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September 23, 1996

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

Re: Docket No. 950737-TP  
Investigation into Temporary Local Number Portability Solution to  
Implement Competition in Local Exchange Telephone Markets

Dear Ms. Bayo:

Please find enclosed for filing an original and fifteen copies of the Testimony of Beverly Y. Menard on behalf of GTE Florida Incorporated 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) 228-3094.

Very truly yours,

*Kimberly Caswell*  
Kimberly Caswell

KC:tas  
Enclosures

- CK ✓
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1 GTE FLORIDA INCORPORATED

2 TESTIMONY OF BEVERLY Y. MENARD

3 DOCKET NO. 950737-TP

4  
5 Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND  
6 POSITION WITH GTE FLORIDA INCORPORATED (GTEFL).

7 A. My name is Beverly Y. Menard. My business address is One Tampa  
8 City Center, Tampa, Florida 33601-0110. My current position is  
9 Regional Director - Regulatory and Industry Affairs.

10  
11 Q. WILL YOU BRIEFLY STATE YOUR EDUCATIONAL  
12 BACKGROUND AND BUSINESS EXPERIENCE?

13 A. I joined GTEFL in February 1969. I was employed in the Business  
14 Relations Department from 1969 to 1978, holding various positions  
15 of increasing responsibility, primarily in the area of cost separations  
16 studies. I graduated from the University of South Florida in June of  
17 1973 receiving a Bachelor of Arts Degree in Business Administration  
18 with an Accounting Major. Subsequently, I received a Master of  
19 Accountancy Degree in December of 1977 from the University of  
20 South Florida. In March of 1978, I became Settlements Planning  
21 Administrator with GTE Service Corporation. In January of 1981, I  
22 was named Manager-Division of Revenues with GTE Service  
23 Corporation, where I was responsible for the administration of the  
24 GTE division of revenues procedures and the negotiation of  
25 settlement matters with AT&T. In November of 1981, I became

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1 Business Relations Director with GTEFL. In that capacity, I was  
2 responsible for the preparation of separations studies and connecting  
3 company matters. Effective February 1987, I became Revenue  
4 Planning Director. In this capacity, I was responsible for revenue,  
5 capital recovery and regulatory issues. On October 1, 1988, I  
6 became Area Director - Regulatory and Industry Affairs. In that  
7 capacity, I was responsible for regulatory filings, positions and  
8 industry affairs in eight southern states plus Florida. In August 1991,  
9 I became Regional Director - Regulatory and Industry Affairs for  
10 Florida. I am responsible for regulatory filings, positions and industry  
11 affairs issues in Florida.

12

13 **Q. HAVE YOU EVER TESTIFIED BEFORE THE FLORIDA PUBLIC**  
14 **SERVICE COMMISSION?**

15 A. Yes. I have testified before this Commission on numerous occasions.

16

17 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**  
18 **DOCKET?**

19 A. The purpose of my testimony is to present GTEFL's positions on the  
20 issues on interim number portability (INP) in this docket.

21

22 **Q. DID THE FCC SET FORTH GUIDELINES FOR THE RECOVERY OF**  
23 **COSTS ASSOCIATED WITH NUMBER PORTABILITY?**

24 A. Yes. The FCC set forth guidelines for the recovery of the costs of  
25 INP. These guidelines, however, were not intended to preempt state

1 tariffs, where such tariffs have been or may be established. After the  
2 FCC stated that it sought to articulate "general criteria" for cost  
3 recovery in the Number Portability Order, it went on to state that  
4 "States are also free, if they so choose, to require that tariffs for the  
5 provision of currently available number portability measures be filed  
6 by the carriers." Id. ¶ 127. To the extent the Commission has already  
7 done this, it has complied with the Number Portability Order and the  
8 inquiry into cost recovery methodology should be at an end.

9  
10 With regard to the FCC's guidelines, however, the FCC has  
11 interpreted the Act to require that the costs of INP be borne by all  
12 carriers on a competitively neutral basis. Section 251(e)(2) is the  
13 source of this requirement. Section 251(e)(2), however, does not  
14 mention INP, as the Act itself does not distinguish long-term number  
15 portability from INP – this was a distinction made by the FCC in order  
16 to implement number portability required by the Act as soon as  
17 possible. See Number Portability Order, ¶ 110. Nevertheless, the  
18 idea that the costs of number portability be borne by all carriers on a  
19 competitively neutral basis would seem to imply that these are costs  
20 incurred by all carriers to support a single system, such as a  
21 database system for long-term number portability. The concept  
22 makes very little sense, however, in the context of INP. First, INP is  
23 only a temporary, stop-gap measure designed to implement number  
24 portability as soon as possible. Second, virtually all of the costs of  
25 INP are incurred solely by the ILEC providing the service. As such,

1 GTE submits that competitively neutral cost principles are not  
2 applicable in the context of INP, despite the FCC's interpretation.

3

4 Nevertheless, assuming that INP must, under the Act, be provided  
5 according to competitive neutrality, some of the ALEC's interpretation  
6 of competitive neutrality would essentially place GTE's costs at zero.  
7 This, however, is by no means what Congress intended by  
8 competitive neutrality, nor what the FCC had in mind when they  
9 interpreted the term. "Competitive neutrality" means that INP cannot  
10 be priced such that it places any provider in a competitively  
11 disadvantaged position. In discussing and setting forth  
12 methodologies for the pricing of INP, the FCC focused on competitive  
13 neutrality as regards ALECs -- that is, INP should not require ALECs  
14 to pay more to service a customer and thus place the ALEC at a  
15 competitive disadvantage. See Number Portability Order, ¶ 132.  
16 Competitive neutrality, however, has another side -- to the extent an  
17 ILEC providing number portability cannot recover its costs, that  
18 carrier incurs a loss occasioned solely by being required to provide  
19 INP. This loss could, of course, be passed on to the ILEC's  
20 customers if this were allowed by the Commission. However, the  
21 ILEC would then be at a competitive disadvantage as its rates would  
22 be higher because of number portability.

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24 Alternatively, GTE could pass the costs of number portability on to its  
25 shareholders, resulting in a patently unconstitutional taking under the

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Fifth Amendment of the United States Constitution as I have been advised by my lawyers.

It is possible, however, to apply principles of competitive neutrality that will comport with the FCC's regulations by recognizing that ILECs, while they are presumed to be the primary parties to bear the costs of INP, will not be the only parties bearing such costs. To the extent an ILEC wins customers from a ALEC, ALECs will also bear costs of number portability to the extent they are required to switch and transfer calls to the ILEC. Allowing the parties to charge each other their tariffed rates for INP will permit each party to recover its respective costs while maintaining competitive neutrality insofar as all parties will be required to reimburse each other for the cost of INP.

GTE also submits that the Commission can, alternatively, recognize that all costs of number portability ultimately pass to the consumer and, accordingly, establish an explicit pooling mechanism to recover those costs. GTE originally suggested such a system in the FCC's continuing number portability proceeding. See In re Telephone Number Portability, Comments of GTE, CC Docket No. 95-116, RM 8535 (dated Aug. 16, 1996). As the FCC has left cost recovery for INP to the states, the Commission is free to adopt this system regardless of whether it is nationally implemented. Even under the methods proposed by the FCC's Number Portability Order, costs will be apportioned among carriers and, eventually, passed on to

1 customers, unless a carrier is expected to absorb an anti-competitive  
2 and possibly unconstitutional loss. See Number Portability Order, ¶  
3 136. Thus, if the Commission were to assess an end user charge on  
4 all local service and interexchange toll service customers to recover  
5 the costs of INP and, eventually, long-term number portability, it  
6 would simply make this charge explicit. Such a charge would be  
7 competitively neutral in the true meaning of the term: a common,  
8 unavoidable charge across all carriers that will prevent any  
9 competitive distortion resulting from customers gravitating to carriers  
10 assessing lower charges.

11  
12 Accordingly, a competitively neutral end user charge would have to  
13 be (1) explicitly identified as a separate line item charge for number  
14 portability on the customer's bill, (2) set at a uniform amount for all  
15 customers and (3) mandatory, in that all carriers would be required to  
16 collect it. Funds generated through the end user charge would be  
17 forwarded to a cost recovery pool administered by the Commission or  
18 its designee. The level of funding for this pool would be determined  
19 as follows. All carriers in the state would submit their estimates of  
20 costs incurred by the industry as a whole for number portability and  
21 all carrier specific costs for number portability. These estimates  
22 would be pooled, allowing the Commission to estimate total number  
23 portability costs for the coming year.

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25 The pool would then be funded through a mandatory, uniform charge

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on all customers of local service and through charges collected by interexchange carriers for interexchange toll service. These charges would be established and collected as follows:

- The Commission estimates the total number of local service and interexchange calls for the coming year.
- The estimated annual cost, determined from the data received by the Commission from carriers, would be divided by the total number of calls to develop a per-call cost of number portability.
- The estimated annual cost would be divided between local service and interexchange toll service calls by multiplying the per-call cost by the number of calls in each category.
- The portion attributable to local service calls would be divided by the total number of end user service lines, resulting in a uniform charge collected from all end users on a monthly basis by their service providers.
- Interexchange carriers would collect the per-call cost times the number of calls from their customers and forward those funds to the pool. (The FCC has already impliedly authorized State commissions to assess such charges against IXCs. In discussing cost recovery methods based on the total revenues



1 of carriers, the FCC stated that "a state's calculation of gross  
2 revenues for IXCs should include only those revenues  
3 generated in the state in which the charges are being  
4 assessed, on both an interstate and intrastate basis." Number  
5 Portability Order, ¶ 134 n. 380. Thus, all telecommunications  
6 carriers, including IXCs, are included in cost recovery  
7 mechanisms for INP.)

8  
9 Periodic distributions could then be made by the Commission to all  
10 carriers submitting cost reports, and each carrier would receive a pro-  
11 rata distribution based on its share of total costs for the year. Any  
12 excess amount could be carried over and used against the following  
13 year's funding requirement. Any costs not covered could be carried  
14 over and used in calculating the next year's total costs.

15  
16 The above system is simple, equitable and competitively neutral  
17 among carriers. Additionally, it provides the advantage of being  
18 easily adaptable to recovering the costs of long-term number  
19 portability. By using this system, all carriers can recover their costs,  
20 and avoid being placed at a competitive disadvantage.

21  
22 **Q. SHOULD THERE BE ANY RETROACTIVE APPLICATION OF THE**  
23 **COMMISSION'S DECISION IN THIS PROCEEDING?**

24 A. No. GTEFL's tariffs were filed after hearings and a Commission  
25 Order in accordance with Chapter 364. If there is any change made,

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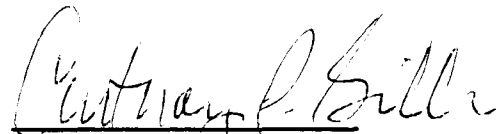
which GTE does not believe is required, it should only be done on a going-forward basis.

**Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

A. Yes, it does.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that copies of the Testimony of Beverly Y. Menard on behalf of GTE Florida Incorporated in Docket No. 950737-TP were sent by U.S. mail on September 23, 1996, to the parties on the attached list.

  
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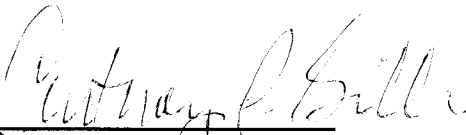
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