

State of Florida



# Public Service Commission

**-M-E-M-O-R-A-N-D-U-M-**

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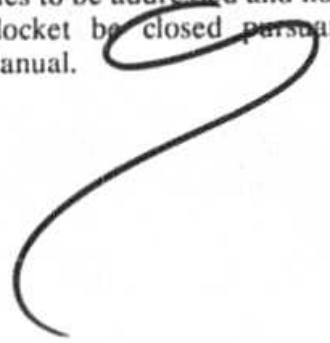
**DATE:** November 20, 1996  
**TO:** Blanca Bayo, Director of Records and Reporting  
**FROM:** Noreen S. Davis, Director of Legal Services *nsd*  
 Walter D'Haeseleer, Director of Communications *WD*  
**RE:** Docket No. 961169-TP; Petition by American Communications Services, Inc., and American Communications Services of Jacksonville, Inc. for Arbitration with GTE Florida, Inc. pursuant to the Telecommunications Act of 1996

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Attached is American Communications Services, Inc.'s Notice of Withdrawal Without Prejudice. Since there are no pending issues to be addressed and no agency action has been taken, staff recommends that this docket be closed pursuant to Section 2.07(C)(6)(d) of the Administrative Procedures Manual.

Thank you.

cc: Stavanja, Division of Communications  
Barone, Division of Legal Services



*OK  
SPS  
11/20/96*

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
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DOCUMENT NUMBER-DATE  
12425 NOV 20 1996  
FPSC-RECORDS/REPORTING

**Before the  
PUBLIC SERVICE COMMISSION  
of the State of Florida**

In the Matter of )  
 )  
Petition by American Communications )  
Services, Inc., and its local exchange )  
operating subsidiaries, for Arbitration )  
with GTE Florida, Inc. pursuant to )  
the Telecommunications Act of 1996. )  
\_\_\_\_\_ )

Docket No. 961169-TP  
Filed: October 30, 1996

**NOTICE OF WITHDRAWAL WITHOUT PREJUDICE**

Comes American Communications Services, Inc. ("ACSI"), and its local exchange operating subsidiaries in Florida, American Communications Services of Jacksonville, Inc. and American Communications Services of Tampa, Inc., by its undersigned attorneys, and files this Notice of Withdrawal Without Prejudice of its Petition for Arbitration. As basis for withdrawal, ACSI would state:

1. The Petition for Arbitration was filed September 26, 1996 by ACSI pursuant to 47 U.S.C. § 252(b). In its petition, ACSI requested arbitration of several unresolved issues in interconnection negotiations between ACSI and GTE Florida ("GTE").

2. In response to the ACSI petition, GTE stated that ACSI had failed to request negotiations and in the alternative had not permitted 135 days to pass after Florida was first mentioned in contract negotiations for two other states (GTE Brief in Response to Request for Arbitration, page 4 footnote 1). Further, in prefiled testimony, GTE suggested that Florida was first mentioned in negotiations on July 30, 1996. (McLeod prefiled Direct Testimony, pp. 9-10.) Using

July 30 as the starting date, the "window" for a petition would open 135 days from July 30, or December 12, 1996.

3. In order to avoid possible unnecessary litigation of an issue, ACS! would accept the July 30 date advanced by GTE as the commencement of Florida negotiations solely for purposes of determining when a petition may be filed with the Florida PSC. Based upon representation that GTE will not seek to strike or dismiss a petition filed between 135 and 160 days from July 30, 1996, on the basis of timeliness, ACS! would withdraw its pending Petition for Arbitration with leave to refile within the described time.

4. ACS! and GTE continue to negotiate, and this notice of withdrawal does not affect the positions of the parties nor constitute a waiver of any position or issue either party may have with respect to negotiations.

WHEREFORE, for the reasons cited, ACS! herewith gives Notice of Withdrawal Without Prejudice of the Petition for Arbitration with GTE Florida, Inc.



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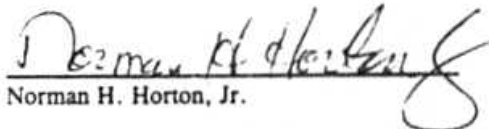
Attorneys for American Communications Services, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of American Communications Services, Inc.'s Notice of Withdrawal Without Prejudice in Docket No. 961169-TP has been furnished by Hand Delivery (\*) and/or Overnight Delivery (\*\*) on this 30th day of October, 1996 to the following parties of record:

Monica Barone, Esq.\*  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd., Room 370  
Tallahassee, FL 32399-0850

Anthony Gillman, Esq.\*\*  
GTE Florida, Inc.  
One Tampa City Center  
201 N. Franklin St.  
Tampa, FL 33602

  
Norman H. Horton, Jr.