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Florida Cable Telecommunications Association

Steve Wilkerson, President

October 23, 1996

VIA HAND DELIVERY

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

RE: DOCKET NO. 950984-TP

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are an original and fifteen copies of Florida Cable Telecommunications Association, Inc.'s ("FCTA") Response to GTEFL's Motion for Stay. Copies have been served on the parties of record pursuant to the attached certificate of service.

Please acknowledge receipt and filing of the above by date stamping the duplicate copy of this letter and returning the same to me.

Thank you for your assistance in processing this filing.

Yours very truly,

*Laura L. Wilson*  
Laura L. Wilson

Vice President, Regulatory Affairs &  
Regulatory Counsel

1 Enclosures

5 cc: Mr. Steven E. Wilkerson  
All Parties of Record

RECEIVED & FILED

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of Petition to )  
Establish Non-Discriminatory Rates, )  
Terms, and Conditions for Resale )  
Involving Local Exchange Companies )  
and Alternative Local Exchange )  
Companies pursuant to Section )  
364.161, Florida Statutes )  
\_\_\_\_\_ )

DOCKET NO. 950984-TP

FILED: October 23, 1996

**FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC.'S  
RESPONSE TO GTEFL'S MOTION FOR STAY**

The Florida Cable Telecommunications Association, Inc. ("FCTA"), pursuant to Rule 25-22.037(2)(b), Florida Administrative Code, and Rule 1.090(e), Florida Rules of Civil Procedure, respectfully submits the following Responses to GTEFL's Motion for Stay of Order Pending Judicial Review filed October 11, 1996 in the above-captioned docket. In support thereof, FCTA states:

1. GTEFL's Motion is based solely on the automatic stay provisions of Rule 25-22.061(1)(a), Florida Administrative Code. GTEFL erroneously asserts that because Initial Order No. PSC-96-0811-FOF-TP (Initial Order) and Order on Reconsideration No. PSC-96-1160-FOF-TP (Order on Reconsideration) involve a decrease in rates presently charged to carriers and end users, GTEFL is entitled to an automatic stay. Motion for Stay at Par. 10. GTEFL asserts that the rate decreases in question are the loop rates in GTEFL's Intrastate Access tariff. Motion for Stay at Par. 2. GTEFL's argument is misapplied and inappropriate for the reasons that follow.

2. The automatic stay provisions of Rule 25-22.061(1)(a) state:

When the order being appealed involves the refund of moneys to customers or a decrease in rates charged to customers, the Commission shall, upon motion filed by the utility or company affected, grant a stay pending judicial proceedings. The stay shall be conditioned upon the posting of good

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FPSC-FLORIDA PUBLIC SERVICE COMMISSION

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and sufficient bond, or the posting of a corporate undertaking, and such other conditions as the Commission finds appropriate.

3. Contrary to GTEFL's assertions, the above automatic stay rule does not apply in the instant case. The Initial Order and Order on Reconsideration establish rates of a new class of customers - ALECs. The Orders do not impose rate reductions. As the Initial Order states:

We also disagree with United/Centel's argument that charging different rates to ALECs than those charged to Interexchange Carriers (IXCs), cellular carriers, and Alternative Access Vendors (AAVs) is discriminatory. First, ALECs are a different class of customer than IXCs, AAVs and cellular providers. Also, the unbundled loops and ports at issue are not the same end-to-end tariffed services provided to IXCs, AAVs, and cellular providers .... Thus, only ALECs could purchase the unbundled network elements at the prices approved in this proceeding. [Emphasis supplied.]

Initial Order at pp. 17-18. The Initial Order is clear that ALECs are purchasing services that "are not the same end-to-end tariffed services" GTEFL presently provides out of its access tariff. Because the Orders establish new rates and services, and specifically do not involve rate decreases for currently tariffed services, GTEFL has misapplied the mandatory stay rule.

5. Further, GTEFL's rationale for the automatic stay reargues a position that the Commission has considered and rejected. As the above-quoted passage indicates, the Commission has considered and rejected the LEC position that ALECs should be treated as existing network access customers. The Commission decided that ALECs are "a different class of customer." This decision is consistent with the introductory provisions of Section 364.163, Florida Statutes, which distinguish "network access services" from the ALEC interconnection and unbundling/resale provisions of Chapter 364. GTEFL is simply rearguing this point and has provided no grounds for an automatic stay.

**WHEREFORE**, for the foregoing reasons, GTEFL's Motion for Stay of Order Pending Judicial Review should be denied in its entirety.

**RESPECTFULLY SUBMITTED** this 23rd day of October, 1996.

Respectfully submitted,



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Laura L. Wilson, Esquire  
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**CERTIFICATE OF SERVICE**  
**DOCKET NO 950984-TP**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by Hand Delivery(\*) and/or U.S. Mail on this 23rd day of October, 1996 to the following parties of record:

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