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September 8, 1997

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

Re: Docket No. **970841-TP**
Complaint of MCI Telecommunications Corporation Against GTE Florida
Incorporated for Anti-Competitive Practices Related to Excessive
Intrastate Switched Access Pricing

Dear Ms. Bayo:

Please find enclosed for filing in the above matter an original and fifteen copies of
GTE Florida Incorporated's Request for Continuance of Issues Identification
Workshop. Service has been made as indicated on the Certificate of Service. If
there are any questions regarding this matter, please contact me at (813) 483-2617.

Very truly yours,

Kimberly Caswell

KC:tas
Enclosures

A part of GTE Corporation

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU Winton
- CTR _____
- EAG _____
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- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH _____

Antony P. Bill

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DOCUMENT NUMBER-DATE

08995 SEP-86

FPC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of MCI Telecommunications)
Corporation Against GTE Florida Incorporated)
for Anti-Competitive Practices Related to)
Excessive Intrastate Switched Access Pricing)

Docket No. 970841-TP
Filed: September 8, 1997

**GTE FLORIDA INCORPORATED'S REQUEST FOR
CONTINUANCE OF ISSUES IDENTIFICATION WORKSHOP**

GTE Florida Incorporated (GTEFL) asks the Commission for a continuance of the date for the issues identification workshop in this case in order to first allow for a ruling on GTEFL's Motion to Dismiss MCI's Complaint. GTEFL's Motion explains that the Commission has no jurisdiction to grant the only relief MCI has requested--reduction of switched access charges beyond the numerical parameters established by the Florida Statutes. (See GTEFL's Motion to Dismiss, filed July 29, 1997.) If the Commission agrees with GTEFL's reading of the law (specifically, Florida Statutes section 364.163), it will be obliged to dismiss MCI's Complaint.

The tentative time schedule (CASR) for this docket shows October 21, 1997, as the date for a ruling on GTEFL's Motion. After that ruling, the parties will know if the case is to proceed any further. However, the date set for the issues identification workshop--September 26, 1997--is nearly a month before the decision on GTEFL's Motion. In light of GTEFL's outstanding Motion, GTEFL believes it would not be rational or efficient to formally identify issues to be resolved before a ruling on the jurisdictional question GTEFL has presented.

Without knowing whether or in what form this proceeding will survive, there is almost no chance that the parties will agree on issues to be decided in this case. Since

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the issues identification will not produce consensus, the prehearing officer may need to determine which issues will be resolved in the case. Or, more likely, another issues identification conference will be scheduled after the ruling on the Motion; this approach would be consistent with the Commission's preference for the parties (rather than the prehearing officer) to define the issues in a docket. In short, because a ruling on GTEFL's Motion is, in practical terms, a prerequisite for making any headway in identifying issues (in the event the case does go forward), it makes little sense to adhere to the current dates. Regardless of what the schedule says, one way or the other, there will be a delay in definitively identifying issues if this process must take place before a ruling on the Motion.

Furthermore, because no definitive issues list is likely to emerge from a workshop held on September 26, the parties' testimony (MCI's is currently due on October 24, just three days after the Motion ruling) will likely need to be amended to accommodate the final issues list, thus compounding the waste of resources.

While GTEFL believes the Commission will grant its Motion to Dismiss, GTEFL emphasizes that the reasoning underlying this request for continuance does not rely on that assumption. Rather, GTEFL's points about inefficiency and potential waste hold true, regardless of the eventual decision. If the Commission grants GTEFL's Motion, the parties will have needlessly engaged in issues identification. If the Commission denies GTEFL's Motion, as explained above, the results are just as bad or worse, since repetitive issues workshops and testimony amendment will be needed.

GTEFL submits that it would be a more efficient use of Commission and Company resources to set the issues identification workshop after the Motion ruling. This will prevent the need to appeal issue disputes to the prehearing officer, avoid amendments to testimony based on issues that are only preliminary, and ensure that only one workshop will need to be held.

GTEFL believes its request for a continuance is consistent with the Commission's past actions in Complaint-type proceedings. For instance, to avoid potentially wasted effort, discovery has customarily been delayed to allow the Commission to decide Motions to Dismiss and other dispositive motions. See, e.g., Petition of Lee County Elec. Cooperative, Inc. Against Florida Power and Light Co. to Resolve a Territorial Dispute, 85 FPSC 11:91 (1985) ("In the event the motions to dismiss are granted, any effort expended in discovery would be for naught."); Complaint of Builders Ass'n of South Florida v. Florida Power and Light Co., 2 FPSC 141, 143 (1978); Complaint of PSA, Inc. Against Southern Bell Tel. and Tel. Co., 86 FPSC 10:490 (1986). The same logic applies here--it makes no sense to engage in potentially futile effort in issues identification before a ruling on GTEFL's Motion.

While forging ahead without a decision on the Motion will likely waste all parties' resources, deferring issues identification will not prejudice MCI, the Complainant. If the Commission denies GTEFL's Motion, MCI will still get a full hearing and all the associated process. There is no need to delay the hearing (currently scheduled for January 21, 1998). It may, however, be desirable to revise the testimony dates to avoid requiring testimony too soon after the issues identification. GTEFL suggests that the issues

workshop be changed to October 24 (three days after the Motion ruling), although it could be scheduled as early as October 22. The date for submission of Petitioner's Direct Testimony might then be changed from October 24 to November 7. Respondent and Intervenor Direct Testimony could then be filed on November 19. MCI and other parties would then have sufficient opportunity to draft testimony in accordance with the issues identified. All other dates on the tentative CASR could remain the same, unless the Commission believes further revision of the schedule is advisable.

GTEFL understands that the Commission's calendar is very crowded and that scheduling is often difficult. However, these factors only underscore the need to devise rational timetables that will cause as little duplication of effort and waste as possible. To achieve this objective in this case, the Commission should set a schedule that accounts for the inevitable effects of its action on GTEFL's pending Motion. GTEFL thus requests a reasonable continuance of the issues identification workshop, as well as other events, as the Commission deems prudent.

Respectfully submitted on September 8, 1997.

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CERTIFICATE OF SERVICE

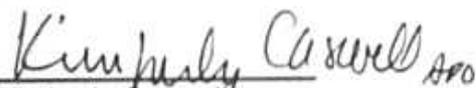
I HEREBY CERTIFY that copies of GTE Florida Incorporated's Request for Continuance of Issues Identification Workshop in Docket No. 970841-TP were sent via U.S. mail on September 8, 1997 to:

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