

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for expanded) DOCKET NO. 921074-TP
interconnection for alternate)
access vendors within local)
exchange company central offices) FILED: 04/06/94
by INTERMEDIA COMMUNICATIONS OF)
FLORIDA, INC.)

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INTERMEDIA COMMUNICATIONS OF FLORIDA, INC.'S
RESPONSE TO
GTE FLORIDA INCORPORATED'S
PETITIONS FOR RECONSIDERATION AND STAY
OF ORDER NO. PSC-94-0285-FOF-TP

Intermedia Communications of Florida, Inc., (Intermedia) pursuant to Rule 25-22.060, Florida Administrative Code, hereby files this Response to the Petitions for Reconsideration and Stay of Order No. PSC-94-0285-FOF-TP filed by GTE Florida Incorporated (GTEFL) on March 25, 1994.

Petition for Reconsideration

1. In its Petition, GTEFL requests reconsideration of the

Commission's decision that its physical collocation mandate does not constitute a constitutionally impermissible taking of property.

2. The purpose of a petition or motion for reconsideration

is to afford the Commission the opportunity to consider an issue of

law or fact that was either misapprehended or overlooked when it

made its decision. State v. Green, 106 So. 2d 817 (Fla. 1st DCA

1958). Reconsideration is not meant to provide parties the

opportunity to reargue the merits of the case or to point out areas

of disagreement with the Commission's decision. Denial of GTEFL's

petition is appropriate because the Commission has already considered and directly rejected the company's arguments.

3. In support of its petition, GTEFL argues that the case of Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982), is controlling. The Commission found that it was not, and in so doing, rejected the very arguments that GTEFL makes in favor of reconsideration. GTEFL's disagreement with the Commission's decision does not raise issues of fact or law overlooked or misapprehended by the Commission when it made its decision. Rather, the Commission considered and rejected the company's claims, and reconsideration is improper.

Petition for Stay

4. GTE requests that the Commission stay its collocation order until the conclusion of a federal appeal of the FCC's physical collocation mandate or alternatively, until the conclusion of Phase II of this docket. Intermedia opposes the request as being unnecessary and undesirable.


5. GTEFL recites the steps it would have to take in order to comply with the Commission's order, and suggests that LECS will have wasted time and effort if the FCC's collocation mandate is overturned on appeal. However, GTE also believes that the appeal will be concluded within a short time after the Commission reviews and approves the tariffs it ordered LECs to file, which makes it unlikely that LECs will have to expend significant funds and effort to comply with the Commission's order before learning of the

appellate court's decision. A stay is therefore unnecessary to prevent the potential problems suggested by GTEFL.

7. The Commission was aware of the existence of the federal appeal when it decided to implement physical collocation. Had it wished to condition its decision upon the outcome of that appeal, it could have done so. GTEFL has cited no additional reason for doing so now.

WHEREFORE, INTERMEDIA requests that this Commission deny the petitions for reconsideration and stay filed by GTE Florida, Incorporated.

Respectfully submitted this 6th day of April, 1994.



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CERTIFICATE OF SERVICE

Docket No. 921074-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States Mail this 6th day of April, 1994, to the following:

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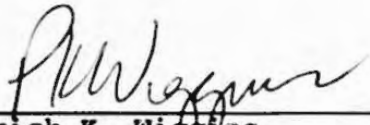
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