

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by AT&T
Communications of the Southern
States, Inc. for arbitration of
certain terms and conditions of
a proposed agreement with GTE
Florida Incorporated concerning
interconnection and resale under
the Telecommunications Act of
1996.

DOCKET NO. 960847-TP
ORDER NO. PSC-98-0352-CFO-TP
ISSUED: March 3, 1998

ORDER GRANTING GTE FLORIDA INCORPORATED'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION AND MOTION FOR PROTECTIVE ORDER
FOR DOCUMENT NO.12535-96 (CROSS-REFERENCE 10609-96)

BY THE COMMISSION:

Pursuant to Rule 25-22.006(4), Florida Administrative Code, GTE Florida Incorporated (GTEFL or the company) requested confidential treatment for certain information contained in the deposition transcripts of Bert Steele and Dennis Trimble on behalf of GTEFL.

Documents submitted to governmental agencies in Florida are public records. The only exceptions are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4), Florida Administrative Code, provides that it is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 364.183, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the company or its ratepayers harm.

DOCUMENT NUMBER-DATE

02813 MAR-3 88

FPSC-RECORDS/REPORTING

Section 364.183(3), Florida Statutes, provides the following definition for proprietary confidential business information.

The term 'proprietary confidential business information' means 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 unless 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. The term includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

Rule 25-22.006(4)(c), Florida Administrative Code, requires that the company demonstrate by a line-by-line or field-by-field justification how the information asserted to be confidential qualifies as one of the statutory examples listed in Section 364.183(3), Florida Statutes. If no statutory example is applicable, then the company shall include a statement explaining how the ratepayers or the company's operations will be harmed by disclosure. Rule 25-22.006 (6)(a), Florida Administrative Code,

ORDER NO. PSC-98-0352-CFO-TP
DOCKET NO. 960847-TP
PAGE 3

provides that in any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery.

The information for which GTEFL is seeking confidential classification is documented in Attachment A. The company describes the information discussed in the deposition as appearing in cost studies and supporting work papers. Specifically, the information addresses the company's unbundled loop costs components. GTEFL contends that this information could be used by competitors to develop entry and marketing strategies. GTEFL further argues that this information could be used to the company's detriment. The company believes that disclosure of the information would distort the market since competitors would garner competitive information not as a result of market forces but because of a regulatory proceeding.

GTEFL's arguments are persuasive. Upon review of the information it appears to be information that falls within the definition of confidential business information in Section 364.183(3)(e), Florida Statutes. This is information that may be of interest to a competitor. Because it is information that may be of interest to a competitor, granting confidential treatment is appropriate. The company's request for confidential clarification and motion for protective order are therefore granted.

Based upon the foregoing, it is

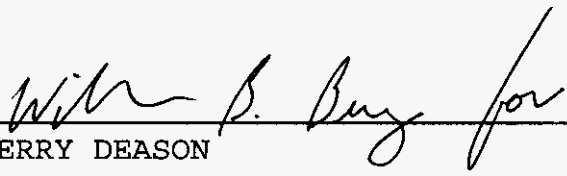
ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that GTE Florida Incorporated's Request for Confidential Classification and Motion for Protective Order for Document No. 12535-96 (cross-reference 10609-96) are granted. It is further

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

ORDER NO. PSC-98-0352-CFO-TP
DOCKET NO. 960847-TP
PAGE 4

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 2nd day of March, 1998.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

AED

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.

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

ORDER NO. PSC-98-0352-CFO-TP
DOCKET NO. 960847-TP
PAGE 5

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.

Exhibit C
Page 1 of 4

<u>Page(s)</u>	<u>Line(s)</u>	<u>Justification</u>
20	8, 9, 12, 19, 24, 25	<p>The following justification applies to all of Exhibit C:</p> <p>Unbundled loop costs components and inputs. As stated in the accompanying filing, public disclosure of this detailed cost information, including network assumptions underlying specific cost calculations, would permit GTEFL's competitors to tailor their pricing, entry, and marketing strategies to compete successfully with GTEFL, without the usual marketplace trial and error. Competitors would know, for example, where GTEFL is most vulnerable in its cost structure, how to best structure their own non-facilities and facilities-based operations to compete with GTEFL, and how much they can undercut GTEFL's prices while remaining profitable. These are only a few of the uses to which competitors can put this information; disclosure of sensitive information about an entity in a competitive market is sure to be used in creative ways that GTEFL cannot even anticipate. It will give competitors an unfair advantage and disrupt the competitive process, to the ultimate detriment of competitors. Government should avoid sanctioning such effects through disclosure of confidential information in the regulatory process.</p>
21	2, 5, 7, 8, 12, 13, 14, 15, 20, 22	
23	18, 19, 23	

Exhibit C
Page 2 of 4

<u>Page(s)</u>	<u>Line(s)</u>	<u>Justification</u>
26	4-9, 11	
35	13, 17-19, 24	
36	24-25	
37	9, 11, 15, 17-18	
38	12, 14, 22, 24-25	
39	1-4	
41	4-5, 13, 14, 16	
42	17, 20-22	
43	5	
44	3, 5-6	
45	14, 16	
47	10-12	
48	11, 14	
59	7, 15	
63	25	
67	3, 4, 6, 7, 13, 14, 15, 23	
68	22	
70	7, 11, 12	
71	7, 9, 12, 14, 18	
74	23	

Exhibit C
Page 3 of 4

<u>Page(s)</u>	<u>Line(s)</u>	<u>Justification</u>
75	1, 14	
79	6, 7, 9	
80	17, 20	
81	7-9, 19	
85	22	
87	5, 11, 13, 20	
91	6, 8	
92	14	
93	20	
106	21-22	
108	15	
110	4	
111	13	
112	18	
113	8	
115	5, 11, 19	
116	15, 19, 20	
117	1, 5, 7, 8, 9, 11, 16, 24	
118	18	
119	17-18	

<u>Page(s)</u>	<u>Line(s)</u>	<u>Justification</u>
122	15	
127	24	