. It is obvious to me that the company intended to include this data in its Request and that the data is of the same type discussed above. Accordingly, page 7, lines 1-5, columns A-F, shall be held confidential as well.

Based on the foregoing, it is

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that GTE Florida Incorporated's October 2, 1992, Request for Specified Confidential Classification of Document No. 11506-92 is hereby granted in part and denied in part. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the 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.

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By ORDER of Chairman J. Terry Deason, as Prehearing Officer,  
this 14th day of October, 1993.

  
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J. TERRY DEASON, Chairman and  
Prehearing Officer

( S E A L )

ABG/AQP

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, 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.