

1 GTE FLORIDA INCORPORATED

2 REBUTTAL TESTIMONY OF BEVERLY Y. MENARD

3 DOCKET NO. 961173-TP 9411/95

4
5 Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND
6 POSITION WITH GTE FLORIDA INCORPORATED (GTEFL).

7 A. My name is Beverly Y. Menard. My business address is One
8 Tampa City Center, Tampa, Florida 33601-0110. My current
9 position is Regional Director - Regulatory and Industry Affairs.

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11 Q. DID YOU FILE DIRECT TESTIMONY IN THIS CASE?

12 A. Yes, I did.

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14 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

15 A. The purpose of my testimony is to present GTE's position relative to
16 Sprint's request for access to 911/E911.

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18 Q. DOES GTE PROVIDE 911 SERVICE?

19 A. No. All of GTE's area has been converted to E911 service.

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21 Q. DOES GTE HAVE ANY PROBLEMS WITH GIVING SPRINT
22 ACCESS TO E911 SERVICE?

23 A. No. GTE is not aware of any outstanding issues on E911 with Sprint
24 GTE is willing to offer access to E911 service in the same manner as
25 it has for other ALECs. Attached as Exhibit BYM-1 is a copy of the

DOCUMENT NO. 961173-TP
11738 NOV-1 1995
FPSC-RECORDER/REPORTING

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E911 Agreement which was signed with Intermedia Communications Incorporated (ICI). This agreement was approved by the Florida Public Service Commission in Order No. PSC-96-0784-FOF-TP which was issued on June 17, 1996.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

Docket No 961173-TP

Rebuttal Testimony of Beverly Y. Menard

Exhibit No BYM-1

Page 1 of 14

FPSC Exhibit No. _____

AGREEMENT TO PROVISION 9-1-1 SERVICE

This Agreement (Agreement) is entered into between GTE Florida Incorporated (GTE), with its principal office located at One Tampa City Center, 201 North Franklin Street, Tampa, Florida 33602, and Intermedia Communications, Inc. (ICI), located at _____, for the provision of Enhanced 9-1-1 service.

WHEREAS, GTE is a telecommunications company certificated to provide local exchange and other telecommunications services within the State of Florida; and

WHEREAS, one of the services GTE provides is Enhanced 9-1-1 (E9-1-1) to the county government entities (Counties) pursuant to tariff. In order to provide this E9-1-1 service, GTE provides to the Counties certain network facilities and an E9-1-1 database management service/automatic location identification inquiry retrieval service for the purpose of providing E9-1-1 service; and

WHEREAS, ICI desires to purchase from GTE certain E9-1-1 features, facilities or services in order to provide ICI's customers the ability to access the existing countywide E9-1-1 service; and

WHEREAS, GTE is willing to furnish, install and maintain these features, facilities, or services subject to the terms and conditions set forth below.

NOW, THEREFORE, it is mutually agreed between the parties as follows:

ARTICLE I.
DEFINITIONS

1. "Automatic Number Identification (ANI)" is a feature that identifies and displays the number of a telephone that originates a 9-1-1 call.
2. "Automatic Location Identification (ALI)" is a proprietary database developed for E9-1-1 systems that provides for a visual display of the caller's telephone number, address and the names of the emergency response agencies that are responsible for that address. The Alternative Local Exchange Company will provide ALI record information in National Emergency Number Association (NENA) Version #2 format. The ALI also shows a Service Provider Number Portability (SPNP) number if applicable.
3. "Alternative Local Exchange Company (ALEC)" is a company certificated by the Florida Public Service Commission to provide local exchange telecommunications services in Florida on or after July 1, 1995.

4. "Emergency Response Agency" is a governmental entity authorized to respond to requests from the public to meet emergencies.
5. "National Emergency Number Association (NENA)" is an association with a mission to foster the technological advancement, availability and implementation of 9-1-1.
6. "Service Provider Number Portability (SPNP)" is a service arrangement whereby ALEC end users changing local service providers may retain existing telephone numbers when remaining at their current location or changing their location within the geographic area served by the initial carrier's serving central office.
7. "Database Records" are the residential, business and government subscriber records used by GTE to create and maintain databases required for E9-1-1 purposes.
8. "ICI Database Records" are the ICI customer records to be provided by ICI to GTE for inclusion in GTE's E9-1-1 database.
9. "Emergency Service Number (ESN)" is a number assigned to the ALI and selective routing databases for all subscriber telephone numbers. The ESN designates a unique combination of fire, police and emergency medical service response agencies that serve the address location of each in-service telephone number.
10. "Enhanced 9-1-1 Service (E9-1-1)" means a telephone communication service which will automatically route a call dialed "9-1-1" to a designated public safety answering point (PSAP) attendant and will provide to the attendant the calling party's telephone number and, when possible, the address from which the call is being placed and the emergency response agencies responsible for the location from which the call was dialed.
11. "Master Street Address Guide (MSAG)" is a database defining the geographic area of an E9-1-1 service. It includes an alphabetical list of the street names, high-low house number ranges, community names, and emergency service numbers provided by the counties or their agents to GTE.
12. "Public Safety Answering Point (PSAP)" is the public safety communications center where 9-1-1 calls placed by the public for a specific geographic area will be answered.

13. "Selective Routing" is a service which automatically routes an E9-1-1 call to the PSAP that has jurisdictional responsibility for the service address of the telephone that dialed 9-1-1, irrespective of telephone company exchange or wire center boundaries.

14. "Database Management System (DBMS)" is the computer system used to create, sort, manipulate and update the data required to provide selective routing and ALI.

15. "E9-1-1 Message Trunk" is a dedicated line, trunk or channel between two central offices or switching devices which provide a voice and signaling path for 9-1-1 calls.

16. "ALI Entry" is executed through GTE's ALI Gateway. ICI may purchase a software program from GTE that automates the process of building ALI records in the National Emergency Number Association (NENA) standard format. It provides limited accuracy checks to aid preparation of ALI records to be uploaded in GTE's DBMS.

17. "ALI Gateway (Gateway)" is a telephone company computer facility that interfaces with ICI's 9-1-1 administrative site to receive ALI data from ICI. Access to the Gateway will be via a dial-up modem using a common protocol.

18. "9-1-1 Site Administrator" is a person assigned by ICI to establish and maintain E9-1-1 service location information for its subscribers.

19. "P.01 Transmission Grade of Service (GOS)" means a trunk facility provisioning standard with the statistical probability of no more than one out of 100 blocked on initial attempt during the average busy hour.

ARTICLE II.

SERVICES TO BE PROVIDED BY GTE

1. E9-1-1 Trunk. GTE, at ICI's option, shall provide a minimum of two (2) E9-1-1 trunks per Numbering Plan Area (NPA) code [or that quantity which will maintain P.01 transmission grade of service, whichever is the higher grade of service]. These trunks will be dedicated to routing 9-1-1 calls from ICI's switch to a GTE selective router. The nonrecurring charge and monthly rates associated with 9-1-1 trunks are shown on Attachment A.

2. E9-1-1 Selective Routing. This service provides the selective routing of E9-1-1 calls received from ICI's switching office. This includes the ability to receive the ANI of ICI's subscriber, selectively route the call to the appropriate PSAP, and forward

the subscriber's ANI to the PSAP. This service also allows for selective transfer, speed calling, central office transfer, and certain maintenance functions for each PSAP. The nonrecurring charge and monthly rate associated with this service are shown on Attachment A.

3. E9-1-1 Automatic Location Information (ALI)/Selective Routing Database Administration. ALI is a proprietary database developed for E9-1-1 systems that is designed to be retrieved via an ANI input for display on a terminal at a PSAP attendant's position. The address component of the database is the correct address location associated with each subscriber's access line. These records are neither telephone company service records nor directory addresses, but a new database created specifically for the E9-1-1 system extracted from address information developed by GTE from the telephone companies participating in the system and the County(ies). The ALI database will be managed by GTE, but is the property of GTE and any participating telephone company and ALEC for those records provided by the company. The rates for this service are contained in the company's tariff to the County(ies).

4. E9-1-1 ALI Entry Software. This service is a personal computer software program that automates the process of building ALI records of ALEC customers in the National Emergency Number Association (NENA) standard format. It provides for some limited accuracy checks and uploading the records to GTE. The nonrecurring charge and monthly rate associated with this service are shown on Attachment A.

5. Selective Routing Boundary Maps. Copies of Selective Routing Boundary Maps are available at the rate listed in Attachment A. Each map shows the boundary around the outside of the set of exchange areas served by that selective router. The map provides ICI the information necessary to set up its network to route E9-1-1 callers to the correct selective router.

6. Service Provider Number Portability (SPNP). All ICI lines that have been ported via SPNP will reach the correct PSAP when 9-1-1 is dialed. GTE will send both the ported number and the ICI number (if both are received from ICI). The PSAP attendant will see both numbers where the PSAP is using a standard ALI display screen and the PSAP extracts both numbers from the data that is sent.

7. Copies of MSAG. This service will be provided within three business days from the time requested. They will be provided on paper, diskette, magnetic tape, or in a format suitable for use with desktop computers at the rates listed in Attachment A.

ARTICLE III.
CUSTOMER REQUIREMENTS AND RESPONSIBILITIES

1. ICI is required to order or provide a minimum of two E9-1-1 service trunks per NPA code served, or that quantity which will maintain a P 01 transmission grade of service, whichever is the higher standard.
2. ICI shall ensure that its switch provides an eight-digit ANI consisting of an information digit and the seven-digit exchange code. ICI shall also ensure that its switch provides the line number of the calling station.
3. ICI shall be solely responsible for providing ICI database records to GTE for inclusion in GTE's ALI database on a timely basis.
4. ICI must send database records to GTE through GTE's ALI Gateway or other mutually acceptable medium. This can be done by using GTE's E9-1-1 ALI Entry Software or GTE will accept electronically transmitted files or magnetic tape that conform to National Emergency Number Association (NENA) Version #2 format and according to procedures set forth in GTE Practice No. 444-400-003, Enhanced 9-1-1 Standards for Data Exchange.
5. Record information for ICI using GTE ALI Entry Software must be forwarded according to the format and procedures established in GTE's "GTE ALI Entry User's Guide" which will be provided with the purchase of the GTE ALI Entry Software Program. ICI will assign an E9-1-1 site administrator charged with the responsibility of forwarding ICI end user ALI record information to GTE. If ICI plans to use its own software, ICI may order a copy of the "GTE ALI Entry User's Guide" at the rate listed on Attachment A.
6. ICI will provide information on new customers to GTE within one (1) business day of the order completion. GTE will update the database within two (2) business days of receiving the data from ICI. If GTE detects an error in the ICI provided data, the data will be returned to ICI within two (2) business days from when it was provided to GTE. ICI must also respond to requests from GTE to make corrections to database record errors by uploading corrected records within two (2) business days. Manual entry will be allowed only in the event that the system is not functioning properly.

ARTICLE IV.
DISCLAIMER, LIMITATION OF LIABILITY

1. The rates charged for the E9-1-1 service do not include, and GTE does not undertake, the tasks of inspection or constant monitoring to discover errors, defects or malfunctions in the service. ICI is responsible for reporting all errors, defects and malfunctions to GTE.

2. 9-1-1 service provided under this Agreement is for the benefit of ICI. The provision of 9-1-1 service shall not be interpreted, construed or regarded as being either expressly or implied for the benefit of, or creating any obligation toward, any person or legal entity other than ICI.

3. GTE's liability, whether in contract, tort or otherwise, shall be limited to direct damages which shall not exceed the pro rata portion of the monthly charges for the service for the time period during which the service provided pursuant to this Agreement is inoperative, but not to exceed in total GTE's monthly charge to ICI. Under no circumstance shall GTE be responsible or liable for indirect, incidental or consequential damages including, but not limited to, damages arising from the use or performance of the equipment or software, or the loss of use of the software or equipment, and accessories attached thereto, delay, error or loss of data. In connection with this limitation of liability, the parties recognize that GTE may, from time to time, provide advice, make recommendations or supply other analysis related to the equipment or services described in this Agreement and, while GTE shall use its best efforts in this regard, ICI acknowledges and agrees that this limitation of liability shall apply to provision of such advice, recommendations and analysis.

4. GTE shall not be liable or responsible for any failure of the E9-1-1 system to provide accurate ALI for calls originating from ICI subscribers when the associated ALI has been provided by ICI to GTE.

5. ICI shall hold harmless and indemnify GTE from and against any and all claims, demands, causes of action, any liabilities whatsoever, including costs, expenses and reasonable attorney's fees, incurred as a result of personal injury, bodily injury, or property damage and any penalties and fines, arising out of, in connection with, or resulting from the acts or omissions by ICI in failing to provide customer data to GTE for inclusion in GTE's E9-1-1 System or for inaccuracies contained in the customer data provided to GTE for inclusion in the E9-1-1 database.

6. ICI agrees to indemnify, save and hold GTE harmless from any and all claims for injury or damages of any nature arising out of or as a result of any act or omission of ICI and its respective employees, directors, officers or agents in connection with implementing or the provision of the E9-1-1 system.

ARTICLE V.
PROPRIETARY INFORMATION

1. It is the parties' intent that all information obtained from ICI for inclusion in GTE's 9-1-1 database records shall be used solely by the Counties for answering, handling and responding to emergency calls in a manner consistent with the nature of the emergency. ICI shall develop and implement procedures to prevent the unauthorized or illegal use of the name, telephone and address of any of its subscribers in the database created by ICI for inclusion in GTE's database records.

ARTICLE VI.
TERMINATION AND CANCELLATION

1. Cancellation of any service or facility ordered under this Agreement in whole or in part by ICI prior to the establishment thereof will require payment to GTE of an amount equal to the cost of engineering, manufacturers' billing resulting from equipment orders, installations, assembly, labor, cost of removal, database development, and any other costs incurred by the Company up to the time of cancellation resulting from ICI's order for service.

2. If either party refuses or fails in any material respect to properly perform its obligations under this Agreement, violates any of the material terms or conditions of this Agreement, or in the event ICI permits unauthorized use of the E9-1-1 database, such refusal, failure or violation shall constitute a default. In such event, the nondefaulting party may notify the other party in writing of the default and allow that party 30 calendar days to cure such default. If the defaulting party does not cure the default within 30 calendar days, the non-defaulting party shall have the right to terminate this Agreement upon written notice to the other party and seek all appropriate legal remedies.

ARTICLE VII.
TERM

1. The effective date of this Agreement shall be the date of signature and acceptance by GTE. This Agreement shall continue in effect for a period of one (1) year following the date signed by GTE, and thereafter for successive one-year periods, unless terminated in accordance with Article VI, modified by mutual agreement of the parties, or terminated by ninety (90) days written notice from either party to the other.

2. This Agreement must be executed by authorized representatives of both parties. It will be considered to be in full force and effect on and after the effective date when signed by both parties.

ARTICLE VIII. PAYMENT TERMS

1. ICI shall pay any applicable one-time charges. The recurring charges for the system shall be billed monthly by GTE thirty (30) days in advance. The bill will be due upon presentation to ICI and will be considered delinquent if received after the late payment date printed on the bill. The late payment date will not be less than 22 days from the postmark date on the billing envelope.

2. If payment is not received by the late payment date printed on the bill or within 22 days from the postmark date on the billing envelope, a late charge penalty will be applied as defined in GTE's General Services Tariff, Section A2.4.6.

ARTICLE IX. SUBCONTRACTORS

GTE may enter into subcontracts with third parties, including GTE affiliates, for the performance of any of GTE's duties and obligations herein.

ARTICLE X. INFRINGEMENT

1. GTE shall defend at its own expense all claims, proceedings, and/or suits alleging infringement or misappropriation of any patent, trademark, copyright, trade secret or violation of any other intellectual property or proprietary rights by reason of the use, sale or licensing of system software furnished to ICI under this Agreement, or the use of licensed system software within the scope of the licenses granted under this Agreement, and shall defend, indemnify, protest and save ICI from all claims, actions, suits, costs, expenses, damages, including reasonable attorneys' fees and payments, as a result of such claims of infringement or misappropriation, and if the use shall be enjoined, GTE shall, at its option, replace the enjoined system software or service with a suitable substitute free of the infringement or misappropriation; or shall procure for ICI's benefit a license or other right to use the same, or shall remove the enjoined system software and refund to ICI the amount paid to GTE therefor for such infringing or misappropriated system software. GTE shall have total control over the defense,

negotiation and settlement of each case. However, ICI shall be permitted to participate in such defense, negotiation or settlement by counsel at its own choosing and expense.

2. No undertaking of GTE in this section shall apply to any infringement or misappropriation or any claim of infringement or misappropriation or claim which arises solely from GTE's adherence to ICI's written instructions or directions or which arise solely from the use of system software with equipment, devices or software not supplied by GTE other than:

A. Commercial merchandise which is available on the open market with which system software is designated to operate; or

B. Items of GTE's origin, design or selection.

3. ICI shall give GTE prompt notice of any claims of such infringement or misappropriation and of all suits and, except as otherwise indicated herein, full opportunity and authority to assume the sole defense thereof where GTE is obligated to indemnify ICI hereunder, including appeals, and to settle such suits, and shall furnish upon GTE's request and at GTE's expense all disclosure information and reasonable assistance available to ICI.

ARTICLE XI. NOTICES

All notices provided for in this Agreement shall be in writing addressed to the appropriate party's representative designated below at the respective address set forth or to such other address or representative as is specified by notice provided. If such notice is sent by mail it shall be certified, return receipt requested, and shall be considered given when deposited in the U.S. mail.

ICI Address

GTE Address

_____	_____
_____	_____
_____	_____

ARTICLE XII. GENERAL PROVISIONS

1. Independent Contractor Relationship. GTE shall remain an independent contractor in performing services under this Agreement and shall be responsible for compliance with all laws, rules and regulations involving, but not limited to, employment

of labor, hours of labor, health and safety, working conditions and payment of wages. The persons provided by GTE shall be solely GTE's employees and shall not be considered employees of ICI. GTE shall be responsible for payment of federal, state and municipal taxes and costs such as Social Security, unemployment, Workers' Compensation, disability insurance, and federal and state withholding with respect to its employees.

2. Limitation of Actions. No action, regardless of form, arising out of the subject matter of this Agreement may be brought by either party more than two (2) years after the cause of action has accrued.

3. Delayed Performance. In the event performance of this Agreement, or any obligation hereunder, is prevented, restricted or interfered with by reason of acts of God, wars, revolution, civil corruption, acts of public enemy, embargo, acts of the Government in its sovereign capacity, labor difficulties, including, without limitation, strikes, slowdowns, picketing or boycotts, unavailability of equipment from vendor, changes requested by ICI, or any other circumstances beyond the reasonable control and without the fault or negligence of the party affected. The party affected, upon giving prompt notice to the other party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction or interference (and the other party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased), provided, however, that the party so affected shall use its best reasonable efforts to avoid or remove such causes of nonperformance and both parties shall proceed whenever such causes are removed or cease.

4. Assignment. ICI may not assign this Agreement without the written consent.

5. Waiver. The failure of either party to insist upon the performance of any provision of this Agreement, or to exercise any right or privilege granted to it under this Agreement, shall not be construed as a waiver of such provision or any provisions of this Agreement, and the same shall continue in full force.

6. Tariffs. To the extent this Agreement is inconsistent with the terms of any GTE tariff approved and on file with the Florida Public Service Commission, the terms and conditions of any such tariff shall supersede the terms of this Agreement and shall apply to the provision of the service by GTE to ICI. Each party agrees to cooperate with each other and with any regulatory agency to obtain any required regulatory approvals. During the term of this Agreement, each party agrees to continue to cooperate with the other and with any regulatory agency, as necessary, so that the

benefits of this Agreement may be achieved. GTE agrees that it will not provide this service to any other customer similarly situated to ICI at rates or on terms and conditions more favorable than those provided to ICI.

7. Governing Law, Venue. This Agreement is to be governed and construed according to the substantive law of the State of Florida. ICI consents to personal jurisdiction in that state, and the parties further agree that proper venue shall be there. The prevailing party in any such action shall be entitled to recover costs and reasonable attorneys' fees.

8. Severability. Any provision of this Agreement prohibited by law or regulation in the State of Florida shall be ineffective to the extent of such prohibition without invalidating the remaining provisions of this Agreement, unless the general intent of the Agreement would be altered.

9. Section Headings. The section headings in this Agreement are for convenience only and do not constitute any part of this Agreement and shall not be considered in its interpretation.

10. Amendments, Modifications and Supplements. Amendments, modifications and supplements to this Agreement are allowed and will be binding on the parties after the effective date, provided such amendments, modifications and supplements are in writing, and signed by an authorized representative of each party who has the authority to accept such changes. The term "this Agreement" shall be deemed to include any such future amendments, modifications and supplements.

11. Entire Agreement. This Agreement and all attachments and written modifications shall constitute the entire agreement of the parties pertaining to the subject matter of this Agreement and shall supersede all prior negotiations, proposals and representations, whether written or oral, concerning such subject matter. No representations, understandings, agreements or warranties, express or implied, have been made or relied upon in the making of this Agreement other than those specifically set forth herein. Any alteration or modification of this Agreement must be in writing, signed by the authorized representatives of the parties, which, for GTE, is the individual authorized to accept this Agreement.

This Agreement is a binding contract when signed by the authorized representatives of ICI and GTE, but shall not be valid unless signed and accepted by GTE where indicated below. The effective date of this Agreement is the date indicated where agreed to and executed for GTE.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

Agreed to and executed for ICI

By Thomas E. Allen Jr
Name THOMAS E. ALLEN JR
Title VICE PRES. - Sta. Planning & Res. Mktg
Date 5-7-96
Executed at 4:00pm at
ICI Tampa HQ

Agreed to and executed for GTE

By [Signature]
Name JOAN P BLANCHARD
Title Vice Pres. - Corp & Gov Aff - Marketing
Date 5-7-96
Executed at 5:02 pm
at Tampa

**9-1-1 SERVICE
ATTACHMENT A
EFFECTIVE MAY 1, 1996**

<u>Description</u>	<u>Nonrecurring Charge</u>	<u>Monthly Rate</u>
E9-1-1 trunk, fixed rate each trunk	\$ 89.00	\$26.00
E9-1-1 trunk, per airline mile each trunk	N/A	1.50
E9-1-1 Selective Routing, per trunk	260.00	30.00
Selective Routing Boundary Maps	44.00	N/A
E9-1-1 ALI Entry Software, per package (optional)	250.00	11.00
E9-1-1 ALI Entry User's Guide, per copy (optional)	30.00	N/A
MSAG Copies, per county diskette or magnetic tape	45.00	N/A
paper copy	110.00	N/A