



ORIGINAL

Marceil Morrell\*  
Assistant Vice President &-  
Associate General Counsel-East Area

Anthony P. Gillman\*  
Assistant General Counsel

Florida Region Counsel\*\*  
Kimberly Caswell  
M. Eric Edgington  
Ernesto Mayor, Jr.  
Elizabeth Biemer Sanchez

\* Certified in Florida as Authorized House Counsel  
\*\* Licensed in Florida

GTE SERVICE CORPORATION

One Tampa City Center  
201 North Franklin Street (33602)  
Post Office Box 110, FLTC0007  
Tampa, Florida 33601-0110  
813-483-2606  
813-204-8870 (Facsimile)

February 1, 1999

Ms. Blanca S. Bayo, Director  
Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. 980986-TP  
Complaint of Intermedia Communications Inc. against GTE Florida Incorporated  
for breach of terms of Florida Partial Interconnection Agreement under Sections  
251 and 252 of the Telecommunications Act of 1996, and request for relief

Dear Ms. Bayo:

ACK \_\_\_\_\_ Please find enclosed an original and fifteen copies of GTE Florida Incorporated's  
AFA \_\_\_\_\_ Prehearing Statement for filing in the above matter. Service has been made as  
APP \_\_\_\_\_ indicated on the Certificate of Service. If there are any questions regarding this filing,  
CAF \_\_\_\_\_ please contact me at (813) 483-2617.

CMU \_\_\_\_\_ Sincerely,

CTR \_\_\_\_\_  
EAG \_\_\_\_\_  
LEG 1 \_\_\_\_\_ Kimberly Caswell

LIN 3 \_\_\_\_\_  
OPC \_\_\_\_\_ KC:tas  
RCH \_\_\_\_\_ Enclosures

SEC 1 \_\_\_\_\_  
WAS \_\_\_\_\_ A part of GTE Corporation  
OTH \_\_\_\_\_

RECEIVED & FILED  
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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint of Intermedia Communications Inc.	)	Docket No. 980986-TP
Against GTE Florida Incorporated for Breach of	)	Filed: February 1, 1999
Terms of Florida Partial Interconnection Agreement	)	
Under Section 251 and 252 of the	)	
Telecommunications Act of 1996, and Request for	)	
Relief	)	

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**GTE FLORIDA INCORPORATED'S PREHEARING STATEMENT**

GTE Florida Incorporated (GTEFL) files its Prehearing Statement in accordance with Order numbers PSC-98-1398-PCO-TP and PSC-99-0163-PCO-TP in this docket and Commission Rule 25-22.038.

**A. Witnesses**

GTEFL's witnesses and the subjects on which they will testify are:

Steven J. Pitterle will testify about the policy and jurisdictional aspects of the issue identified for resolution in this docket.

Howard Lee Jones will testify about the technical and functional nature of the ISP traffic at issue.

**B. Exhibits**

GTEFL plans to introduce the following exhibits into the record:

Exhibit SJP-1 (attached to Mr. Pitterle's Direct Testimony).

Exhibits HLJ-1 and HLJ-2 (attached to Mr. Jones' Direct Testimony).

GTEFL reserves the right to use and/or introduce into evidence other exhibits at the hearing and other appropriate points in this docket.

### **C. GTEFL's Basic Position**

ISP traffic is functionally and jurisdictionally interstate. The interstate nature of ISP traffic is confirmed by decades of FCC and Court precedent, including the FCC's recent decision in GTE's federal ADSL tariff case. GTEFL correctly understood applicable precedent at the time it executed the contract with Intermedia Communications, Inc. (ICI), so there would have been no reason for GTEFL to except ISP traffic from the reciprocal compensation provisions when GTEFL did not consider the traffic to be local.

There is no room for ICI's claim that this Commission can carve out jurisdiction over a segment of this traffic for purposes of applying reciprocal compensation obligations to it. In addition, subjecting ISP traffic to reciprocal compensation would be ill-advised from a policy standpoint, as it would undermine local competition.

### **D., E., F., G. GTEFL's Specific Positions**

GTEFL believes the issue identified for resolution in this case is a mixed question of fact, law, and policy.

**Issue 1: Under their partial interconnection agreement, are Intermedia Communications, Inc. and GTE Florida Incorporated required to compensate each other for transport and termination of traffic to Internet service providers? If so, what action, if any, should be taken?**

**Position:** No. The ISP traffic at issue is jurisdictionally interstate, so there is no basis for subjecting it to reciprocal compensation obligations under a local interconnection agreement. The Commission should take no action, other than to confirm that ISP traffic is interstate.

**H. Stipulated Issues**

GTEFL is unaware of any stipulations.

**I. Pending Matters**

GTEFL is unaware of any pending matters.

**J. Procedural Matters**

To the best of its knowledge, GTEFL can comply with all requirements set forth in the procedural order in this case.

Respectfully submitted on February 1, 1999.

By:



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Kimberly Caswell  
Post Office Box 110, FLTC0007  
Tampa, Florida 33601  
Telephone: 813-483-2617

Attorney for GTE Florida Incorporated

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that copies of GTE Florida Incorporated's Prehearing Statement in Docket No. 980986-TP were sent via overnight delivery(\*) on January 29, 1999 and U. S. mail(\*\*) on February 1, 1999 to the following:

Martha Brown, Staff Counsel(\*)  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Donna L. Canzano(\*\*)  
Patrick Knight Wiggins  
Wiggins & Villacorta, P.A.  
2145 Delta Boulevard, Suite 200  
Tallahassee, FL 32302

Scott A. Sapperstein(\*\*)  
Intermedia Communications Inc.  
3625 Queen Palm Drive  
Tampa, FL 33619



Kimberly Caswell