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BY HAND DELIVERY

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

Re: Docket No. 950984-TP (Unbundling)

Dear Ms. Bayó:

Enclosed for filing on behalf of MCI Metro Access
Transmission Services, Inc. (MCImetro) in the above referenced
docket are the original and 15 copies of MCImetro's Response in
Opposition to GTEFL's Motion for Stay.

By copy of this letter this document has been provided to
the parties on the attached service list.

Very truly yours,

Richard D. Melson

Richard D. Melson

ACK

AFA _____

APP _____

CAF RDM/cc

Enclosures

CMU *Christ* cc: Parties of Record

CTR _____

EAG _____

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of petition(s) to)
 establish nondiscriminatory rates,) Docket No. 950984-TP
 terms and conditions for resale)
 involving local exchange companies and) Filed: October 23, 1996
 alternative local exchange companies)
 pursuant to Section 364.161,)
 Florida Statutes.)
 _____)

MCI'S RESPONSE IN OPPOSITION TO
GTEFL'S MOTION FOR STAY

MCI Metro Access Transmission Services, Inc. (MCI) hereby files its response in opposition to GTE Florida Incorporated's (GTEFL's) Motion for Stay of Order Pending Judicial Review. As grounds for its opposition, MCI states:

1. GTEFL asks the Commission to stay the effectiveness of Order No. PSC-96-0811-FOF-TP (Initial Order) and Order No. PSC-96-1160-FOF-TP (Order on Reconsideration) pending appeal. Those Orders establish the rates that GTEFL is permitted to charge MFS, MCI, AT&T and other carriers for unbundled loops and ports.

2. GTEFL seeks its stay pursuant to Rule 25-22.061(1), Florida Administrative Code, which requires that a stay be granted pending judicial review when the order on appeal involves "a decrease in rates charged to customers." That rule does not apply in this case. The Commission has not ordered any decrease in rates -- it has ordered a new rate for a new unbundled network element which GTEFL has not previously offered.

3. GTEFL correctly states that the Orders establish rates for unbundled loops that are below the current tariffed rates for

special access service. While unbundled local loops and special access service may have certain functional similarities, they are different items. Special access loops are used in the provision of dedicated services; unbundled loops are used in the provision of switched services. Special access loops come with special conditioning and testing; unbundled loops do not. While all loops to some extent provide the same functionality, the prices for those loops vary significantly depending on the tariff under which they are offered. Bundled loops, for example, are offered as part of local exchange service. Although the price for such loops is not separately stated, that price -- at least in the case of residential customers who receive the local loop plus unlimited local usage for rates in the \$10 per month range -- is substantially below the price set in the Orders for unbundled loops.

4. Absent a decrease in rates, which is not present in this case, GTEFL must seek a stay under Rule 25-22.061(2), Florida Administrative Code. To obtain a stay under that rule, GTEFL must show that: (1) it is likely to prevail on the merits; (2) it is likely to suffer irreparable harm if the stay is not granted; and (3) the stay will not cause substantial harm or be contrary to the public interest. Because GTEFL relies on the wrong rule, it has failed to even allege, must less show, that the applicable criteria are met.

5. GTEFL also asks that it not be required to post a bond as a condition of the stay. GTE states that "Rule 25-

22.061(1)(a) permits the Commission to require GTEFL to post a bond or issue some other corporate undertaking as a condition of the stay." (Motion ¶15, emphasis added) If Rule 25-22.061(1)(a) did apply to this case -- which it does not -- a bond or corporate undertaking is mandatory, not permissive:

The stay shall be conditioned on the posting of good and sufficient bond, or the posting of a corporate undertaking, and such other conditions as the Commission finds appropriate. (emphasis added)

6. GTEFL's rationale for being excused from the bonding requirement is even more curious. It argues that since MFS believes that the Orders are erroneous, MFS cannot complain if the orders are stayed. (Motion ¶16-17) This contention is ridiculous. GTEFL believes the rate ordered by the Commission is too low; MFS believes the rate is too high. While GTE may want to collect an even higher rate during the pendency of the appeal, it seems highly unlikely that MFS would "welcome such a stay" as GTEFL suggests. (Motion ¶17).

7. GTE also ignores the fact that MFS is not the only other party to this case. MCI and AT&T intervened and participated fully in the case and are bound by the Orders. While MCI can only speculate about MFS and AT&T's position, it can clearly state that MCI does not "welcome a stay," particularly one to which GTEFL is not entitled under the governing rules.

WHEREFORE, MCI urges that GTEFL's Motion for Stay be denied.

RESPECTFULLY SUBMITTED this 23rd day of October, 1996.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following by U.S. Mail this 23rd day of October, 1996.

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