

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against GTE Communications Corporation for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection.

DOCKET NO. 990362-TI
ORDER NO. PSC-00-1348-PAA-TI
ISSUED: July 26, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER

NOTICE OF PROPOSED AGENCY ACTION ORDER
APPROVING SETTLEMENT OFFER

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case Background

On November 23, 1995, GTE Communications Corporation (GTE) received Certificate Number 4080 in order to operate as an interexchange telecommunications company in Florida. On March 18, 1999, this docket was opened to investigate alleged unauthorized carrier change complaints against GTE. Pursuant to those complaints, our staff met with GTE on May 26, 1999, to discuss with them our concern over the alleged unauthorized carrier changes. Between December 15, 1997 and September 30, 1999, we had received 209 complaints against GTE that have been determined to be apparent unauthorized carrier changes.

On November 23, 1999, GTE submitted a settlement offer in lieu of proceeding with the show cause process, but on December 16, 1999, requested a deferral of its proposed settlement offer from the December 21, 1999 Agenda Conference in order to submit a revised settlement offer. The revised settlement offer was submitted on December 16, 1999.

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FPSC-RECORDS/REPORTING

On January 14, 2000, the Office of Public Counsel (OPC) filed a notice of intervention in this Docket. That intervention being granted, on January 18, 2000, our staff requested this item be deferred from the January 18, 2000 Agenda Conference in order to allow OPC time to determine if they want to pursue further action in this case as an intervenor. Additionally, we were notified shortly after opening this docket that the Attorney General's (AG's) Office is conducting an investigation into the marketing practices of GTE.

Since that time, our staff contacted the OPC several times to inquire about the status of their investigation and has been unable to determine whether or when the OPC may take action. We find that we should take action on GTE's proposed settlement and that such action will not adversely affect either the investigation of the AG or that of the OPC. The AG's office has indicated that it has no position on whether we act on the settlement offer since such settlement will not in any way preempt, preclude or resolve any matters under review by any other state agencies or departments. Further, OPC will have the opportunity to protest this Order if it disagrees with our decision.

II. Analysis and Determination

GTE stated that the consumer complaints stem from the actions of one marketing firm, Snyder Communications, Inc. (Snyder) and that this firm has terminated all face-to-face marketing on behalf of GTE. In addition, GTE will suspend all face-to-face marketing in Florida indefinitely, and will not reinstitute this type of marketing without first notifying our staff.

In furtherance of its settlement offer, GTE further commits that its previously established "warm transfer" process, by which complaining customers may be transferred directly to GTE's toll-free number, will be used to accommodate customer complaints of unauthorized PIC changes. GTE states that personnel assigned to respond to such transfers are already trained and authorized to resolve PIC change complaints.

GTE will make a contribution of \$209,000 to the General Revenue Fund of the State of Florida, with no admission of liability or wrongdoing. GTE also pledges to promptly address and resolve all customer inquiries and complaints, and will continue to closely cooperate with our staff. GTE understands that acceptance of this settlement offer does not in any way preempt, preclude or

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resolve any matters under review by any other state agencies or departments.

We believe that the settlement offer submitted by GTE is consistent with other settlement offers we have accepted for apparent slamming violations, and is fair and reasonable. We also consider the non-monetary factors in this offer to be positive steps for assuring future compliance with our rules.

Upon consideration, we hereby accept the terms of the settlement agreement as summarized in this Order. The voluntary contribution to the General Revenue Fund in the amount of \$209,000, should be received by the Commission within ten business days from the issuance date of our Consummating Order and should identify the docket number and company name. The Commission will forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of its settlement offer, the company's certificate will be canceled, and this docket will be closed.

Based on the forgoing, it is

ORDERED by the Florida Public Service Commission that GTE Communication Corporation's Settlement Offer, as contained in the body of this Order is hereby accepted. It is further

ORDERED that if GTE Communication Corporation fails to pay the \$209,000 in accordance with the terms of its settlement offer, the company's certificate will be canceled, and this docket will be closed. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, and all monetary obligations imposed herein are satisfied, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission this 26th
day of July, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

CLF

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 16, 2000.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.