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FLORIDA PUBLIC SERVICE COMMISSION
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MEMORANDUM

JULY 24, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (WILLIAMS, MARSH) *WJW*
DIVISION OF LEGAL SERVICES (PELLEGRINI) *MB*

RE: DOCKET NO. 970809-TP; JOINT PETITION FOR APPROVAL OF CONSOLIDATION OF THE FLORALA TELEPHONE COMPANY, INC., AND GULF TELEPHONE COMPANY INTO ST. JOSEPH TELEPHONE & TELEGRAPH COMPANY, INC.; CANCELLATION OF CERTIFICATES NOS. 4 AND 21 HELD BY THE FLORALA TELEPHONE COMPANY, INC., AND GULF TELEPHONE COMPANY AND NAME CHANGE ON CERTIFICATE NO. 29 FROM ST. JOSEPH TELEPHONE & TELEGRAPH COMPANY, INC. TO GTC, INC.

AGENDA: 08/05/97 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

SPECIAL INSTRUCTIONS: I:PSC/CMU/WP/970809.RCM - PLEASE PLACE AFTER DOCKET NO. 970676-TL

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the joint petition for consolidation of THE FLORALA TELEPHONE COMPANY, INC., and GULF TELEPHONE COMPANY into ST. JOSEPH TELEPHONE & TELEGRAPH COMPANY, INC.; cancellation of Certificates Nos. 4 AND 21 held by THE FLORALA TELEPHONE COMPANY, INC., and GULF TELEPHONE COMPANY and name change of Certificate No. 29 from ST. JOSEPH TELEPHONE & TELEGRAPH COMPANY, INC. to GTC, INC.

RECOMMENDATION: Yes. (Williams)

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STAFF ANALYSIS: Pursuant to Sections 364.33, 366.335, Florida Statutes, and Rule 25-4.005, Florida Administrative Code, The Florala Telephone Company, Inc., Gulf Telephone Company and St. Joseph Telephone & Telegraph Company, Inc. jointly petition the Commission for approval to consolidate The Florala Telephone Company, Inc. and Gulf Telephone Company into St. Joseph Telephone & Telegraph Company, Inc. and change the name of St. Joseph Telephone & Telegraph Company, Inc. to GTC, Inc.

The consolidation will improve customer service, operating efficiency and streamline administrative activities to consumers of these companies. Instead of three separate operating companies, there will be a single operating local exchange company. Further, the consolidation and associated transfer of certificates will be a corporate restructuring with no financial exchanges taking place.

As explained in the application, St. Joseph Telephone & Telegraph Company does not propose as part of the consolidation any changes in the rates or scope of service currently being provided. Since each of the companies have opted for price cap regulation the existing rates will serve, under the existing statutes, as a price ceiling.

It is anticipated that within 30 days of the approval of the consolidation, St. Joseph Telephone and Telegraph Company will file labels to be placed on the existing tariffs of THE FLORALA TELEPHONE COMPANY, INC., GULF TELEPHONE COMPANY, and ST. JOSEPH TELEPHONE & TELEGRAPH COMPANY, INC. reflecting the new name GTC, Inc. to facilitate the application of Rule 25-9.044, Florida Administrative Code.

Because of the improved operating and administrative efficiencies caused by this consolidation, staff recommends approval of the consolidation and name change.

ISSUE 2: Should the Companies be permitted to combine their study areas into one for purposes of jurisdictional separations?

RECOMMENDATION: Yes. The FPSC should advise the FCC that it does not object to the combination of the three study areas of the Companies into one. However, due to the apparent barrier to entry that would be created, the FPSC should express a preference that the service areas remain separate for the purpose of designating Eligible Telecommunications Carriers (ETCs). (Marsh)

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STAFF ANALYSIS: The Companies have petitioned the FCC to allow them to combine the study areas of the three Companies into one. Study areas have been frozen since 1984, as set forth in 47 CFR Sec. 36.741. According to the FCC's procedure on study area waivers, "[o]ne of the criteria that the [FCC] has established to evaluate petitions for waiver of the frozen study area boundary rule is the requirement that the state authority does not oppose the proposed modification." (FCC Public Notice DA 95-1344, released June 21, 1995)

Although the study area is used for purposes of jurisdictional separations, under the federal universal service program it has been given additional significance for ETCs in rural areas, as discussed below.

A state-approved ETC may receive universal service funding for provision of supported services in a given service area. One of the requirements for approval as an ETC is that the carrier provide service throughout the designated service area. Under Section 214(e)(5), of the federal Telecommunications Act of 1996, a 'service area' for purposes of designating ETCs is defined as follows:

In the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

The Joint Board recommended, and the FCC adopted, the study area of a rural company as its service area. The FCC Report and Order on Universal Service allows a state commission to propose to define the service area served by a rural telephone company as something other than the study area, but the FCC must approve any such change. In accordance with 47 CFR Sec. 54.207(c)(1), either the state commission or the party seeking to redefine the service area must petition the FCC.

In its discussion of the issue, the FCC addressed the impact of requiring ETCs to serve noncontiguous areas in a rural telephone company's service area. The FCC noted that

universal service policy objectives may be best served if a state defines rural service areas to consist only of the contiguous portion of a rural study area. We conclude that requiring a carrier to serve a non-contiguous service area as a prerequisite to eligibility might impose a serious barrier to entry, particularly for

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wireless carriers.... We encourage states to determine whether rural service areas should consist of only the contiguous portions of an ILEC's study area, and to submit such a determination to the [FCC]...." (CC Docket No. 96-45, FCC Order 97-157, Released May 8, 1997, ¶ 190)

Presently, rural carriers in Florida, with the exception of ALLTEL, serve largely contiguous areas. Because the three subject study areas have two or more counties separating each of them, the combined area would be the most extreme example of a non-contiguous service area for a rural telecommunications company in this state. The FPSC has not had an opportunity to evaluate or address the issue of service areas for rural companies; nevertheless, it appears that the consolidation of these three Companies into one service area could create a substantial barrier to entry for provision of residential services by alternative providers in the high cost areas served by the Companies. Accordingly, we believe the service areas, for purposes of universal service support, should remain as they are until such time as this Commission determines that a different service area is in the public interest.

Staff recommends that the FPSC advise the FCC that it does not object to the combination of the three study areas of the Companies into one. However, due to the apparent barrier to entry that would be created, the FPSC should express a preference that the service areas remain separate for the purpose of designating ETCs.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final and the docket should be closed. (Pellegrini)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1 and 2, and no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final and the docket should be closed.

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