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GTE FLORIDA INCORPORATED
DIRECT TESTIMONY OF DONALD W. MCLEOD
DOCKET NO. 961537-TP

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Donald W. McLeod. My business address is 600 Hidden Ridge, Irving, Texas.

Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?

A. I am employed as Vice President - Local Competition/Interconnection Program Office for GTE Telephone Operations, which has telephone operations in 28 states.

Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL AND WORK EXPERIENCE.

A. I graduated from San Diego University in June 1966, receiving a Bachelor of Science degree in Business Administration with a Management major. Immediately upon graduation from college, I joined the Engineering Department of General Telephone Company of California, where I was involved in the preparation of cost separations studies. In August 1969, I moved to General Telephone Company of the Northwest, as Settlements Administrator. In February 1971, I became Revenue Requirements Administrator with GTE Service Corporation. In that capacity, I was involved in

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1 settlement matters affecting all GTE telephone operating companies.

2
3 In December 1972, I was appointed to the position of Business
4 Relations Manager with General Telephone Company of Florida,
5 where I was responsible for the supervision of Division of Revenue
6 Studies. I was promoted to the position of Director of Business
7 Relations in December 1979, with responsibility for the preparation
8 of separations studies, various cost valuation studies, connecting
9 company matters, and the functional coordination of rate case
10 activity.

11
12 In October 1981, I returned to GTE Service Corporation. During the
13 next five years, I held various positions pertaining to the areas of
14 strategic revenue planning, access and cost allocation issues, rate
15 cases and carrier relations. I subsequently transferred to GTE North
16 in July 1986, accepting the position of Director-Revenue Planning,
17 where I was responsible for strategic revenue planning, capital
18 recovery state and federal regulatory filings, and policy
19 recommendations on revenue matters. In October 1988, I was
20 appointed Director-Revenue & Earnings Management-North Area.
21 In June 1991, I was appointed Director-Revenue & Earnings (South).
22 In December 1993, I was appointed Vice President-External Affairs
23 (Florida) and was appointed Regulatory and Governmental Affairs
24 Vice President (East) in October 1994. In March 1996, I accepted my
25 present position.

1 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS
2 PROCEEDING?

3 A. The purpose of my testimony is to: 1) describe GTE's negotiations
4 with ACSI, and (2) summarize GTE's Response to individual issues
5 presented for arbitration by ACSI's Petition. But first, I will briefly
6 discuss the Telecommunications Act of 1996 and the FCC's
7 implementing rules as they relate to GTE's pricing proposal.

8
9 The Telecommunications Act and the FCC's Rules

10
11 Q. PLEASE COMMENT ON THE TELECOMMUNICATIONS ACT OF
12 1996 AND THE IMPLEMENTING RULES ADOPTED BY THE
13 FEDERAL COMMUNICATIONS COMMISSION IN ITS FIRST
14 REPORT AND ORDER.

15 A. The Telecommunications Act of 1996 ("the Act") itself is
16 unprecedented, and makes fundamental changes to the local
17 telecommunications industry. Specifically, the Act is intended to
18 encourage competition by requiring incumbent local exchange
19 carriers ("ILECs") such as GTE to provide interconnection and access
20 to unbundled network elements at cost-based rates, and to offer
21 services for resale at wholesale rates based on an ILEC's avoided
22 costs.

23
24 The FCC's rules, however, contradict the Act on several significant
25 points. For example, ACSI requests interconnection, services, and

1 unbundled elements under § 251(c) of the Act. The prices for these
2 facilities and services are subject to the pricing standards set forth in
3 § 252(d)(1)-(3). The Act expressly provides that the **State**
4 **Commissions** have exclusive authority to establish and apply these
5 standards. In its First Report and Order, the FCC had set out
6 detailed rules and methodologies of its own making for these pricing
7 standards, purporting to preclude States from considering other
8 methodologies. The FCC's pricing rules (as well as its "pick and
9 choose" provisions) now have been permanently stayed by the U.S.
10 Court of Appeals for the Eighth Circuit, pending judicial review in
11 early 1997. Thus, they no longer have a legal effect in the current
12 arbitrations.

13
14 One thing that was most troubling about the FCC's First Report is that
15 it established "default proxy rates" for wholesale services and
16 unbundled elements for potential adoption as interim rates pending
17 a hearing on the merits. GTE is very concerned with such a proposal.
18 First, as now apparently confirmed by the Eighth Circuit, the FCC
19 improperly assumed the State's rate-setting function and exceeded
20 its statutory authority. Second, we believe the FCC's default rates
21 are erroneous. And while ACSI may disagree with us, we are entitled
22 to a hearing on the merits as well as an opportunity to present our
23 case *before* rates can be imposed upon GTE. In fact, when the FCC
24 for its own part denied the Motion for Stay requests filed by GTE,
25 SNET and U.S. West, even it acknowledged at (¶ 27) that the proxy

1 prices must be replaced with cost studies when they become
2 available and that the appropriate prices may exceed the proxy
3 ceiling. Of course, the FCC's denial of the stay motion has now been
4 reversed, and its proposed default proxy rates have no effect at this
5 time.

6
7 A related concern is that the recombining of unbundled elements
8 contemplated by the FCC First Report would allow bypass of access
9 charges and also allow avoidance of the appropriate resale pricing
10 standards. The FCC's First Report violates the intent of the Act not
11 to change the level and application of carrier access charges. For
12 example, it arbitrarily sets end office switching prices at the proxy
13 range of 2 to 4 mils, and it arbitrarily reduces the residual
14 interconnection charge (RIC) to three-quarters of its former level. As
15 a further example, it established without hearing or cause a sunset
16 period for application of carrier common line charges and the three-
17 quarters of the RIC.

18
19 Along these same lines, I would like to note that in my experience,
20 regulatory bodies have devoted more time to general rate
21 proceedings and other, more "common" regulatory matters than to
22 this kind of proceeding, where the Commission must resolve
23 fundamental issues resulting from the reorganization of an entire
24 industry. We recognize that the time lines are imposed by federal
25 law, not State commissions, but we need to ensure that the

1 fundamental issues—such as those relating to pricing and costing—
2 receive the attention they deserve.

3

4 **Q. SHOULD THE FCC'S PROXY RATES BE IMPOSED ON GTE ON**
5 **AN INTERIM BASIS WHILE THESE ISSUES ARE BEING**
6 **CONSIDERED?**

7 **A. The Court of Appeals' decision, which stayed the FCC's rules,**
8 **mandates that those rates cannot be imposed on GTE.**

9

10 Even absent this decision, the proxy rates should not be imposed on
11 GTE, even on an interim basis. As demonstrated by other witnesses,
12 the default rates are too low to cover GTE's costs. Were the FCC's
13 default rates used even in the interim, there could be no mechanism
14 fashioned to fix the problem after the fact. "Truing up" rates is not an
15 adequate solution. If unbundled rates are set at levels below cost,
16 new entrants will have the ability to attract more customers than they
17 otherwise would be capable of attracting away from GTE. Once this
18 excessive share loss occurs, it would be impossible for the State to
19 correct for the problem from a customer perspective. While it is
20 conceivable that the State could order retroactive treatment from a
21 revenue perspective, the market cannot be retroactively corrected.
22 It is very costly to win back a customer once lost to another
23 competitor. GTE would be irreversibly harmed by those rates, even
24 if the Commission allowed for a retroactive "true-up" mechanism.

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Q. MAY THE COMMISSION ADOPT RATES ON AN INTERIM BASIS AND, IF SO, DOES THE COMMISSION HAVE THE AUTHORITY TO APPROVE A TRUE-UP MECHANISM TO ACCOMMODATE DIFFERENCES IN FINAL RATES FROM THOSE IMPLEMENTED ON AN INTERIM BASIS?

A. Yes, the Commission has such authority, provided that it adopts GTE's proposed rates as the interim rates. If the Commission uses ACSI's proposed rates, which the evidence will show to be far below GTE's costs, and later orders a true-up to compensate GTE, the Commission will be effecting the same unconstitutional taking that the FCC's proposed pricing rules committed. As I discussed earlier, those pricing rules, including the default proxy rates, were stayed by the United States Court of Appeals for the Eighth Circuit. Moreover, such a low interim rate would cause irreparable harm to GTE's market share, business reputation and goodwill, as I already explained.

I want to make clear, however, that even GTE's proposed rates do not reflect all of GTE's costs, including, for example, GTE's stranded investment. This issue (along with the need to rebalance rates) is addressed in the Economic Report included in Dr. Doane's Direct Testimony. GTE strongly believes it is entitled to recover all of its costs, and this position was an important part of GTE's Motion to Stay the FCC's First Report and Order, which the Eighth Circuit granted. Therefore, any order of this Commission or any agreement between

1 the parties must permit GTE recovery of all its costs, either as a part
2 of this proceeding or in a subsequent proceeding.

3
4 **Q. HAS GTE PROPOSED ITS OWN PRICES FOR WHOLESALE**
5 **SERVICES, UNBUNDLED ELEMENTS, AND INTERCONNECTION?**

6 **A.** Yes, it has. However, the prices for these network elements are not
7 compensatory due to GTE's current, distorted rates. Wholesale rates
8 and retail rates must be consistent and rational for all the rates set.
9 Yet, GTE's wholesale rates for unbundled elements reflect market
10 considerations, while GTE's retail rates were set with certain public
11 policy goals in mind, most notably the goal of universal service.
12 These goals allowed prices for some services to be set below their
13 economic costs, while other services were priced far above costs as
14 a source of contribution for the below-cost services. Other examples
15 of policy goals which introduce distortion included statewide rate
16 averaging and class of service pricing. As long as GTE was the
17 single provider, such public policy goals could be achieved without
18 harm to the Company or its customers.

19
20 Now, however, competition has been introduced in the local
21 exchange market. In that event, there arises a mismatch between,
22 on the one hand, the pricing methodology historically used for
23 determining retail and wholesale rates (where rates will not uniformly
24 reflect costs) and, on the other hand, the cost-based pricing required
25 by the Act for unbundled elements and interconnection.

1 For this reason, GTE respectfully requests that the Commission move
2 expeditiously to establish a uniform and consistent set of pricing
3 policies that can be applied to the pricing of all of GTE's services--
4 retail, wholesale, and unbundling.

5
6 **Q. DID GTE HAVE A POSITION ON COST AND PRICING IN THE**
7 **NEGOTIATIONS?**

8 **A.** Yes. GTE consistently maintained that any term or condition relating
9 to technical, business, and administrative issues that depended on
10 an open pricing issue would necessarily await resolution of how GTE
11 would be compensated for the elements, services, or modifications
12 requested by ACSI.

13
14 **Summary of the Parties' Negotiation**

15
16 **Q. WOULD YOU BRIEFLY DESCRIBE THE HISTORY OF GTE'S**
17 **NEGOTIATIONS WITH ACSI?**

18 **A.** Yes. Since April 1996, the parties have held numerous meetings to
19 discuss interconnection in Texas and Kentucky. No mention was
20 made of Florida until ACSI presented a model contract to GTE on July
21 30. Negotiation of general issues continued by conference calls in
22 August and September, but ACSI never made a clear and formal
23 request for interconnection in Florida, and the parties did not
24 complete their negotiations.

25

1 Q. HOW DID GTE APPROACH ITS NEGOTIATIONS WITH ACSI?

2 A. GTE fully recognizes its obligations as an ILEC under the Act and is
3 committed to seeing that Congress' objectives in enacting this
4 legislation are achieved. To this end, GTE approached its
5 negotiations with ACSI with a pro-competitive spirit to provide ACSI
6 interconnection and access to unbundled network elements on a non-
7 discriminatory basis. This does not mean, of course, that GTE was
8 (or is) prepared to have either its customers or shareholders
9 subsidize any ALEC's foray into the local exchange market. To the
10 contrary, Congress intended, and the Act makes clear, that GTE must
11 be fully compensated for its provision of interconnection and
12 unbundled elements.

13
14 Q. DID THE PARTIES EXCHANGE CONTRACT LANGUAGE?

15 A. Not really. ACSI did present to GTE a proposed contract for Texas,
16 Kentucky and Florida on July 30. This contract, as noted, was GTE's
17 first notice that ACSI was seeking interconnection in Florida.
18 Conversation continued over the phone in August and September, but
19 the parties need time to develop contract language regarding the
20 issues on which they have agreed in principle.

21

22

23

Summary of GTE's Response

24

25

Q. PLEASE SUMMARIZE GTE'S RESPONSE TO ACSI'S PETITION.

1 A. In this summary, I have divided the open issues submitted by ACSI
2 which I will address into the following major categories: (1) "most
3 favored nations" treatment and (2) unbundled elements.
4
5

6 **"Most Favored Nation" Treatment**
7

8 **Q. WHAT IS ACSI'S POSITION ON "MOST FAVORED NATION"**
9 **TREATMENT?**

10 A. ACSI is asking for more than is required by the Act. Under the guise
11 of "non-discrimination" in prices, ACSI asserts that it is entitled to
12 "pick and choose" those portions of an agreement between GTE and
13 any other ALEC, and have it inserted into its agreement. In other
14 words, it wants to make sure it gets the same or better terms than any
15 other ALEC. This is contrary to the purposes of the Act.
16

17 **Q. IS ACSI ENTITLED TO "MOST FAVORED NATION" TREATMENT**
18 **ON INDIVIDUAL TERMS AND CONDITIONS?**

19 A. No. ACSI's position is based on FCC Rule 51.809. The Eighth
20 Circuit's opinion stayed this Rule and described why it inhibits the
21 negotiation process mandated by Congress. Consistent with the Act,
22 GTE is willing to offer any ALEC, including ACSI, the same complete
23 contract negotiated with any other ALEC.
24
25

1 Q. SHOULD THE PRICES, TERMS AND/OR CONDITIONS UNDER
2 WHICH SERVICES OR FACILITIES ARE PROVIDED BY GTE TO
3 ONE CARRIER BE MADE AVAILABLE TO ALL CARRIERS?

4 A. No. Congress did not intend to usurp the negotiation process by
5 enabling ALECs to "pick and choose" specific provisions from any
6 and all agreements. Any customary, sound business contracts would
7 not include a "most favored nation" clause. To do so would eliminate
8 any and all incentive to the negotiation process and ignore the
9 individuality of the request. Each ALEC is unique and asking to
10 negotiate for terms, conditions and rates that are appropriate to their
11 individual requests based on their individual requirements. This is
12 fundamental to establishing a fully competitive market place. The
13 Eighth Circuit apparently agrees, having stayed the provisions of the
14 FCC's First Report on this account as well as the pricing principles.
15

16 Q. HOW IS ACSI'S PETITION CONTRARY TO THE PURPOSES OF
17 THE ACT?

18 A. The Act was designed to encourage negotiation between the parties,
19 and specified arbitration of only the subset of unresolved issues as
20 a last resort. Inherent in the negotiation process are trade-offs: e.g.,
21 Party A will concede on issue X if Party B will agree to A's position on
22 issue Y. Particular issues may be more important to ACSI; for
23 example, than for another potential entrant. Thus, the negotiations
24 between ACSI and GTE would produce an agreement that might be
25 quite different than as between GTE and another ALEC.

1 ACSI, however, does not want negotiation and compromise. It wants
2 "most favored nation" treatment so that all the material terms in the
3 agreements will be the same among the ALECs. In other words,
4 ACSI wants to pick and choose from various ALEC agreements in
5 order to obtain individual contract terms that are most favorable to
6 ACSI. This result, of course, is the very opposite of competition.

7
8 ACSI's position—if accepted by this Commission—would destroy the
9 negotiation process. Therefore, GTE's position is that each
10 agreement is the product of comprehensive negotiations. Any party
11 desiring to obtain the terms of another agreement must abide by that
12 agreement in its entirety.

13
14 **Q. HAS THIS COMMISSION ADDRESSED THE MOST-FAVORED**
15 **NATION ISSUE BEFORE IN THE CONTEXT OF ARBITRATIONS**
16 **UNDER THE ACT?**

17 **A.** Yes. Sprint raised the same issue in its respective arbitrations with
18 GTE and BellSouth. In both cases, the Commission voted to accept
19 its Staff's Recommendation that the Act does not require the
20 Commission to interpret Section 252(i) of the Act to fulfill its
21 arbitration responsibilities. In other words, the Commission found it
22 unnecessary to resolve the most-favored nations issue Sprint
23 presented.
24
25

1 Q. IS THERE ANY REASON FOR A DIFFERENT RESULT IN THIS
2 CASE?

3 A. No. ACSI has raised the same issue and taken the same position
4 that Sprint made in its arbitrations with GTE and BellSouth, and I
5 have here made the same policy and legal arguments GTE made in
6 the Sprint arbitration when this issue arose there. As such, there is
7 no reasoned basis for the Commission to decide this issue differently
8 in this case. In fact, the Commission should resist any ACSI efforts
9 to even identify the most-favored nations matter as an issue for
10 resolution in this case. There is no reason for the parties and the
11 Commission to waste their time on further testimony, cross-
12 examination, and briefing of an issue that is not a proper matter for
13 resolution in this arbitration. I expect that this subject will be taken up
14 at the issues identification conference scheduled for later this month.

15

16

Unbundled Elements

17

18 Q. PLEASE DESCRIBE THE UNBUNDLED ELEMENTS GTE WILL
19 PROVIDE TO ACSI.

20 A. GTE will offer on an unbundled basis the following:

21

22 (1) the loop, which is in general the transmission facility which
23 extends from a main distribution frame to the customer
24 premises;

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- (2) the port, which in general is the line card and associated peripheral equipment on a GTE end office switch that serves as the hardware termination for the customer's exchange service on that switch, generates dial tone and provides the customer a pathway to the public switched telecommunications network;

- (3) transport, by which I mean the transmission facility which extends from a main distribution frame (MDF) to either another MDF or a meet point with transport facilities of ACSI (unbundled transport is provided under rates, terms and condition of the applicable tariff);

- (4) signaling, which in general is SS7 signaling and transport service in support of ACSI's local exchange service;

- (5) certain databases in accordance with the rates, terms and the conditions of applicable switched access tariff; and

- (6) the network interface device (NID), which is the point of demarcation between the customer's inside wiring and GTE's facilities.

This description of unbundling means that ACSI may subscribe to and interconnect with whatever of these unbundled elements it

1 chooses, and may combine these unbundled elements with any
2 facilities or services that ACSI may itself provide, pursuant to the
3 following terms: first, the interconnection shall be achieved by
4 expanded interconnection/collocation arrangements ACSI shall
5 maintain at the wire center at which the unbundled services are
6 resident; and second, that each loop or port element shall be
7 delivered to ACSI's collocation arrangement over a loop/port
8 connector applicable to the unbundled services through other tariffed
9 or contract options; and third, ACSI shall combine unbundled
10 elements with its own facilities but shall not recombine GTE
11 unbundled elements.

12
13 **Q. ACSI WANTS TO BE ABLE TO OBTAIN UNBUNDLED ELEMENTS**
14 **FROM GTE AND THEN REASSEMBLE THEM TO OFFER END-TO-**
15 **END SERVICE. WHAT IS GTE'S POSITION ON THIS ISSUE?**

16 **A.** As I alluded to earlier when describing the nature of ACSI's access
17 to the GTE unbundled elements, GTE strongly believes that ACSI
18 should not be permitted to unbundle and then reassemble GTE's
19 network. Such a proposal by ACSI would render meaningless the
20 Act's required distinction between unbundled elements and wholesale
21 services—that they be priced under different cost methodologies.

22
23 **Q. HOW SHOULD THE PRICES FOR THE LOOP, THE ASSOCIATED**
24 **COLLOCATION COST AND THE NID, AS UNBUNDLED**
25 **ELEMENTS, BE SET?**

1 A. The prices should be cost-based, as required by the Act. They
2 should be set in a manner to allow recovery of GTE's actual costs of
3 its actual network and should not be based on the theoretical costs
4 of a network that has never been built. GTE has proposed a pricing
5 methodology that meets the Act's requirements and that allows prices
6 to be set by the market as competition develops. This methodology
7 is discussed in detail in GTE's Economic Report, as well as the
8 testimony of Mr. Trimble and Mr. Steele.

9
10 Interconnection

11
12 Q. PLEASE DESCRIBE GTE'S POSITION ON THE APPROPRIATE
13 PRICING OF INTERCONNECTION.

14 A. GTE's position on all pricing matters is that the Company should be
15 given the opportunity to recover costs incurred in the operations of
16 the Company from the "cost-causers." Sections 251(b)(5) and
17 252(d)(2) of the Act, as well as the FCC's Order released August 8,
18 1996, set forth the standards for establishing reciprocal compensation
19 arrangements. These standards provide for the mutual and
20 reciprocal recovery of each carrier's costs, calculating such amounts
21 on the basis of the additional costs of terminating calls originated by
22 the other carrier. A bill-and-keep arrangement is inconsistent with
23 these standards unless costs of the two carriers are symmetrical and
24 the volume of traffic terminated on each other's network is
25 approximately equal.

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Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

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FILE COPY



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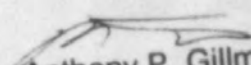
January 24, 1997

Re: Docket No. 961537-TP
Petition by American Communications Services, Inc., and its local exchange
operating subsidiaries, for Arbitration with GTE Florida Incorporated pursuant to
the Telecommunications Act of 1996

Dear Ms. Bayo:

Please find enclosed for filing an original and fifteen copies of the direct testimony of
Kirby D. Cantrell, Michael J. Doane, Gregory M. Duncan, Donald W. McLeod,
Beverly Y. Menard, William E. Munsell, Bert I. Steele, and Dennis B. Trimble 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) 483-2615.

Very truly yours,


Anthony P. Gillman
APG:tas
Enclosures

- Cantrell - 00930-97*
- Doane - 00931-97*
- Duncan - 00932-97*
- McLeod - 00933-97*
- Menard - 00934-97*
- Munsell - 00935-97*
- Steele - 00936-97*
- Trimble - 00937-97*

CERTIFICATE OF SERVICE

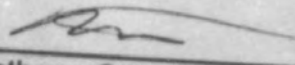
I HEREBY CERTIFY that copies of the direct testimony of Kirby D. Cantrell, Michael J. Doane, Gregory M. Duncan, Donald W. McLeod, Beverly Y. Menard, William E. Munsell, Bert I. Steele, and Dennis B. Trimble on behalf of GTE Florida Incorporated in Docket No. 961537-TP were sent via overnight delivery on January 23, 1997, to the parties listed below.

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