

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed tariff filing) DOCKET NO. 910179-TL
to introduce extended calling) ORDER NO. PSC-92-0709-CFP-TL
service (ECS) plan which allows) ISSUED: 07/28/92
the conversion of intraLATA toll)
routes between exchanges of)
Tampa, Clearwater, Tarpon)
Springs and St. Petersburg to)
7-digit local measured service)
by GTE FLORIDA INCORPORATED.)

ORDER ACKNOWLEDGING DECLASSIFICATION OF DOCUMENT
NO. 6627-91 AND GRANTING IN PART AND DENYING
IN PART REQUESTS FOR CONFIDENTIAL TREATMENT OF
DOCUMENTS NOS. 7402-91, 7899-91, AND 8520-91

I. Introduction

This docket was initiated in response to a filing by GTE Florida Incorporated (GTEFL or the Company) which proposed offering its Extended Calling Service (ECS) plan in four exchanges. By Order No. 25708, issued February 11, 1992, we approved GTEFL's proposal, with several modifications. Two orders disposing of motions for reconsideration have been issued since that time.

During the course of this proceeding, GTEFL filed three Requests for Specified Confidential Treatment: Request filed July 22, 1991, regarding Commission Document No. 7402-91; Request filed August 5, 1991, regarding Commission Document No. 7899-91; and Request filed September 16, 1991, regarding Commission Document No. 8520-91. Each of these requests will be discussed separately below.

Florida law provides, in Section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. This law derives from the concept that government should operate in the "sunshine." The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Accordingly, pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, it is the Company's burden to show that the material submitted is qualified for specified confidential classification. Rule 25-22.006 provides that the Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set forth in

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Section 364.183 or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

II. Documents Nos. 6627-91 and 7402-91

On July 1, 1991, the Florida Interexchange Carriers Association (FIXCA) filed with this Commission the direct testimony of Joseph P. Gillan. Because this testimony contained certain information deemed to be proprietary by GTEFL, the Company submitted a Notice of Intent to Seek Confidential Classification simultaneously with the filing of Mr. Gillan's testimony. The testimony was assigned Commission Document No. 6627-91. On July 8, 1991, GTEFL filed a Motion for Temporary Protective Order so that the Office of Public Counsel (OPC) could take possession of an unredacted copy of Mr. Gillan's testimony.

On July 22, 1991, GTEFL submitted a Notice of Declassification of certain portions of the information contained in Mr. Gillan's direct testimony. By way of this notice, the Company declassified all of the written testimony itself, and only continued to assert confidentiality for portions of Mr. Gillan's Exhibits Nos. 2 and 3. For these Exhibits, the Company filed a Request for Confidential Classification and Motion for Permanent Protective Order (Request) on the same date. In its Request, the Company asserts that information in three specific categories should be granted confidentiality. Along with the Request, GTEFL refiled the exhibits (JPG-2 and JPG-3) as a separate document, which has been assigned Commission Document No. 7402-91. On July 29, 1991, OPC filed a Response and Opposition to GTEFL's Request (Response). In its Response, OPC urges that we reject GTEFL's request for two of the three categories asserted to be confidential.

The data in JPG-2 for which GTEFL has requested confidential treatment consists of GTEFL's projected returns on equity (ROE) under various assumptions. JPG-3 contains two types of data asserted to be confidential: minutes-of-use and revenue data by type of toll service; and estimates of demand elasticity. This information is summarized in Appendix A to this Order. Appendix A also includes the rulings which are set forth in detail below.

The first category of information for which GTEFL seeks confidential treatment is ROE projections for the Company on an intrastate basis. GTEFL argues that these projections are based on

old planning data which does not reflect current conditions. The Company claims that these figures are incorrect, misleading, and out of date. GTEFL further claims that projected returns should be treated confidentially because the Company is under certain obligations with regard to various securities laws concerning the public disclosure of financial projections. Since release of such "misleading" figures might impact the market price of GTE stock and GTEFL's preferred stock and bonds, the Company would be forced to update the forecasts so that the investing public would not be misled, a process the Company describes as unduly burdensome, expensive, and time-consuming.

OPC's Response urges that the Company's Request be denied for this category of information. OPC states that the same arguments were raised by Southern Bell Telephone and Telegraph Company (Southern Bell) in Docket No. 880069-TL, where they were rejected, and that we should do the same here. I agree. I believe that the potential harm asserted by the Company is speculative, at best, particularly given the context in which the information appears. Accordingly, the Company's Request shall be denied for this category of information.

The second category of information for which GTEFL seeks confidential treatment is minutes-of-use data and the corresponding revenue, by toll service, which the Company asserts is competitively valuable information. The Company states that such information is a trade secret and should only be obtained by a competitor through that competitor's own market research. GTEFL intends the information to be private and has treated it as such in its operations. OPC has not opposed the Company's Request.

Upon review, I find that the Company has met its burden, and that the information in category two should be protected. If this information was made readily available, it would afford GTEFL's competitors an unfair advantage. Accordingly, the Company's Request shall be granted for this category of information.

The third category of information for which GTEFL seeks confidential treatment consists of two estimates of price elasticity. The Company asserts that this information is a trade secret which, if disclosed, would make known to competitors the Company's assessment of price changes on customer demand. However, as OPC points out in its Response, the elasticity of demand for toll services was discussed extensively during hearings held in Docket No. 880069-TL, where the information was not deemed to be

confidential. I believe that the same treatment should be applied here. Accordingly, the Company's Request shall be denied for this category of information.

Finally, I find it appropriate to acknowledge the Company's declassification of all of the information contained in Mr. Gillan's testimony, with the exception of certain specific information contained in Exhibits JPG-2 and JPG-3, as set forth above.

III. Document No. 7899-91

On June 10, 1991, the Florida Public Service Commission Staff (Staff) propounded its First Set of Interrogatories to GTEFL. On July 15, 1991, GTEFL filed its responses to Staff's interrogatories, along with a Notice of Intent to Seek Confidential Classification of certain limited material responsive to these interrogatories. This set of responses was assigned Commission Document No. 7141-91.

On August 5, 1991, the Company filed a Request for Confidential Classification and Motion for Permanent Protective Order (Request). In its Request, the Company asserts that information in four specific categories should be granted confidentiality. Along with the Request, GTEFL refiled the interrogatory responses asserted to be confidential as a separate document, which has been assigned Commission Document No. 7899-91. The Company's Request relative to this document has not been opposed by any party to the docket.

The data in the interrogatory responses for which GTEFL has requested confidential treatment is broken into four categories by the Company. Categories one and three contain specific toll route information; category two contains switching costs; and category four contains cost model data. This information is summarized in Appendix B to this Order. Appendix B also includes the rulings which are set forth in detail below.

The first category of information for which GTEFL seeks confidential treatment concerns specific originating and terminating traffic volumes on specific toll routes. This category of information includes total messages and number of access lines per exchange, and is provided for every rate center within the Company's service territory. GTEFL seeks protection of the usage

information only. The Company asserts that this information is competitively valuable, is treated by the Company as private, and has not been disclosed in its operations. The Company asserts that competitors could use the information to perform an analysis of where to deploy facilities within GTEFL's territory.

Upon review, I find that the Company has met its burden, and that the information in category one should be protected. Disclosure of this data could impair the competitive business of GTEFL. This is particularly so in light of our removal of certain toll monopoly restrictions on January 1, 1992. Accordingly, the Company's Request shall be granted for this category of information.

The second category of information for which GTEFL seeks confidential treatment consists of the cost of switching and switch transport data for certain central offices subject to ECS. This data contains peak and off peak categories on a call set-up and minutes-of-use basis. The Company claims that this information constitutes a trade secret which, if disclosed, would impair its competitive interests by allowing competitors to determine GTEFL's specific cost of service on a switch-specific basis. The Company further claims that disclosure of this data would harm the ratepayers through competitive losses.

Upon review, I find that the Company has failed to meet its burden and that the information sought to be protected should not be given confidential treatment. Since local switching is closed to competition, I am not persuaded of the value of this information to firms which compete with GTEFL for services other than local switching. Accordingly, the Company's Request shall be denied for this category of information.

The third category of information for which GTEFL seeks confidential treatment concerns toll specific revenue data by time of day. The Company's rationale for keeping this information from public disclosure is identical to that asserted for category one information. For the same reasons set forth above regarding category one, I agree that category three information should be protected. Accordingly, the Company's Request shall be granted for this category of information.

The fourth category of information for which GTEFL seeks confidential treatment concerns internal cost studies developed and utilized by the Company to determine the costs of certain services.

GTEFL states that it does not seek protection of the verbiage which explains the utilization of the cost model information; rather, it wishes to protect the cost data contained in the information provided. The Company offers a number of arguments as to why the data should be held to be confidential. GTEFL claims that disclosure of this information would impair the Company's ability to contract and appropriately price its services. This information includes engineering, technical, and quantitative data which was obtained from GTE cost models and documents. The Company argues that these models are intellectual properties subject to copyright protection and strict nondisclosure agreements. The Company states that it has furnished limited portions of the data to vendors pursuant to strict nondisclosure guidelines and that violation of these guidelines could harm GTEFL's ability to contract with these firms in the future. In addition, the Company asserts that the information concerning its business on a cost basis could be used by competitors to put GTEFL at an unfair disadvantage.

Upon review, I find that the Company has failed to meet its burden and that the information sought to be protected should not be given confidential treatment. The actual figures used in the cost model which was submitted are assumed figures, used "for illustrative purposes only." It is unclear how such data could be used to determine cost information for GTEFL's operations. I am not persuaded that this information is competitively valuable since the actual data consists of various assumed figures rather than actual costs. Accordingly, the Company's Request shall be denied for this category of information.

IV. Document No. 8520-91

On July 22, 1991, Staff propounded its Third Set of Interrogatories to GTEFL. On August 26, 1991, GTEFL filed its responses to Staff's interrogatories, along with a Notice of Intent to Seek Confidential Classification of certain limited material responsive to these interrogatories. These responses were assigned Commission Document No. 8520-91.

On September 16, 1991, the Company filed a Request for Confidential Classification and Motion for Permanent Protective Order (Request). In its Request, the Company asserts that information in four specific categories should be granted confidentiality. The Company's Request relative to this document has not been opposed by any party to the docket.

The data in the interrogatory responses for which GTEFL has requested confidential treatment is broken into four categories by the Company. Categories one and three contain specific toll route information; category two contains demographic information regarding GTEFL's customers; and category four contains data regarding the number of foreign exchange (FX) lines between exchanges. This information is summarized in Appendix C to this Order. Appendix C also includes the rulings which are set forth in detail below.

The first category of information for which GTEFL seeks confidential treatment concerns detailed information for specific toll routes within GTEFL's territory. The information sets forth how many calls were made by accounts and messages on a business/residence split for GTEFL's territory, on a toll route by toll route basis. The data is broken out from 0 to 22 calls, plus an aggregate category. The information covers 1988 through 1991. The Company asserts that this information is competitively valuable, is treated by the Company as private, and has not been disclosed in its operations. The Company asserts that competitors could use the information to perform an analysis of where to deploy facilities within GTEFL's territory.

Upon review, I find that the Company has met its burden, and that the information in category one should be protected. Disclosure of this data could impair the competitive business of GTEFL. This is particularly so in light of our removal of certain toll monopoly restrictions on January 1, 1992. Accordingly, the Company's Request shall be granted for this category of information.

The second category of information for which GTEFL seeks confidential treatment consists of a market analysis cluster comparing demographic information between the Durham TriWide and Florida ECS exchanges. The Company asserts that the information was developed through a substantial investment of time and expense. The information in the analysis divides particular exchanges into categories for purposes of determining spending habits associated with vertical services. The Company claims that development of the particular clusters is proprietary and unique to GTEFL. The Company further asserts that it has spent several years of effort in merging the appropriate databases which produce the demographic information set forth in the document. Finally, GTEFL states that this information constitutes a trade secret which, if disclosed, would impair its competitive interests by allowing competitors to

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perform an analysis of where to deploy facilities within GTEFL's territory.

Upon review, I find that the Company has met its burden, and that the treatment in category two should be protected. While I am not entirely convinced of the potential harm from competitive losses through disclosure of the data, I do believe that the data would be expensive and difficult for competitors to duplicate. If this information was disclosed, it would confer an undue benefit on other firms by providing information for free that would otherwise be quite involved for them to produce on their own. Accordingly, the Company's Request shall be granted for this category of information.

The third category of information for which GTEFL seeks confidential treatment concerns exchange traffic data similar to that set forth in category one. The difference is that category three information is limited to the ECS exchanges only. The Company's rationale for keeping this information from public disclosure is identical to that asserted for category one information. For the same reasons set forth above regarding category one, I agree that category three information should be protected. Accordingly, the Company's Request shall be granted for this category of information.

The fourth category of information for which GTEFL seeks confidential treatment concerns the number of FX lines which are present on an exchange basis. The data sets forth on a route specific basis the number of FX lines in place within the ECS exchanges. The Company's rationale for keeping this information from public disclosure is identical to that asserted for category one information. For the same reasons set forth above regarding category one, I agree that category four information should be protected. Accordingly, the Company's Request shall be granted for this category of information.

Based on the foregoing, it is

ORDERED by Commissioner Betty Easley, as Prehearing Officer, that the Notice of Declassification regarding Document No. 6627-91, filed on July 22, 1991, by GTE Florida Incorporated, is hereby acknowledged for the reasons set forth herein. It is further

ORDERED that the Request for Confidential Classification and Motion for Permanent Protective Order regarding Document No. 7402-

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91, filed on July 22, 1991, by GTE Florida Incorporated, is hereby granted in part and denied in part for the reasons set forth herein. It is further

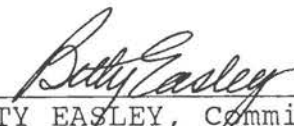
ORDERED that the Request for Confidential Classification and Motion for Permanent Protective Order regarding Document No. 7899-91, filed on August 5, 1991, by GTE Florida Incorporated, is hereby granted in part and denied in part for the reasons set forth herein. It is further

ORDERED that the Request for Confidential Classification and Motion for Permanent Protective Order regarding Document No. 8520-91, filed on September 16, 1991, by GTE Florida Incorporated, is hereby granted for the reasons set forth herein. It is further

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

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 Betty Easley, as Prehearing Officer, this 28th day of July, 1992.



BETTY EASLEY, Commissioner
and Prehearing Officer

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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.

APPENDIX A

INDEX TO DOCUMENT NO. 7402-91

CATEGORY ONE	LINE/COLUMN	DESCRIPTION	RULING
JPG-2, Page 1 of 9	3/C, 3/D, 4/C, 4/D, 5/C, 5/D, 11/C, 11/D, 12/C, 12/D	Projected ROE	Denied
JPG-2, Page 2 of 9	3/C, 4/D, 5/D, 5/E, 6/D, 7/D, 7/E	Projected ROE and revenue requirement	Denied
CATEGORY TWO	LINE/COLUMN	DESCRIPTION	RULING
JPG-3, Page 1 of 3	3/A-H 6/A-H 8/A-H 10/A-H 12/A-H 13/A-H 14/A-H	Minutes-of-use and revenues per toll service	Granted
JPG-3, Page 2 of 3	3/A-H 6/A-H 8/A-H 10/A-H 12/A-H 13/A-H 14/A-H	Minutes-of-use and revenues per toll service	Granted
CATEGORY THREE	LINE/COLUMN	DESCRIPTION	RULING
JPG-3, page 3 of 3	4 and 6	Elasticity numbers	Denied

APPENDIX B

INDEX TO DOCUMENT NO. 7899-91

CATEGORY ONE	LINE/COLUMN	DESCRIPTION	RULING
Bates Stamp 001669-001682	Columns 1, 2, and 3 entitled "Orig RC," "Term RC," and "Total Messages"	Specific Toll Route Information	Granted
Attachment 4	Columns Route, Messages, and Minutes-of-Use	Specific Toll Route Information	Granted
CATEGORY TWO	LINE/COLUMN	DESCRIPTION	RULING
Bates Stamp 001044-001045	Call Set-up and Each MOU Columns	Switching Costs	Denied
CATEGORY THREE	LINE/COLUMN	DESCRIPTION	RULING
Attachment 5	Route, Day Revenues, Evening Revenues, Nightly Weekend Revenues, and Total Revenues Columns	Specific Toll Route Information	Granted
Attachment 6	Route, Toll Messages, Message Revenues, and Revenues Impact Columns	Specific Toll Route Information	Granted
CATEGORY FOUR	LINE/COLUMN	DESCRIPTION	RULING
Attachment 7 Pages 4, 5, 7, and 8	P. 4, lines A-H P. 5, lines A-P P. 7, entire page P. 8, lines A-CC	Cost Data	Denied

APPENDIX C

INDEX TO DOCUMENT NO. 8520-91

CATEGORY ONE	LINE/COLUMN	DESCRIPTION	RULING
Bates Stamp 003105-003370	1. Residence Accounts 2. Residence Messages 3. Business Accounts 4. Business Messages 5. Total Accounts 6. Total Messages 7. Total Revenue	Call Distribution Information Per Toll Route	Granted
CATEGORY TWO	LINE/COLUMN	DESCRIPTION	RULING
Bates Stamp 003585-003586	Entire Document	Demographic Information	Granted
CATEGORY THREE	LINE/COLUMN	DESCRIPTION	RULING
Bates Stamp 003587-003589	1. Accounts Making Calls 2. Total Accounts 3. Percentage Making Calls 4. Percentage Not Making Calls	ECS Exchange Call Distribution	Granted
CATEGORY FOUR	LINE/COLUMN	DESCRIPTION	RULING
Bates Stamp 003542	1. Total FXs	FX Quantities	Granted