

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: GTEFL, Inc Petition for
Exemption from Commission Rule 25-4.113(1)(f)
In Docket No. 960556-TL Filed: May 2, 1996

To: THE FLORIDA PUBLIC SERVICE COMMISSION

From: Chester Osheyack

Filed: By mail May 23, 1996 - 3-pages plus cover ltr

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COMMENTS ON GTEFL PETITION AS DESCRIBED ABOVE

GTEFL has petitioned the Public Service Commission for an exemption as above noted, which will allow implementation of a "post-billing toll block (PBTB)" procedure aimed at preventing customers who do not meet certain of their criteria from accessing toll lines for long distance calls, outgoing collect calls, third party billed calls, and credit card billed calls, as an interim stage in a delinquent bill collection strategy. The final stage continues to be execution of disconnect authority. They offer as a rationale for introduction of a credit management system, the fact that "in recent years, GTEFL has experienced an upward trend in uncollectibles, due in large part to the increase in subscription fraud on new accounts". One cannot help but wonder at the logic of incurring the burden of changing an entire system if, in fact, new accounts are the problem. It would appear that all they need to do is address the issue of how to handle new customers. But notwithstanding the perceived need to secure a broadly focused solution to a narrowly focused problem, we should at least attempt to quantify what is an "upward trend", and verify the credibility of the premise. GTEFL has not done this, but it must be considered essential that the "trend line" be measured against the increased number of subscribers, the increased number of phone lines resulting from growing use of computer services, faxes, and second lines accomodating home offices, and, as a percentage reflecting increases in revenues. We might find that a proper interpretation of statistical evidence will show that delinquency may be showing an upward trend in raw numbers, but is actually trending downward if measured against an appropriate baseline. It is a matter of fact and of record, that in discussions of the recently aborted Advanced Credit Management System with FPSC staff, the GTEFL staff informed them, and on other occasions the press, that they were reporting uncollectible accounts in a range of 10,000-12,000 per month, a collection rate of under 15%, account averages of about \$400, and revenue losses estimated at \$5 million per month. It is interesting to note that these exact numbers were reported to the PSC in 1993, again in 1994, recorded in press stories which appeared in June 1995, and again in a St. Petersburg TIMES story May 17, 1996. There are two significant factors to be derived from this record of reported numbers. First, it would appear that in the light of steadily increasing business, uncollectible levels appear to be holding steady, which could well mean that the real trend is downward rather than upward. But the second fact is even more interesting. Applying the numbers provided by GTEFL, despite disconnection of telephone service to some 360,000 customers (estimated) over the three (3) year period in the area served by GTEFL, the problem of uncollectibles remains at the same level. In other words, it would appear that restriction or termination of telephone service may not be an effective means of accomplishing their stated objective. No question that they may need

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new technologies, new systems and procedures, even "creative solutions" as is well put in the GTEFL petition. A reasonable and pragmatic man might conclude from the evidence on the record, that if negative solutions aren't working, perhaps it is time to try a positive solution. There are alternatives available.

GTEFL further makes the point in their petition that "Failure to stem this trend (which they characterize as an upward trend in uncollectibles) will result in ever-more revenue loss for GTEFL and ultimately higher prices for its customers". On point of the economic impact of revenue loss for GTEFL, it should be here noted that GTE has experienced continuous revenue increases as well as profit increases over the past three (3) years, except for certain self-serving write-offs, mostly in the double digit range. In its 1st quarter earnings for 1996, GTE recorded an increase in earnings of 12% over last year, which places them third among local exchange companies behind Ameritech +14%, and Sprint +39% (source Bloomberg). Moreover, GTEFL has received rate increase approvals in years prior to January 1996 when caps were imposed by law. Since by their own records, the uncollectible statistics have remained constant against increasing revenues and profits, it would appear to be inappropriate for them to even consider increasing local rates. They would invite the risk of losing revenues to competitors on an even greater scale, and for little or no gain.

On matters pertaining to applicable law, GTEFL states in its petition that the PSC has indicated in a prior order dtd April 15, 1995, that "non-payment of telephone bills is sufficient cause to approve a program that limits or denies service". With all due respect, that opinion was rendered prior to the signing of the new FS Ch 364 into law in Florida, and the enactment of the new Federal telecommunications legislation. These two actions set in motion a sea change of enormous proportions and commensurate importance to the social, economic, political and cultural lives of the citizens of our State and the local communities therein. In the light of the new legislation, I think that there should be little argument that the vagueries in the above noted statement need to be clarified and interpreted to specify in greater detail "what service of the many now provided by local exchange companies can be limited or denied, and what constitutes good cause in the context of conflicting rights and interests".

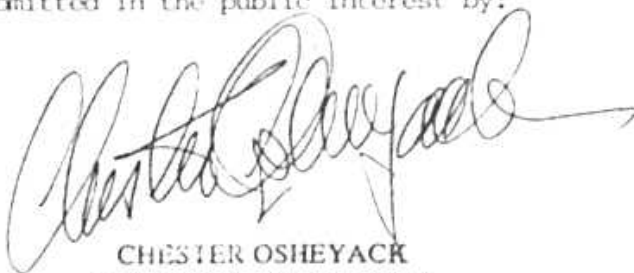
The PBTB system that GTEFL proposes permits blocking of outgoing collect calls, third party billed calls, credit card billed calls, and access to long distance service providers which are competitors of GTEFL and their clients. Since none of these resources create new financial risk for GTEFL, nor does the use of these services unduly impose additional financial risk for GTEFL, this restriction must be considered punitive rather than protective. In our system of jurisprudence, it may be conditionally acceptable for individuals and/or corporations to defend themselves, but the right to punish must remain with unbiased arbiters and courts of proper jurisdiction. Government must not approve acts of vigilantism. Government must not permit punishment in the absence of due process. There are federal and state collection laws which serve the interests of creditors and debtors. They do not permit disablement of property, or denial of the use of property as a punishment in debt collection. This proposed remedy is grossly excessive as a cure for indebtedness, and superfluous as a cure for delinquency.

Furthermore, the PBTB system proposed by GTEFL, in denying the consumer access to competitors of GTEFL (since they are now suppliers of long distance service) and their client companies (all long distance service suppliers), could be an act in restraint of trade. Moreover, if the actions of GTEFL are taken with the knowledge and approval of their client companies, such accord may be construed as a clear violation of the anti-trust laws, particularly since none of the companies involved will be able to justify the act on economic grounds. There is no way that access to competitors in a free market, the use of competitive billing resources (sic credit card, collect or third party), can be interpreted as having a direct or even a measureable financial impact on them.

Additionally, any restrictive action which denies the consumer a free choice of market opportunities, must be considered to be anti-competitive and therefore antithetical to the intent of currently applicable Florida law.

Having stated the above, I would be remiss if I did not comment that it is incumbent upon the PSC, in the light of the current state of the industry, to consider the need to provide to the consumer, the right to pay for his basic local telephone service separately and independantly from his long distance bill, unless he purchases both services as a package. In the event of a purchase of a package of services including but not limited to basic local service, there should be required a clearly written and pre-approved contract which can be monitored for full disclosure. It is extremely important to ensure that the consumer be fully informed as to the advantages and disadvantages of the contractual relationship, and that constitutionally guaranteed right of due process be protected for both parties. It must be remembered that some of the packages currently available, and many of those which are in various stages of contemplation, involve substantial sums of money. For this reason, and because of the complexity and importance of the products and services being packaged, both parties should welcome the security of a contractual relationship.

Respectfully submitted in the public interest by:



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Re: Docket No. **960556-TL** Request for rule exemption from Rule 25-4 113(1)(f),
F.A.C. by GTE Florida Incorporated

Dear Ms. Bayo,

Time Warner Communications, on behalf of Time Warner AxS, L.P. and Digital Media Partners requests that it be included on the mailing list as an interested entry in the above-referenced docket. Please address all correspondence as follows:

Jill Butler, Director of Regulatory Affairs
Time Warner Communications
2773 Red Maple Ridge
Tallahassee, Florida 32301

Thank you for your assistance with this matter.

Sincerely,


Jill Butler