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June 12, 1996

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

Dear Ms. Bayo:

Re: Docket No. 950984-TP
Resolution of petition(s) to establish nondiscriminatory rates, terms and conditions for resale involving local exchange companies and alternative local exchange companies pursuant to Section 364.161, Florida Statutes

Please find enclosed for filing an original and fifteen copies of GTE Florida Incorporated's Request for Confidential Classification and Motion for Protective Order in the above matter. Service has been made as indicated on the Certificate of Service. If there are any questions with regard to this matter, please contact me at 813-228-3087.

Very truly yours,

Anthony P. Gillman
Anthony P. Gillman

This Motion for Protective Order was filed with Confidential Document No. 06316-76. The document has been placed in the confidential.

APG:tas
Enclosures

A part of GTE Corporation

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of petition(s) to establish)
nondiscriminatory rates, terms and conditions for) Docket No. 950984-TP
resale involving local exchange companies and) Filed: June 12, 1996
alternative local exchange companies pursuant to)
Section 364.161, Florida Statutes)
_____)

**GTE FLORIDA INCORPORATED'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION AND MOTION FOR PROTECTIVE ORDER**

GTE Florida Incorporated (GTEFL) seeks confidential classification and a permanent protective order for certain information submitted in its Post-Hearing Statement and Brief in this matter. In support of this request, GTEFL states as follows:

1. On April 5, 1996, GTEFL filed its notice of intent to seek confidential classification of certain information submitted in its Post-Hearing Statement and Brief. GTEFL recognizes that this request for confidential classification is past the twenty-one day period as required by Commission Rule 25-22.006. GTEFL inadvertently failed to calendar the date on which the request should have been filed and, as such, the date passed without GTEFL filing its request. Upon being made aware of the error, GTEFL immediately filed this pleading seeking confidential classification of the information in question. No party to the above proceeding has been prejudiced by GTEFL's omission. Each party who has entered into protective agreements with GTEFL received copies of the brief which included the proprietary material. GTEFL believes it has presented grounds for good cause to justify its untimely filing of this request.

2. All of this information falls within Florida Statutes §364.183(3)(e), which defines the term "proprietary confidential business information" to include "information

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relating to competitive interests, the disclosure of which would impair the competitive business of the provider of that information." The documents in question contain competitively sensitive information regarding the projected revenue losses which GTEFL may sustain as a result of competition in the local exchange market. A line-by-line description of the information requested by GTEFL to be held confidential is as follows:

Page 24 (line 15): At the end of line 15, GTEFL refers to the number of millions of dollars of contribution which GTEFL is expected to lose with a 10% market share loss. This number is proprietary because, if disclosed, it will afford GTEFL's competitors inside information about the financial impact competition will have upon GTEFL. This information will enable GTEFL's competitors to determine where GTEFL may be most vulnerable and allow them to formulate their business plans accordingly. With this information, competitors will be better able to predict how GTEFL will respond to such competition and will in turn be able to develop a counter response.

Page 24 (line 19): In this line, GTEFL refers to the number of millions of dollars of contribution which GTEFL is expected to lose with a 30% market share loss. The reasons for this number being proprietary are the same as those set forth above.

Page 25 (line 1): In this line, GTEFL refers to two numbers constituting the range of basis points GTEFL projects it will lose on its return if competitors capture between 10% and 30% of GTEFL's market share. As with the loss of contribution noted above, projections regarding lost basis points will afford competitors confidential financial information regarding the impact that competition will have upon GTEFL. This information will enable GTEFL's competitors to determine where GTEFL may be most vulnerable and allow them to formulate their business plans accordingly. With this information, GTEFL's competitors will be better able to predict GTEFL's response to competition and in turn be able to develop a counter response.

If the information noted above is made public, GTEFL will be forced to disclose confidential financial information which would not be disclosed except through this proceeding.

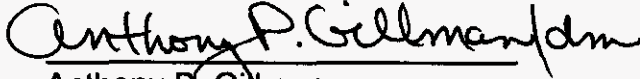
Competitors can use this information to develop entry and marketing strategies to ensure

success in competing with GTEFL. Clearly, these competitors would be more adept at competing with GTEFL if they know the impact their actions will have upon the company. Also, if this financial information is disclosed publicly, it could negatively affect GTEFL's position in the financial market.

3. GTEFL's competitors should not be afforded an unfair advantage while severely jeopardizing GTEFL's competitive position in the competitive and financial market. In a competitive business, any such knowledge obtained about a competitor can be used to the detriment of the entity to which it pertains. This unfair advantage skews the operation of the market, to the ultimate detriment of the consumer.

4. While a ruling on this request is pending, GTEFL understands that the information at issue is exempt from Florida Statutes, Section 119.01(1) and Staff will accord it the stringent protection from disclosure required by Rule 25-22.006(3)(d). Highlighted, unredacted copies of the confidential material, labeled Exhibit A, are submitted in a separate envelope accompanying only the original of this Request. Redacted copies of these items are attached to this Request as Exhibit B.

Respectfully submitted on June 12, 1996.

By: 
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1 the company to operate successfully, to maintain its financial integrity, to attract capital,
2 and to compensate its investors for the risks assumed."); *Bluefield Water Works and*
3 *Improvement Company v. Public Service Commission*, 262 US 679, 692 (1923) (directing
4 that rates must be set so as to allow a return that is equal to "investments on other
5 business undertakings which are attended by corresponding risks and uncertainties.");
6 *Penn Central Transportation Co. v. City of New York*, 438 U.S. 104, 125 (1978) (relevant
7 considerations in determining whether an unconstitutional taking has taken place includes
8 the economic impact of the regulation, the extent to which the regulation has interfered
9 with distinct investment-backed expectations, as well as character of the government
10 action).

11 GTEFL presented unrefuted testimony at the hearing of this docket which establishes
12 that an unconstitutional taking will occur under the above cases unless GTEFL is entitled
13 to make an adequate recovery of its investment through rate rebalancing or some other
14 mechanism. GTEFL witness Dennis Trimble testified about the devastating economic
15 impact to GTEFL of improper pricing of unbundled services. Mr. Trimble identified a
16 million dollar loss of contribution with but a small percentage (10%) of market share loss.
17 (Trimble Direct, pp. 12-13). This was a conservative estimate given the fact that AT&T
18 witness Mike Guedel acknowledged AT&T's plans to capture 30% of the local exchange
19 market (T. 323). Using AT&T's estimate, GTEFL's loss will exceed million dollars. The
20 magnitude of these losses to investors can also be expressed in lost return on investor
21 equity. Using the 10% and 30% market share figures, GTEFL's investors will suffer a loss

1 of return ranging from to basis points. Clearly these losses prove a taking without
2 just compensation under the United States and Florida Constitutions.


3 **2. Setting Rates at Levels Which Do Not Recover Their Total Costs**
4 **Constitutes A Taking of Property Without Just Compensation.**

5 MFS has argued that GTEFL must price its services at its LRIC levels, requiring
6 GTEFL to forego recovery of all service-specific incremental volume insensitive costs as
7 well as shared common costs. MFS noted that GTEFL makes money "if you add up all the
8 components with switched access and vertical features . . . and especially with GTE's
9 announcement to get into long distance" (T.129). MCI witness Nina Cornell also claims
10 that joint and common costs must be recovered from other services (Cornell Direct, pp. 7-
11 8). If the Commission adopts these positions, such actions will constitute an
12 unconstitutional taking of GTEFL's property.

13 Neither this Commission nor any other governmental agency is permitted to impose
14 confiscatory rates on one line of a company's business simply because the company
15 theoretically can afford those losses by generating additional revenue on other lines of
16 business. Such a notion would permit the government to impose below-cost pricing on any
17 profitable company. For instance the government could force Microsoft to sell software to
18 competitors at a loss, on the ground that it made "enough" selling Windows 95 to others.
19 Regulators could require Ford Motor Company to sell small cars to the needy at a loss on
20 the ground that such losses are more than "offset" by profits made by the company on
21 popular luxury cars.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of GTE Florida Incorporated's Request for Confidential Classification and Motion for Protective Order in Docket No. 950984-TP were sent via U.S. mail on June 12, 1996 to the parties on the attached list.


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