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October 12, 1994

Ms. Blanca S. Bayo, Director
Division of Records & Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0850

Re: Docket No. 921074-TP
Expanded Interconnection Phase II and Local Transport
Restructure

Dear Ms. Bayo:

Please find enclosed for filing in the above matter an original and 15 copies of GTE Florida Incorporated's Post-Hearing Statement together with a WordPerfect 5.1 diskette.

Service has been made on the parties of record as evidenced by the Certificate of Service.

Very truly yours,

Kim Caswell

 Kimberly Caswell
 KC:tas
 Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Expanded Interconnection)
Phase II and Local Transport)
Restructure)

Docket No. 921074-TP
Docket No. 930955-TL
Docket No. 940014-TL
Docket No. 940020-TL
Docket No. 931196-TL
Docket No. 940190-TL

Filed: October 12, 1994

GTE FLORIDA INCORPORATED'S POST-HEARING STATEMENT

In accordance with Commission Rule 25-22.056 and Chairman Deason's instructions at the hearing, GTE Florida Incorporated (GTEFL) files its post-hearing statement in this matter.

Basic Position

Switched access interconnection can be in the public interest if it is implemented in a way that will allow full and fair competition to develop. To this end, the Commission should adopt a policy allowing local exchange carriers (LECs) and interconnectors to negotiate their own interconnection arrangements. This approach is compatible with the mandatory virtual collocation policy adopted by the FCC after its physical collocation mandate was overturned on appeal.

GTEFL also asks the Commission to grant the LECs switched access pricing flexibility in the form of volume and term discounts and zone pricing. These measures are necessary for the LECs to respond effectively to increasing competition from entities which are not subject to pricing and tariffing constraints.

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Whether or not the Commission adopts expanded interconnection for switched access, there is general concurrence that the existing switched transport structure must be changed. Without transport restructuring, truly effective and equitable competition in the access marketplace will never unfold. With some minor modifications, GTEFL recommends a policy of mirroring the transport restructure already adopted at the interstate level.

Specific Positions

Issue 1: How is switched access provisioned and priced today?

This issue has been stipulated.

Issue 2: How is local transport structured and priced today?

This issue has been stipulated.

Issue 3: Under what circumstances should the Commission impose the same or different forms and conditions of expanded interconnection than the F.C.C.?

Summary of Position: ** Regardless of what the FCC does, this Commission should adopt an interconnection policy that is constitutionally sound, practical, and flexible enough to meet interconnectors' varying needs. A policy allowing negotiated arrangements best meets these criteria. **

Position: Because the FCC has not preempted the states' authority to devise their own interconnection policies, this Commission is obliged to determine independently how interconnection can best be implemented in Florida. At the same time, GTEFL shares the Commission's practical concern for consistency with the FCC in this matter. In the Phase I Order, the Commission found that "a unified plan will limit administrative costs, help prevent tariff shopping, and remove some incentives for misreporting the jurisdictional nature of the traffic." Petition for Expanded Interconnection for Alternate Access Vendors Within Local Exchange Company Central Offices by Intermedia Communications of Florida, Inc. (Phase I Order), 94 FPSC 3:399, 408 (1994). Diverse parties agree that these objectives are very important and that, in practical terms, incompatible state and federal policies may be unworkable. (See, e.g., Beauvais/GTEFL, Tr. 225; Wiggins/ICI, Tr. 21; Poag/United, Tr. 784-85; Guedel/AT&T, 133-34.)

This Commission's desire for a unified Florida and federal interconnection scheme helped guide its Phase I decision to mandate physical collocation as the interconnection standard. Since issuance of the Phase I Order, however, the FCC's physical collocation ruling has been deemed constitutionally impermissible by the United States Court of Appeals for the District of Columbia Circuit. Bell Atlantic Tel. Cos. et al. v. F.C.C. et al., 24 F.3d 1441 (D.C. Cir. 1994). (The constitutional problems associated with mandatory physical collocation are discussed more fully in GTEFL's position on Issue 7). In response to the Court's opinion,

the FCC has modified its position and adopted a policy of mandatory virtual collocation for expanded interconnection. Expanded Interconnection with Local Tel. Co. Facilities (FCC Virtual Collocation Order), Memorandum Opinion and Order, 75 Rad. Reg. (PSF) 1040 (July 25, 1994).

Nothing has occurred to alter the Commission's view that differing state and federal collocation regimes would be infeasible. As such, the existing physical collocation policy should be changed to be consistent with the FCC's new scheme. GTEFL's position on specific collocation options is detailed in its response to Issue 8. In brief, GTEFL recommends a policy allowing negotiated interconnection arrangements. Alternatively, the Commission could institute a virtual collocation mandate like that of the FCC. These are the only two options that are constitutionally viable.

Issue 4: Is expanded interconnection for switched access in the public interest? (The following should be discussed within this issue: potential separations impact; potential revenue impact on LECs, their ratepayers, and potential competitors; potential ratepayer impact.)

Summary of Position: ** Switched access expanded interconnection may be in the public interest, but only if it is implemented in a way that will allow LECs to compete fully and fairly with non-LEC providers of the same services. **

Position: Switched access interconnection will produce maximum benefits only if the Commission assures that full and fair competition may develop. The reason for implementing expanded interconnection is to increase competition for switched access services. A more competitive market will--at least theoretically--produce consumer gains in the form of lower prices, more choices, better service quality, and the like. These purported benefits, however, are not without corresponding costs. A sound policy decision in this docket must rest on a thorough understanding of the nature and distribution of these costs and benefits.

Not surprisingly, interconnectors themselves stand to benefit most from interconnection. (Beauvais/GTEFL, Tr. 199-201.) This is evident in the simple fact that the interconnection proceedings at both the FCC and Florida levels were initiated by alternative access vendors (AAVs). Depending on the relative price elasticities for switched and special access services, AAVs may pass on a portion of savings from expanded interconnection to their customers. In the past, these customers have typically been large businesses in metropolitan areas. (Beauvais/GTEFL, Tr. 201.)

Any benefits to interconnectors and their customers will likely come at the expense of the smaller, rural and residential customers. If the large, urban, business customers replace LEC services with interconnectors' services, the social subsidies which benefit the average ratepayer will be lost. Any attenuated benefits to the rural customer are likely to be deferred to the indefinite future, due to non-LEC providers' complete discretion in

customer selection. (Beauvais/GTEFL, Tr. 210-11.)

In an effort to quantify the costs of switched expanded interconnection, GTEFL witness Beauvais used the collocation requests it has received so far in Florida to calculate the potential impact on contribution. Assuming the company involved would order the same quantities it has elsewhere from GTE companies, and such facilities were used at capacity solely for switched access transport, GTEFL's contribution flows would decrease by \$5,539,000 per year per office, for a total of \$27,695,000. While a 100% load factor for the facilities is unrealistic, it is offset by the fact that this calculation assumed only one company interconnecting in only five GTEFL central offices--an improbable assumption given the high level of interest in this proceeding. (Beauvais/GTEFL, Tr. 213-15.) In any event, even if an inordinately conservative load factor of just 10% is used, the loss in contribution from just these five offices would still be almost \$3 million. (Beauvais/GTEFL, Tr. 216.)

The point of these calculations is that even relatively small amounts of contributions on a per-minute basis translate to multimillion dollar flows when the financial leverage of the network is considered. (Beauvais/GTEFL, Tr. 216-17.) While the proposed local transport restructure would use a residual interconnection charge (RIC) to maintain initial neutrality, the RIC is not a stable, long-term solution. (See GTEFL position on Issue 20.) Placing the bulk of the contribution in the RIC will prompt rivals to enter the switched access business on a scale broader than just

transport, or at least to bypass the LEC's switch. It is here that the real effects of expanded interconnection and transport competition begin to show up. As rivals enter the switching market, not only can they avoid GTEFL's prices containing the contribution formerly generated from switched transport, but they can also avoid the contribution once generated by the LEC from toll services, switched access services, vertical services, and business services. Because of the existing cross-elasticities between dedicated and switched services, contribution from these services is already threatened. (Denton/SBT, Tr. 363.) As contribution erodes from increasingly more business segments, rates for the less competitive, basic local service will be forced upward. (Beauvais/GTEFL, Tr. 217-22; Denton/SBT, Tr. 361.)

Expanded interconnection--or, more accurately, the increased competition fostered by interconnection--could also have potentially significant effects on jurisdictional cost separations. LEC costs associated with jointly used facilities and equipment are allocated among the various services the LEC provides. With switched expanded interconnection, jointly used facilities will see a decrease in switched access minutes, both state and interstate. The total LEC investment in these facilities will need to be reallocated among the remaining services and jurisdictions. Thus, we can expect an increase in costs allocated to services such as EAS, intraLATA toll, and local. (Beauvais/GTEFL, Tr. 230-32.)

To minimize the potential consumer drawbacks of expanded competition for switched access, LECs must be permitted to compete

fully and fairly with their nonregulated or lightly regulated competitors.

GTEFL understands that it has no inherent right to maintain a certain level of revenues in a competitive market. At the same time, however, the LECs are uniquely situated in this market because they are the carriers of last resort. The Commission is well aware of the increasing tension between the long-held objective of holding down rates for basic local service and that of fostering increased competition in other services. The only way to address this tension is to allow LECs the flexibility to effectively respond to competition. To this end, certain access policy and rate structure changes are necessary either along with, or preferably, prior to the availability of expanded interconnection. These regulatory reforms, which are discussed more fully later in response to Issue 18, include: geographic deaveraging of access service pricing; relaxed requirements for the timing of price changes; and increased pricing flexibility, including contract service arrangements (CSAs) for switched access services. (Beauvais/GTEFL, Tr. 238-39.) These measures will ensure that bypass decisions made in the marketplace are economic, rather than the result of regulation-induced distortions. Only in this way can the Commission accommodate its concern for the average ratepayer with the need to encourage development of truly competitive markets.

Issue 5: Is the offering of dedicated and switched services between non-affiliated entities by non-LECs in the public interest?

Summary of Position: ** GTEFL believes that a broader scope of competitive entry for dedicated and switched services may be in the public interest if competitive constraints on the LECs are lifted. However, AAV provision of service between unaffiliated entities cannot occur without legislative change. **

Position: Consistent with its position on Issue 4, GTEFL believes AAV provision of services between unaffiliated entities could produce consumer benefits if LECs are granted additional flexibility sufficient to meet this increased competition. However, this expansion of AAV activities cannot occur without revision to Chapter 364.

In its 1991 AAV investigation, the Commission explicitly found Chapter 364 limits its authority to permitting AAVs to provide only dedicated, point-to-point service between affiliated entities. It observed that Florida Statutes section 364.337 plainly restricts AAVs to providing private line service "'between an entity and its facilities at another location.'" The Commission commented that the Legislature could easily have left out this qualification if it had intended a broader scope of operation for the AAVs. It found further support for its interpretation in section 364.335, which states that private line service by AAVs must be "'dedicated to the exclusive use of an end user.'" "If non-affiliated entities are

served by AAVs, there will actually be two end users, not one end user as the statute provides." Generic Investigation into the Operations of Alternate Access Vendors (AAV Order), 91 FPSC 8:4, 9-10 (1991).

Contrary to what at least Teleport seems to believe, (Andreassi/Teleport, Tr. 716-17, 764), the affiliate restriction is not simply a matter of regulatory policy that can be overridden by a superseding policy. The statutory rationale for the Commission's decision was stated unambiguously and its analysis is sound. There is no plausible justification to change an interpretation issued over three years ago. Moreover, if any party seriously believed the Commission mistakenly interpreted the AAV provisions in its 1991 decision, it could have appealed that decision.

Given the statutory obstacles, the most the Commission can do in this proceeding is to find, in principle, that abolition of the unaffiliated entity restriction on AAVs would be in the public interest and perhaps recommend this change to the Legislature.

Issue 6: Does Chapter 364 Florida Statutes allow the Commission to require expanded interconnection for switched access?

Summary of Position: ** The Commission may adopt a policy of switched access expanded interconnection, but its implementation would be limited by statutory restrictions. **

Position: Chapter 364 does not limit the Commission's ability to order expanded interconnection for switched access. However, the implementation and use of switched access interconnection will necessarily be affected by statutory prohibitions on non-LEC provision of switched services. In particular, a policy of expanded interconnection policy will not increase the types of services AAVs are permitted to provide under statute.

Under existing law, a certificated AAV may provide only private line or dedicated access services, which means point-to-point or point-to-multipoint service "between an entity and its facilities at another location or dedicated access service between an end-user and an interexchange carrier." Fla. Stat. ch. 364.335(3) and 364.337(3)(a) (1993). Based on this plain language, the AAVs in the Commission's 1991 general investigation (ICI among them) agreed that they were not authorized to provide switched services, and in fact did not intend to do so. See AAV Order at 8:22.

Despite this formerly undisputed understanding about the source of the switched access prohibition, the ICI and Teleport witnesses now take the view that the limitations on AAV activities are strictly regulatory. (Metcalf/ICI, Tr. 52-53, 54, 60; Andreassi/Teleport, Tr. 763-64.) While they recognize that they are prohibited from providing any portion of switched access transport today, (Metcalf/ICI, Tr. 79; Andreassi/Sprint, Tr. 763), they nevertheless seem to believe that if the Commission adopts switched access expanded interconnection, they will be able to

provide what they term the "dedicated trunk portions of switched access." (Andreassi/Teleport, Tr. 711. 763-64.) Mr. Andreassi's testimony is somewhat vague as to what this description means, but it appears to include direct trunked transport between the IXC's point of presence (POP) to the LEC's end office, and the portion of tandem switched transport between the IXC POP and the LEC tandem switch. (Andreassi/Teleport, Tr. 711.)

ICI and Teleport are wrong in their assumptions about the effect of expanded interconnection for AAVs. Because the permissible scope of AAV activities is defined by statute, it will necessarily remain the same, regardless of the Commission's policy decisions in this docket. The AAV Order confirms that the statutes do not admit the liberal interpretation the AAVs now urge. In fact, the Commission very narrowly construed the switched service prohibition to preclude even packet-routed services. AAV Order at 23.

The AAVs' novel statutory construction cannot be forced into the existing policy framework established in the AAV Order. At the time of the AAV proceeding, no party advanced the radical notion that any component of switched access should come within the special access rubric. Switched transport service is and has always been a part of switched access service, (Guedel/AT&T, Tr. 152; Beauvais/GTEFL, Tr. 285; Andreassi/Teleport, Tr. 712), as reflected in the tariffs. (Beauvais/GTEFL, Tr. 289.) The Commission's finding that AAVs are in the public interest contemplated that they would not provide anything other than special

access as it has always been understood.

For instance, the Commission declined to certificate AAVs as IXCs in part because it would cause confusion about the provision of switched interexchange service. AAV Order at 16. This observation recognizes that AAVs, unlike IXCs, cannot provide switched access services in any form. Likewise, the Commission did not require AAVs to obtain actual jurisdictional usage data from customers unless the AAV suspects that a customer's interstate usage is below 10%. Because the "10% contamination rule" applies only to special access services, (see Hendrix/SBT, Tr. 462), the Commission could not have contemplated AAV transmission of switched traffic.

A further hurdle to AAV provision of switched transport is the affiliated entity restriction discussed in Issue 5. Switched access transport is not provided between affiliated entities. Rather, it is, by definition, a switched service provided between a local exchange company and an IXC. (Beauvais/GTEFL, Tr. 239-40.) AAV provision of any portion of switched transport would thus violate the statutory affiliate limitation on AAV operations. (Denton/SBT, Tr. 390; Beauvais/GTEFL, Tr. 240.)

A principal focus of the Commission's 1991 AAV proceeding was the potential negative impact of AAV operations on the intrastate telecommunications market. The agency's assessment of that impact was explicitly based on its understanding that AAVs would be limited to providing only traditional, special access services, and private line service only between affiliated customers. See AAV

Order at 15, 20. Thus, even if the AAVs' new interpretation of the statutes were somehow plausible, the Commission could not accept it without a wholesale reexamination of its findings in the AAV Order.

GTEFL reminds the Commission that the statutory restrictions on AAVs' use of switched access interconnection should not minimize the import of adopting an expanded interconnection policy. It may be true that the AAV constraints will give rise to some inefficiencies in the marketplace, (Beauvais/GTEFL, Tr. 240-41). However, switched access interconnection will still remain available to other types of entities, such as IXC's, which are potentially the LECs' largest interconnectors. (Denton/SBT, Tr. 389.)

Issue 7: Does a physical collocation mandate raise federal or state constitutional questions about the taking or confiscation of LEC property?

Summary of Position: ** Yes. Mandatory physical collocation is a taking of LEC property in violation of the United States and Florida constitutions. Virtual collocation standards that are effectively equivalent to a physical collocation mandate are also constitutionally impermissible. **

Position: At several points in both phases of this proceeding, GTEFL has argued that mandatory physical collocation is impermissible under the Florida and federal constitutions. See GTEFL's Posthearing Statement in Phase I; GTEFL's Motion for Reconsidera-

tion of the Commission's Phase I Order; GTEFL's Supplemental Brief. Because GTEFL's position is well-documented in the record, there is no need to reiterate its extensive constitutional arguments here. Moreover, a federal appeals court decision issued since the Commission's Phase I Order has simplified the constitutional evaluation of mandatory collocation physical in this phase of the docket.

On June 10, the United States Court of Appeals for the District of Columbia Circuit vacated the FCC's mandatory physical collocation ruling and remanded associated aspects of the FCC's expanded interconnection order. Bell Atlantic Tel. Cos., supra. That ruling confirmed the soundness of GTEFL's constitutional analysis. As GTEFL has repeatedly pointed out in this docket, two questions direct the constitutional takings analysis at both the federal and state levels: 1) Has a taking occurred? and 2) Does the agency have the authority to effect such a taking?

In proceedings both here and at the FCC, the debate as to the first question focused on whether the so-called Loretto per se rule should be used to evaluate a physical collocation mandate. This Commission, quoting the FCC's rationale, found that Loretto did not apply. (Phase I Order at 7.) The Appeals Court disagrees: "The Commission's decision to grant CAPs the right to exclusive use of a portion of the petitioners' central offices directly implicates the Just Compensation Clause of the Fifth Amendment, under which a 'permanent physical occupation authorized by government is a taking without regard to the public interests that it may serve.'" Bell

Atlantic Tel. Cos. at 7, citing Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 426 (1982).

This Commission's physical collocation rule, exactly like the former FCC mandate, requires the local exchange carriers (LECs) to allow others to physically install their equipment within LEC central offices. This compelled physical occupation renders mandatory physical collocation a taking under Loretto.

Having found a taking, we must ask whether the Commission has the authority to perform that taking. The Commission admits that it does not: "the Commission lacks the power of eminent domain which is required to take property." (Phase I Order at 7.)

The constitutional inquiry is thus at an end. Because mandatory physical collocation is an unauthorized taking, it violates the United States and Florida constitutions. The Teleport and FCTA witnesses' contrary belief may rest on their misunderstanding of this Commission's finding as to its takings authority. (Andreassi/Teleport, Tr. 765; Smith/FCTA, Tr. 577(17).)

The Commission's collocation policy for switched and special access interconnection must necessarily be the same. In its Phase I Order, the Commission established a physical collocation rule for special access interconnection. If the Commission does not eliminate that rule, it will directly contravene the Appeals Court decision and an appeal to the Florida Supreme Court would be certain. To resolve this problem, the Commission's Phase II order should establish a new collocation policy to govern both special

and switched access. As GTEFL explained in response to Issue 3, above, negotiated collocation arrangements or mandatory virtual collocation would be the only constitutionally acceptable alternatives.

If the Commission opts for mandatory virtual collocation, it must carefully avoid crafting standards that suffer from the same constitutional infirmities as mandatory physical collocation. Specifically, the Commission should reject the position of Teleport and FCTA that virtual collocation should be technically, operationally and economically comparable to physical collocation from the interconnectors' point of view. (Smith/FCTA, Tr. 574-75; Andreassi/Teleport, Tr. 720.)

As the FCC aptly observed, "a court applying the Bell Atlantic v. FCC decision could construe mandatory virtual collocation under this standard to be an unauthorized taking of property, because this standard would appear to impose requirements that, in practice, are equivalent to mandatory physical collocation." FCC Virtual Collocation Order at para. 43. Thus, if the Commission adopts the Teleport/FCTA position, its decision will be susceptible to the same kind of constitutional challenge as mandatory physical collocation.

Issue 8: Should the Commission require physical and/or virtual collocation for switched access expanded interconnection?

Summary of Position: ** The Commission should avoid mandates in favor of a policy permitting LECs and interconnectors to negotiate their own interconnection arrangements. In the alternative, the Commission should require virtual collocation. **

Position: GTEFL expects that each instance of interconnection will present different circumstances. For this reason, this Commission should permit LECs and interconnectors to reach collocation agreements that accommodate interconnectors' differing needs and requests. This flexibility can best be assured through a policy favoring voluntarily negotiated interconnection contracts, perhaps with some form of streamlined tariffing or price lists to ensure the same arrangements are available for similarly situated customers. (Beauvais/GTEFL, Tr. 263-64.)

In the alternative, the Commission could order virtual collocation, similar to what the FCC has done. This option will still permit some degree of negotiation. For instance, LECs and interconnectors might agree that physical, rather than virtual, collocation is appropriate in certain situations. United, for instance, has voluntarily negotiated physical collocation arrangements with customers in a number of its central offices. (Poag/United, Tr. 794-95.)

The Commission's Phase I order was guided in large measure by the practical reality that different state and federal collocation schemes would be unworkable. As the Commission stated there, "we

find that it is important to be consistent with the FCC. As acknowledged by the LECs, a unified plan will limit administrative costs, help prevent tariff shopping, and remove some incentives for misreporting the jurisdictional nature of the traffic." Phase I Order, 94 FPSC 3:399, 408 (1994). Nothing has occurred since Phase I to alter the importance of these objectives. As in Phase I, the parties generally concur that a uniform collocation regime is desirable. (Guedel/AT&T, Tr. 133-34; Rock/Sprint, Tr. 652.) Since the FCC has now adopted virtual collocation as the interconnection standard, this Commission is obliged to implement a policy that will mesh with that standard.

In any case, the existing, unconstitutional physical collocation policy established in Phase I cannot remain in place. Nor can the Commission order virtual collocation that is technically, operationally and economically equivalent to physical collocation. As explained in GTEFL's position on Issue 7, this action would be assailable on the same constitutional grounds that compelled reversal of the physical collocation mandate. Aside from legal considerations, identity of virtual and physical collocation is unnecessary to achieve the purported benefits of expanded interconnection. The FCC correctly concluded that "this standard would impose burdens on the LECs that are unnecessary to protect interconnectors' interest." FCC Virtual Collocation Order at para. 43.

GTEFL believes it can satisfy the concerns underlying the FCTA/Teleport recommendation without the need for the mandate

Teleport advocates. In seeking mandatory virtual collocation that resembles physical collocation, the AAVs purportedly want to ensure that they can control their own service standards for maintenance, repair, and the like. (Andreassi/Teleport, Tr. 736-38.) As Mr. Andreassi agrees, it is reasonable to expect interconnectors to pay for service standards that are different or better than those that apply to a LEC's own operations. (Andreassi/Teleport, Tr. 739.) GTEFL would be willing to accommodate requests for differing service standards--as well as other unique terms an interconnector may want--within the context of the negotiated arrangements GTEFL advocates.

With the abolition of mandatory physical collocation, the Commission will also avoid the many negative practical effects of that policy. For instance, in its Phase I deliberations, the Commission acknowledged that "security is an important concern for the LECs." Phase I Order at 408. Virtual collocation largely obviates this concern, as well as a host of others discussed in Dr. Beauvais' Direct Testimony. These include space allocation and exhaustion problems; possible safety hazards; the burden of considering possible interconnector demands in the LECs' capital planning process; and the drag on LEC productivity and efficiency introduced by the various types of disruptions inherent in mandatory physical collocation. (Beauvais/GTEFL, Tr. 204-09.)

In contrast with these substantial drawbacks, physical collocation creates no competitive benefits that are not available

under virtual collocation. On the contrary, because a physical collocation rule restricts parties' ability to negotiate effectively, it seriously diminishes any anticipated pro-consumer effects of expanded interconnection. (Beauvais/GTEFL, Tr. 203.)

Issue 9: Which LECs should provide switched access expanded interconnection?

This issue has been stipulated.

Issue 10 From what LEC facilities should expanded interconnection for switched access be offered? Should expanded interconnection for switched access be required from all such facilities?

Position: If switched access interconnection is required, it should be made available wherever sufficient demand exists for it. Consistent with the FCC's Order, interconnection should be made available at end offices, serving wire centers and tandem switches. (Denton/SBT, Tr. 367.)

Issue 11: Which entities should be allowed expanded interconnection for switched access?

This issue has been stipulated.

Issue 12: Should collocators be required to allow LECs and other parties to interconnect with their networks?

Summary of Position: ** Yes. The consumer benefits available through expanded interconnection will be suppressed if the Commission declines to adopt a policy of reciprocal collocation.

**

Position: Yes. Reciprocal collocation is consistent with equal treatment of all parties in the marketplace, an approach that GTEFL has consistently advocated before this Commission. Moreover, the absence of a reciprocal collocation policy makes no economic sense and is not in consumers' best interests.

The telecommunications infrastructure is moving toward becoming a network of networks. If other parties find it desirable to interconnect with the LECs, the LECs may find it desirable to interconnect with these other types of entities. The same market forces are at work in both directions. (Beauvais/GTEFL, Tr. 261.) If AAVs' facilities are more reliable or AAVs' costs are lower in a particular instance, an efficient market solution would be to allow LECs to purchase AAV services to use in providing their own output. (Beauvais/GTEFL, Tr. 227-28.)

Without reciprocal interconnection, consumers would be denied the fullest possible range of services. (Carver/SBT, Tr. 30-31; Denton/SBT, Tr. 368-69.) This concern is not just theoretical. Mr. Denton testified that, in a number of instances, Southern Bell or its customers have not been permitted to collocate on reasonable terms. (Denton/SBT, Tr. 369.) At the hearing, AT&T's Mr. Guedel admitted that a customer of Southern Bell unsuccessfully tried to

negotiate with AT&T for space to collocate Southern Bell equipment. (Guedel/AT&T, Tr. 146-47.) Because no agreement was reached, the customer was denied a way to meet its service needs. (Guedel/AT&T, Tr. 147.)

Ideally, GTEFL would favor interconnection on a wholly voluntary basis for all commercial carriers. (Beauvais/GTEFL, Tr. 261-62.) However, if only some providers--here, the LECs--are subject to an interconnection requirement, non-LECs are likely to be much less motivated to reach acceptable reciprocal agreements. A reciprocal collocation policy will, in effect, compel parties to work out reasonable collocation prices and terms, thus assuring a greater array of service choices for customers.

Issue 13: Should the Commission allow switched access expanded interconnection for non-fiber optic technology?

This issue has been stipulated.

Issue 14: Should all switched access transport providers be required to file tariffs?

Summary of Position: ** All switched access transport providers should be treated equally. If one type of entity is required to file tariffs, all should be required to do so. A unilateral tariffing requirement for just the LECs may weaken price competition, to the detriment of the consumer. **

Position: To achieve an efficiently functioning market, all participants should compete under the same terms and conditions. If the Commission wishes to retain tariff requirements for the LECs, AAVs should be subject to these same requirements, (Beauvais/GTEFL, Tr. 232-33, 869-70), as is the case at the interstate level. (Andreassi/Teleport, Tr. 753.) If its competitors are not required to file tariffs, then the LECs should be afforded the same degree of regulatory latitude. A strong case can be made that imposing tariffing on just the LECs weakens price competition between the LECs and other parties, thus reducing the potential benefits to consumers. (Beauvais/GTEFL, Tr. 233.)

Also, to the extent that the Commission deems tariffs to be an important source of information for consumers, there is no reason to deny this advantage to customers considering non-LEC entities' services. (See Gillan/IAC, Tr. 626; Beauvais/GTEFL, Tr. 869-70.) This aspect will increase in importance as AAVs expand their operations beyond the current base of large business to smaller business and residential customers, as they have indicated they will. See Phase I Order at 421.

If the Commission believes identical tariffing conditions are not appropriate for LECs and their competitors, a viable alternative would be to allow a streamlined tariffing process for non-LECs. The Commission could, for example, require price lists, rather than the cost-supported tariffs the LECs now must file. At the very least, the Company recommends a shorter, two-week tariff approval period for all tariffs. (Lee/GTEFL, Tr. 321-22.) This

change will help ensure that LECs do not lose business simply because of institutionized delays in the tariffing process.

Issue 15: Should the proposed LEC flexible pricing plans for private line and special access services be approved?

Summary of Position: ** Yes. The Commission in Phase I granted LECs zone pricing ability and asked them to submit specific plans. GTEFL has complied with the Commission's Order and its zone density pricing plan should be approved. **

Position: Yes. In its Phase I Order, the Commission granted the LECs zone pricing flexibility "on a conceptual basis" under the FCC's guidelines. The Commission directed the LECs to use their FCC zone density plans and tariffs as a guide, with departures as appropriate. Phase I Order at 426. GTEFL has fully complied with the Commission's instructions. Its zone-density filing here in Florida tracks the federal filing, with exceptions sanctioned by this Commission. For example, the state tariff does not provide that implementation of zone pricing is contingent upon any competitive entry in the zone. Phase I Order at 416.

The Commission should reject any arguments that physical collocation (or virtual collocation equivalent to physical) is a prerequisite to additional pricing flexibility for the LECs. (Andreassi/Teleport, Tr. 720-21, 727.) Teleport initiated this same argument at the FCC, where it was soundly rejected. The FCC

denied that LEC pricing flexibility should in any way depend on the form of collocation. Just as in Florida, "access competition should accelerate with the implementation of expanded interconnection, whether in the form of virtual collocation or physical collocation." FCC Virtual Collocation Order at para. 145.

Issue 16: Should the LECs' proposed intrastate private line and special access expanded interconnection tariffs be approved?

Summary of Position: ** Not as currently filed. The private line and special access expanded interconnection tariffs should be approved only after they are revised to exclude mandatory physical collocation and associated terms. **

Position: This Commission's Phase I Order required the LECs to file private line and special access expanded interconnection tariffs that essentially mirrored the analogous federal tariffs then existing. Phase I Order at 426-27. Since that time, the FCC has replaced its physical collocation mandate with a virtual collocation mandate. (See GTEFL's response to Issue 3.) New tariffs filed with the FCC on September 1, 1994 became effective on September 3.

In light of these developments, the Commission should not approve the proposed tariffs, which assume mandatory physical collocation. Since mandatory physical collocation has been ruled unconstitutional, GTEFL anticipates that this Commission will

eliminate its physical collocation requirement. See GTEFL position on Issue 7. The LECs should be permitted to revise their proposed tariffs in response to the policy decisions made in this phase of the docket. The tariffs should then be approved.

Issue 17: Should the LECs' proposed intrastate switched access interconnection tariffs be approved?

Summary of Position: ** The tariffs should not be approved until the LECs have had the opportunity to revise them to remove physical collocation as the expanded interconnection standard. In addition, expanded interconnection must not be approved in the absence of local transport restructuring. **

Position: Like GTEFL's proposed special access and private line expanded interconnection tariffs, the switched access tariffs are based on the assumption that physical collocation would be the standard for interconnection. The Court of Appeals' reversal of the FCC's physical collocation mandate has rendered this assumption invalid. Therefore, the LECs should be permitted to revise their tariffs to reflect the new policy that will be adopted in this phase of the proceeding. The tariffs may then be approved. In no event, however, should expanded interconnection for switched access be approved before the local transport restructuring. As explained in GTEFL's position on Issue 19, the transport restructuring is necessary to address already existing competition.

Issue 18: Should the LECs be granted additional pricing flexibility? If so, what should it be?

Summary of Position: ** Yes. Flexible pricing is imperative for LECs to respond effectively to increased competition from their unregulated or lightly regulated competitors. The Commission should approve GTEFL's proposed zone density pricing plan, its Switched Access Discount Plan, and contract serving arrangements for switched access services. **

Position: Yes. In determining what level of pricing flexibility for the LECs is justified, the Commission needs to maintain a proper perspective on the significance of this docket. Expanded interconnection has already been approved for special access. Expanded interconnection for switched access, if adopted, is another critical step toward opening up the local exchange network. (Beauvais/GTEFL, Tr. 880; Fons/United, Tr. 43.) While GTEFL is not afraid of greater competition, it is dependent upon this Commission to give it the tools it needs to meet this challenge.

LECs today are subject to numerous regulatory requirements which do not apply to their competitors. This asymmetrical treatment is incongruous in a competitive environment. If LECs are forced to continue to operate in this way, they will lose increasingly greater numbers of customers for reasons wholly unrelated to their service quality or skill in the marketplace. Obviously, this outcome undermines the goal of retaining as much contribution as

possible to keep basic rates affordable.

A lack of flexibility also denies customers the best prices. If a LEC's costs are lower, but the LEC has insufficient flexibility to reflect those lower costs in its prices, an inefficient alternative provider can underprice a more efficient LEC. (Denton/SBT, Tr. 362.) Moreover, the end user will unnecessarily pay a higher price than if the LEC reduced its prices closer to cost. (Metcalf/ICI, Tr. 76.)

The Commission to some degree has recognized the deleterious effects of continuing to handicap the LECs. Like the FCC, it has already permitted zone density pricing for special access services in its Phase I Order. Zone pricing gives the LEC a somewhat greater ability to deviate from geographically averaged prices based on customer density. In allowing zone pricing, the Commission confirmed that "excessive constraints on LEC pricing and rate structure flexibility will deprive customers of the benefits of competition and give the new entrants false signals." Phase I Order at 416. The same concerns apply equally to switched access; GTEFL believes no party opposes zone density pricing for these services. (Lee/GTEFL, Tr. 317-18; Metcalf/ICI, Tr. 77; Guedel/-AT&T, Tr. 110; Rock/Sprint, Tr. 652; Gillan/IAC, Tr. 962.) Consistent with the Phase I Order, the Commission should permit zone pricing whether or not competitive entry has occurred. Id. This action would comport with the Commission's historical attitude that competitive rate plans should be permitted simultaneously with expanded competition. (See Denton/SBT, Tr. 379.)

The Commission should also extend the permissible use of contract serving arrangements (CSAs) to switched access services. (Lee/GTEFL, Tr. 308-09.) This device allows LECs to use off-tariff pricing when there is a reasonable potential for uneconomic bypass of the Company's services. While CSAs are not the perfect antidote to non-LECs' greater pricing and tariffing flexibility, they are helpful in this regard. CSAs already apply for special access services; there is no reason to deny this tool to the LECs for switched access services, which will become even more competitive with the advent of expanded interconnection. (Lee/GTEFL, Tr. 318-19.)

Aside from zone pricing and CSAs, GTEFL has proposed switched access pricing flexibility in the form of volume and term discounts. GTEFL's Switched Access Discount Plan (SADP), filed with the Company's May 16, 1994, illustrative tariff filing in this docket details these discounts. The term plan would provide savings to customers who commit to various time periods at specified usage and/or monthly recurring (MRC) charge levels. The longer the time commitment, the greater the discount would be. (Lee/GTEFL, Tr. 316.) GTEFL's growth plan would link savings to usage and/or MRC growth over a one-year time period; the greater the percentage of growth, the greater the discount to the customer. (Lee/GTEFL, Tr. 316.)

The proposed volume and term discounts are similar to those already in effect for special access services. In a broader sense, volume and term discounts are commonly used in business to

accommodate differing customer needs and characteristics. GTEFL should have the same ability to use them as any other non-LEC competitor.

If the Commission declines to approve GTEFL's entire SADP, it should at least authorize the term aspect of the plan, which may, in practice, have more support. (Cf. Rock/Sprint, Tr. 1005-09.)

Issue 19: Should the Commission modify its pricing and rate structure regarding switched access transport service?

a) With the implementation of switched expanded interconnection.

b) Without the implementation of switched expanded interconnection.

Summary of Position: ** Yes. The Commission should modify its switched access transport pricing and rate structure policies regardless of whether switched expanded interconnection is authorized. **

Position: Yes. There is general consensus that the Commission's existing transport structure needs to be modified to keep pace with competitive changes in the telecommunications marketplace. (Tye/AT&T, Tr. 25; Carver/SBT, Tr. 32; Rock/Sprint, Tr. 650; Poag/United, Tr. 799-800; Lee/GTEFL, Tr. 300-01.) Local transport is currently priced so that each carrier pays the same per unit of traffic, regardless of distance. This structure denies the LECs

the ability to offer flat-rated transport options, as their competitors can. The results, as the FCC found, are uneconomic pricing signals, wasteful use of LEC facilities and higher rates for ratepayers. (Lee/GTEFL, Tr. 303.) The revised transport structure adopted at the FCC--and supported by all parties in this proceeding (Adams/IAC, Tr. 35)--addresses these problems and encourages more meaningful competition.

Staff agrees that the local transport structure must be modified regardless of whether switched access expanded interconnection is implemented. (Prehearing Order at 50; see also Hendrix/SBT, 406-07; Lee/GTEFL, Tr. 301-03.) The LECs' interstate transport rates have already been restructured, and "[t]here are efficiencies in having interstate and intrastate Local Transport rate structures the same." (Staff, Prehearing Order at 50.) As Mr. Lee has testified, mirroring the FCC tariff structure "can help reduce the potential for arbitrage, ease the burden of administration for tariffs and billing systems, reduce customer confusion, and increase the customer's ability to aggregate traffic and purchase the most efficient transport options." (Lee/GTEFL, Tr. 304; see also Hendrix/SBT, Tr. 409.)

Moreover, the competitive pressures existing today will continue to grow. The FCC recognized this fact and allowed the local transport restructure to go into effect before switched expanded interconnection. "Even without expanded interconnection, LECs are already facing access competition, for example, as reflected in the proliferation of 'closet POP' arrangements....A

rate structure change is necessary to promote more efficient use of LEC networks, and access competition." (Lee/GTEFL, Tr. 301, quoting Transport Rate Structure and Pricing (FCC Transport Order), 7 FCC Rcd 7006 at para. 2 (Oct. 16, 1992).

In GTEFL's territory, there are more than 13 certificated AAVs. Other competitors, such as cable television companies, PCN providers, STS providers, cellular companies, and VSAT providers, will continue and intensify their efforts to draw customers away from GTEFL. All are providing alternative sources of access which can bypass all or part of the Company's switched access network. (Lee/GTEFL, Tr. 302.) Local transport restructure is a critical element in giving LECs a fair opportunity to retain customers on their networks in the face of these competitive challenges.

Issue 20: If the Commission changes its policy on the pricing and rate structure of switched transport service, which of the following should the new policy be based on?

a) The intrastate pricing and rate structure of local transport should mirror each LEC's interstate filing, respectively.

b) The intrastate pricing and rate structure of local transport should be determined by competitive conditions in the transport market.

c) The intrastate pricing and rate structure of local transport should reflect the underlying cost-based structure.

d) The intrastate pricing and rate structure of local transport should reflect other methods.

Summary of Position: ** The Commission should allow the LECs to mirror their interstate tariff structure. Rates should not necessarily be mirrored, but rather determined by market factors.

**

Position: The policy choices enumerated in this Issue are not necessarily mutually exclusive; GTEFL's recommended policy contains elements of at least options a, b, and c. GTEFL's proposed local transport restructure mirrors the structure, terms, and conditions, of the interstate tariff. Transport rates, with the exception of the RIC, would initially reflect the FCC's rate-setting approach, but adherence to strict DS3:DS1 cross-over ratios should not be mandatory. Rather, market factors, such as competitors' rates, should be the primary price driver. The LECs' transport rates would, of course, cover their costs and, therefore, be cost-based.

The Commission Should Adopt the Interstate Tariff Structure, But Use Reconfigured Demand

No party to this proceeding opposes mirroring the tariff structure adopted by the FCC. (See, e.g., Adams/IAC, Tr. 35; Andreassi/Teleport, Tr. 715; Poag/United, Tr. 800.) This structure is based on four rate elements: (1) a flat-rate entrance facility charge for transport from the IXC POP to the LEC's serving wire center (SWC); (2) a flat-rate direct-trunked transport charge for transport from the SWC to a LEC end office for traffic requiring no tandem switching; (3) a usage-based tandem-switched transport charge for transport from the SWC to an end office for traffic

switched at a tandem; and (4) a usage-based, residual interconnection charge (RIC) paid by all customers interconnecting with the LEC's switched access network. FCC Transport Order at para. 6. As GTEFL explained in response to Issue 19, this structure will cure the inefficiencies and uneconomic pricing induced by the existing, outmoded structure.

Although GTEFL's intrastate tariff follows the FCC-mandated structure, the Florida tariff uses reconfigured, rather than historical, demand in calculating developing local transport units and rates under the new structure. (Specifically, GTEFL uses 75% reconfigured and 25% historical usage. Lee/GTEFL, Tr. 334.) This method recognizes that IXCs will reconfigure their networks in the most cost-effective and operationally-efficient way. The IXCs have already begun this process, (Lee/GTEFL, Tr. 321; Rock/Sprint, Tr. 674), and, in fact, the Company began to receive orders well in advance of the FCC effective date for the restructure. (Lee/GTEFL, Tr. 311.) The non-recurring charge waiver this Commission has approved for GTEFL is expected to cause reconfigurations to continue and even accelerate. (Id.; Lee/GTEFL, Tr. 353-54.) Use of reconfigured units is consistent with reality and helps to ensure that the initially proposed RIC maintains revenue neutrality for transport services as a whole. (Lee/GTEFL, Tr. 311.)

In GTEFL's case, there is no danger that reconfigured demand will produce a higher RIC. In fact, the RIC is slightly lower (by about .003 of a cent) in Florida using this approach. (Lee/Tr. 336-37.) It thus promotes the IXCs' desire for reduced access

costs. Although AT&T and Sprint oppose the concept of using reconfigured demand, their witnesses acknowledged that a lower RIC would be consistent with their objective to reduce access costs. (Guedel/AT&T, Tr. 179; Rock/Sprint, Tr. 674-75.)

**The Commission Should Permit the
LECs to Use the Interstate Rate Levels**

As noted, all parties generally agree that the Commission should adopt the FCC's transport tariff structure. However, this general concurrence does not extend to the pricing of the transport rate elements themselves. Like AT&T and the other LECs, GTEFL believes the FCC's minimum 9.6:1 DS1:DS3 pricing ratio is appropriate, (Lee/GTEFL, Tr. 306; Hendrix/SBT, Tr. 423-24), at least initially. This benchmark formula is based on equivalent special access rates as of September 1, 1992, to reflect the fact that special access and switched transport use the same facilities, aside from switches. (Lee/GTEFL, Tr. 305; FCC Transport Order at para. 13.) So under the FCC's formula, transport rates are presumptively reasonable if the DS3 price is at least 9.6 times the DS1 special access price. (Lee/GTEFL, Tr. 309.)

The FCC's benchmark approach is a practical and rational way to "better match LEC transport rates and costs," FCC Transport Order at para. 1, while balancing the numerous interests with a stake in the restructure. In devising its transport pricing methodology, the FCC carefully considered its impact on the respective interests of consumers and the various industry groups. (See, e.g., Guedel/AT&T, Tr. 846, 860.) For example, the FCC will

not presume rates below the 9.6:1 benchmark to be reasonable, because of their potential to unduly disadvantage medium and small carriers. FCC Transport Order at para. 52. And while the RIC is intended to mitigate the effect of the restructure on the LECs, the FCC rejected pricing recommendations that would load more costs onto this element. Id. at para. 47.

GTEFL's proposed transport rates, which the FCC has approved, are appropriate at this point because they are based on special access, which has been a competitive service for some time. Thus, these rates are to some degree market-based and closer to their relevant costs than switched access rates. (Lee/GTEFL, Tr. 305; Poag/United, Tr. 827.)

While the FCC rate levels are acceptable now, GTEFL believes that strict tracking of the FCC's cross-over ratio may not be the best long-term approach to developing a more competitive access market. Automatic application of the FCC's 9.6:1 or any other fixed cross-over requirement, such as that advocated by Sprint, (Rock/Sprint, Tr. 654; see also Gillan/IAC, Tr. 598), creates unjustified rate differences between switched and special access services. (Lee/GTEFL, Tr. 310.) Under any permanent approach, LECs should have the ability to depart from the ratio in response to market factors, such as demand, competitive conditions, and the number of available substitutes for transport service in a given market area. (Lee/GTEFL, Tr. 304.)

**Sprint and IAC Are Wrong About the
Effects of the LECs' Pricing**

Of over a hundred switched access customers in Florida, (Hendrix/SBT, Tr. 949), only Sprint and IAC have opposed the FCC's transport rate levels reflected in the LECs' Florida tariffs. They argue that FCC's rate-setting approach will harm medium and small IXCs, to the ultimate detriment of customers in relatively less densely populated areas. The record is peppered with their predictions about the proposed restructure's "dramatic impact on interexchange competition" (Gillan/IAC, Tr. 592): "many small interexchange carriers will be gravely threatened" (Adams/IAC, Tr. 37); interexchange competition may "become a memory" (Gillan/IAC, Tr. 590); the new structure will lead to "fewer choices in rural areas or possibly...deaveraged retail rates" (Gillan/IAC, Tr. 588); "we'll be back to where we were--or close to where we were ten, 11 years ago" (Rock/Sprint, Tr. 687-88).

The level of alarm in these assertions is matched only by their utter lack of factual foundation. IAC and Sprint produced no evidence to support their overdrawn claims, despite the fact that the interstate transport restructure had been in effect for about eight months by the time of the hearing in this case. (See Lee/GTEFL, Tr. 909.) Mr. Gillan admitted that he had "made no attempt whatsoever" to collect information about financial harm to IAC's members. (Hearing Ex. 37 at 44.)

GTEFL suspects IAC's lack of concern for quantifying the deleterious effects of the restructure on its members is rooted in the recognition that they are relatively insignificant. The FCC

recognized the exaggerated nature of the same claims IAC and Sprint have made here. FCC Transport Order at para. 67-68. In fact, GTEFL's calculations show that medium and small IXCs' carriers' costs will go down under the proposed local transport restructure, while large IXCs' costs will go up by 3.54%. Specifically, the medium carriers, such as Sprint, will see a favorable 4.32% impact. The decrease for small IXCs--9.56%--is even greater. (Hearing Ex. 17 at 23; Lee/GTEFL, Tr. 347, 919.) These figures disprove the IAC and Sprint contentions that they will suffer disproportionately because of the transport restructure. (Lee/GTEFL, Tr. 919.) Indeed, the smallest IXCs will get the biggest benefit of GTEFL's restructure. (Id. at 920.)

Moreover, in evaluating arguments about relative harm of the restructure as between IXCs, it is important to maintain a properly broad perspective. Local transport, exclusive of the RIC, comprises only about 5% of an IXCs' total access costs. (Hendrix/SBT, Tr. 416.) The other 95% of costs are not in contention here.

Aside from the impact data, Sprint's and IAC's gloomy predictions ignore some basic facts. Under today's equal charge rule, rural customers already have less choices because smaller IXCs can reap greater profits serving more populous areas. (Lee/GTEFL, Tr. 898-99.) The same incentives will remain after restructuring. As even Mr. Rock agreed, customer choice in a particular area will remain a function of population density, customer characteristics, and the like, just as it is today.

(Rock/Sprint, 688-89.) He further admitted that Sprint would not stop serving any area it now serves as a consequence of the LECs' proposed restructure. (Rock/Sprint, Tr. 688-89.) The LECs will, of course, continue to serve the smaller, less dense areas. (Hendrix/GBT, Tr. 942.)

Since all carriers--large and small--use the same kinds of facilities and pay the same transport rates to reach customers in rural areas, IXCs will not be disadvantaged relative to one another. (Guedel/AT&T, Tr. 869; Hendrix/GBT, Tr. 941.) Moreover, smaller carriers can often aggregate their traffic to keep their costs as low as possible. (See Ex. 37 at 46.) Some IXCs in Florida are already selling excess capacity on their networks to smaller IXCs in order to aggregate traffic and reduce access costs. (Lee/GTEFL, Tr. 889.)

**DS3-Based Pricing Will Undermine
the Pro-Competitive Goals of the Restructure**

The rate-setting approach IAC and Sprint propose has been rejected, for good reason, by the FCC, as well as numerous other states. (see, e.g., Carver/GBT, Tr. 33.) These IXCs' arguments are carefully framed for visceral appeal in terms of "cost-based rates" and "discrimination." Creative language, however, cannot conceal that their pricing recommendation merely perpetuates the equal charge concept the restructure is intended to remedy, thus suppressing the development of a truly competitive marketplace.

Sprint and IAC would have this Commission approve a DS3-based pricing method which produces DS3:DS1 ratios anywhere from about

22:1 to 28:1 (as compared to the FCC's 9.6:1). (Gillan/IAC, Tr. 614-15; Rock/Sprint, Tr. 654.) This approach derives the cost of a DS1 by dividing the cost of a DS3 by 28 (because there are 28 DS1s in a DS3). (Gillan/IAC, Tr. 593-94.) IAC then purports to add in other costs associated with providing a DS1, but not a DS3. The level of contribution in the DS3 rate would be used for DS1 and tandem-switched rates as well. The resulting "cost-based" rates, according to IAC, will remedy the "discrimination" arising from recovery of different levels of contribution from the various transport options. (Gillan/IAC, Tr. 581-82, 588-89.)

As an initial matter, it is important to understand that the LECs' proposed rates are cost-based. There has been no allegation in this proceeding that the LECs' rates are below incremental cost. (Lee/GTEFL, Tr. 354; Rock/Sprint, Tr. 680-81.; Hendrix/STB, Tr. 945.) The discrimination accusation is similarly groundless. Discrimination, in the common carrier context, means that different rates are being charged to similarly situated customers for the same service. Fla. Stat. ch. 364.08(1). This is not the case for the rates underlying the LECs' transport restructure. With Commission-authorized exceptions, the LECs charge each customer of DS1 service the same tariff rates, and each DS3 customer the same tariff rates. Thus, within each service, customers are now charged--and will be charged under the restructure--the same rates. (Rock/Sprint, Tr. 689-90; Lee/GTEFL, Tr. 893-94.) There is, by definition, no impermissible discrimination. (Carver/STB, Tr. 33.)

The hallmark of the DS3-based structure IAC and Sprint propose

would be continuation of the effects of the anachronistic equal charge rule the FCC has discarded. (Lee/GTEFL, Tr. 898; Guedel/AT&T, Tr. 857-58.) Mr. Gillan admits as much: "Contribution should continue to be recovered under an 'equal charge' approach." (Gillan/IAC, Tr. 588.)

This approach ignores the fact that the optimal price structure does not result in a uniform markup of price relative to incremental costs across all products. (Beauvais/GTEFL, Tr. 879.) If the Commission wishes to foster a competitive marketplace, then it is necessary to encourage LECs to act on the same incentives as firms in a non-regulated market. (Beauvais/GTEFL, Tr. 875.)

The IAC/Sprint proposal, if adopted, would completely preclude the LEC from including any kind of market response in its prices. DS3-based pricing--proposed as a permanent structure (Rock/Sprint, Tr. 686)--would wholly ignore any competitive developments in the marketplace. Thus, no matter how competitive the DS3 market gets, LECs would not be able to reduce those prices without reducing DS1 and tandem-switched transport prices in lockstep. (Rock/Sprint, Tr. 684.)

The DS3-based pricing proposal places its proponents in the untenable position of recommending market pricing for DS3s, but not for DS1s or tandem switched transport. Indeed, Mr. Rock freely admits that he supports market-based pricing for "the increasingly competitive DS3 level service." (Sprint/Rock, Tr. 656.) But market-based pricing for DS3s--i.e., reducing prices in response to competition--would force reductions for DS1 and tandem-switched

services, as well. If one supports market-based pricing for one service, there is no intellectually sound basis to reject it for other services.

No competitor would voluntarily engage in the behavior Sprint and IAC would require for the LEC. For instance, Teleport's DS3-to-DS1 cross-overs in its tariffs range from 3.17:1 to 7.8:1, (Andreassi/Teleport, Tr. 1017). And Mr. Rock agrees that a rational carrier would never engage in across-the-board price reductions independent of competitive conditions. (Rock/Sprint, Tr. 686.) Instead, they price their services based on market conditions--exactly the behavior that they term "discriminatory" when practiced by the LECs.

DS3 Pricing Will Increase the RIC

An additional problem with the DS3-based method IAC and Sprint advance is that it will significantly increase the amount of transport revenue recovered through the RIC. (Rock/Sprint, 657, 678.) This was one of the policy reasons prompting the FCC's rejection of the scheme. FCC Transport Order at para. 47. This effect also exposes the wholly rhetorical nature of the "cost-based rates" terminology. If strict attention to costs were truly the polestar for the IAC and Sprint proposals, it would make no sense that they would increase the RIC--an element not tied to any specific costs.

Additionally, the Commission should reject any suggestion that the RIC will ensure LECs are not harmed by DS3-based pricing

because, in any case, they will be kept whole. It is true that, initially, the LEC is intended to maintain revenue neutrality. But the RIC is not intended to be a permanent element, (see, e.g., Guedel/AT&T, Tr. 117; Poag/United, Tr. 789), and already existing pressures from IXCs to eliminate it will likely prompt its quick demise. (See, e.g., Guedel/AT&T, Tr. 163.) In any event, a customer can bypass the RIC even today by simply shifting his traffic from switched to special access arrangements, thereby reducing LEC revenues and contribution. (Guedel/AT&T, Tr. 157, 159.) The LECs thus need the ability to establish a rational pricing scheme that will ensure their long-term ability to compete.

Moreover, LECs would not be the only companies harmed by the DS3-based scheme Sprint and IAC advance. The FCC found that DS3 pricing would also increase the pricing impact on the small IXCs. FCC Transport Order at para. 47. This finding suggests that it would be a mistake to assume that IAC, made up of large third-tier IXCs, speaks for the best interests of the relatively smaller IXCs.

IAC's Cost Calculations Are Flawed

Even if a DS3 pricing scheme were sound policy, Mr. Gillan's rate calculations are flawed. Mr. Gillan's assertions that he calculated LEC transport rates based on actual costs is not entirely true. (Gillan/IAC, Tr. 618.) Apparently, he had some level of cost data for Southern Bell and did some calculations based on that. He admits, though, that he lacked complete cost information from GTEFL and United. (Gillan/IAC, Tr. 633.) His

exhibit comparing GTEFL's DS1 and DS3 costs omitted certain costs-- such as multiplexing equipment--associated with providing DS1 service. (Gillan/IAC, Tr. 633-34.) While Mr. Gillan admitted that this additional cost should have been included (id.), Mr. Rock took a more ambiguous position as to whether multiplexing costs should be associated with the individual DS1 price. (Rock/Sprint, Tr. 666-68.)

The FCC Deemed a Cost Investigation Unnecessary

Finally, the Commission should dismiss any implications that the FCC could not have compiled cost data from the LECs to use as a basis for setting new transport rates. Mr. Gillan commented that "there's no factual path to develop what the cost difference between rate options are." (Hearing Ex. 37 at 14.) Mr. Rock stated that "[t]he FCC didn't--doesn't really have the avenue to go and get cost studies...." (Rock/Sprint, Tr. 682.) This is not true. As the FCC pointed out, it "could undertake a cost investigation to determine a DS3-to-DS1 rate relationship." FCC Transport Order at para. 49. But, for policy reasons, it deliberately chose not to do such an investigation before the restructure was implemented. It concluded that full cost studies were not necessary to resolve the issues raised regarding existing special access rates. (Lee/GTEFL, Tr. 323; id.) The FCC explained further that continuing the existing structure "during the pendency of a lengthy investigation would not be in the public interest." Id.

These observations apply with equal force to this proceeding. If the Commission accepts the DS3-based method, it will need to solicit further cost information from the LECs. While IAC has used costs submitted by some of the LECs, it explicitly does not endorse those figures. (Gillan/IAC, Tr. 595.) Both Mr. Rock and Mr. Gillan would require the LECs to submit detailed cost studies before the restructure could be implemented. (Gillan/IAC, Tr. 595; Sprint/Rock, 668.) GTEFL expects that Sprint and IAC, at least, would challenge these studies, further prolonging the time until transport can be restructured.

There is no reason to delay the benefits of the restructure any longer. As noted, this Commission can rest assured that the dramatic competitive and consumer impacts IAC and Sprint predict will not come to pass if the Commission adopts the LECs' proposed rate levels. GTEFL urges the Commission to implement the proposed transport structure as quickly as possible, so that consumers can begin receiving the acknowledged benefits of the restructuring.

Issue 21: Should the LECs' proposed local transport restructure tariffs be approved? If not, what changes should be made to the tariffs?

Position: Yes. GTEFL's proposed tariff should be approved without modification, for the reasons discussed in the Company's response to Issues 19 and 20, above.

Issue 22: Should the Modified Access Based Compensation (MABC) agreement be modified to incorporate a revised transport structure (if local transport restructure is adopted) for intraLATA toll traffic between LECs?

GTEFL takes no position on this Issue, because it is not a party to the MABC agreement.

Issue 23: How should the Commission's imputation guidelines be modified to reflect a revised transport structure? (if local transport restructure is adopted)?

Summary of Position: ** The imputation guidelines should not be modified in this proceeding. Imputation issues should be treated in a separate docket specifically opened for that purpose. **

Position: The imputation guidelines should not be modified in this proceeding. This docket is intended to address access rates. Imputation involves the distinct matter of setting toll rates. (Lee/GTEFL, Tr. 314.) GTEFL agrees that imputation issues are important. It is precisely for this reason that the Commission should not make any imputation decisions in this docket, where imputation has been a relatively peripheral policy issue. There is doubt as to whether any imputation guidelines are even needed. (Hendrix/SBT, Tr. 548.) If the Commission determines that a new imputation policy is worth exploring, it would be best to do so in

a separate docket just for that purpose (Hendrix/SBT, Tr. 546; Poag/United, Tr. 817.)

If the transport restructure is adopted, the Commission's existing imputation policy can be used by simply substituting the new transport rate elements for the old transport rate elements as appropriate. Since the RIC will contain most of the revenues now recovered for transport, it might be used as a surrogate for the previously employed elements in the imputation formula. This interim method would be easy to administer until the Commission could comprehensively address imputation in a more appropriate forum. (Lee/GTEFL, Tr. 313-14, 328-29.)

Issue 23A: Should the Commission modify the Phase I Order in light of the decision by the United States Court of Appeals for the District of Columbia Circuit?

Summary of Position: ** Yes. The Commission must eliminate the physical collocation mandate and associated requirements to avoid constitutional violations. **

Position: Yes. As GTEFL discussed more fully in its positions on Issues 3 and 7, the Commission's physical collocation rule adopted in Phase I of this proceeding violates both the federal and Florida constitutions. The Court of Appeals has confirmed that mandatory physical collocation is an impermissible taking under the U.S. Constitution, and the FCC has already acted to replace its physical

collocation rules rejected by the Court. Because this Commission's physical collocation rule requires exactly the same kind of intrusion as the FCC's former policy, it, too, is unconstitutional. It must be replaced with a policy of either negotiated interconnection or mandatory virtual collocation.

Issue 24: Should these dockets be closed?

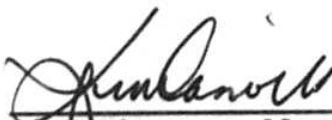
Position: Yes, upon adoption of GTEFL's positions on all the Issues presented.

* * *

For all the reasons discussed in this filing, GTE Florida Incorporated asks the Commission to approve the Company's proposed transport restructure, along with the greater competitive flexibility GTEFL has proposed in this docket.

Respectfully submitted on October 12, 1994.

By:



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of GTE Florida Incorporated's Post-Hearing Statement in Docket No. 921074-TP were sent by U.S. mail on October 12, 1994, to the parties on the attached list.



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