

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

MEMORANDUM

September 26, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (PELLEGRINI) *MLB*
DIVISION OF COMMUNICATIONS (MOSES) *MLB*

RE: DOCKET NO. 961107-TL - GTE FLORIDA INCORPORATED -
COMPLAINT OF CHARLES W. POE FOR FAILURE TO REPLACE
FACILITIES NECESSARY TO PROVIDE ADEQUATE AND RELIABLE
SERVICE IN ACCORDANCE WITH RULES 25-4.069, F.A.C.,
MAINTENANCE OF PLANT EQUIPMENT, AND 25-4.072(1), F.A.C.,
TRANSMISSION REQUIREMENTS AND INITIATION OF SHOW CAUSE
PROCEEDINGS

AGENDA: 10/08/96 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE - ISSUE 1 - PROPOSED AGENCY ACTION
ISSUE 2 - SHOW CAUSE ORDER

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\961107.RCM

CASE BACKGROUND

On June 4, 1996, Mr. Charles W. Poe contacted staff in the Division of Communications to lodge a complaint against GTE Florida Incorporated (GTEF or the company) regarding his telephone service located off Van Fleet Road in Polk City (941/984-2137). Mr. Poe complained that his service went out every time it rained and that his service was disrupted numerous times a year despite having contacted GTEF many times for repair. Staff contacted GTEF and requested that the company inspect its facilities and provide a written response (Attachment A).

GTEF responded June 6, 1996 (Attachment B). In its response the company acknowledged that the facilities serving Mr. Poe had been a continuous maintenance problem. The response also stated that outages would likely continue unless the facility serving the customer was replaced. The company further stated that Mr. Poe

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FPSC-RECORDS/REPORTING

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should bear the excess construction costs to replace the facility (estimated at \$5,354).

Upon receipt of the June 6th letter, staff contacted GTEF and explained that we did not believe that the company should require Mr. Poe to pay the costs to replace the facilities necessary to provide him with adequate and reliable service. Following this conversation, GTEF replied to staff in a letter dated July 1, 1996 (Attachment C). This letter reiterated the company's position and its disagreement with staff regarding payment of the construction costs. On July 11, 1996, staff requested that GTEF provide a three year trouble history on Mr. Poe's account (Attachment D). Staff received the trouble history on July 26, 1996 (Attachment E).

On July 19, 1996, staff responded to GTEF's letter (Attachment F). Staff's response detailed our opinion that GTEF had failed to comply with the Commission's rules regarding the provision and maintenance of service to Mr. Poe, as evidenced by the number of times Mr. Poe had reported service problems. Because the customer, staff and GTEF have been unable to resolve this matter, staff has filed the following recommendation.

DISCUSSION OF ISSUES

ISSUE 1: Should GTEF be ordered to bear the cost of replacing the facilities necessary to provide Mr. Charlie Poe with adequate and reliable service to Van Fleet Road in Polk City (telephone number 941/984-2137)?

RECOMMENDATION: Yes. GTEF should be ordered to bear the cost of replacing the facilities necessary to provide Mr. Charlie Poe with adequate and reliable service to Van Fleet Road in Polk City (telephone number 941/984-2137).

STAFF ANALYSIS: Mr. Poe has been a customer of GTEF at this address for seven years. The service was in place when he bought the property. According to Mr. Poe, he has had continual service problems for the past six years. The main complaint is that his service goes out when it rains. The three year trouble history provided by GTEF confirms that the customer reported problems, (primarily "noise/static" and "no dial tone"), six times in 1994, ten times in 1995, and eight times as of May 31, 1996. Staff believes this degree of service problems is excessive and evidence of GTEF's failure to comply with Rule 25-4.069, Florida

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Administrative Code, Maintenance of Plant and Equipment, which provides as follows:

- (1) Each telephone utility shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of safe, adequate and continuous service at all times.
- (2) Maintenance shall include keeping all plant and equipment in a good state of repair consistent with safety and adequate service performance. Broken, damaged, or deteriorated parts which are no longer serviceable shall be repaired or replaced.

Staff believes that GTE should have maintained the facilities serving Mr. Poe's property when he first reported a problem and should not have allowed the facilities to deteriorate beyond repair.

Rule 25-4.072(1), Florida Administrative Code, Transmission Requirements, states in pertinent part:

- (1) Telephone utilities shall furnish and maintain the necessary plant, equipment and facilities to provide modern, adequate, sufficient and efficient transmission of communications between customers in their service areas. Transmission shall be at adequate volume levels and free of excessive distortion.

Staff believes Mr. Poe's trouble history (Attachment E) shows that GTEF has failed to comply with Rule 25-4.072(1), Florida Administrative Code, by not maintaining the necessary facilities to provide Mr. Poe with modern, adequate, sufficient and efficient transmission free of excessive distortion, as required by the rule. GTEF has also admitted that the customer has experienced repeated service outages. "This (sic) facilities serving this customer has (sic) been a continuous maintenance problem for several months." (Page 1, paragraph 2, Attachment B) "Mr. Poe is correct that the lodge has experienced repeated service outages." (Page 1, paragraph 3, Attachment C).

GTEF is relying upon its tariffs and Rule 25-4.067, Florida Administrative Code, Extension of Facilities -- Contributions in Aid of Construction, in requiring Mr. Poe to pay the excess cost of the new construction needed in order to bring his service to a reliable level. Rule 25-4.067, Florida Administrative Code, allows LECs to bill subscribers for a portion of the costs associated with extending facilities to serve them. GTEF has estimated the cost that is in excess of five years' projected revenue to be \$5,354 in Mr. Poe's case. However, staff does not believe that Rule 25-4.067, Florida Administrative Code, applies in this case as no

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extension of facilities is required. Instead, GTEF would be replacing the existing facilities that have been used to provide service to Mr. Poe for the last seven years. Mr. Poe is not a new customer nor is he asking that new facilities be installed and/or extended to serve him. In staff's view, Mr. Poe is simply asking GTEF to provide him with a reasonable level of service quality.

Ms. Kimberly Caswell, counsel for GTE, corresponded with our legal staff (attachment C) explaining that GTE's tariff A5.1.4.a. allows GTE to charge a customer for special maintenance. According to the tariff, when a special type of construction is desired by a subscriber or where the individual requirements of a particular situation make the construction unusually expensive, the subscriber is required to bear the excess cost of such construction. Staff notes that Mr. Poe has not requested any special construction or additional service; he has only asked that his current telephone lines be maintained in the same manner as any other GTE customer. Furthermore, the way the tariff is written, it is too broad in scope and could be interpreted to apply in every case where GTE replaces its facilities. Therefore, the tariff has no significant meaning.

Accordingly, staff recommends that GTEF be ordered to bear the cost of replacing the facilities necessary to provide Mr. Poe with adequate and reliable service.

ISSUE 2: Should GTEF be ordered to show cause why it should not be required to pay a \$25,000 fine to the Florida Public Service Commission, with the monies to be forwarded to the Office of the State Treasurer for deposit in the General Revenue Fund, for an apparent violation of Rule 25-4.072(1), Florida Administrative Code?

RECOMMENDATION: Yes, GTEF should be ordered to show cause why it should not be required to pay a \$25,000 fine to the Florida Public Service Commission, with the monies to be forwarded to the Office of the State Treasurer for deposit in the General Revenue Fund, for an apparent violation of Rule 25-4.072(1), Florida Administrative Code.

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STAFF ANALYSIS: As discussed in the previous issue, Mr. Poe repeatedly reported problems with his telephone service to GTEF. For example, the trouble history GTEF provided to staff shows that Mr. Poe reported trouble twenty-seven times in three years (Attachment E). The trouble history also shows that GTEF's disposition of the trouble reported was "No trouble found" or "tested o.k." on ten of the twenty-seven occasions. Four reports in the trouble history reflect that the trouble was found in the service wire, yet only one trouble report reflects that the service wire was repaired. In staff's view, GTEF's statements that trouble was found in the service wire or that no trouble was found indicate that the company was willing to ignore the need for replacing the facilities serving Mr. Poe.

By Section 364.285, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as GTEF's conduct in issue here, would meet the standard for a "willful violation."

Staff believes that GTEF's failure to maintain the facilities serving Mr. Poe, as required under Rule 25-4.072(1), Florida Administrative Code, which is evidenced in the trouble history since 1994, has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, we nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule."

Accordingly, staff believes that GTEF's conduct rises to the level warranting that a show cause order be issued. Staff believes GTEF should be ordered to show cause why it should not be fined \$25,000 for this apparent violation in accordance with Section 364.285(1), Florida Statutes.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 2, this docket should remain open to resolve the show cause matter. If the Commission does not approve staff's recommendation in Issue 2 and approves staff's recommendation in Issue 1, this docket should be closed if no person whose interests are substantially affected by the proposed action in Issue 1 files a protest within the 21 day protest period. If the Commission approves staff's recommendations in both Issues 1 and 2, and a proper protest is filed, this docket should remain open until both the protest and the show cause matter are resolved. If the Commission does not approve staff's recommendations in both Issues 1 and 2, this docket should be closed.

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 2, this docket should remain open to resolve the show cause matter. If the Commission does not approve staff's recommendation in Issue 2 and approves staff's recommendation in Issue 1, this docket should be closed if no person whose interests are substantially affected by the proposed action in Issue 1 files a protest within the 21 day protest period. If the Commission approves staff's recommendations in both Issues 1 and 2, and a proper protest is filed, this docket should remain open until both the protest and the show cause matter are resolved. If the Commission does not approve staff's recommendations in both Issues 1 and 2, this docket should be closed.

Failure to respond to the show cause order shall be deemed an admission of all facts contained in the show cause order pursuant to Rule 25-22.037(3), Florida Administrative Code and a waiver of the Company's right to a hearing. Any penalties imposed in Issue 2 would then become due and must be paid within 30 days of the date the order becomes final.

RICK Attachment A

Commissioners:
SUSAN F. CLARK, CHAIRMAN
J. TERRY DEASON
JULIA L. JOHNSON
DIANE K. KIESLING
JOE GARCIA



DIVISION OF COMMUNICATIONS
WALTER D'HAESELEER
DIRECTOR
(904) 413-6600

Public Service Commission

June 4, 1996

Ms. Beverly Y. Menard
c/o Mr. Ken N. Waters
106 E. College Ave., Suite 1440
Tallahassee, FL 32301-7704

Dear Ms. Menard:

Mr. Charlie Poe has filed a complaint concerning service outages at his business located in Polk City. The name of the business is City Redy Mix. I do not have a physical address, but the description to locate the property is take Highway 33 through Polk City to Van Fleet Road. Turn right and approximately 3 miles there will be a gate house. The person to contact at the gate house for access is Ms. Fay Garcia. Mr. Poe may be contacted at his residence in Tampa (813/251-6729).

There are two telephone lines at the property. The main billing number is 941/984-2137. I am sorry I do not have the information on the second line because Mr. Poe was not at the property when he called and could not remember the number for the second line. Mr. Poe's complaint is that his service goes out every time it rains. He alleges that his service has been disrupted at least 30 to 40 times a year and has contacted GTE many times for repair.

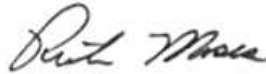
It appears there is a residual problem with Mr. Poe's service and I am requesting that GTE complete a thorough inspection of the telephone facilities that serve Mr. Poe's business. Please provide a response in writing by ~~June 19, 1996~~, with your findings.

If you have questions, please contact me at 904/413-6582.

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Ms. Beverly Menard
Page 2
June 4, 1996

Sincerely,



~~Rick Moses~~

Engineer Supervisor
Bureau of Service Evaluation

Record # 1780
c: Mr. C. Poe
4601 San Miguel
Tampa, FL 33629

GTE Telephone Operations
Florida Operation

June 6, 1996

One Tampa City Center
201 N. Franklin Street
P.O. Box 110
Tampa, FL 33601-0110

Ms. Shirley Stokes
Consumer Affairs Analyst
Division of Consumer Affairs
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Fl 32399-0850

Re: City Ready Mix
Caller: Charles W. Poe
Case Number 123923I

Dear Ms. Stokes:

The following information is provided in response to Mr. Poe's FPSC inquiry of April 30, 1996.

Mr. Poe's statement is correct. This facilities serving this customer has been a continuous maintenance problem for several months. The customer has two lines servicing their hunting and fishing lodge. This lodge is located in excess of 6,000 feet down a private right of way.

Service was restored on 4/30/96 to this customer, however, due to the present condition of this facility additional outages are likely.

This facility serving this customer must be replaced. Per GTE's Florida's General Service tariff, see subsections listed below, the subscriber may be required to bear the cost of construction.

A5.1.1.g. GENERAL

The company will bear the cost of construction equal to five times the annual exchange revenue and may require the applicant to pay a construction charge for the portion of the construction cost in excess of this amount.

A5.1.3.b. CONSTRUCTION ON PRIVATE PROPERTY

When construction is necessary on private property and the revenue is not expected to be sufficient to insure, within a reasonable time, an adequate return on necessary investment, the subscriber to be serviced, may be required to bear all or a part of the cost.

A5.1.4.a. SPECIAL TYPES OF CONSTRUCTION

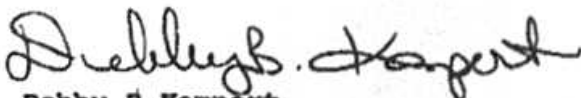
When a special type of construction is desired by a subscriber or where the individual requirements of a particular situation make the construction unusually expensive, the subscriber is required to bear the excess cost of such construction. Any special maintenance expenses that may from time to time occur, will be borne by the subscriber except that maintenance of buried service wire, including trench wire will be the expense of the company.

Ms. Shirley Stokes
Case Number 123923I
June 6, 1996
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Due to the excessive cost to replace this facility, it has been determined that the customer should bear the excess construction cost which is currently estimated at \$15,354.00. Mr. Sam Daniels will advise Mr. Poe of the information above.

We trust this provides you with the information you require to resolve this matter.

Sincerely,



Debby B Kampert
State Administrator-Regulatory & Industry Affairs

DBK:aaf

Winter Haven District\50C

END



GTE Telephone Operations

Marceil Morrell**
Vice President & General Counsel - Florida

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

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

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

July 1, 1996

Noreen Davis, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: **City Ready Mix**
Caller: **Charles W. Poe**
Case No: **1239231**

Dear Ms. Davis:

This letter follows up on Debbie Kampert's June 6, 1996 letter to Shirley Stokes and Debbie's subsequent conversations with Rick Moses. My intention is to explain in detail GTE's position on this matter and, I hope, come to an understanding with Staff.

As I understand this situation, GTE serves Mr. Poe's hunting and fishing lodge with two business lines. The lodge is used to entertain Mr. Poe's clients. It is located in a remote area, over 6000 feet from the main road. GTE's aerial wire serving the lodge runs this entire length through private property.

Mr. Poe is correct that the lodge has experienced repeated service outages. The problems seem to be due in large part to the heavily wooded nature of the area, which has expedited the breakdown of the aging facilities. Moreover, GTE repair people must currently pass through private orange groves and a swampy area to reach Mr. Poe's facilities, which are not accessible by truck. While GTE can continue to respond to repair calls in an effort to maintain the existing facilities, a more permanent solution

Noreen Davis, Esq.
July 1, 1996
Page 2

would be to replace the existing aerial wire with buried cable, which is more commonly used today in such situations.

As Debbie stated in her letter, GTE believes the Company has a right to obtain payment for construction costs from Mr. Poe. When construction on private property is necessary, and the resulting revenue is not expected to insure, within a reasonable time, an adequate return on necessary investment, the subscriber to be served may be required to pay all or part of the cost of construction. (GTE Florida Gen. Serv. tariff section A5.1.3.b.). In addition, when it is necessary to lay underground conduit for extension lines on private property, the subscriber is required to provide and install such underground conduit, or the Company will do the work at the subscriber's expense. (GTE Florida Gen. Serv. tariff A5.1.3.c).

In other situations, GTE must bear the construction costs equal to five times the annual exchange revenue from the applicant. The Company may require the applicant to bear the costs in excess of this amount. (GTE Florida Gen. Serv. tariff section A5.1.1.g; Commission Rule 25-4.067(2) & (3).). GTE's tariff states, in addition, that where the individual requirements of a particular situation make the construction unusually expensive, the subscriber is required to bear the excess cost of such construction. Any special maintenance expenses that may from time to time occur (except for maintenance of buried wire) will be borne by the subscriber as well. (GTE Florida Gen. Serv. tariff section A5.1.4.a).

GTE and the Staff apparently differ in their interpretation of these tariff and Rule sections. Staff believes they apply to only new construction for new customers. GTE, however, believes the provisions may be used to assess construction charges on existing customers. GTE's interpretation makes the most sense in terms of the policy behind the excess construction cost provisions. A customer who requests service in a remote site or other area that is unusually expensive to serve is charged for construction costs so that the general body of customers does not have to pick up the extraordinary construction expenses incurred for that customer. This system is fair because it recognizes that the average customer should not be forced to pay the price for a handful of other customers' choices to live or work in remote areas.

This reasoning applies with equal force to new construction for both new and existing customers. Just as the average customer should not be made to pay when unusually expensive facilities are first constructed, he should not be made to pay when those facilities need to be replaced. In fact, the policy, if anything, is stronger for new construction for an existing customer, because that construction will often become necessary only because of the nature of the site that customer has chosen. This reasoning holds true for Mr. Poe's situation because, as noted, the facilities, which

Noreen Davis, Esq.
July 1, 1996
Page 3

were prudently installed, have likely deteriorated faster than they would have otherwise because of the severe conditions at the lodge, including the numerous trees and the unusually long length of wire needed to reach the lodge.

Furthermore, in this case, GTE does not plan to require Mr. Poe to pay the entire cost of the new construction, as its tariff section A.5.1.3.b, cited above, permits. GTE intends instead to assess Mr. Poe only the costs in excess of the five years' projected revenue, as tariff section A5.1.1.g and Commission Rule 25-4.067 provide. GTE has calculated these excess costs to be approximately \$5354.00.

Even if the Staff continues to differ with GTE about the meaning of the construction provisions, the special maintenance tariff language, noted above, would apply in this case. The new facilities could be considered a special maintenance expense because the wire must be buried in order for Mr. Poe's existing service to be properly maintained on an ongoing basis.

Aside from the matter of Rules and tariffs, GTE believes the best solution for Mr. Poe in the long-run may be wireless service, such as cellular. Cellular service is less expensive and more readily available than it was when Mr. Poe's lodge was built, and increasingly more individuals in rural and remote areas have found that cellular service meets their needs better than wireline service.

I hope this letter clears up any misunderstandings that may exist between the Commission Staff and GTE. Please do not hesitate to contact me if you wish to discuss this matter.

Sincerely,



for Kimberly Caswell

KC:tas

Commissioners:
SUSAN F. CLARK, CHAIRMAN
J. TERRY DEASON
JULIA L. JOHNSON
DIANE K. KIESLING
JOE GARCIA



DIVISION OF COMMUNICATIONS
WALTER D'HAESELEER
DIRECTOR
(904) 413-6600

Public Service Commission

July 11, 1996

Ms. Beverly Y. Menard
c/o Mr. Ken N. Waters
106 East College Avenue, Suite 1440
Tallahassee, FL 32301-7704

RE: Charlie Poe Complaint (City Redy Mix Company)

Dear Ms. Menard:

In my letter dated June 4, 1996, I requested an investigation of Mr. Poe's complaint of service outages and GTE's position of charging him construction charges for replacing the facilities that serve his property. In this regard, please provide a copy of each of Mr. Poe's trouble reports and GTE's resolution of each report for the last 3 years by ~~July 26, 1996.~~

As discussed with Debbie Kampert of your staff, our Division of Legal Services is reviewing your response to my previous letter and I will be in contact with you at the conclusion of the review.

If you have questions, please contact me at 904/413-6582.

Sincerely,

~~Rick Moses~~
Rick Moses
Engineer Supervisor
Bureau of Service Evaluation

Record # 1780.1

Attachment E



GTE Telephone Operations

One Tampa City Center
201 N. Franklin Street
P.O. Box 110
Tampa, FL 33601-0110

July 26, 1996



Mr. Rick Moses, Engineer Supervisor
Bureau of Service Evaluation
Division of Communications
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Dear Mr. Moses:

Subject: Charlie Poe Complaint (City Ready Mix)

Attached is the three year trouble history you requested for City Ready Mix (941) 984-2137. There were no trouble tickets under the second number of (941) 984-9265.

GTE is currently reviewing the July 19 response from Noreen Davis, FPSC Legal Services, to Kimberly Caswell, GTE Legal Department.

If you have any questions or require additional information, please call Debby Kampert of my staff at 813/224-6505.

Sincerely,

Beverly Y. Menard

Beverly Y. Menard
Regional Director- Regulatory & Industry Affairs

BYM:DBK:wjh
Attachment

Customer: City Ready Mix
Telephone Number : 941-984-2137
Three Year Trouble History

REPORT DATE	TROUBLE REPORTED	COMMITMENT DATE	REPORT CLOSED	DISPOSITION
11/20/93 0940A	No Dial Tone	11/20/93 0800P	11/20/93 0857P	No Access Thru Gate; left Card
11/21/93 0209P	No Dial Tone, Calling party gets busy. Gate looks locked but is not until dark. Access S/B ok until dark.	11/22/93 0209P	11/21/93 0431P	Gate locked no access
11/21/93 0526P	No Dial Tone, Sub checked phones, Prev. Report no access, see appt.	11/22/93 1200noon	11/22/93 1145A	Trouble found at the protector
01/13/94 0422P	* 2nd party report* Can't be Called, rings busy, operator verified no conversation.	01/14/94 0422P	01/13/94 0429P	See ticket below
01/13/94 0528P	Cant be called, rings busy	01/14/94 0528P	01/14/93 1059A	Service working at four locations (IE house/barn..) Trouble found in customer equipment and house wire.
02/12/94 0438P	Cuts off	02/13/94 0438P	02/13/94 1200N	No Trouble found.

Customer: City Ready Mix
Telephone Number : 941-984-2137
Three Year Trouble History

REPORT DATE	TROUBLE REPORTED	COMMITMENT DATE	REPORT CLOSED	DISPOSITION
02/17/94 0909P	Can't Call Out, Beeping on pick up, Trouble when it rains.	02/18/94 0909P	02/19/94 0915A	No Trouble found.
05/29/94 0823P	No Dial tone on this line	05/30/94 1200N	05/30/94 1015A	No Trouble found.
08/24/94 0952A	Noise/Static on line	08/24/94 0500P	08/24/94 0330P	Tested Okay, no trouble found.
03/29/95 0619P	Can't Call out	03/30/95 0619P	03/29/95 0632P	Customer called to cancel RPT. Problem was instrument
03/29/95 0556P	No dial tone/ Static on Pickup	03/30/95 0556P	03/29/95 0601P	Tested as probable CPE / Customer will check.
03/30/95 0930A	No Dial Tone	03/30/95 0500P	03/30/95 1230P	Found Okay.

Customer: City Ready Mix
 Telephone Number : 941-984-2137
 Three Year Trouble History

REPORT DATE	TROUBLE REPORTED	COMMITMENT DATE	REPORT CLOSED	DISPOSITION
03/31/95 0549P	Noise on Line	04/01/95 0549P	04/01/95 0328P	Replaced Connector block in building terminal at first trailer/location.
06/19/95 1038A	Static / Noise	06/19/95 0500P	06/19/95 0245P	Trouble found in Drop wire.
06/20/95 1007A	Noise/ static Calls	06/20/95 0500P	06/20/95 1144A	Found Okay. Trouble might be in Service wire will refer back to Bucket Truck.
06/23/95 1029A	Noise/ Static	06/23/95 0500P	06/23/95 0445P	Trouble found in Service wire.
10/05/95 0916A	Noise	10/05/95 0500P	10/05/95 1154A	Bad Drop wire

Customer: City Ready Mix
 Telephone Number : 941-984-2137
 Three Year Trouble History

REPORT DATE	TROUBLE REPORTED	COMMITMENT DATE	REPORT CLOSED	DISPOSITION
10/05/95 0347P	No Dial Tone at the lodge location, believes GTE repairman may have cut earlier in the day	10/06/95 1200N	10/06/95 1030A	Replaced ISW at Jack, Replaced Protector with DMO.
10/06/95 0124P	No Dial Tone	10/07/95 0800P	01/06/95 0500P	Repaired Service Wire
03/01/96	No Dial Tone	03/01/96 0700P	03/02/95 1131A	Trouble in C-Wire, dial tone restored.
04/08/96 1213P	Cuts off during conversation	04/09/96 1200N	04/09/96 0929A	Changed Carrier Pair.
04/15/96 0518P	No Dial Tone	04/16/96 1200N	04/16/96 1155A	Trouble found inside; telephone equipment

Customer: City Ready Mix
 Telephone Number : 941-984-2137
 Three Year Trouble History

REPORT DATE	TROUBLE REPORTED	COMMITMENT DATE	REPORT CLOSED	DISPOSITION
04/16/96 1058P	Cant Be Called; line doesn't ring correctly since GTE Switched inside wire.	04/17/96 1200N	04/17/96 1155A	Replaced Drop.
04/30/96 0107P	No Dial Tone	05/01/96 1200N	05/03/96 0852A	Tested Okay. Discussed with customer about burying service wire.
05/21/96 1011A	No Dial Tone	05/22/96 1200N	05/22/96 1215P	No Trouble found, tested clear.
05/29/96 0731P	No Dial Tone	05/30/96 1200N	05/30/96 0950A	Trouble found with Service Wire.
05/31/96 0433P	Dial Tone Intermittent	06/01/96 1200N	06/01/96 0945A	Found OK; tested clear. Possible problem with Service Wire.

Attachment 8

State of Florida

Commissioners:
SUSAN F. CLARK, CHAIRMAN
J. TERRY DEASON
JULIA L. JOHNSON
DIANE K. KIESLING
JOE GARCIA



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
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Public Service Commission

July 19, 1996



Ms. Kimberly Caswell
GTE Telephone Operations
One Tampa City Center
P. O. Box 110, FLTC0007
Tampa, FL 33601

Re: City Ready Mix
Caller: Charles W. Poe
Case No: 1239231

Dear Ms. Caswell:

This is in response to your letter dated July 1, 1996, regarding the complaint of Mr. Charles Poe concerning the telephone service to his lodge.

I have conferred with staff and learned that Mr. Poe has been a GTE Florida customer for approximately seventeen years. Apparently he has had trouble with his service for a long period of time. As stated in your letter, the facilities serving Mr. Poe are "aging facilities."

Staff's interpretation of the tariffs you have cited is that they apply to new customers, not to situations resulting from maintenance apparently not applied over time. Apparently moisture is entering the cable causing static over the line.

There are three rules that staff believes are important to take note of and which were used in staff's analysis of this complaint.

1. Rule 25-4.069, Maintenance of Plant & Equipment, states:
 - (1) Each telephone utility shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of safe, adequate and continuous service at all times.

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- (2) Maintenance shall include keeping all plant and equipment in a good state of repair consistent with safety and adequate service performance. Broken, damaged, or deteriorated parts which are no longer serviceable shall be repaired or replaced....

Staff believes that GTE should have maintained the facilities serving Mr. Poe's property when Mr. Poe first reported a problem and not have waited until the facilities had deteriorated beyond repair.

2. Rule 25-4.067, Extensions of Facilities -- Contributions in Aid of Construction.

It is staff's opinion that GTE is not being required to extend facilities in order to serve Mr. Poe. Instead, Mr. Poe has had service for a number of years. This rule only applies to extensions of facilities, not replacement of existing facilities. If GTE were allowed to recoup its construction costs on every cable replacement citing this rule, every consumer in its service territory would be assessed a sizable sum for service. Staff does not believe this is the intent of the rule.

3. Rule 25-4.072(1), Transmission Requirements, states in pertinent part:

Telecommunications companies shall furnish and maintain the necessary plant, equipment and facilities to provide modern, adequate, sufficient and efficient transmission of communications between customers in their service areas. Transmission shall be at adequate volume levels and free of excessive distortion.

Staff believes GTE has failed to comply with this rule in its efforts to provide service to Mr. Poe, which is evident in the number of times Mr. Poe has reported service problems.

In conclusion, it appears that Mr. Poe's situation is not one requiring assessment of the repair costs on the customer. Of course this is only an informal opinion of mine and staff's and is not binding on GTE Florida. If your interpretation remains that Mr. Poe should pay costs of \$5,354.00, we see no other remedy but to take Mr. Poe's complaint to the Commission for formal disposition.

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I will be happy to discuss this with you at any time. If you wish, a conference call between GTE and Commission staff could be arranged to facilitate any future discussions. It is my understanding that GTE's response to staff's data request is due July 25, 1996.

Yours truly,



Noreen S. Davis
Director

NSD:smj
Caswell.ltr
cc: Rick Moses
Martha Brown