

ORIGINAL
FILE COPY



Marcell Morrell**
Vice President & General Counsel - Florida

Associate General Counsel
Anthony P. Gillman**
Leslie Reich Stein*

Attorneys*
Kimberly Caswell
M. Eric Edgington
Ernesto Mayor, Jr.

* Licensed in Florida
** Certified in Florida as Authorized House Counsel

GTE Telephone Operations

One Tampa City Center
201 North Franklin Street, FLTC0007
Post Office Box 110
Tampa, Florida 33601
813-483-2606
813-204-8870 (Facsimile)

July 7, 1997

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

Re: Docket No. 970503-TP
Generic consideration of incumbent local exchange (ILEC) business
office practices and tariff provisions in the implementation of intraLATA
presubscription

Dear Ms. Bayo:

ACK Please find enclosed an original and fifteen copies of GTE Florida Incorporated's
AFA Protest for filing in the above matter. Service has been made as indicated on the
APP Certificate of Service. If there are any questions regarding this matter, please contact
me at (813) 483-2617.

CAF
CIV
CIR
EAS
L
M
N
O
P
R
S
T
U
V
W
X
Y
Z
Very truly yours,

Kimberly Caswell
Kimberly Caswell

KC:tas
Enclosures

RECEIVED & FILED

JUL 25 1997

EPSC-BUREAU OF RECORDS

DOCUMENT NUMBER DATE

88811 JUL-7 97

WAS
OTH A part of GTE Corporation

PRINTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Generic consideration of incumbent)	Docket No. 970526-TP
local exchange (ILEC) business office)	Filed: July 7, 1997
practices and tariff provisions in the)	
implementation of intraLATA presubscription)	
<hr/>)	

GTE FLORIDA INCORPORATED'S PROTEST

On June 13, 1997, this Commission issued Order number PSC-97-0709-FOF-TP (June 13 Order), which seeks to impose upon GTE Florida Incorporated (GTEFL) and other incumbent local exchange carriers (ILECs) the terms of another order resolving a complaint about the intraLATA business office practices of BellSouth Telecommunications, Inc. (BellSouth). (Order number PSC-96-1569-FOF-TP, Dec. 23, 1996.) GTEFL became aware of this proposed agency action when it received the June 13 Order from the Commission in the mail shortly after it was issued. In accordance with Commission Rules 25-22.029(4) and 25-22.036(7)(a) and (f), this is GTEFL's protest of the June 13 Order and GTEFL's request for formal proceedings and a hearing under section 120.57 of the Florida Statutes. The Order affects GTEFL's substantial interests because it would, if finally adopted, impose new regulatory obligations upon GTEFL and require changes in GTEFL's operations.

The June 13 Order summarizes the evidence and findings in the BellSouth complaint proceeding, then applies those findings to GTEFL and others. There was never any complaint against GTEFL, and there is no evidence in this or any other docket about GTEFL's intraLATA business office practices. GTEFL never received any notice that the Commission would eventually apply the rulings in the BellSouth case to GTEFL, nor did

DOCUMENT NUMBER-DATE

06811 JUL-75

FPSC RECORDS/REPORTING

GTEFL have any reason to believe that this would occur. If the Commission intended to address these issues generically, it was obliged to make GTEFL and the other affected ILECs parties to the BellSouth case long before it was decided.

The June 13 Order candidly reflects that all of its findings and conclusions are based only on evidence specific to BellSouth. There has been no attempt to find any facts with regard to GTEFL's own intraLATA business practices or tariffs. If there had been, the Commission would have found that GTEFL already complies with some of the conditions imposed upon BellSouth, and that there is, in any event, no reason to change any of GTEFL's intraLATA business office practices. Instead, the Commission has concluded that GTEFL's intraLATA practices are unreasonable without even knowing what they are or giving GTEFL any opportunity to explain or defend them. Thus, GTEFL disputes every issue of material fact that underlies the obligations imposed upon GTEFL in the June 13 Order.

It is self-evident that the Commission cannot use evidence adduced in one proceeding as a basis for decision in another, wholly separate proceeding concerning different parties. Because this is exactly what the June 13 Order purports to do, it is patently arbitrary and capricious and violates GTEFL's procedural and substantive due process rights under the Florida and United States Constitutions.

Indeed, GTEFL believes the Commission knows that it cannot lawfully impose the terms of the BellSouth complaint resolution upon GTEFL. But, based on statements at the agenda conference adopting the proposed action, the Commission believes that GTEFL's ability to protest the Order will cure these concerns. While GTEFL does not agree with

this legal analysis, the fundamental point remains that the Commission has recognized that GTEFL is entitled to a hearing and a decision on the merits of the evidence and issues presented in that hearing.

Because there has been no complaint filed against GTEFL, and because there is no evidence that GTEFL's intraLATA practices are in any way impermissible, unreasonable, or contrary to the public interest, there is no reason to pursue this docket any further. The Commission should close the docket without the June 13 Order ever becoming final. If, however, the Commission wishes to gather evidence about GTEFL's intraLATA practices, GTEFL requests a hearing and formal, section 120.57 proceeding. This proceeding will prove that GTEFL's practices and tariffs are already competitively neutral and that they should not be changed.

Respectfully submitted on July 7, 1997.

By:



Kimberly Caswell

Anthony Gillman

Post Office Box 110, FLTC0007

Tampa, Florida 33601

Telephone: 813-483-2617

Attorneys for GTE Florida Incorporated

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of GTE Florida Incorporated's Protest
in Docket No. 970526-TP were sent via U.S. mail on July 7, 1997, to the parties
on the attached list.


Kimberly Castwell

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

Jennifer Burns
BellSouth Telecommunications
34501 BellSouth Center
675 W. Peachtree St., N.E.
Atlanta, GA 30375

Joseph McGlothlin
McWhirter Reeves
117 S. Gadsden Street
Tallahassee, FL 32301

Bettye J. Willis
ALLTEL Telephone Services
P. O. Box 2177
One Allied Drive, Bldg. 4, 4N
Little Rock, AR 72202

Richard D. Nelson
Hopping Boyd Green Sams
P.O. Box 6526
Tallahassee, FL 32314

Brian Sulmonetti
Worldcom Inc.
1515 S. Federal Highway, Ste. 400
Boca Raton, FL 33432

Tom McCabe
Quincy Tel. Co.
P. O. Box 189
Quincy, FL 32353-0189

Lynne G. Brewer
Northeast Fla. Tel. Co.
P. O. Box 485
130 N. Fourth Street
Macclenny, FL 32063-0485

Carolyn Marek
Time Warner Communications
P. O. Box 210706
Nashville, TN 37221

Nancy Sims
BellSouth Telecommunications
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301

Marsha Rule/Doris Franklin
AT&T Communications Inc.
101 N. Monroe, Suite 700
Tallahassee, FL 32301

Jeff Wahlen
Ausley & McMullen
P. O. Box 391
Tallahassee, FL 32302

Robert Scheffel Wright
Landers & Parsons, P.A.
P. O. Box 271
Tallahassee, FL 32302

Sandy Khazraee
Sprint-Florida, Inc.
1313 Blair Stone Road, MC 2565
Tallahassee, FL 32311

Harriet Eudy
ALLTEL Florida, Inc.
206 White Avenue
Live Oak, FL 32060

Kelly Goodnight
Frontier Comm. of the South
180 S. Clinton Avenue
Rochester, NY 14646

Bob Cohen
Pennington Law Firm
P. O. Box 10095
Tallahassee, FL 32302-2095

Nancy B. White
BellSouth Telecommunications
150 W. Flagler St., Room 1910
Miami, FL 33130

Earl Poucher
Office of Public Counsel
111 W. Madison St., Room 812
Tallahassee, FL 32399-1400

David Swafford
Pennington Law Firm
P. O. Box 10095
Tallahassee, FL 32302-2095

Tom Bond
MCI Telecomm. Corp.
780 Johnson Ferry Rd., Suite 700
Atlanta, GA 30342

Mark Herron
Akerman, Senterfitt & Eidson
P. O. Box 10555
Tallahassee, FL 32302-2555

Steve Brown
Intermedia Communications
3825 Queen Palm Drive
Tampa, FL 33619

Ben Fincher
Sprint Comm. Co.
3100 Cumberland Circle
Atlanta, GA 30339

Lyndia Bordelon
St. Joseph, Gulf & Florida Tel. Cos.
P. O. Box 220
Port St. Joe, FL 32457