

REQUEST TO ESTABLISH DOCKET
(PLEASE TYPE)

Date 7/5/96

Docket No. 960875-TL

1. Division Name/Staff Name Legal / Edmonds
2. OPR LEB / Edmond
3. OCR CMU / Andu
4. Suggested Docket Title Petition of Thomas Morgan to Rescind and Dismiss
GE's Tariff A117.

5. Suggested Docket Mailing List (attach separate sheet if necessary)

- A. Provide NAMES ONLY for regulated companies or ACRONYMS ONLY regulated industries,
as shown in Rule 25-22.104, F.A.C.
- B. Provide COMPLETE name and address for all others. (Match representatives to clients.)

1. Parties and their representatives (if any)

Thomas R. Morgan
3016 Hurdys Blvd.
Lakeland, FL 33803-5938
(941) 499 6063

2. Interested Persons and their representatives (if any)

6. Check one:
- Documentation is ~~attached~~ ^{with Records & Reporting} attached.
- Documentation will be provided with the recommendation.

I:\PSC\RAR\WP\ESTDKT.
PSC/RAR 10 (Revised 01/96)

DOCUMENT NUMBER-DATE
08031 JUL 31 96
FPSC-RECORDS/REPORTING

CAF ORIGINAL

11 July 1996

FILE COPY

RECEIVED
JUL 18 1996

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

FPSC-RECORDS/REPORTING

Subject: PETITION TO RESCIND AND DISMISS (GTE A117 Tariff)
PETITION FOR EXPEDITED CONSIDERATION of above

Dear Ms. Bayo:

Please find enclosed herewith, one (1) Original and fifteen (15) copies of the above captioned Petitions for this Commission's consideration and action.

65 JUL 19 PM 2:02
MAIL ROOM

Thank you for your assistance in this matter.

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTP _____
- EAS _____
- LEG _____
- LIN _____
- OPC _____
- ROH _____
- SEC _____
- WAS _____
- OTH _____

Very truly yours,

Thomas R. Morgan

Thomas R. Morgan
3616 Harden Boulevard
Lakeland FL 33803-5938
Tel: (941)499-6063

*- A117 Tariff filed with this Commission (T96-503) on 14 June 1996 to be effective 29 June 1996.

Copy to GTE FLORIDA INC.
as per Affidavit of Service
Page 10 Petition to Rescind.

P 138 962 669

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided.
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| | |
|---|-------------|
| Sent to GTE Operations | |
| Attn: Beverly J. Menard | |
| Street & Number | |
| 201 N. Franklin Street | |
| Post Office, State, & ZIP Code | |
| Tampa FL 33601-0110 | |
| Postage | \$ 1.24 |
| Certified Fee | 1.10 |
| Special Delivery Fee | |
| Restricted Delivery Fee | |
| Return Receipt Showing to Whom & Date Delivered | FL 110 |
| Return Receipt Showing to Whom, Date, & Address | UL |
| TOTAL Postage & Fees | 1 \$ 2.34 |
| Postmark of Date | 1996 JUL 18 |

PS Form 3800, April 1995
USPS

Before the
Florida Public Service Commission
Tallahassee, Florida

-----X

| | | |
|-------------------------------------|---|-------------------------|
| THOMAS R. MORGAN, Petitioner | X | REQUEST FOR EXPEDITED |
| (pro se, and with this Commission's | X | CONSIDERATION AND |
| permission, on behalf of the like | X | EMERGENCY RELIEF DUE TO |
| interests of all of Respondent's | X | UNUSUAL CIRCUMSTANCES |
| IMTS customers in the GTEF | X | OF ATTACHED PETITION |
| servicing area) et al. | X | FOR REASONS SET FORTH |
| vs. | X | BELOW. |
| GTE FLORIDA INCORPORATED, | X | |
| Respondent | X | |

-----X

THOMAS R. MORGAN, being duly sworn, deposes and says:

1. I am the Petitioner named herein.

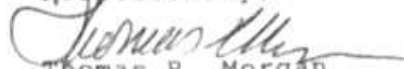
2. On 14 June 1996, Respondent filed with this Commission (T-96-503) Tariff A117, which obsoleted Tariff A17, pertaining to Respondents IMTS public mobile telephone service, effective 29 June 1996, setting a discontinuance date of 1 October 1996 for the provision of IMTS service in Florida.

3. Respondent did not notice said IMTS customers of its intent to Detariff this offering, and thereby denied said customers ability to comment and object on a timely basis, despite the fact that Respondent possessed a list of names and addresses of said customers.

4. Petitioner has every reason to expect that, in accordance with accepted FCC procedures, Respondent will now forthwith, file its Notice to the FCC (Federal Communications Commission) for authority to discontinue and shut down said IMTS service on 1 October 1996, indicating that its application to this Commission (T-96-503) was unopposed. Petitioner and Respondent's IMTS customers adversely impacted, intend to oppose such a Notice at the FCC level.

5. The foregoing notwithstanding, Petitioner believes that there are overwhelmingly compelling reasons stated in the attached Petition, not disclosed by Respondent in its T96-503 filing, as well statements by Respondent claimed as true but proved as untrue by Petitioner in the attached Petition to merit URGENT and EMERGENCY action by this Commission on the attached Petition, which is sought herewith.

Respectfully,


Thomas R. Morgan
Petitioner

Dated: // July 1996

Before the
Florida Public Service Commission
Tallahassee, Florida

In (Tariff Filing: A117.
Re: (Index No. (PSC)T-96-503

-----x
THOMAS R. MORGAN, Petitioner x
(pro se, and with this Commission's x
permission, on behalf of the like x
interests of all of Respondent's x
IMTS customers in the GTEF x
serving area) et al. x

PETITION TO RESCIND AND
DISMISS WITH PREJUDICE
RESPONDENT'S ABOVE CAPTIONED
TARIFF FILING WHICH PROVIDES
FOR DISCONTINUING IMTS
PUBLIC MOBILE TELEPHONE
SERVICE ON 1 OCTOBER 1996
ALONG WITH OTHER RELIEF
SOUGHT HEREIN.

vs. x

GTE FLORIDA INCORPORATED, x
Respondent x
-----x

THOMAS R. MORGAN, being duly sworn, deposes and says:

1. I am the Petitioner named herein.
2. Petitioner asks this Commission's indulgence to accept this Petition nunc pro tunc, as Respondent failed to notice Petitioner of its intention to make its above captioned filing (T-96-503) in advance or concurrent with such filing, thereby denying Petitioner, et al the ability to comment or oppose said filing, which has a severe negative impact on Petitioner, et al.
3. Petitioner and all other IMTS subscribers to the GTEF IMTS system all have a like and common interest in this matter, and Petitioner respectfully requests this Commission to extend on behalf of all said GTEF IMTS customers, as if each IMTS customer had signed this Petition.

I. JURISDICTION

Petitioner respectfully avers that this Commission has jurisdiction in the above captioned Petition, notwithstanding the fact that this Commission does not regulate cellular, Personal Communication Services (PCS), Specialized Mobile Radio Services (SMRS) and paging systems all of which do not have tariffs on file with this Commission.

II. DESCRIPTION OF IMTS PUBLIC MOBILE TELEPHONE SERVICE

IMTS (Improved Mobile Telephone Service) is a high quality, full duplex (simultaneous listen/talk), direct dial mobile telephone service provided by certain communication Common Carriers on protected and exclusive frequencies licensed by the Federal Communications Commission (hereinafter referred to as FCC).

Although employing technology available for many years, IMTS service is attractive to primarily business users who require only basic, reliable and economical mobile telephone service without the "frills", ancillary services and inherent high usage cost of cellular. Current IMTS phones offer, nonetheless, many valued convenience features among with are Memory Dialing, DTMF over dial, Last Number Recall, Touch Dialing, Call Queueing, Digital Display to name just a few.

Current rates available to all IMTS subscribers from GTEF's contracted exclusive service reseller a/ provide particularly the heavy air-time user, potentially enormous monthly savings over cellular air-time of the same amount.

III. BRIEF HISTORY OF THE GTEF IMTS SERVICE IN FLORIDA

1. In 1988, GTEF applied to the FCC to renew its IMTS licenses for what GTEF knew, in 1988, was for a 10 year period ending on 31 July 1998 at which time, GTEF could again renew said licenses for another 10 years or allow them to expire automatically, with no subscriber recourse.

2. In the early 1990's, GTEF ceased marketing subject IMTS service and arranged with said national IMTS reseller a/ to, on an exclusive basis, provide all maintenance to GTEF's IMTS base stations, antennas and associated equipment and GTEF's IMTS switch (hereinafter referred to as (the) HiCom), also reseller promoted and marketed GTEF's IMTS facilities to the public and the use thereof, with reseller setting its own rates, activating customer accounts (mobile numbers), billing all customers, collecting payments from all customers, and among other things, disconnecting accounts when and if necessary in reseller's sole judgement. In 1994, said GTEF arrangements were consolidated in a contract between reseller a/ and GTE Operations Headquarters in Irving, Texas for all GTE associated companies' IMTS systems nationwide.

3. Potentially great benefits accrued to GTEF under this reseller arrangement/contract in that, not the least of which is the fact that the FCC in recent years adopted FCC Rule 22.569 which, in spirit, provides that any IMTS-type licensee must surrender its FCC licenses voluntarily, at the risk of FCC Citation and penalties, in the event such frequencies covered by said licenses are lying fallow without significant public use. Therefore, the GTEF reseller agreement which held every promise of rebuilding GTEF's IMTS subscriber base from near zero in 1993, served to protect GTEF from a possible future FCC action under 22.569.

One might ask the question, why would an LEC want to hold on to (in GTEF's case, 9 licensed base station locations with an aggregate total of 49 VHF and UHF IMTS frequencies) if GTEF was no longer interested in promoting its IMTS service, possibly also in deference to its sister GTE entity GTE MobilNet's cellular system also in this area? The ANSWER is clear to those in this industry. Radio spectrum is a scarce commodity, the FCC has had to reach into the microwave or near microwave spectrum to find frequencies for cellular, SMRS, paging systems and the newest entity PCS, as no more was available unallocated in the lower bands where the IMTS services reside.

New, previously unconceived communications technologies appear every year, needing frequencies to accommodate such services. Through the past 15 years, the FCC went from comparative hearing to determine which of multiple applicants gets a public serving license, to lotteries and now applicants for new frequencies must bid, often millions of dollars at auction, such as with PCS, for frequencies.

It takes little imagination to see that preserving GTEF's IMTS frequencies with a reseller starting to fill up the system with subscribers again and who would maintain the system as well, could be of enormous benefit to GTEF at some future date when these same frequencies, which GTEF obtained basically for free from the FCC years ago, could be at the ready for some future technology unknown at this time.

IV. PETITIONERS COUNTERCLAIMS AND SUPPORTING FACTS WHICH ARE THE BASIS FOR PETITIONER BRINGING THIS PETITION TO RESCIND AND DISMISS T96-503.

Respondent has made to this Commission, in its T96-503 "Executive Summary" page, six to seven statements which are false and/or misrepresentations of fact, Petitioner respectfully avers, to cause this Commission to conclude that PSTN technology has surpassed the ability of IMTS switch technology to adapt to it (at least GTEF's IMTS switch) and that therefore, for the sake of the integrity of the PSTN, IMTS must be discontinued. This, in sum, is what Petitioner reads as the entire thrust of GTEF's allegations to this Commission.

Petitioner has noted said all 7 of GTEF's statements numerically 1/ to 7/ and also highlighted same on the attached copy of GTEF's referred to "Executive Summary" for ease of identification, and Petitioner will deal with each numbered statement individually and in the order in which they appear. (GTEF Executive Summary is Exhibit A)

Petitioner believes he will also establish, far beyond a reasonable doubt, that GTEF's statements 1 through 6 are not mere mistakes or harmless error, but in fact totally self-serving statements that GTEF knows are in direct contrast to the true facts which Petitioner will counter with, including checkable industry references, so indicated.

1. GTEF leads even the casual reader to draw the conclusion that there has been a steady linear decline in IMTS customers from 1220 in 1986 to 118 now, inferring this attrition would continue in the future in a negative direction. One would also assume from this statement that the 118 now are mostly "die-hards", the last vestiges of the original 1220 trying to squeeze the last remaining useful life out of their sets.

PETITIONER STATES that quite to the contrary, GTEF's IMTS public customer base was approaching ZERO when reseller and its agents (of which Petitioner is one) started marketing the then near defunct GTEF IMTS service. Accordingly, virtually ALL 118 subscribers are NEW subscribers, eschewing the high cost of cellular service, having purchased their phones and going "on line" with the GTEF IMTS service within the past three (3) years.... and at a cost of as much as \$800.00 per mobile telephone installed system,

(Petitioner notes that IMTS phones are sold at the fair market price, which is NOT substantially subsidized as is cellular by practices referred to as "bundling" or "innovative marketing" with hundreds of dollars per customer in "bounties" or activation commission paid to the cellular agent by each carrier per new customer).

2. GTEF states it seeks to discontinue IMTS service because of the "inability of IMTS switch technology to recognize and complete calls to interchangeable area codes." GTEF clearly attempts to erroneously lead this Commission to believe that IMTS switches, including their HiCom, are not capable of processing calls to interchangeable NPAs.^{b/}

PETITIONER STATES that even though GTEF's HiCom switch was manufactured in the mid-1970's by Harris Corp.^{c/} and at that time, the HiCom was programmed to accept only NPA format(s) then in use throughout North America ^{d/}, GTEF's HiCom terminal without any special additional programming equipment, DOES have the capability to easily be reprogrammed to ALSO validate the new "interchangeable" NPA format^{b/} implemented by LECs out of necessity during the past several years.

PETITIONER also states that in the late 1980's Harris Corp., the HiCom manufacturer, ceased manufacture of HiCom terminals and subsequently advised its LEC customers that in or about 1993, it would no longer provide technical field support of any kind for the HiComs. All spare parts and technical information relating thereto was subsequently disposed of by Harris.^{e/}

The next logical question is, why doesn't GTEF proceed to reprogram the HiCom to validate the new interchangeable NPAs along with the existing NPA program from the mid 1970s?

The answer to this is that in order to reprogram this secure electronic area of the HiCom, the LEC must possess the electronic "source codes" to enter this secure programming mode. Possession or use of "source codes" is not needed by the HiCom customer on a day-to-day basis for routine purposes of validating subscriber mobile numbers and the like, and HiCom "source codes" are distinctively different for each HiCom switch manufactured.

PETITIONER avers that he was told by various GTEF technical people, as well as was the Engineer employed by reseller, that GTEF does NOT possess the "source codes" that would easily enable the HiCom^{2/} to be brought fully into compatibility with the PSTN and its new interchangeable NPAs. Moreover, GTEF technical people have no recollection of whether they asked for the "source codes" when Harris announced technical support for the HiComs would end, or if they did ask for them and received them, or if they possessed said source codes and subsequently lost or misplaced them. Petitioner is entirely willing, on request of this Commission, to provide the identities of the specific GTEF technical people who disclosed the foregoing. The Engineer^{f/} employed by reseller can likewise reveal this information from his own first-hand conversations with the GTEF people involved.

PETITIONER emphatically states that it was undeniably incumbent upon GTEF to have obtained said "source codes" when it had ample warning that Harris would no longer be supporting HiCom terminals and/or to have preserved said source codes in safekeeping if GTEF had obtained them. AND, Petitioner further respectfully states that in view of GTEF's own carelessness, lack of responsibility or just plain oversight to this end, it is equally incumbent upon GTEF to, at its own expense, to correctly remedy the interchangeable NPA dialing problem in accordance with standard IMTS to landline interfacing procedure(s).

Instead of owning up to its undeniably egregious blunder in not obtaining the "source codes" when they were available and GTEF knew Harris would shortly be of no help technically in the then near future... or losing said "source codes" if GTEF had them, GTEF tries to convince this Commission untruthfully, that it is simply a non-culpable victim of technology passing their IMTS switch by. Moreover, GTEF seeks to saddle 118 new IMTS customers with an aggregate loss in the realm of \$100,000.00 by shutting down the IMTS system as a totally wrongful means of escaping from a situation of its own creating.

PETITIONER admits the normal cost of a contemporary brand new IMTS terminal capable of supporting the 17 VHF stations is somewhat less than \$500,000.00. Realizing that Respondent would not be willing to invest such a sizeable sum to replace the HiCom switch, Petitioner solely on his own volition, expended significant time and telephone expense independently to search for "fix" for said HiCom.

When all parties involved concluded a "fix" for the HiCom switch referred to was hopeless; Petitioner, who has 36 years experience in the public mobile telephone field with many equipment source contacts throughout North America, took it upon himself to (WITHOUT GTEFs or even reseller's request, urging or knowledge) locate suitable contemporary IMTS switches and Petitioner succeeded in locating Glenayre Model 1200 contemporary switches, guaranteed in top working order which would fully support the 17 VHF stations for a total asking price of only \$35,000.00 from an IMTS service provider^g/Trying to assist GTEF on a "pro bono" basis, Petitioner immediately passed this information to a responsible GTE person in Tampa, along with name and phone number of said Glenayre switches' owner.

Petitioner was told by said GTEF employee that he knew that GTEF would not spend a sum anything approaching the price of the Glenayre switches to correct said problems, and that ended the matter. No contact was ever made by GTEF to said switch owner as verified by Petitioner as recently as two weeks ago.

3. GTEF tells this Commission that "this (interchangeable NPA incompatibility of their HiCom switch) was "discovered with the 813/941 (NPA) split" on 2 March 1996 when "IMTS customers... could not complete calls ... in the 941 area."

PETITIONER states this is an entirely untrue statement. Petitioner himself queried GTEF technical people as far back as 3 years ago when Petitioner found he could not dial mobile-to-land calls from his IMTS phone to interchangeable NPAs already used in other parts of the U.S. such as the 210 NPA, 510 NPA, etc. Petitioner was advised AT THAT TIME that GTEF did not have the "source codes" to validate the new NPAs in the HiCom switch and basically said he'd have to live with that problem, as would all other IMTS system users. Fortunately, rarely did any of Petitioner's customers complain, so that never became a real issue then.

This condition 3 years ago should have been a warning to GTEF of the impending disaster 3 years later on 2 March 1996 when 941 became mandatory. Petitioner asks, "Did GTEF really believe that the 941 NPA would not present a problem in the IMTS switch in light of this when 2 March 1996 arrived, or did they just not care?" Petitioner fears the latter is most likely the case, in view of no corrective action ever being taken.

4. Respondent alleges as fact to this Commission that "Subsequent attempts to modify the IMTS switch by the switch vendor were unsuccessful" In context, "subsequent" means after 2 March 1996.

The switch vendor, Harris Corp. has not supported the HiCom for a few years now, and no longer has employees familiar with the HiCom. Harris has no agents acting on their behalf to this end. The clear implication of this statement by GTEF is that some technical person from Harris physically came to the IMTS switch after 2 March 1996 and personally attempted on a hands-on basis to "modify" said IMTS switch. Petitioner avers to the best of his knowledge, and he was in continual contact with the GTEF technical people responsible for said IMTS switch, that absolutely no current or even former Harris employee, or agent for Harris, attempted to "modify" said switch... and GTEF's stating thusly is patently untrue.

Petitioner is aware of at least one conversation GTEF people, as well as reseller's engineer.. and Petitioner as well on several occasions, had with a former Harris Engineer^{e/} now employed for 2½ years by Cellular One in Rochester, N.Y. and basically all he did was to confirm the need for the "source codes", look for them in his personal files, and subsequently advise that he didn't have them.

Petitioner challenges GTEF to disclose to this Commission, the identity of the purported employee of "switch vendor", or past employee of switch vendor, or representative of switch vendor who actually attempted hands-on modification of said switch, and the dates on which such failed attempts were made.

Petitioner has knowledge of an actual engineering employee of GTEF who built a circuit he designed and tried to by-pass the NPA problems in the HiCom, but it was THAT attempt that failed. Petitioner and reseller's engineer both spoke with that GTEF employee before and after said attempt on his part was not successful. Petitioner and reseller also can reveal the identity of that person on specific request.

5. Respondent states to this Commission in 5/ of the "Executive Summary" that "There does not appear to be any way to support the service as tariffed."

PETITIONER again asserts that GTEF holds itself out untruthfully as a victim of inevitable fate by alleging IMTS switch technology is now obsolete by new PSTN/NPA technology. Petitioner avers that his facts stated and the checkable support sources thereof, clearly demonstrates that Respondent GTEF again impeaches its own veracity before this Commission.

6. GTEF points to having instituted "permissive dialing" to try to lessen the impact on IMTS subscribers in the 941 NPA.

PETITIONER respectfully draws to the attention of this Commission that the complete facts are that: GTEF did not even test "permissive dialing" to just several test exchanges in Winter Haven until about 5 weeks after 2 March 1996. On determining this type of partial remedy was successful, but only to those several NXXs, reseller requested that permissive dialing be extended to all 125 941 NXXs with regard to the IMTS switch mobile-to-land circuits and GTE Operations Headquarters in Irving, Texas h/ absolutely refused to do so.

IT WAS ONLY AFTER Petitioner filed a Complaint with this Commission and Mr. Stanley Greer commenced dialogue with GTEF did GTEF finally institute "permissive dialing" to the 125 941 NXXs in May of 1996. (Said Letters of Complaint are attached as Exhibit B)

7. Respondent GTEF alleges that there are other mobile telephone service providers ready to serve subject IMTS customers in the last ¶ of GTEFL's "Executive Summary" headed "Impact on Existing Subscribers."

PETITIONER states there are NO other carriers through whose systems subject IMTS subscribers can employ their IMTS phones, necessitating said IMTS subscribers to have to discard their IMTS phones at a sum total loss of about \$100,000.00 to all 118 subscribers as said IMTS subscribers will have to purchase compatible replacement phones. Somewhat comparable (full duplex) phones on trunked and interconnected (to the PSTN) SMR systems cost in excess of \$1000.00 each not infrequently, and SMR service falls far short of the service reliability of GTEF's IMTS service. Cellular is not a viable option because most of these 118 subject IMTS subscribers previously did use cellular and changed to IMTS because they neither required all the "whistles and bells" of cellular, nor the monthly bills for air-time in excess of \$500.00 versus the \$100.00 or so (+) that their IMTS phones cost to use with similar or greater useage.

8. Petitioner states that in January of 1996, Respondent's co-entity "GTE Operations" headquartered in Irving in Irving TX, requested from reseller^{e/} a complete list of the names and addresses of reseller's customers using Responden't Florida IMTS service. As GTE Operations previously had no knowledge of said IMTS users in Florida, as said users were, in fact, customers of reseller and NOT of GTE or of Respondent; reseller inquired of the purpose of GTE Operations requiring said list, and Petitioner was told by reseller^{e/} that such was for informational and record updating purposes only, despite the fact that GTE Operations and/or Respondent had not ever previously requested customer lists from reseller.

Reseller, in good faith, complied with said request by GTE Operations. It is obvious to Petitioner that GTE Operations January request was simply a subterfuge to obtain by ruse, reseller's proprietary customer list to enable itself (GTE) to eventually send its 24 June 1996 letter (Exhibit C) to reseller's customers. Petitioner submits further that GTE and Respondent conspired with the date selected for the mailing of the Exhibit C letter, 25 June 1996, to render Respondents impotent to object to its T96-503 filing made with this Commission on 14 June 1996, to be effective 29 June 1996. and Petitioner avers that the Exhibit C letter was sent, WITHOUT the knowledge or consent of reseller^{e/} and intended to irreparably damage reseller. (See Exhibit D)

Petitioner further notes that in said Exhibit C letter, GTE Operations wrongfully and maliciously instructed all recipients to "discontinue IMTS service" with reseller, despite the fact that said IMTS "subscriber(s)" were NOT customers of GTE or Respondent.

Petitioner also notes that GTE Operations "will discontinue this (IMTS) service.... effective October 1, 1996." Rather than stating "intends to discontinue" or the like, GTE Operations clearly affronts the authority of this Commission to possibly not allow this to come to pass on 1 October 1996, were the true facts and circumstances known as Petitioner respectfully asserts that such true facts and circumstances are, herewith, now known to this Commission.

PETITIONER'S SUMMARY

Petitioner respectfully avers that Respondent has tainted its entire T-96-503 filing and affronted this Commission by having made what Petitioner believes he has established as knowingly untrue and deceptive statements that cannot be overlooked as harmless error. Subject statements by Respondent in its "Executive Summary" (Exhibit A) are noted 1/ through 7/ inclusive by Petitioner and represent Respondent's sum total of purported "justifications" to this Commission to discontinue its subject IMTS service under T96-503.

Petitioner respectfully avers to this Commission that he has presented herein, overwhelming and professionally supported evidence that each and every one of Respondent's 7 statements referred to are patently untrue or deliberately misleading or both. Petitioner believes Respondent, the largest "non Bell" LEC in the U.S. has far greater resources than Petitioner to ensure veracious nature of its statements.

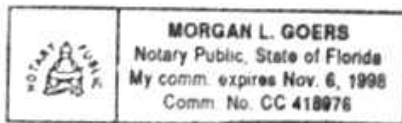
Petitioner therefore respectfully submits that Respondent, demonstrably hoist with its own petard, should be required to continue service the public with its subject IMTS service until at least the date of expiration of its FCC license on 31 July 1998.

To not do so, would facilitate Respondent causing irreparable harm to Respondent's IMTS customer base that made the very substantial investment recently in the aggregate IMTS phones useful solely with said IMTS service provided by Respondent. Petitioner further states that said IMTS customers had every reasonable right to rely that Respondent intended to provide IMTS service at least until 31 July 1998 as Respondent had made no indication to reseller, reseller's agents or the public to the contrary when said IMTS phones were purchased and placed in service.

RELIEF SOUGHT BY PETITIONER

PETITIONER respectfully asks this Commission for the below relief:

1. To RESCIND and Dismiss With Prejudice Respondent's T96-503 filing forthwith, Time is of the essence, Petitioner respectfully further states, because at this moment Respondent is likely preparing to file with the FCC a Notice to Discontinue IMTS service effective 1 October 1996 AND also state to the FCC that its T-96-503 filing with this Commission was unopposed, and
2. ORDER that Respondent reinstate its A17 Tariff (if necessary were the A117. Tariff rescinded) and
3. ORDER that Respondent immediately cease and desist pre-empting 941 NXXs that have been accorded permissive dialing in the IMTS switch for use in the 813 NPA and restore the ability of IMTS subscribers to dial calls throughout the 813/941 NPAs as said IMTS subscribers had been able to do prior to 2 March 1996. This will therefore release ALL 941 NXXs for reuse in 813 when said restoration is accomplished.
4. Petitioner respectfully also asks that Respondent be ORDERED to keep its A17. Tariff in full force and effect until at least 31 July 1998 on which date its current FCC license to provide said public IMTS service will expire, unless said IMTS service/system is sold by Respondent to another system operator prior to 31 July 1998.
5. Any such other and further relief that this Commission may deem just and proper under the circumstances.



Morgan L. Goers

Respectfully,

Thomas R. Morgan L.S.
Thomas R. Morgan, Petitioner (et al.)
3616 Harden Blvd, Lakeland FL 33803
Tel.: 941-499-5063

Dated this 11 day of July 1996

- Personally known to me, or
 Produced identification.

AFFIDAVIT OF SERVICE

Type of identification

Petitioner, Thomas R. Morgan, hereby attests under the penalties for perjury, that he has mailed by U.S. Mail, Certified, Return Receipt Requested, a true and exact copy of this Petition, with all Exhibits annexed thereto, and also a true and exact copy of Request for Expedited Consideration on this 11 of July 1996 to Respondent's Regional Director - Regulatory and Industry Affairs, Ms. Beverly Y. Menard at GTE Telephone Operations, Florida Division, One Tampa City Center, 201 North Franklin Street, PO Box 110, Tampa FL 33601-0110..

Thomas R. Morgan L.S.
Thomas R. Morgan, Petitioner

CONSOLIDATION OF PETITIONER'S FOOTNOTE DESIGNATIONS a/ THROUGH h/
INCLUDING SOURCES FOR VERIFYING STATEMENTS HEREIN

- a/ reseller: International Mobile Tracing Systems Inc.
d/b/a IMTS Inc.
8204 Lamar, Bldg. C-22
Austin TX 78753
1-800-223-4687
1-800-842-4687
(Note: When the term reseller or nationwide reseller
is used without the a/ footnote, the term also
indicates IMTS Inc. is being referred to)
- b/ Interchangeable NPAs: Any now in use NPA format that does
that does NOT follow the original NPA format
described in d/ below.
- c/ Harris Corp.: The manufacturer (former) of the HiCom
IMTS switch
Address: 1640 University Avenue
Rochester NY 14610
716-244-5830
Note: Harris Corp. is still very much in business,
only the HiCom division was disbanded.
- d/ (original NPA format):
Basically, the most easily recognized characteristics
of the original NPA format was:
1) The second NPA digit was always a "1" or "0"
2) The third digit could be a "1" but never "0".
3) If the third digit is a "1", the second digit
must be "0".
- e/ verifiable by either Harris Corp. (c/) or
Raymond Nosewicz, former Harris HiCom engineer
for the past 2½ years, employed by
Cellular One, Rochester NY
716-297-6300 Ext. 4620
- f/ reseller's engineer: Mr. Kenneth Meyers at a/ above.
- g/ IMTS service provider owning the GL1200 switches:
Mr. Matt Edwards
PO Box 2576
Montauk NY 11954
Business Telephone: 516-822-5050
- h/ The identity of the GTE Operations person refusing in April 1996
to extend "permissive dialing" beyond the "test"
NXXs is available through Mr. Meyers at a/ above.

EXECUTIVE SUMMARY

Introduction

The purpose of this filing is to discontinue Improved Mobile Telephone Service (IMTS) as a GTEFL service offering. When the filing becomes effective, IMTS will have an obsolescence period until October 1, 1996, after which it will be discontinued in its entirety.

Market Information

IMTS is the radio telephone service which was in place before cellular service was developed. IMTS was installed in the late 1960's to provide telephone service in your car. The mobile service customer is charged a monthly service fee and for each minute of airtime. Because of the limited channel allotment for this service capacity was always limited and could never keep up with customer demand.

With the introduction of cellular service in the mid-1980's, demand for GTE's IMTS service peaked in 1986 with approximately 1220 customers and today there are approximately 118 customers on the system.

The proposed tariff filing discontinues the offering of IMTS service because of the inability of the IMTS switch technology to recognize and complete calls to interchangeable area codes. This was discovered with the 813/941 split when IMTS customers served out of the 941 area could not dial and complete calls to any landline phone in the 941 area. Subsequent attempts to modify the IMTS switch by the switch vendor were unsuccessful. There does not appear to be any way to support the service as tariffed. GTEFL is the only large LEC in Florida still offering the service.

During the transition period, IMTS customers can still complete calls to existing 941 area NXX codes requested by IMTS customers as the company has re-instituted permissive dialing to 125 NXX codes in Polk and Sarasota Counties within the 941 area code. Every effort will be made to protect the NXXs during the permissive dialing period but given the limited number of NXX codes, administration of the NPA may dictate activation of codes in the 813 area and removal of permissive dialing on a code by code basis.

7/ Impact on Existing Subscribers

Each subscriber will be notified by U. S. Mail of GTEFL's intention to discontinue this service. This mailing will advise them of the date the service will be discontinued. Subscribers will be able to easily locate substitute service for IMTS from other mobile telephone service providers and cellular carriers. Customers may locate other radio service providers in the Yellow Pages or their local newspaper. Cellular telephone service is also a viable alternative to IMTS.

EXHIBIT B

COMPLAINTS FILED BY PETITIONER WITH
THE FLORIDA PUBLIC SERVICE COMMISSION
RE THE FAILURE OF GENERAL TELEPHONE FLORIDA
TO MAINTAIN IMTS SERVICE COMPATABILITY
RESULTING FROM 813/941 AREA CODE SPLIT
SINCE 2 MARCH 1966

12 April 1966

The Florida Public Service Commission
Telecommunications Division
Tallahassee Florida

Attention: Mr. Stanley Greer

Dear Mr. Greer:

I have been referred to you by Mr. Richard Tudor of the FPSC with regard to the following complaint with respect to General Telephone Company Florida's Public Mobile Telephone (NON-Cellular) Service located in the new 941 Area Codes. This pertains to the Winter Haven and Sarasota (941 Area Code) facilities which provide local and long distance calling capabilities to subscribers with Improved Mobile Telephone Service mobile telephones.

This service is a Tariffed offering by GTE Florida under Section A17 of their Tariffs on file with this Commission, and is commonly referred to as "IMTS Service" and is provided principally in the 152-158 MHz frequency band.

Since the discontinuance of the 813 Area Code in the Winter Haven (Polk County) and Sarasota (Sarasota County) areas on 2 March 1966, no IMTS subscriber can dial local calls from his IMTS mobile telephone to any landline telephone in the new 941 Area Code.

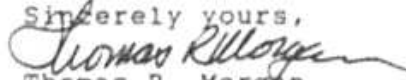
GTE Florida has been aware of this problem since the beginning of March 1966 and, as of this date, has failed to remedy this condition. There are numerous IMTS mobile telephone users who, as the result, are being denied the ability to dial local calls in their home areas which is the basic need of these IMTS users. Unlike cellular service which is used as much for personal communications as it is for business use, IMTS service is used almost exclusively by business users in the conduct of their business affairs, and being denied the ability to dial within their 941 Area Code from their vehicles, causes a particular economic hardship for the IMTS users.

I understand that GTE has determined that by providing a capability for "permissive dialing" on the existing IMTS mobile telephone trunks dedicated to the Winter Haven and Sarasota IMTS channels, that this problem referred to is to a large degree, resolved. However, I am advised that GTE Florida has refused to proceed with implementing this remedy.

More detailed information and specific GTE persons who have participated in seeking a resolution to the aforementioned problems as well as having made the decision not to correct said problem(s) as outlined in the previous paragraph, can be obtained from Mr. Kenneth Meyers of IMTS Inc. in Austin Texas at 1-800-842-4687.

COPY TO: Ken Meyers ✓

Sincerely yours,


Thomas R. Morgan
3616 Harden Boulevard
Lakeland FL 33803
941-688-3714/499-5063

22 April 1996

The Florida Public Service Commission
Telecommunications Division
Tallahassee Florida

Attention: Mr. Stanley Greer

Dear Mr. Greer:

Thank you for advising me on Friday that GTE seems to think that a "hardware fix" might be available from Harris Corp. in order to correct the problem of IMTS mobile telephone subscribers not being able to dial local calls in the 941 Area Code since 2 March 1996.

About three weeks ago, a toll switch programmer at GTE as an experiment, gave "permissive dialing" capabilities to only the mobile-to-landline trunks (4) with regard to the exchanges in Winter Haven that begin the the prefix "29". As the result, mobiles using the Winter Haven tower can now normally dial any landline number in the "29" exchanges by dialing only the 7 digits of the number desired.

I have established by actually placing calls, that this capability does NOT give landline users the ability to dial from these "29" exchanges into the 813 area code by dialing only 7 digits, NOR does it give 813 Area Code customers the ability from landline phones to dial 941 landline numbers without the 813 prefix.

Unfortunately, a GTE management person refused to extend the premissive dialing capability on the aforementioned 4 Winter Haven mobile-to-land trunks, to include all the remaining Polk County telephone exchanges which are a local call from Winter Haven. I am told that the reason given for refusing to extend permissive dialing on the 4 IMTS mobile-to-land trunks to include ALL Polk County exchanges was "If we do that, then we'd have to do it for Cellular One and GTE Mobilenet."

I contend that this "answer" by GTE management is totally lacking in merit for the following reasons:

1. GTE OWNS the Harris switch for the IMTS service whereas GTE Mobilenet (cellular) and Cellular One own their own switching offices. Therefore, the fact that GTE failed to upgrade their IMTS Harris switch to provide for the new 941 Area Code capabilities makes it incumbent on GTE to remedy this situation which has denied public mobile telephone subscribers the ability to dial local calls as stated above, for the past 52 consecutive days as of this writing.

The permissive dialing capability that would for now correct this serious problem which denies service to the public can be effected in a matter of minutes... the time it takes the toll switch programmer to enter remotely, the remaining Polk County exchange.

Consequently, for GTE to refuse to provide even this temporary relief of "permissive dialing" now claiming, that Harris can possibly

come up with a hardware fix in a month or so, flies in the face of their responsibility to adequately serve the public interest, convenience and necessity of the public IMTS subscribers referred to.

That GTE did not plan ahead for this problem, and has allowed it to continue for 52 consecutive days without correcting it, I contend, provides inadequate motivation for this Commission to allow this condition to continue and I suggest that GTE's unwillingness to provide the "permissive dialing" capabilities as a temporary resolution does not reflect good faith on GTE's part to immediately restore local dialing capabilities to the IMTS subscribers.

2. Other than the vague suggestion that Harris can come up with a hardware fix in a month or so still leaves a number of questions unanswered. The facts of the situation all point back to the question, why was this not provided for prior to the splitting of the Area Code?

I have been continually badgered and harassed by IMTS customers who have purchased IMTS phones from me, particularly more recently; as to when this situation is going to be resolved by GTE. My efforts to placate these customers are, at this point, falling on deaf ears because they tell me "everyone knows telephone companies just don't let this happen." I am bearing the brunt of these complaints from customers, threats of litigation against me etc. rather than advising these customers to call the PSC, because I knew I had made your office aware of this intolerable condition and that you have been endeavoring to seek a resolution of this serious matter.

THEREFORE, in view of the following facts:

1. As certificate holder from this Commission, GTE has the primary responsibility to ensure that the quality of service provided through their IMTS mobile telephone facilities remains consistent with that provided the public prior to the 941 Area Code change,

2. THAT GTE failed to make provision for a transition of IMTS car phone service in the Winter Haven and Sarasota base station areas from the 813 to 941 Area Code,

3. THAT GTE has belatedly established that "permissive dialing" capabilities on only the four (4) Winter Haven and (4) Sarasota mobile-to-land trunks on a test basis to only certain exchanges in the Winter Haven and Sarasota areas, restores the ability of IMTS users to place local mobile-to-land calls through the Winter Haven and Sarasota base stations,

4. THAT GTE now refuses to provide "permissive dialing" to said Winter Haven and Sarasota base stations beyond the limited "test" exchanges,

5. THAT GTE is the owner of the facilities necessary to provide "permissive dialing" capabilities, and has sole control over the providing of said "permissive dialing" capabilities,

6. THAT GTE has failed to instruct its operators to place calls from IMTS users in the Winter Haven and Sarasota areas (IMTS users can still dial Operator) resulting in the failure, in most instances, of IMTS users to be connected to local numbers,

7. THAT GTE reportedly now looks to Harris Corp. who manufactured the IMTS terminal, or one of its former employees, who claims a hardware "fix" is possible "in a month or so", notwithstanding the fact that Harris Corp. no longer manufactures this terminal, has not manufactured it for many years, does not provide technical support for this obsolete terminal and reportedly has disposed of all technical information, terminal parts and modules,

8. THAT it has been established the "permissive dialing" accorded only the 4 Winter Haven and 4 Sarasota mobile-to-land trunks in no way extends this capability to any landline telephone customers in the exchanges affected, and such "permissive dialing" capabilities limited to the eight(8) mobile-to-land trunks referred to, in no way, adversely affects the PSTN or the proper billing for calls placed by IMTS mobile users in the Winter Haven and Sarasota areas,

AS A PARTY IN INTEREST to this matter (my IMTS mobile telephone number is Winter Haven 294-0105), I respectfully request this Commission to direct and order GTE Florida to provide the referred to "permissive dialing" capabilities to its Winter Haven IMTS facilities with respect to ALL telephone exchanges that are a local call from the 294 (in part) IMTS exchange in Winter Haven, and also to provide "permissive dialing" capabilities to its Sarasota IMTS facilities to all exchanges that are a local call to its Sarasota IMTS exchange; and further, that said "permissive dialing" capabilities shall remain in effect until such a time as GTE makes the appropriate modifications to its IMTS terminal that renders "permissive dialing" no longer necessary for the purpose of IMTS users' ability to direct dial local calls in the conventional manner. It is further respectfully requested that in view of this unprecedented denial of service without just cause, that GTE Florida be directed to provide the relief sought forthwith.

Sincerely yours,

Thomas R. Morgan
3616 Harden Blvd.
Lakeland FL 33803
941-688-3714/4995063



GTE Telephone
OperationsP.O. Box 152092
Irving, TX 75015-2092
214/718-4330

June 24, 1996

HQE03E73

Mr. Tom Morgan
3616 Harden Boulevard
Lakeland, FL 33803

Dear Mr. Morgan:

GTE Florida has been providing Mobile Telephone Service (IMTS) in Florida for many years even though the service has become increasingly difficult to support and maintain from a technical standpoint. Rapid advances in telecommunications technology have resulted in a shift to alternative services such as cellular. Consequently, the IMTS customer base has been decreasing steadily over the years. In addition, maintaining the IMTS network has become increasingly difficult; manufacturers are also shifting their efforts and discontinuing the production of spare parts as well as providing other support for IMTS switch maintenance.

Our records indicate that you are an IMTS subscriber, therefore, this letter is to inform you that GTE Florida will discontinue this service in Florida effective October 1, 1996. To fulfill your ongoing needs for mobile communications, you should seek an alternative provider before October 1, 1996. Please make arrangements with your IMTS service representative at 1-800-223-IMTS to discontinue IMTS service. Options available at this time to meet your needs for mobile communications may include cellular service, paging or services provided by other radio common carriers in your locale.

As one of our valued customers, we sincerely hope that this transition period minimizes the impact of this decision on you. We look forward to serving your other telecommunications needs in the future.

If you wish to speak directly with us regarding this matter, please call Mr. Patrick Doherty, collect, at 805/372-7082 between the hours of 9:00 AM and 4:00 PM eastern standard time.

Sincerely,

Anna Marie Moran
National Manager-Paging
Public Communications

AMM:can



June 28, 1996

Dear IMTS Subscriber,

We understand that GTE has sent letters to the IMTS customers in Florida stating their intention to discontinue the IMTS mobile telephone service effective October 1, 1996.

GTE's letter failed to mention that we (IMTS, inc.) are currently in negotiations to purchase the Florida IMTS mobile telephone system from GTE. If the negotiations are successful we intend to upgrade the system and continue operating it with no interruption to your service. There is no need to discontinue your IMTS mobile telephone service at this time.

If you have any questions regarding this matter or anything else concerning your service please feel free to call us at 1-800-223-IMTS (4273).

Sincerely,

Patrick Farrell