

ORIGINAL



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)

Marceil Morrell**
Area Vice President & Associate General Counsel-
Regional Operations (East)

Anthony P. Gillman**
Assistant General Counsel

Attorneys*
Kimberly Caswell
M. Eric Edgington
Ernesto Mayor, Jr.

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

August 28, 1998

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

Re: Special Project No. 980000B-SP
Access by Telecommunications Companies to Customers in
Multi-Tenant Environments

Dear Ms. Bayo:

Please find enclosed an original and fifteen copies of the Reply Comments of GTE Florida Incorporated for filing in the above matter. Also enclosed is a diskette with a copy of the Reply Comments in WordPerfect 6.0 format. If there are any questions regarding this filing, please contact me at (813) 483-2617.

ACK _____ Very truly yours,

AFA _____

APP _____ *Kimberly Caswell/dm*

CAF _____ Kimberly Caswell

CAU _____

CTR _____ KC:tas

EAG _____ Enclosures

LEG _____ *1*
c: Staff Counsel, Florida Public Service Commission (w/e)

LIN _____ Charles Murphy, House Committee on Utilities & Communications (w/e)

OPC _____

RCH _____ *1*

SEC _____ *1*
A part of GTE Corporation

WAS _____ *Ang Bred*

OTH _____

RECEIVED & FILED
[Signature]
FISC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
09427 AUG 28 98
FISC-BUREAU OF RECORDS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Access by Telecommunications Companies)
 To Customers in Multi-Tenant Environments)
 _____)

Special Project No. 980000B-SP
 Filed: August 28, 1998

REPLY COMMENTS OF GTE FLORIDA INCORPORATED**A. Areas of Consensus**

Based on the first round of comments and the parties' presentations at the August 12 workshop, there appears to be substantial consensus on a number of issues concerning telecommunications provider access to tenants in multi-tenant environments. These consensus positions are a solid foundation for the Commission's recommendations to the Legislature. GTE believes most or all parties agree on the following principles:

(1) Nondiscriminatory access. In order to promote a technologically advanced and competitive telecommunications infrastructure in Florida, tenants in multi-tenant environments should have nondiscriminatory, technology neutral, and direct access to telecommunications service providers of their choice.

(2) Direct access. Direct access should generally mean access to spaces and facilities that are required to provide telecommunications services to tenants, including, but not limited to, wall space, floor space, conduits, and equipment closets.

(3) Definition of multi-tenant location. Multi-tenant locations should be defined broadly to include all non-transient tenancies, both residential and commercial, and both existing and new.

(4) Services included in direct access. Telecommunications services for which direct access is granted should include those over which the Florida PSC has jurisdiction, including, but not limited to, basic local exchange service and high speed data services.

(5) Legal issues. Direct access to tenants in a multi-tenant location is not an unconstitutional taking. (The most notable exception to this position is the Building Owners and Managers Association (BOMA).)

(6) No exclusive contracts. Although a few parties advocate allowing exclusive contracts for access, GTE believes the majority--and better--view is that such contracts are likely to undermine competition, because all tenants should have the basic right of selecting a telecommunications service provider or providers of choice. Exclusive contracts are, moreover, inconsistent with the carrier-of-last-resort obligations that persist for the ILECs, including GTE.

(7) Responsibility for property damage. Telecommunications service providers that install or maintain telecommunications facilities within multi-tenant locations are responsible for repairing property damage caused by installation or maintenance activities, and for indemnifying property owners for damages and liability resulting from such activities.

(8) E911 maintenance. The deployment of E911 products that provide individual station location and automatic number identification within multi-tenant locations remains the responsibility of the underlying telecommunications service provider.

(9) Change to MPOE. Most parties (notably, excluding BellSouth) agree that this Commission should change its demarcation point definitions to be consistent with the FCC's minimum point of entry (MPOE) policy and associated rules. GTE must emphasize, however, that its support for movement of the demarcation point to the MPOE is conditioned upon the very important proviso that the incumbent local exchange carrier (ILEC) be permitted to recover its investment in facilities over which it will have no control

as a result of moving the demarcation point in existing buildings. Under the existing Commission rules, GTE must run cable to individual customer units and place demarcation points in each of those premises. Under the FCC scheme, the demarcation point would be moved to the MPOE--the basement, for example--thus forcing the ILEC to effectively abandon the facilities behind the new demarcation point up to the old demarcation point at the customer's premises. The ILEC would be placed in the untenable position of owning, but not at all controlling, the existing inside wire. GTE would, of course, expect the Commission or Legislature to create a mechanism to compensate the ILEC in this situation. The California Commission, for instance, ordered an advanced amortization of inside wiring, to be recovered through an end-user surcharge on the monthly bill. GTE believes such an approach--which would likely amount to no more than a few pennies a month per customer--is appropriate for Florida, as well.

* * *

B. Controverted Issues

The most vocal opponents of direct, nondiscriminatory access to tenants are property owner interests, led here by BOMA. BOMA cites a number of "public policy" reasons that purportedly justify denying direct access to certified telecommunications carriers. GTE believes BOMA overstates these potential problems. For instance, BOMA implies that direct access will prevent the owners from "regulating, supervising or coordinating on-premise activities of all service providers." This is not true. Owners would still be free to negotiate the terms of access with the telecommunications companies, subject only to reasonable constraints, such as the nondiscrimination condition. BOMA's concerns that telecommunications providers' activities will disrupt the building operations

and/or tenants and potentially cause property damage or increased costs can likewise be addressed by contract. A contract could, for example, define permissible activities and hours of access, and establish that the telecommunications company would be held liable for damage it causes and for the costs of any necessary building modifications.

BOMA's fear that owners will be "forced to grant access to an unlimited number of other telecommunication companies" is also overblown. The market will hold down the number of providers serving a building. A company will not seek to enter a location unless it is reasonably assured of attaining enough business there to make an adequate profit. Even in the unlikely event that each tenant requested a different telecommunications provider, multiple providers would not likely agree to furnish service under such conditions. Furthermore, GTE does not believe any party has suggested that building owners should be forbidden from imposing constraints on entry that are reasonably related to space, security, safety and aesthetic appearance.

It is simply untrue that granting nondiscriminatory access will solely enhance the financial interests of the telecommunications companies, as BOMA claims. Nondiscriminatory access to tenants will encourage competition, thereby enhancing consumer welfare through lower prices, better service, and increased innovation. These benefits typically associated with an openly competitive marketplace will, however, be undermined to the extent the building owner attempts to profit from its control of the building entry bottleneck. For instance, the providers' costs of access will necessarily be reflected in the prices the end user must pay for telecommunications services.

In the end, GTE believes that the policy arguments advanced by BOMA and related interests mask a profit-making motive--but just barely. The title of the BOMA manual,

Wired for Profit: The Property Management Professional's Guide to Capturing Opportunities in the Telecommunications Market, succinctly captures this motive. (See Workshop Tr., Aug. 12, 1998, at 154.) While such opportunism is perhaps understandable, it is at odds with the creation of effective competition in this instance, and should not prevent this Commission from supporting reasonable and nondiscriminatory access before the Legislature.

In particular, GTE urges the Commission to remain aware of the relationship between the compensation issue and telecommunications companies' statutory carrier-of-last-resort (COLR) duties. As an ILEC with mandatory COLR obligations (which new entrants do not share), GTE should not be charged for space needed to provide services that are essential to the public welfare and a necessary part of the building or property infrastructure. Indeed, a COLR ILEC must provide certain services to a multi-tenant location owner even before an occupancy permit can be obtained from public safety officials--for example, copper connectivity to a municipal fire alarm system.

If the Commission or the Legislature determines that carriers of last resort may be charged for access to multi-tenant locations or if exclusive contracts (discussed above) are deemed acceptable, then GTE believes that the COLR obligation for multi-tenant locations is essentially severed. If the Commission makes such recommendations, then it should also tell the Legislature to re-evaluate the COLR obligations in the existing statute.

Respectfully submitted on August 28, 1998

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

Attorney for GTE Florida Incorporated