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June 3, 1996

Ms. Blanca Bayo, Director  
Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Dear Ms. Bayo:

Re: Docket No. 960356-TL  
GTE Florida Incorporated's Request for Confidential Classification of  
Quarterly Report Schedules 1, 8 and 20

Please find enclosed for filing an original and fifteen copies of GTE Florida Incorporated's Petition for Reconsideration in the above-referenced matter. Service has been made as indicated on the Certificate of Service. If you have any questions, please contact me at (813) 228-3087.

- AGK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CTF \_\_\_\_\_
- CMH \_\_\_\_\_
- CTZ \_\_\_\_\_
- EIS \_\_\_\_\_
- LEI \_\_\_\_\_
- LI \_\_\_\_\_
- CTE \_\_\_\_\_
- ROA \_\_\_\_\_
- SEI \_\_\_\_\_
- WIS \_\_\_\_\_
- CTH \_\_\_\_\_

Very truly yours,

*Anthony P. Gillman*

Anthony P. Gillman

APG:tas  
Enclosures

A part of GTE Corporation

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*LCW*  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

06083 JUN-3 1996

FPSC-RECORDS/REPORTING

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Request for Confidential Classification )  
of Periodic Report Schedules 1, 8, and 20 by )  
GTE Florida Incorporated )  
\_\_\_\_\_ )

Docket No. 960356-TL  
Filed: June 3, 1996

**GTE FLORIDA INCORPORATED'S PETITION FOR RECONSIDERATION**

GTE Florida Incorporated (GTEFL) seeks reconsideration of Commission Order number PSC-96-0673-CFO-TL (Order), issued May 22, 1996 in this proceeding. That Order denies confidential classification for detailed access line statistics by exchange and service classification. GTEFL submitted this information, included in its periodically filed Schedules 8, 20, and 1, on January 31, 1996, along with a request for confidential classification. The Order denied GTEFL's request based on the reasoning that these data are already available or may be derived from other sources. (Order at 3.) GTEFL respectfully points out that this finding is unsupported and incorrect. In any case, the Commission failed to consider statutory changes that render a Commission grant of confidential classification unnecessary to protect the reports at issue from public disclosure.

The schedules at issue fit squarely within the statutory definition of proprietary confidential business information, which is:

information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

Fla. Stat. ch. 364.183(3).

The Order does not take issue with the competitively sensitive nature of GTEFL's schedules. Indeed, the Commission agrees that "the data can be used to target high access line/traffic geographic areas," (Order at 2), and that "GTE's argument has merit." (Order at 3.) Nevertheless, the Order concludes that GTEFL's access line schedules cannot now be subject to a claim of confidentiality because this information has already been released to the public. (Order at 2-3.) This is incorrect.

GTEFL has never publicly disclosed the specific information contained in its Schedules 1, 8, and 20, submitted in January. It is true that GTEFL has publicly filed this type of information in the past, before authorization of local competition. But that is not sufficient reason to deny protection to the specific Schedules at issue. Because they are quarterly and annual filings, they are, by definition, new documents, never before submitted to the Commission. Under section 364.183 and the Commission's rules, the Commission must look at the character of the specific information for which confidentiality is claimed. If it is valuable to competitors--as the Commission has admitted it is--and the Company has not disclosed it, it must be granted confidential protection. There is no statutory or regulatory basis for the Commission to assess the degree of change from previous periodic filings of the same type and, at some point, decide the change from those past filings has been great enough that confidential protection is now warranted.

Likewise, the fact that "similar" access line information may be available from sources other than GTEFL's filings is irrelevant to the confidentiality analysis. The same information that GTEFL has compiled is not available anywhere, and the Order never says that it is. Again, as explained above, the Commission is obliged to consider the exact

information before it—not whether a competitor could derive similar information “to varying degrees and depending upon the resources a company is willing to expend.” (Order at 2.) Indeed, the cost and effort of duplicating information has been often recognized by this Commission as a basis for granting confidential protection to things such as market research and cost models. A competitor could likely compile the same information or devise the same formulas if it spent enough time and money to do so. But that is the very point. In a fair and open marketplace, companies are expected to use their own resources to do their own market research and investigation. They do not have competitively useful information handed to them, neatly packaged. When this occurs through the regulatory process, as it will if the Commission fails to reconsider its Order, it is an enormous disadvantage to the Company compelled to file the information with the regulator.

In any case, GTEFL disagrees with the Order’s finding that competitors could derive substantially the same information from public sources, such as telephone directories, the annual County Comparison Report, and the Florida Telephone Association’s annual membership directory. None of these sources, or any others of which GTEFL is aware, contain the detailed breakdowns by exchange and class and grade of service that its filings with the Commission do. None of these resources are updated quarterly, as GTEFL’s access line filings are. Further, even slight variations in the way access line statistics are formatted could yield meaningful data to a competitor. Neither GTEFL nor the Commission can anticipate all the potential uses a competitor could make of this information.



Even while declining to grant confidential protection to GTEFL's access line data, the Order states that "[t]he time will come when all participants in a competitive marketplace must treat this information in a proprietary manner." The Order concludes, however, that the transition to competition is not sufficiently far along to grant confidential classification to GTEFL's Schedules. This conclusion makes no sense even under the Commission's own logic. As noted above, the Order openly acknowledges the competitive value of the information at issue. The Commission is not permitted to assess the degree of harm the information might do. Any potential impairment of "the competitive business of the provider of the information" will trigger confidential classification under the statute. Section 364.183(3)(e).

Even if the Commission did have the authority to make judgments about degree of competitive harm, and even if such fine assessments were objectively possible, it is wrong in concluding that it is too early to deviate from Commission policy of requiring such data to be publicly filed. The existing Commission policy was devised under a traditional scheme of rate-base regulation, under which local competition was not permitted. Last year's revisions to Chapter 364 radically altered that scheme by authorizing full local competition. Access line information was not competitively sensitive only because no competition could occur in the local arena. Because that has changed, the competitive sensitivity of the information has changed. Over thirty-two entities have been certified as ALECs, and GTEFL is currently negotiating with ten of these ALECs. All of these ALECs can make use of LEC access line data now to help ensure their successful entry and/or expansion in particular geographical and service segments. The information will not

suddenly become valuable only when GTEFL has lost some unspecified portion of its market. Public disclosure of these data through the regulatory process will hinder the efficient functioning of the marketplace, because such disclosure can itself contribute to loss of market share. This result is ultimately detrimental to the consumer, who will never obtain maximum benefits from a marketplace where some competitors are artificially disadvantaged.

In any case, GTEFL is not required to seek a Commission order to obtain confidential protection for routinely filed reports it claims to be confidential. Section 364.183(1) addresses confidential treatment for records and reports the Commission may require a telecommunications company to file. It states that this information "shall" be kept confidential upon request of the company. Commission rules confirm that nothing more than a claim of confidentiality is required to protect such records from disclosure. Commission Rule 25-22.006(5)(a). A request for confidential classification would only become necessary if the material is to be submitted into evidence in some way. F.A.C. Rule 25-22.006(8). That is not the case here.

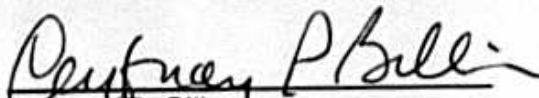
Despite the clarity of the statute, GTEFL submitted a request for confidential classification because the Commission had not yet issued its rules implementing the statutory changes and because GTEFL understood that the Commission's Legal Staff preferred to operate under the existing rules in the interim. The new confidentiality rules became final after GTEFL's request was filed, but before the Commission ruled on it. (See Order No. PSC-96-0218-NOR-PU, issued Feb. 15, 1996, in Docket 951563-PU.) The abundance of caution that motivated GTEFL's request for confidential classification in this

case is no longer warranted, since the Commission has explicitly recognized that it no longer need rule on the confidentiality of routinely filed company reports.

Nevertheless, GTEFL believes it is important for the Commission to declare that its policy denying confidentiality to heretofore "monopoly" information is outdated. The time for a policy change regarding this kind of newly confidential data is now, not when the release of this information has already harmed the incumbent LECs. This result would be contrary to section 364.183 and sound public policy.

For the reasons discussed in this filing, GTEFL asks the Commission to reconsider its order denying confidential protection for GTEFL's Schedules 1, 8, and 20, and to confirm that these documents are entitled to confidential classification.

Respectfully submitted on June 3, 1996.



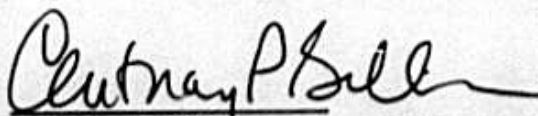
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Attorneys for GTE Florida Incorporated

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of GTE Florida Incorporated's Petition for Reconsideration in Docket No. 960356-TL was hand-delivered on June 3, 1996 to:

Staff Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

  
Anthony P. Gillman