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February 4, 1997

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FILE COPY

BY HAND DELIVERY

Ms. Blanca Bayo, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 961537-TP

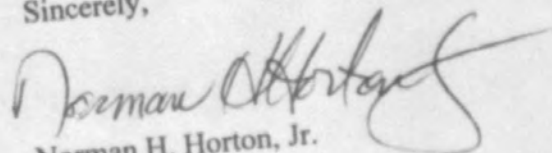
Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are an original and fifteen copies of Comments of ACSI Regarding Inclusion of Issue in Arbitration. Service has been made as indicated on the Certificate of Service.

Please indicate receipt by stamping the enclosed extra copy of this letter.

Thank you for your assistance in this matter.

Sincerely,


Norman H. Horton, Jr.

ACK _____
AFA _____
APP _____
CAF _____ NHH:dle
 Enclosure
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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
01323 FEB-4 97
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: 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.)
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Docket No. 961537-TP
Filed: February 5, 1997

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COMMENTS OF ACSI REGARDING
INCLUSION OF ISSUE IN ARBITRATION

In its Petition for Arbitration filed December 26, 1996, ACSI identified as one of the issues unresolved between the parties, whether ACSI should be able to choose among individual provisions contained in interconnection agreements between GTE and other carriers. (ACSI Petition, at 23.) This most favored nations (MFN) issue was also included in the proposed issues submitted by ACSI for an issue identification workshop between the parties and staff on January 29, 1997. (ACSI Proposed Issue #8a.) Specifically, the issue proposed by ACSI is: "What restrictions, if any, apply to the availability of individual provisions contained in those interconnection agreements, GTE has with others?"

During the issue identification conference, GTE objected to ACSI's MFN issue being included as an issue in this arbitration proceeding. The objection is apparently based on their legal position with respect to the issue itself, as outlined in GTE's response to ACSI's petition, and also on the recent commission decision in Docket No. 961173-TP. (A Petition for Arbitration between GTE and Sprint.) As a result of the objection, the question of whether the issue is to be included in the arbitration proceeding has been presented to the Prehearing Officer for ruling. ACSI requested an opportunity to present this memorandum in support of its position that the issue should be included as an issue to be decided in this arbitration proceeding.

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01323 FEB-4 5
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The issue before the prehearing officer is quite simple: whether the disputed issue proposed by ACSI should remain an issue in this docket. That question can only be answered in the affirmative. Clearly ACSI and GTE have a different legal interpretation of the MFN requirements, as evidenced in the petition and responses. However, only GTE has had an opportunity to present its argument to this Commission in previous arbitration proceedings with other carriers. ACSI has not been a party to any proceeding in which this issue was presented to the Commission. In fact, ACSI could not have participated in such a proceeding because of this Commission's orders which limit the parties in an arbitration proceeding to only the two parties and staff. Consequently, ACSI has not been afforded an opportunity to be heard with respect to the MFN and deletion of the issue would deny ACSI of that opportunity. GTE may not agree with the legal position and interpretation of the ACSI, but no legal basis exists for GTE to deny ACSI the opportunity to present its position to this Commission. ACSI has presented the MFN issue to the Commission for inclusion in this proceeding and requests that it be kept as an issue to be determined by the Commission in this arbitration proceeding.

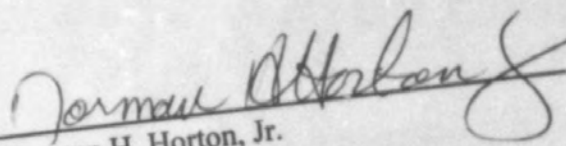
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Comments of ACSI Regarding Inclusion of Issue in Arbitration in Docket No. 961537-TP has been furnished by regular U.S. mail on this 4th day of February, 1997 to the following parties of record:

Will Cox, Esq.
Division of Legal Services
Florida Public Service Commission
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Tallahassee, FL 32399-0850

Kimberly Caswell
Post Office Box 110, FLTC0007
Tampa, FL 33601


Norman H. Horton, Jr.