

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by MCI
Telecommunications Corporation
against GTE Florida Incorporated
regarding anti-competitive
practices related to excessive
intrastate switched access
pricing.

DOCKET NO. 970841-TP
ORDER NO. PSC-97-1126-PCO-TP
ISSUED: September 25, 1997

ORDER GRANTING REQUEST FOR CONTINUANCE OF STAFF WORKSHOP
AND MODIFYING PROCEDURAL SCHEDULE

On July 9, 1997, MCI Telecommunications Corporation (MCI) filed a Complaint Against GTE Florida Incorporated (GTEFL). In its Complaint, MCI asserts that GTEFL is deliberately engaging in the anticompetitive practice of charging excessive intrastate switched access rates which it uses to support discounts for its intraLATA toll and vertical services, and to subsidize its long distance affiliate in the competitive interLATA, interexchange market. GTEFL filed a Motion to Dismiss the Complaint on July 29, 1997. MCI filed a memorandum in response to the motion on August 11, 1997.

By Order No. PSC-97-1010-PCO-TP, issued on August 25, 1997, the Florida Competitive Carriers Association (FCCA) was allowed to intervene in this docket. This matter has been set for hearing January 21, 1998.

Order No. PSC-97-1040-PCO-TP, issued September 2, 1997, set forth the controlling dates for this docket. In addition, a Case Assignment and Scheduling Record (CASR) was filed by Commission staff. That CASR established September 26, 1997, as the date for a staff issues identification workshop.

On September 8, 1997, GTEFL filed a request for a continuance of the staff issues identification workshop until after the Commission has made a determination on GTEFL's Motion to Dismiss. In its request, GTEFL asserts that holding an issues identification workshop before the Commission rules on the motion to dismiss is unnecessary and inefficient. GTEFL argues that if the Commission

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ultimately grants GTEFL's motion to dismiss, the workshop will have been unnecessary. GTEFL also argues that even if the Commission were to deny the motion to dismiss, parties and staff would have to engage in other issues identification workshops because, at this point, it is unlikely that the parties could possibly agree on a list of issues. Thus, GTEFL argues that the Commission's ruling on the motion to dismiss is essentially a prerequisite to the identification of issues to be resolved in this docket.

On September 19, 1997, MCI filed its Response to GTEFL's request for a continuance. MCI opposes the continuance and argues that if the issues identification workshop is held after the Commission's decision on the motion to dismiss, which is tentatively scheduled to be addressed at our October 21, 1997, Agenda Conference, MCI will then have only a few days before it must file its direct testimony on those issues. MCI's direct testimony is due to be filed October 24, 1997. Furthermore, MCI asserts that it would serve no useful purpose to postpone the issues identification workshop.

On September 19, 1997, FCCA also filed a Response to GTEFL's motion. In its response, FCCA opposes the continuance and joins in MCI's objections to GTEFL's request.

Upon consideration, GTEFL's Request for Continuance of the Issues Identification Workshop is granted. Because the Motion to Dismiss is scheduled to be addressed by the Commission in the near future, it seems appropriate to postpone the issues identification workshop pending our decision. This will avoid any unnecessary confusion and delay in this docket. Commission staff shall reschedule the Issues Identification Workshop depending upon the Commission's decision on GTEFL's Motion to Dismiss. In view of the fact that the date by which MCI must file its direct testimony is fast approaching, the testimony dates set forth in the Order Establishing Procedure, Order No. PSC-97-1040-PCO-TP, shall be modified as follows:

- 1) Petitioner's direct testimony and exhibits November 7, 1997
- 2) Respondent's, Intervenor's and Staff's direct testimony and exhibits, if any November 19, 1997

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Based on the foregoing, it is therefore

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that GTE Florida Incorporated's Request for Continuance of Issues Identification Workshop is granted. It is further

ORDERED that the controlling dates set forth in Order No. PSC-97-1040-PCO-TP are modified as set forth herein. It is further

ORDERED that Order No. PSC-97-1040-PCO-TP is reaffirmed in all other respects.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 25th Day of September, 1997.


SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

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Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, 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.