

**HOPING GREEN SAMS & SMITH**  
PROFESSIONAL ASSOCIATION  
ATTORNEYS AND COUNSELORS

123 SOUTH CALHOUN STREET  
POST OFFICE BOX 6526  
TALLAHASSEE, FLORIDA 32314

(904) 222-7500  
FAX (904) 224-8551  
FAX (904) 425-3415

Writer's Direct Dial No.  
(904) 425-2313

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GARY K. HUNTER, JR.  
JONATHAN T. JOHNSON  
ROBERT A. MANNING  
ANGELA R. MORRISON  
GARY V. PERKO  
KAREN M. PETERSON  
R. SCOTT RUTH  
W. STEVE SYKES  
T. KENT WETHERELL, II  
OF COUNSEL  
W. ROBERT FOXES

JAMES S. ALVES  
BRIAN H. BIBEAU  
KATHLEEN BLIZZARD  
ELIZABETH C. BOWMAN  
RICHARD S. BRIGHTMAN  
PETER C. CUNNINGHAM  
RALPH A. DIMEO  
THOMAS M. DIROSE  
WILLIAM H. GREEN  
WADE L. HOPPING  
FRANK E. MATTHEWS  
RICHARD D. NELSON  
MICHAEL P. PETROVICH  
DAVID L. POWELL  
WILLIAM D. PRESTON  
CAROLYN S. RAEPPLÉ  
DOUGLAS S. ROBERTS  
GARY P. SAMS  
ROBERT P. SMITH  
CHERYL G. STUART

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

Dear Ms. Bayó:

Enclosed for filing on behalf of MCI Telecommunications Corporation are the original and 15 copies of MCI's Complaint Against GTEFL for Anti-Competitive Practices Related to Excessive Intrastate Switched Access Pricing.

By copy of this letter this document has been provided to the parties on the attached service list.

Very truly yours,



Richard D. Melson

RDM/cc  
Enclosures  
cc: Service List

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of MCI )  
Telecommunications Corporation )  
Against GTE Florida, Incorporated, )  
For Anti-Competitive Practices )  
Related to Excessive Intrastate )  
Switched Access Pricing )

Docket No. \_\_\_\_\_

Filed: July 9, 1997

**MCI's COMPLAINT AGAINST GTEFL  
FOR ANTI-COMPETITIVE PRACTICES RELATED TO  
EXCESSIVE INTRASTATE SWITCHED ACCESS PRICING**

MCI Telecommunications Corporation (MCI) files this Complaint against GTE Florida, Incorporated (GTEFL) for its deliberate, anti-competitive practice of charging excessive intrastate switched access rates to MCI. MCI requests that the Florida Public Service Commission (Commission) exercise its jurisdiction under Section 364.3381(3), Florida Statutes, to investigate this anti-competitive practice by GTEFL. MCI further requests that the Commission exercise its jurisdiction under Sections 364.3381(3) and 364.01(4)(g), Florida Statutes, to prohibit GTEFL from continuing to engage in this anti-competitive practice. As grounds for this Complaint, MCI states:

**PARTIES**

1. MCI's full name, and the address for its Southeast regulatory operations, are as follows:

MCI Telecommunications Corporation  
Suite 700  
780 Johnson Ferry Road  
Atlanta, GA 30342

MCI is certificated by the Commission as an interexchange carrier (IXC). MCI provides interstate and intrastate interexchange service throughout Florida, including calls which originate and terminate in the territory of GTE Florida, Incorporated.

2. The names and addresses of the MCI representatives who should receive copies of notices, pleadings and other filings in this docket are:

Thomas K. Bond  
MCI Telecommunications Corp.  
Suite 700  
780 Johnson Ferry Road  
Atlanta, GA 30342

Richard D. Melson  
Hopping Green Sams & Smith  
P.O. Box 6526  
Tallahassee, FL 32314

3. The name and address of the respondent in this docket is:

GTE Florida, Incorporated  
One Tampa City Center  
P.O. Box 110  
Tampa, FL 33601

GTEFL is a subsidiary of GTE Corporation (GTE). GTEFL is a provider of local and intraLATA long distance service in the Tampa market area. GTEFL is also the monopoly provider of switched access service used by MCI to originate and terminate long distance calls throughout the Tampa market area.

4. GTE Card Services, Inc. d/b/a GTE Long Distance (GTE-LD), is another subsidiary of GTE Corporation and is an affiliate of GTEFL. GTE-LD provides interLATA long distance service to customers in the Tampa market area. GTE, GTEFL and GTE-LD are referred to collectively as the "GTE Companies."

## JURISDICTION OF THE COMMISSION

5. Section 364.01(4)(g), F.S., provides that:

(4) The Commission **shall** exercise its exclusive jurisdiction in order to:

\* \* \*

(g) Ensure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior....

(emphasis supplied)

6. Section 364.3381(3), F.S., provides that:

The Commission shall have continuing oversight jurisdiction over cross-subsidization, predatory pricing or similar anti-competitive behavior and may investigate, upon complaint or on its own motion, allegations of such practices.

7. While Section 364.163, F.S., prevents the Commission from establishing intrastate switched access charges for GTEFL under rate-base rate-of-return regulatory processes, that section does not preclude the Commission from exercising its jurisdiction to investigate and, upon detection, take whatever steps are necessary to prevent anti-competitive actions and practices.

8. GTEFL's deliberate action and practice of charging excessive switched access prices to MCI constitutes anti-competitive behavior which violates Sections 364.3381(3) and 364.01(4)(g), F.S.

9. MCI files this Complaint pursuant to Sections 364.3381(3) and 364.01(4)(g), F.S., Chapter 120, F.S., and Rule 25-22.036(5), Florida Administrative Code.

## GTEFL'S ANTI-COMPETITIVE BEHAVIOR

10. The intrastate switched access prices that GTEFL charges MCI are excessive and yield supracompetitive profits. To originate or terminate an intrastate toll call for an MCI customer call utilizing the local exchange facilities of GTEFL, MCI is charged approximately \$.0539 (average originating FGD rates) or \$.0670 (average terminating FGD rates) per minute of use (MOU).<sup>1</sup> It is clear that GTEFL's action in charging these excessive prices for switched access services is deliberate, since Section 364.163(4), F.S., permits GTEFL to reduce its prices for intrastate switched access services at any time.

11. These originating and terminating switched access prices are a composite of the rates for several switched access rate elements, as follows:

	<u>Originating</u>	<u>Terminating</u>
Carrier Common Line (CCL)	\$ 0.0251000	\$ 0.0382000
Switched Transport:		
Local Channel/Entrance Facility	0.0013889	0.0013889
Switched Common Transport	0.0002754	0.0002754
Access Tandem Switching	0.0007500	0.0007500
Residual Interconnection Charge	0.0102494	0.0102494
End Office Switching	<u>0.0089000</u>	<u>0.0089000</u>
Total per MOU	\$ 0.0539	\$ 0.0670

12. Of these rate elements, only two -- Switched Transport and End Office Switching -- represent a charge for the actual use

<sup>1</sup> See, Florida Access and Toll Report, Memorandum dated February 28, 1997 from Suzanne Ollila to Richard Tudor.

of GTEFL's local exchange facilities to originate or terminate an MCI customer's call. The remaining charges for Carrier Common Line (CCL) and the Residual Interconnection Charge (RIC) are simply "revenue replacement" rate elements established at the divestiture of the Bell System (CCL) and more recently, the restructure of local transport rates (RIC).

13. In its recent actions as Arbitrators under Section 252 of the federal Telecommunications Act of 1996 (1996 Act), the Commission was asked to establish an appropriate cost-based price for the use of the transport and switching facilities of GTEFL's telephone exchange network. In its Order No. PSC-97-0064-FOF-TP, the Commission determined that the appropriate cost-based price for the transport and termination of "local" calls was \$0.0025 per MOU for interconnection at the GTEFL's end office facilities, with an additional \$0.00125 per MOU when interconnection occurred at GTEFL's tandem facilities.

14. As this Commission has recognized in the past:

The network over which the toll and local calls are terminated is one and the same.

See, Order No. PSC-97-0128-FOF-TL at 23.

Therefore, it is clear that GTEFL's switched access prices charged to MCI to utilize these exact same network facilities to originate and terminate interexchange calls is excessive and yields supracompetitive profits. Compared to the cost-based price of \$0.00375 per MOU for termination of a local call that makes use of both GTE's tandem and end-office switching facilities, GTE's switched access prices represent a mark-up over cost of approximately 1500%.

15. GTEFL reports demand for originating and terminating intrastate interexchange calls in its telephone exchange area of over 2.3 billion MOU for 1996.<sup>2</sup> This represents a market share for the provision of this service of virtually 100%. Thus, while Section 364.337, F.S., and the 1996 Act have eliminated the legal monopoly on the placement of local exchange transport and switching facilities in GTEFL's telephone exchange area, GTEFL retains a "de facto" monopoly in the provision of exchange access services purchased by MCI and other IXC's.

16. Based on GTEFL's 1996 switched access demand data, it is apparent that GTEFL receives approximately \$130 million per year in excessive profits from the prices GTEFL charges MCI and other IXC's who purchase GTEFL's switched access services. Furthermore, based on that demand data and the fact that GTEFL enjoys the profits associated with a 1500% mark-up above cost, it is apparent that GTEFL maintains a dominant, monopoly position for transport and switching in its telephone exchange area.

17. GTEFL is utilizing this approximate \$130 million per year windfall from its monopoly exchange access service to subsidize the funding of discounts for its intraLATA toll and vertical services in order to preempt the competitive erosion of its customer base for local exchange and interexchange services. In addition, GTEFL is utilizing this \$130 million windfall to subsidize the activities of its long distance affiliate in the competitive interLATA, interexchange market.

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<sup>2</sup> These represent 1996 Florida intrastate interLATA switched access minutes of use as reported by GTE to the FCC in ARMIS 4304.

18. With the advent of potential competition for its local exchange services, GTEFL has been taking actions to solidify its customer base by offering steep discounts on toll and vertical services, waiving non-recurring charges on vertical services and second residential access lines, and offering substantial toll price reductions by converting competitive 1+ toll routes to "Local Calling Plans" for its residential customers.

19. While the offering of these price breaks to GTE's local exchange service customers is not, in and of itself, an anti-competitive practice, when coupled with the extraction of monopoly rents of approximately \$130 million from GTEFL's monopoly exchange access customers, the practice clearly falls within the statutory proscription against anti-competitive behavior.

20. The \$130 million financial windfall from GTEFL's excessive pricing of intrastate exchange access services is also being utilized to subsidize GTE-LD's entry into the competitive interLATA interexchange toll market.

21. The prohibition on GTE offering integrated local and long distance service contained in GTE's consent decree with the U.S. Department of Justice was eliminated when the 1996 Act was signed into law on February 8, 1996. On that same date, GTE announced that it had entered into an agreement with an interexchange network provider to begin offering interLATA services.

22. GTE established GTE-LD for the purpose of providing interLATA long distance services. Through a series of inter-



affiliate contracts and arrangements for marketing, billing and collection and other support services, GTEFL and GTE-LD market all of their local, intraLATA and interLATA toll services under a single brand - GTE.<sup>3</sup> These arrangements provide for a single bill for a customer's local, intraLATA and interLATA services, including wireless and international services, if the customer is a local customer of a GTE telephone operating company, such as GTEFL. GTE-LD offers a joint discount calling plan for its 1+ intraLATA and interLATA toll services -- the GTE-LD "Easy Savings" plan -- to customers in the GTE local exchange service areas. This strategy was articulated by the president of GTE Long Distance in a December 18, 1996 article in The Wall Street Journal announcing GTE's Easy Savings Plan:

The carrier who has the capability to provide a single bill has a strategic advantage over others.

23. The Wall Street Journal also stated:

GTE says it has signed up more than 750,000 long distance subscribers,<sup>4</sup> most of them residential, beating its own estimates by 10%. A big reason, GTE maintains, is that customers prefer buying several services, such as local and long distance on a single bill with a single number for customer

<sup>3</sup> Recently, the Texas Public Utility Commission investigated the inter-affiliate arrangements between GTE Long Distance and GTE-SW (the GTE operating company in Texas). The Texas PUC found that GTE develops the overall policies for its subsidiaries and coordinates its public policy and business practices to ensure that the company acts as a single unit. The Texas PUC also found that GTE-LD and GTE-SW were not acting at arm's length and were engaging in "preferential, discriminatory and anti-competitive practices" in the manner in which they offered long distance services. See, Order on Rehearing, PUC Docket No. 15711 (June 20, 1997).

<sup>4</sup> In its April 15, 1997 earnings report, GTE reported that it had in excess of 1,000,000 long distance subscribers.

service. In Tampa, Florida, GTE also packages cellular, paging and Internet access with its telecom offerings - the beginnings of a bigger push toward "bundled services."

24. The Wall Street Journal went on to state:

GTE, based in Stamford Conn., said its long distance business won't turn a profit until the fourth quarter of 1998.

25. Extracting monopoly rent resulting in a \$130 million financial windfall which is used to subsidize GTE-LD's entry into the competitive interLATA interexchange toll market constitutes anti-competitive behavior under Florida law.

#### DISPUTED ISSUES OF FACT

26. MCI assumes that GTEFL may dispute whether its current practice of charging excessive switched access prices constitutes anti-competitive behavior.

#### TOLL RATE REDUCTION

27. MCI's goal in eliminating anti-competitive access charges is to enable MCI to reduce toll rates to its customers. MCI commits that any access charge reduction ordered as a result of this proceeding will be flowed-through to its Florida customers in the form of lower long distance rates.<sup>5</sup>

WHEREFORE, MCI requests that the Commission:

- (a) take jurisdiction of this Complaint and investigate GTEFL's practice of charging excessive intrastate

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<sup>5</sup> It should be noted that MCI's recent tariffed promotion to price intraLATA toll services at 5-cent per minute was not offered in GTEFL's territory because of the excessive intrastate access charges assessed by GTEFL.

- access charges;
- (b) hold a hearing to take evidence on any disputed issues of fact;
  - (c) determine, after hearing, that GTEFL's practice of charging excessive access rates violates Sections 364.3381(3) and 364.01(4)(g), F.S.;
  - (d) order GTEFL to make such reductions to its intrastate access charge rates as are necessary to eliminate such anti-competitive effects; and
  - (e) grant such other relief as the Commission deems appropriate.

RESPECTFULLY SUBMITTED this 9th day of July, 1997.

HOPPING GREEN SAMS & SMITH, P.A.

By: Richard D. Melson  
Richard D. Melson  
P.O. Box 6526  
Tallahassee, FL 32314  
(904) 425-2313

and

THOMAS K. BOND  
MCI Telecommunications Corporation  
Suite 700  
780 Johnson Ferry Road  
Atlanta, GA 30342

ATTORNEYS FOR MCI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by hand delivery this 9th day of July, 1997.

Martha Brown  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

GTE Florida Incorporated  
Anthony P. Gillman  
c/o Richard Fletcher  
106 E. College Ave., Ste. 1440  
Tallahassee, FL 32301-7704

*Richard D. Mc*

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Attorney