FILE COPY

GTE

**GTE Telephone Operations**

One Tampa City Center
201 North Franklin Street, FLTC0007
Post Office Box 110
Tampa, Florida 33601
813-483-2606
813-204-8870 (Facsimile)

Marcell Morrell**
Vice President & General Counsel - Florida

Associate General Counsel
Anthony P. Gillman**
Leslie Reicin Stein*

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

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

July 29, 1997

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

Re: Docket No. 970841-TP
Complaint of MCI Telecommunications Corporation Against GTE Florida Incorporated for Anti-Competitive Practices Related to Excessive Intrastate Switched Access Pricing

Dear Ms. Bayo:

Please find enclosed an original and fifteen copies of GTE Florida Incorporated's Motion to Dismiss and Supporting Memorandum of Law for filing in the above matter. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this matter, please contact me at (813) 483-2617.

Very truly yours,

Kimberly Caswell

KC:tas
Enclosures

RECEIVED & FILED
FPSC-BUREAU OF RECORDS

ACK
AFA
APP
CAF
CMU
CTR
EAG
LEG 1
LIN
OPC
RCH
SEC 1
WAS
OTH



DOCUMENT NUMBER-DATE
07641 JUL 29 5
FPSC-RECORDS/REPORTING

**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. 970841-TP<br>Filed: July 29, 1997 |

**GTE FLORIDA INCORPORATED'S MOTION TO DISMISS AND SUPPORTING MEMORANDUM OF LAW**

On July 9, 1997, MCI Telecommunications Corporation (MCI) filed a complaint ("Complaint") alleging that GTE Florida Incorporated (GTEFL) charges intrastate access rates that are "excessive" and thus "anticompetitive," and asking the Commission to order GTEFL to reduce those rates. GTEFL moves the Commission to dismiss MCI's Complaint because the Commission has no jurisdiction to grant the relief MCI requests and because MCI has not properly alleged a violation of any Commission Rule or Florida statute. The Complaint is a desperate attempt to convince the Commission to order the deep and immediate cuts in access charges that the Florida Legislature has repeatedly rejected. The Commission cannot lawfully accept MCI's invitation to rewrite Florida law.

## I. The Commission Cannot Reduce GTEFL's Access Charges

### A. Section 364.163 Strictly Limits the Commission's Discretion to Adjust Access Rates

Section 364.163, one of the longest provisions in Chapter 364, comprehensively addresses price-regulated carriers' access charges. Although this statute controls the subject of MCI's Complaint, MCI pays it only passing attention. MCI notes that while section 364.163 of the Florida Statutes prevents the Commission from setting access rates

using rate-of-return methods, it does not preclude the Commission from finding that GTEFL's access rates are "anticompetitive" and ordering GTEFL to reduce them. (Complaint at 3, 10.) MCI is wrong about the effect of section 364.163 on the Commission's jurisdiction over the access rates of price-regulated local exchange companies (LECs), such as GTEFL.

The Legislature has established explicit numerical parameters for permissible access charge increases as well as mandatory reductions. The LECs' intrastate switched access rates were capped at their July 1, 1995, levels, and they will remain capped until July 1, 1999. (Ch. 364.163(1), F.S..) If a LEC's intrastate access rates are higher than its interstate rates as of December 31, 1994, the LEC must reduce its intrastate rates by 5% a year until they reach the interstate level, at which point no further reductions "shall be required." (Ch. 364.163(6), F.S..) The mandatory reductions were to begin on October 1, 1996. (Ch. 364.163(6), F.S..) After inter- and intrastate rates are at parity, LECs may adjust the intrastate rates for inflation, but only up to 3% a year. (Ch. 364.163(2), F.S..) In addition, a company "may choose" to reduce its access rates at any time. If these voluntary reductions exceed the 5% reductions mandated by law, the company will be relieved of the need to comply with those mandated reductions. (Ch. 364.163(6), F.S..)

In view of the detailed statutory prescriptions concerning access rate levels, the Commission's discretion in this area is correspondingly circumscribed, as the Legislature has made plain:

> The commission shall have continuing regulatory oversight of intrastate switched access...rates for purposes of determining the correctness of any rate decrease by a telecommunications company resulting from the

application of this section and making any necessary adjustments to those rates.

(Ch. 364.163(9), F.S..)

The 5% annual rate decreases, made through tariffs, are "presumed valid"; the Commission may vote to hold revenues collected under the tariff subject to refund only "with respect to determining the correctness of any rate decrease" under the statute. (Ch. 364.163(8), F.S..) (The Commission's scope of jurisdiction over inflation-related access rate increases is similarly constrained. Ch. 364.163(5), F.S..)

GTEFL has fully complied with section 364.163. Because its intrastate access rates are higher than its interstate access rates, GTEFL made its first mandatory 5% reduction on October 1, 1996. (Tariff filing no. T-96-740) In accordance with the statute, this tariff change took effect with no Commission review other than verification of mathematical calculations. In early August, GTEFL will file a tariff decreasing access rates by another 5%, effective October 1, 1997.

These gradual annual access reductions the Legislature has specified are not enough for MCI. It wants steeper decreases immediately. In other words, MCI wants to turn GTEFL's statutory right to "choose" to make greater rate reductions into a requirement. It wants the Commission to order the rate reductions the Legislature has repeatedly declined to adopt (see discussion below).

The Commission has no authority to rewrite the law, which could not be clearer on this point. As explained, section 364.163 requires only that GTEFL make 5% annual reductions and grants the Commission jurisdiction only to ensure that this prescribed

reduction is correctly implemented. The Commission may adjust rates only as necessary to achieve compliance with the 5% mandate.

The agency knows it cannot second-guess the Legislature's judgment as to the appropriate level and timing of access reductions and has acted accordingly. It does not require any cost studies to document changes in access prices because, "These rates are strictly governed by statute." (Memorandum from W. D'Haeseleer, Director of Div. of Comms., Fla. P.S.C., to all LECs, AAVs, FCTA, Inc., AT&T, MCI, Sprint, ATC/LDDS, dated June 23, 1995, at 3.)[1]

As MCI well knows, the access charge issues treated in section 364.163 were some of the most contentious addressed in the 1995 legislative revision of Florida's telecommunications law. The Legislature heard the views of all interested companies, including MCI, on these issues. In general, interexchange companies (IXCs), like MCI, advocated substantial, rapid movement of access charges to their underlying costs. (See, e.g., CS/SB 1554, The Telecommunications Bill Briefing Summary, Exec. Office of the Governor, Office of Planning and Budget, June 14, 1995, at 15.) Conversely, the LECs cautioned that precipitous drops in access charges would unacceptably decrease the contribution necessary to support universal service goals. Id.

---

[1] The Governor's Office, too, correctly reads section 364.163 and knows it limits the Commission to reporting on the effect of the law and recommending changes. (Letter from Governor Lawton Chiles to former FPSC Chairman Susan F. Clark, dated June 30, 1995, at 2 (soliciting the Commission's views as to the effect of the statutory access provisions on competition).) To this end, the Commission has reported that "there is no evidence that the capped access rates have had any impact on competition," either for long-distance or local services. Competition in Telecommunications Markets in Florida, Fla. P.S.C., Dec. 1996, at 72.

In short, the Legislature was very well informed about access charge issues. They knew the companies' various access rates--indeed, the decision to cap them at 1995 levels assumes such knowledge. They knew, too, the range of markup above cost. (See, e.g., AT&T Issue Paper, submitted to Fla. House Select Comm. on Tels., Nov. 14, 1994, at 3.) At the same time, the Legislators were well educated about the longstanding link between access charges and local service prices. (See, e.g., Fla. Tel. Assn. White Paper, submitted to Fla. House Select Comm. on Tels., Nov. 14, 1994.) The Legislature's eventual solution--the rate cap, 3% ceiling on increases, and 5% annual reductions--did not wholly satisfy either the LECs or the IXCs, but was, in the Legislature's view, a fair accommodation of all industry interests and, most importantly, in the best interests of consumers. Access reductions would be guaranteed, but with due regard to maintenance of universal service.

Certainly, if the Legislature had believed the access rates of the LECs (or any subset of the LECs) to be "anticompetitive," they could and would have ordered steeper and more immediate reductions in those rates. The prescribed caps and rate adjustment percentages were not just arbitrary choices, but deemed appropriate only after careful analysis of many other options. (See, e.g., Sen. Comm. on Commerce & Ec. Opp., Proposed Amendment 19, Apr. 4, 1995 pkg. (limiting price increases to inflation less 1%); Comm. Sub. for SB 1554, ref. no. 310-1986-95, at 11-12 (proposing a 6% ceiling on inflation-related increases); Sen. Staff Analysis and Ec. Impact Statement, SB 1554, Mar. 25, 1995, at 4 (discussing proposal to cap rates at date of price-regulation election and to allow Commission to set arbitrated access prices); House Util. and Tel. Comm. draft

revisions to Ch. 364, ref. PCB UT 95-01a, sec. 364.163 (including no mandatory reductions, but allowing the Commission to order rate decreases); Letter from R. Melson, MCI counsel, to Rep. S.W. Clemons, Chairman, House Util. & Tel. Comm., dated Mar. 1, 1995, att. at 12-14 (setting forth MCI's proposal for, among other things, access rate adjustments, in response to Clemons request).) Among the rejected options was a proposal for cost-based access rates,[2] which is just what MCI wants to achieve through its Complaint. (See Complaint at 4-6.) Indeed, the Legislature has consistently refused to grant reductions any greater than 5% -not just in 1995, when the statutory revisions were adopted, but in the 1996 and 1997 sessions as well, despite intense lobbying by MCI and other IXCs. Having failed in its efforts to convince the Legislature, MCI has now turned to the Commission.

As the Commission knows, it has no authority to override the Legislature's policy decisions about access charges. "Actions by an agency inconsistent with legislative purposes or beyond the scope of the agency's authority are ultra vires and without legal effect. Burris, Administrative Law, 1987 Survey of Florida Law, 12 Nova L. Rev. 299, 316 (1988). See also State Dep't of Insurance v. Ins. Svcs. Office, 434 So.2d 908 (Fla. 1st DCA 1983). A Commission ruling that existing rates are "anticompetitive" and must be reduced would violate Section 364.163 and disrupt the Legislature's careful balance between the conflicting goals of access charge reductions and maintenance of universal service.

---

[2] The proposed amendment, ultimately withdrawn, read, in relevant part: "Both interconnection services and network access services shall be...offered at cost-based prices." Sen. Comm. on Commerce & Ec. Opp., Proposed Am. 35, Apr. 4, 1995 pkg.

MCI's attempt to enlist the Commission's support in its end-run around the Legislature is all the more troubling because MCI has remained closely involved in the legislative debate about appropriate access charge levels since it began years ago. Certainly, it would not continue to pour its time and effort into trying to obtain access reductions from the Legislature if it truly believed it could get the same thing from the Commission.[3]

### B. The Commission's General Authority to Police Anticompetitive Behavior Does Not Supersede the Specific Constraints On Its Authority to Adjust Access Rates

Commission procedure requires a complaint to cite the "rule, order, or statute that has been violated." (FPSC Rule 25-22.036(7)(c).) To this end, MCI alleges that "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). " (Complaint at 3.) Section 364.3381(3) provides that "[t]he commission shall have continuing oversight jurisdiction over cross-subsidization, predatory pricing, or other similar anticompetitive behavior and may investigate, upon complaint or on its own motion, allegations of such practices." Section 364.01(4)(g) states that the Commission "shall exercise its exclusive jurisdiction in order to...ensure that all providers of

---

[3] In fact, on the same day MCI filed its Commission Complaint, it again complained to the Legislature about GTEFL's and United/Sprint/Centel's access rates and again alluded to its plan "to work[] with the legislature to address this very important issue." (Letter from Terry D. Lawler, Regional Mgr., MCI Govtl. Affairs, to Rep. Debby P. Sanderson, dated July 9, 1997.) The letter reveals MCI's own assessment that legislative (rather than Commission) action is necessary to compel greater access rate reductions.

telecommunications services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory restraint."

These provisions cannot sustain MCI's Complaint because they do not supersede the requirements of Section 364.163. MCI cannot trick the Commission into ignoring section 364.163 simply by focussing instead on the Commission's general authority to investigate anticompetitive practices.

As explained above, section 364.163 establishes a detailed plan for access charge increases and decreases, including an explicit statement of the Commission's role in administering that plan. Again, the statutory process limits the Commission's discretion over reductions, except to ensure that the annual 5% reductions are made, as necessary. To sustain MCI's Complaint, the Commission would have to ignore the stated legislative constraints on its jurisdiction over access charges and rely instead on its general ability to police anticompetitive behavior. This reading defies common sense: If the Commission had complete authority to adjust access rate levels, there would be no need to grant it the purely ministerial discretion to assure the prescribed reductions. In terms of basic statutory construction, specific provisions (here, regulatory oversight only to determine the correctness of legislatively mandated rate adjustments) will control over general ones (a general statement of jurisdiction to investigate anticompetitive behavior.) Sutherland Stat. Const. sec. 46.05 (5th ed.).

Legislative history confirms the clearly defined limits on Commission jurisdiction over access charges. The Legislature considered and rejected, for example, proposals that would have given the Commission continuing oversight "for purposes of ordering rate

decreases," (House Util. and Tel. Comm. draft legislation, sec. 364.163(1)(e), ref. PCB UT 95-01a); that would have allowed the Commission to set access prices through arbitration (Sen. Staff Analysis and Ec. Impact Statement, SB 1554, Mar. 25, 1995, at 5); and that would have given the Commission the authority to develop a schedule for access charge reductions (CS/SB 1554, The Telecommunications Bill, Briefing Summary, Exec. Office of the Governor, Office of Planning and Budgeting, June 14, 199[illegible], at 15.)

Contrary to MCI's suggestions, the Commission cannot expand the specific jurisdiction it has been granted over access charge adjustments by choosing instead to rely on its general authority to monitor anticompetitive behavior. This outcome would render meaningless the jurisdictional prescriptions of section 364.163 and undermine the Legislature's carefully considered decisions about the appropriate timing and procedures for moving access charges closer to their underlying costs.

## II. There Is No Reason to Order a Hearing or Other Investigation

### A. MCI's "Subsidization" Allegations Are Irrelevant and Unsupported

Almost a third of MCI's Complaint is allegations of "subsidization." Despite the space they take up, these claims are irrelevant to the relief MCI seeks and the statutory violations it claims. The Commission should not be distracted by these incendiary and unsupported accusations.

MCI argues that GTEFL is using its "windfall" from access charges to "subsidize" discounts for toll and vertical services and the activities of its long-distance affiliate. For all its talk of "subsidization," however, MCI has carefully avoided alleging any violation of

the cross-subsidy provisions in the statute. For instance, instead of grounding its Complaint in subsections (1) and (2) of section 364.3381--which require the LEC to set service prices under guidelines that will ensure against anticompetitive cross-subsidization--MCI relies instead on subsection (3), which is just a general oversight provision. As this Commission knows, the anticompetitive evil associated with cross-subsidization is below-cost pricing. This well-understood concept is manifest in the pricing provisions of section 364.3881(1) and (2). But MCI has not and cannot claim that GTEFL is pricing any of its services below cost. Indeed, the behavior it criticizes--discounts on toll and vertical services, non-recurring charge waivers, and the like--is the antithesis of "anticompetitive." These pro-consumer measures are exactly the sort of things a firm in an effectively competitive market can be expected to do. Because they do not involve below-cost pricing--and, again, MCI has not even alleged that they do--there is no cause for concern by regulators.[4]

In any case, MCI's tale of a "$130 million financial windfall" that GTEFL is allegedly using to subsidize its long-distance and vertical services ignores the widely-recognized fact that access charge revenues are used to help keep basic local service affordable.

---

[4] As part of its strategy to draw attention away from the law governing its Complaint, MCI footnotes a case in which the Texas Public Service Commission held that GTE Southwest was not acting at arm's length with its long-distance affiliate. This case has nothing to do with access charges, so its appearance in the Complaint is merely irrelevant. More importantly, the decision is so plainly wrong from a legal standpoint that the Texas Commission's own General Counsel filed a motion for rehearing to seek its reversal. The General Counsel supports the Administrative Law Judge's factual findings that GTE Southwest did not engage in any preferential, discriminatory, or anticompetitive behavior. General Counsel's Motion for Rehearing, July 15, 1997, in Texas PUC Docket No. 15711.

This link between access charges and basic local rates was forged by the Commission when it first established the intrastate access charge scheme in 1983; its "overriding goal was to implement access charges that maintain the financial viability of the LECs while maintaining universal service." Intrastate Tel. Access Charges for Toll Use of Local Exchange Services, Order no. 12765 (1983) at 7.

This goal is just as important today. As the Eighth Circuit Court of Appeals observed in rejecting a challenge to the FCC's interim access charge levied upon IXCs, "Clearly Congress did not intend that universal service should be adversely affected by the institution of cost-based rates." Competitive Tels. Ass'n et al. v. FCC et al. No. 96-3604, Internet www.wulaw.wustl.edu/8th cir/opinion, at *11 (8th Cir., June 27, 1997). Access charge issues remain at the core of the tension between encouraging competition and maintaining universal service, and it is this tension that has led Florida's legislators to reject unduly steep access reductions. It is true, as MCI claims, that GTEFL's access rates are higher than they would be if they were solely market-driven. But this does not make them "anticompetitive," as MCI believes. Certainly, the Commission--as the agency which set the prices that became the statutory baseline--needs no reminder that Florida access charges remain relatively high because of longstanding social policies of subsidizing basic local service rates.

As the Commission considers the Complaint, then, it should avoid being distracted by MCI's "subsidization" digressions. A careful reading of MCI's filing reveals that the only behavior it describes as anticompetitive and in violation of any statute is the "deliberate action and practice of charging excessive switched access prices to MCI." (Complaint at

3.) It is the level of access charges themselves--not subsidies or anything else MCI might discuss--that is the basis of the Complaint, and the only thing from which MCI seeks relief. MCI's unsupported allegations about practices that are allegedly "related" to access charges--and that are, in any case, benign--cannot hide the fact that MCI has no legitimate basis for its Complaint and that the Commission cannot grant the relief MCI requests. The Commission should simply ignore these irrelevant allegations.

### B. There Is Nothing to Investigate

MCI asks the Commission to hold a hearing to determine that GTEFL's "charging excessive access rates" is unlawful and to reduce those rates after hearing. (Complaint at 10.) The purpose of a hearing, of course, is fact-finding. In this case, however, a hearing would be useless, because there are no facts to be gathered and no evidence to be examined.

In the requisite statement of disputed issues of fact, MCI designates only one item: "whether [GTEFL's] current practice of charging excessive switched access prices constitutes anti-competitive behavior." (Complaint at 9.) This is not a "fact" issue at all. The conclusion as to whether GTEFL's rates are, in fact, "anticompetitive" and "excessive" is purely a legal one. GTEFL's access rates are published in tariffs, so there is no dispute as to what they are. And GTEFL admits that its access rates are well above cost, so there is no dispute about that either. There are simply no factual issues to be decided and, as for the legal one--whether GTEFL's rates are anticompetitive--that has been addressed extensively here in this Motion and Memorandum of Law. No hearing is necessary to

determine that the Commission cannot undermine the Legislature's access rate scheme. As discussed earlier, this is a jurisdictional issue and, as such, must be decided at the outset. The Commission should not allow MCI to force GTEFL and the Commission to waste valuable time and resources on a hearing process, especially when that hearing cannot yield MCI the lower access charges MCI seeks. Rather than grant a necessarily futile hearing, the Commission should consider what steps it might take to encourage the conditions that will drive Florida access charges closer to their costs. Below, GTEFL discusses this more productive approach for the new competitive era.

## III. GTEFL Would Not Oppose Access Charge Reductions Under the Right Circumstances

Although GTEFL opposes this proceeding, it does not necessarily oppose access charge reductions. In fact, GTEFL believes that implicit subsidies in any rates, including access rates, cannot be maintained in a competitive environment. The FCC, for instance, has aptly observed that,

> as competition develops, incumbent LECs may be forced to lower their access charges or lose market share, in either case jeopardizing the source of revenue that, in the past, has permitted the incumbent LEC to offer service to other customers, particularly those in high-cost areas, at below-cost prices.

Access Charge Reform, CC Dkt. 96-262 etc., First Report and Order, FCC 97-158, May 16, 1997, at para. 32 [emphasis added].

Thus any access reductions--whether compelled by the market or the Legislature--cannot be made in a vacuum, as MCI suggests. Any serious effort to substantially move

access charges to their underlying costs must be part of a broader undertaking to rationalize all prices--including those for basic local service. To the extent that subsidies are still warranted for residential service customers, these subsidies must be made explicit, and all carriers must contribute their fair share toward covering them. If all of the necessary measures are taken to correctly rebalance rates and ensure that universal service funding is truly competitively neutral, GTEFL would readily reduce access charges, as is its option under section 364.163.

GTEFL invites MCI to join in a comprehensive effort to create the conditions necessary for developing open and fair competition. GTEFL would not be surprised, however, if MCI declines this invitation, for MCI has a keen interest in attaining access reductions in the absence of rate rebalancing and the establishment of a competitively neutral universal service funding method.

GTEFL's local competitors--among them MCI--do not bear any carrier-of-last-resort obligations, and can be expected to target high-value customers (or high-margin services such as toll), whose rates are the product of GTEFL's disoriented rate structures. Predictably, MCI "will certainly go after those parts of the market that we consider most profitable." (Bert Roberts, MCI Chief Execute Officer, Moneyline (talk show), Aug. 1, 1996.)

MCI and other competitive local exchange carriers (CLECs) will implement this strategy by offering high-value customers prices that are below those that GTEFL currently charges, and below those it must continue to charge if the incumbent LECs, like GTEFL, alone continue to shoulder universal service support costs. These rival suppliers--free to

enter and compete only in the profitable markets (those where the LECs currently generate universal service support subsidies)--enjoy a wholly artificial price advantage since their rates need not cover funding for social policies.

Even the FCC has recognized the irresistible cream-skimming opportunities this situation presents:

> In a competitive market, a carrier that attempts to charge rates significantly above cost to a class of customers will lose many of those customers to a competitor. This incentive to entry by competitors in the lowest cost, highest profit market segments means that today's pillars of implicit subsidies--high access charges, high prices for business services, and the averaging of rates over broad geographic areas--will be under attack. New competitors can target service to more profitable customers without having to build into their rates the types of cross-subsidies that have been required of existing carriers who serve all customers.

Universal Service Report and Order, CC Docket No. 96-45, May 8, 1997, at para. 17.

Moreover, the CLECs can accomplish this "cream skimming" with little or no capital investment by purchasing unbundled network elements from GTEFL.

These CLEC strategies threaten GTEFL's financial viability and, in turn, universal service. As CLECs like MCI target and capture the sources of revenue contributions GTEFL currently uses to maintain universal service, GTEFL will be unable to sustain this objective. No company can survive if it is required to provide some services at price levels that are below those that would exist in a rational, competitive marketplace, while it is forced by competition to relinquish the margins on other services that permitted it to provide the supported services. The relief MCI seeks in its filing would hasten and exacerbate this harm for GTEFL and its network, which is the foundation for universal service and competitive entry alike. Indeed, the action MCI urges is anticompetitive, not

GTEFL's access rates.

While MCI's Complaint must be dismissed because it is deficient on its face, the filing has served a useful purpose: It has brought to the fore the pressing need to rationalize GTEFL's rate structure and to quickly establish a competitively neutral means of assuring explicit and predictable subsidy flows to promo ; universal service. Once these conditions are satisfied, GTEFL will need no external prompting to reduce its access charges.

• • •

GTEFL asks the Commission to dismiss MCI's Complaint because it has no jurisdiction to grant the relief MCI requests and because it fails to state a legitimate claim of unlawful action under Florida law.

Respectfully submitted on July 29, 1997.

By: 

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

Attorneys for GTE Florida Incorporated

## CERTIFICATE OF SERVICE

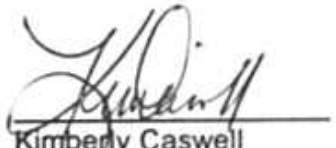
I HEREBY CERTIFY that a copy of GTE Florida Incorporated's Motion to Dismiss and Supporting Memorandum of Law in Docket No. 970841-TP was sent via U. S. Mail on July 29, 1997 to:

Martha Brown, Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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

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

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter Reeves McGlothlin Davidson Rief & Bakas, P.A.
117 South Gadsden Street
Tallahassee, FL 32301



Kimberly Caswell