

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against GTE Florida Incorporated for apparent violation of service standards.

DOCKET NO. 991376-TL
ORDER NO. PSC-00-1140-PCO-TL
ISSUED: June 23, 2000

ORDER GRANTING TEMPORARY PROTECTIVE ORDERS

On September 10, 1999, we initiated Show Cause proceedings against GTE Florida Incorporated (GTE) for apparent violation of service standards. On September 17, 1999, the Office of Public Counsel (OPC) filed its Notice of Intervention, which was acknowledged by Order No. PSC-99-2494-PCO-TL on December 20, 1999. Pursuant to OPC discovery requests filed September 20, 1999, GTE provided certain materials to OPC, with a Notice of Intent to Seek Confidential Classification. On January 13, 2000, OPC filed a Notice of Intent to use certain documents at the hearing in this matter. On January 27, 2000, GTE, in accordance with Rule 25-22.006, Florida Administrative Code, filed a Request for Temporary Protective Order for those materials. On February 4, 2000, OPC filed a Response and Objection to GTE's Request for a Temporary Protective Order, and on February 16, 2000, GTE filed an Answer to OPC's Response and Objection to GTE's Request for Temporary Protective Order.

On February 8, 2000, GTE filed an additional Request for Temporary Protective Order, requesting protection of confidentiality for documents and information provided in response to OPC's Fourth Set of Interrogatories and Third Set of Requests for Production of Documents. The arguments of the parties apply to both Requests for Temporary Protective Order.

GTE states that it believes the information contained in its discovery responses should be treated as confidential pursuant to Section 364.24, and Section 364.183, Florida Statutes. GTE alleges that the information meets the statutory definition of proprietary confidential business information, and includes "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of that information." GTE filed its request to ensure that these materials are protected from public disclosure and exempted from Section 119.07(1), Florida Statutes.

OPC argues that, in the interest of open government, GTE must file now for a permanent protective order. If this is not done, OPC argues, all significant evidence presented at the hearing would

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not be disclosed to the public, without GTE ever making a showing before the hearing that any of the information is entitled to confidential treatment.

Upon preliminary review, it appears that GTE's discovery response to OPC's September 20, 1999 requests, as well as GTE's responses to OPC's Fourth Set of Interrogatories and Third Set of Requests for Production of Documents, contain information that should be protected in accordance with Section 364.183, and Section 364.24, Florida Statutes. Pursuant to Section 364.183, Florida Statutes, proprietary confidential business information obtained by the Commission must be protected. Pursuant to Section 364.24, Florida Statutes, customer account records are also protected from disclosure unless authorized by the customer or as otherwise provided by law.

I am not persuaded by OPC's arguments regarding the immediate need for a permanent protective order. Rule 25-22.006(8)(b), Florida Administrative Code, provides when information subject to a claim of confidentiality "is admitted into the evidentiary record of a hearing," the party claiming confidentiality "shall file a request for confidential classification within 21 days of the conclusion of the hearing" in order to maintain continued confidentiality. Following that determination of confidentiality, all non-confidential information would then be available to the public.

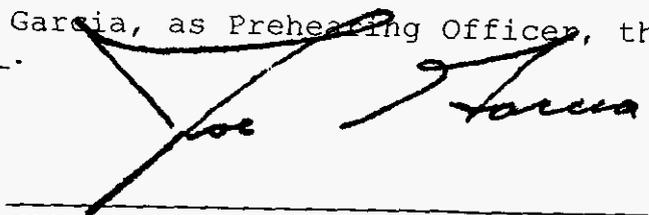
Therefore, I hereby grant the two Temporary Protective Orders requested by GTE, exempting from Section 119.07(1), Florida Statutes, the material in GTE's discovery that GTE claims as confidential, pending a ruling on GTE's Request for Confidential Treatment. While this information is protected by this Order, only Commission staff, GTE, and OPC shall have access to the information.

It is therefore

ORDERED by Chairman Joe Garcia, as Prehearing Officer, that the provisions of these Protective Orders shall govern the conduct of this proceeding unless otherwise modified by the Prehearing Officer or the Commission.

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By ORDER of Chairman Joe Garcia, as Prehearing Officer, this
23rd day of June, 2000.



JOE GARCIA
Chairman 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.

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.