

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Generic investigation ) DOCKET NO. 930485-TL  
into the proper regulatory ) ORDER NO. PSC-94-0968-PCO-TL  
treatment of inside wire. ) ISSUED: August 10, 1994

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ORDER DENYING MOTION TO ACCEPT LATE-FILED DIRECT TESTIMONY

On July 22, 1994, The Florida Cable Television Association, Inc. (FCTA) filed its Motion to Accept Late-Filed Direct Testimony of Joseph P. Cresse along with the Direct Testimony of Mr. Cresse. By Order No. PSC-0538-PSC-TL, issued May 9, 1994, the Order Establishing Procedure in this case, the parties were put on notice that direct and rebuttal testimony were due on June 6 and July 8, 1994, respectively. By its motion, FCTA asks that the testimony, filed 46 days after direct testimony was due, be accepted.

In support of its motion, FCTA states that Mr. Creese's testimony was prepared after determining that the testimony filed by the other parties had not adequately proposed a regulatory treatment of simple inside wiring services. FCTA submits that the other parties in this docket are not and should not be prejudiced by granting this motion, and states that it agrees to respond to reasonable discovery requests on an expedited basis and will immediately make the witness available for deposition.

On August 1, 1994, BellSouth Telecommunication, Inc., d/b/a Southern Bell Telephone and Telegraph Company, responded to FCTA's motion stating that it disagrees with FCTA's assertion that no party would be prejudiced by the late filed testimony and arguing that no party should be forced to undergo the burden of responding to FCTA's testimony on an expedited basis. GTE Florida Incorporated also filed a pleading in opposition to FCTA's motion on August 1, 1994, stating that the late filed testimony, if accepted, will severely prejudice GTE and the other parties. GTE concluded that it cannot, in the short time remaining, prepare a well-considered and thorough response to each point in FCTA's proposal.

FCTA's Motion to Accept Late Filed Testimony of Joseph P. Cresse is hereby denied. The motion does not state adequate grounds upon which to accept the testimony at such a late date. Furthermore, the other parties to this proceeding would be prejudiced by such late-filed testimony because they would not be given adequate opportunity to respond prior to the hearing.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. PSC-94-0968-PCO-TL  
DOCKET NO. 930485-TL  
PAGE 2

Based on the foregoing, it is

ORDERED that the Motion to Accept Late-Filed Direct Testimony of Joseph P. Cresse is hereby denied and said Direct Testimony is stricken.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 10th day of August, 1994.

  
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DIANE K. KIESLING, Commissioner and  
Prehearing Officer

( S E A L )

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ORDER NO. PSC-94-0968-PCO-TL  
DOCKET NO. 930485-TL  
PAGE 3

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.