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Ms. Blanca S. Bayó
Director, Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0350

Re: Docket 970841-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of MCI Telecommunications Corporation in the above docket are the original and 15 copies of MCI's Motion to Compel GTE Florida's Responses to First Set of Interrogatories and Request for Production and Request for Expedited Ruling on Such Motion.

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

Very truly yours,

Richard D. Melson

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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 15, 1997

MCI TELECOMMUNICATIONS
(1) MOTION TO COMPEL GTE FLORIDA'S RESPONSES TO FIRST SET
OF INTERROGATORIES AND REQUEST FOR PRODUCTION AND
(2) REQUEST FOR EXPEDITED RULING ON SUCH MOTION

Pursuant to Rule 1.380, Florida Rules of Civil Procedure, MCI Telecommunications Corporation (MCI), through its undersigned counsel, moves for an Order compelling answers to the interrogatories and requests for production of documents indicated below on the basis that GTEFL's objections to such discovery requests are insufficient to justify its refusal to answer. Due to the limited time frame before MCI's direct testimony is scheduled to be filed in this docket, MCI requests that the Prehearing Officer rule on this motion to compel in sufficient time to allow MCI to incorporate the discovery results into its prefiled testimony. In support of its motion, MCI states as follows:

RESPONSE TO GTE'S GENERAL OBJECTIONS

GTEFL has refused to answer any of MCI's interrogatories and has refused to comply with any of MCI's production requests. GTEFL claims that it is not required to do so because it has a pending motion to dismiss. There is, however, no legal basis to support GTEFL's assertion that a pending motion to dismiss stays discovery. Time is of the essence in this matter. The Commission is scheduled to hear the motion to dismiss at its October 21, 1997 agenda. MCI's

direct testimony is due on October 24, 1997. Even if GTE were to respond to the discovery the day of the agenda, MCI would not have sufficient time to incorporate the responses into its testimony, let alone use the responses to craft further discovery into GTE's anti-competitive practices. GTEFL apparently believes that as a practical matter it can delay its response because of the time it will take for MCI to enforce its motion to compel. GTEFL should not be allowed to abuse the Commission's process in this manner.

Commission Rule 25-22.034 states that "[p]arties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.400, Florida Rules of Civil Procedure." In its Response to MCI's discovery requests, GTEFL in essence reargues its motion to dismiss to justify its refusal to respond.¹ However, it never cites to any provision in the Florida Rules of Civil Procedure to support its contention that filing a motion to dismiss relieves a party of its responsibility to comply with discovery requests. Of course, GTEFL does not cite to such a provision because there is none.

Amazingly, GTEFL also attempts to argue that MCI's discovery into GTEFL's anti-competitive practices is not relevant to MCI complaint that GTEFL is engaged in anti-competitive practices. In Paragraphs 17 through 28 of the Complaint, MCI describes in detail GTEFL's anti-competitive behavior, including using its \$130 million access windfall to unfairly lock-in its

¹ In its Complaint, MCI alleged that it was being grossly overcharged by GTEFL for switched access and that GTEFL was using its \$130 million windfall from its access overcharges to engage in anti-competitive behavior, including unfairly locking-in its current local customers and subsidizing its affiliate GTE Long Distance's entry into the long distance market. As MCI stated in its Response to GTE's Motion to Dismiss, the Florida Public Service Commission has jurisdiction under Section 364.3381(3), Florida Statutes, to investigate anti-competitive practices by GTEFL. The Commission also has jurisdiction under Sections 364.3381(3) and 364.01(4)(g), Florida Statutes, to prohibit GTEFL from continuing to engage in these anti-competitive practices. Clearly Section 364.163, F.S., prevents the Commission from establishing intrastate switched access charges for GTEFL under rate-base rate-of-return regulatory processes. However, nothing in that section states that the Commission is precluded from exercising its jurisdiction to investigate and, upon detection, take whatever steps are necessary to prevent anti-competitive actions and practices. Section 364.163, F.S., must be read *in pari materia* with

current local customers and to subsidize its affiliate GTE Long Distance's entry into the long distance market. GTEFL simply pretends that these paragraphs are not part of MCI's Complaint.

As MCI explained in its Response to GTE's motion to dismiss, it is the very use by GTE of its supracompetitive profits, earned by overcharging for a monopoly service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. The Commission should hold a hearing to determine whether this practice inhibits competition and constitutes anti-competitive behavior. MCI has alleged specific conduct by GTEFL, which if proven to be true at a hearing, would justify such a finding by this Commission. The responses to discovery that GTE is refusing to provide will further demonstrate GTEFL's anti-competitive conduct - which may indicate why GTEFL is so reluctant to comply.

GTEFL also argues that it is not required to answer any of MCI's interrogatories because MCI propounded 35 interrogatories, some with subparts. On September 2, 1997, the Pre-Hearing Officer in this matter issued an Order Establishing Procedure which allows 100 interrogatories, including subparts. Order No. PSC-97-1040-PCO-TP, pp. 1-2. Therefore, this argument has been rendered moot.

Finally GTEFL objects to MCI's discovery definition of "you" and "your". GTEFL argues that the definition encompasses entities and documents outside the possession, custody or control of GTEFL. At least one other state has found that GTE Long Distance was not operating at arm's length with a GTE local exchange affiliate. MCI has reason to believe that GTEFL is also not operating at arm's length with GTE Long Distance and that GTEFL's supracompetitive profits are being used to subsidize GTE Long Distance entry into the long distance market. MCI also believes that both GTEFL services and GTE Long Distance services are being marketed in Florida simply as "GTE" services. MCI believes that in many instances these services are being

Sections 364.3381(3), 364.01(4)(g), and the rest of Chapter 364, F.S.

marketed as a package such that the savings from one of the services influences the decision to buy other services. As GTEFL and GTE Long Distance are not engaged in arms length transactions and are acting in concert, GTEFL should not be allowed to claim that GTE Long Distance's information and documents are not in its possession, custody or control.

RESPONSE TO GTEFL'S SPECIFIC OBJECTIONS - INTERROGATORIES

Interrogatories 1 to 6.

- 1. Please describe the affiliation of GTE Florida to GTE Corporation.**
- 2. Please describe GTE Telephone Operations.**
 - a. Is it a legal entity?**
 - b. Describe its affiliation with GTE Florida and GTE Corporation.**
- 3. Please describe the affiliation of GTE Card Services, Inc. d/b/a GTE Long Distance (GTE-LD) to the following:**
 - a. GTE Corporation;**
 - b. GTE Information Services, Inc.;**
 - c. GTE Service Corporation;**
 - d. GTE Telephone Operations; and,**
 - e. GTE Florida.**
- 4. Please describe the affiliation of GTE Service Corporation to the following:**
 - a. GTE Corporation, and**
 - b. GTE Florida.**
- 5. Please identify and describe all agreements, contracts, and arrangements between GTE Florida and the following:**
 - a. GTE-LD;**
 - b. GTE Corporation;**
 - c. GTE Information Services, Inc.;**
 - d. GTE Service Corporation; and,**
 - e. GTE Telephone Operations.**
- 6. Please identify and describe all agreements, contracts, and arrangements between GTE Telephone Operations and the following:**
 - a. GTE-LD**
 - b. GTE Information Services, Inc.;**
 - c. GTE Service Corporation; and,**
 - d. GTE Florida.**

GTEFL objects to these interrogatories by claiming that the requested information

is not relevant to any issue in the proceeding and they are not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that GTE's corporate structure and the nature of GTEFL's affiliate relationships can have nothing to do with MCI's complaint about the level of GTEFL's access rates.

Basis for MCI's Motion to Compel

As discussed above, MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. MCI also believes that both GTEFL services and GTE Long Distance services are being marketed in Florida simply as "GTE" services. MCI believes that in many instances these services are being marketed as a package such that the savings from one of the services influences the decision to buy other services. At least one other state has found that GTE Long Distance was not operating at arm's length with a GTE local exchange affiliate. MCI has reason to believe that GTEFL is also not operating at arm's length with GTE Long Distance and that GTEFL's supracompetitive profits are being used to subsidize GTE Long Distance entry into the long distance market. If true, this would clearly constitute anti-competitive conduct subject to Commission jurisdiction under Sections 364.3381(3) and 364.01(4)(g), Florida Statutes. Interrogatories 1 through 6 seek to untangle GTEFL's affiliate relationships and therefore are reasonably calculated to lead to the discovery of admissible evidence and are directly relevant to the allegations contained in the Complaint.

Interrogatories 7 to 14.

7. **In regards to GTE Florida's Easy Savings Plan, which was revised by a filing with the Florida Public Service Commission on May 13, 1997, please provide the following information:**
 - a. **Please provide the total amount of the discounts given to customers under this plan for the last available month prior to the May 13, 1997 filing of the revision to this plan.**
 - b. **Please describe how the amount listed in response to 7.a was**

calculated and provide the calculations.

8. In regards to GTE Florida's Easy Savings Plan, which was revised by a filing with the Florida Public Service Commission on May 13, 1997, please provide the following information:
 - a. Please provide the total amount of the discounts given to customers under this plan since the May 13, 1997 filing of the revision to this plan became effective.
 - b. Please describe how the amount listed in response to 8.a was calculated and provide the calculations.
 - c. If the data necessary to compute the total amount of the discounts requested in 8.a above is not available, please give GTE Florida's projections as to the total amount of the discount.

9. In regards to GTE Florida's Easy Savings Plan for Business, which was revised by a filing with the Florida Public Service Commission on May 13, 1997, please provide the following information:
 - a. Please provide the total amount of the discounts given to customers under this plan for the last available month prior to the May 13, 1997 filing of the revision to this plan.
 - b. Please describe how the amount listed in response to 9.a was calculated and provide the calculations.

10. In regards to GTE Florida's Easy Savings Plan for Business, which was revised by a filing with the Florida Public Service Commission on May 13, 1997, please provide the following information:
 - a. Please provide the total amount of the discounts given to customers under this plan since the May 13, 1997 filing of the revision to this plan became effective.
 - b. Please describe how the amount listed in response to 10.a was calculated and provide the calculations.
 - c. If the data necessary to compute the total amount of the discounts requested in 10.a above is not available, please give GTE Florida's projections as to the total amount of the discount.

11. In regards to GTE Florida's Total Solutions, which was revised by a filing with the Florida Public Service Commission on May 13, 1997, please provide the following information:
 - a. Please provide the total amount of the discounts given to customers under this plan for the last available month prior to the May 13, 1997 filing of the revision to this plan.
 - b. Please describe how the amount listed in response to 11.a was calculated and provide the calculations.

12. In regards to GTE Florida's Total Solutions, which was revised by a filing with the Florida Public Service Commission on May 13, 1997, please provide the following information:
 - a. Please provide the total amount of the discounts given to customers

- under this plan since the May 13, 1997 filing of the revision to this plan became effective.
- b. Please describe how the amount listed in response to 12.a was calculated and provide the calculations.
 - c. If the data necessary to compute the total amount of the discounts requested in 12.a above is not available, please give GTE Florida's projections as to the total amount of the discount.
13. In regards to GTE Florida's One Easy Price Plan, which was introduced by a filing with the Florida Public Service Commission on May 13, 1997, please provide the following information:
- a. Please provide the total amount of the discounts given to customers under this plan since it became effective.
 - b. Please describe how the amount listed in response to 13.a was calculated and provide the calculations.
 - c. If the data necessary to compute the total amount of the discounts requested in 13.a above is not available, please give GTE Florida's projections as to the total amount of the discount.
14. In regards to GTE Florida's Easy Savings Flat Rate Plan for Business, which was introduced by a filing with the Florida Public Service Commission on May 13, 1997, please provide the following information:
- a. Please provide the total amount of the discounts given to customers under this plan since it became effective.
 - b. Please describe how the amount listed in response to 14.a was calculated and provide the calculations.
 - c. If the data necessary to compute the total amount of the discounts requested in 14.a above is not available, please give GTE Florida's projections as to the total amount of the discount.

GTEFL objects to these interrogatories by claiming that the requested information is not relevant to any issue in the proceeding and they are not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues its Easy Savings Plan, its Total Solutions, and its One Easy Price Plan are approved tariffs and that GTEFL is complying with the Commission's imputation guidelines. GTEFL also argues that GTEFL's toll plans are irrelevant to MCI's complaint about the level of GTEFL's access rates. GTEFL also argues that this information is confidential and competitively sensitive information.

Basis for MCI's Motion to Compel

As discussed above, MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. GTEFL's argument that its Easy Savings Plan, its Total Solutions, and its One Easy

Price Plan are approved tariffs is irrelevant to MCI's Complaint. MCI has not requested that the tariffs be disapproved. If GTEFL wants to give discounts to its customers for competitive services that is wonderful; but it should not fund such discounts with supracompetitive profits charged to its competitors for monopoly services.

Further, the statutory imputation requirement (which requires that ILEC-provided toll service and other non-basic services cover the direct costs of providing the service and, to the extent not included in the direct cost, the imputed charges) is not sufficient protection against the anti-competitive effects of overpriced access charged by a competitor to subsidize competitive services. See 364.051(6)(c). When an ILEC extracts an exorbitant monopoly rent for access service, the ILEC can meet the statutory imputation standard and stay profitable in business without earning any margin on the discounted services. Competitors who are not receiving the windfall access profits would be unable to survive long without any margin and thus would be unable to price their own services at a level to compete with GTE. Interrogatories 7 through 14 seek to determine the size of the discounts GTEFL is providing and therefore are reasonably calculated to lead to the discovery of admissible evidence and are directly relevant to the allegations contained in the Complaint.

GTEFL also argues that this information is confidential and competitively sensitive information. As GTEFL knows, this Commission has procedures in place to address the use of confidential information. MCI is willing to sign appropriate confidentiality agreements where necessary to protect proprietary information.

Interrogatories 15.

15. **Section A18.3.3 of the General Services Tariff of GTEFL states as follows:**

Discounts shown in the GTE Easy Savings Plan or GTE Easy Savings Plan for Business will include monthly usage (including service

charges and surcharges) for customer dialed direct station to station, customer dialed calling card station-to-station, operator assisted station-to-station, operator assisted calling card station-to-station and person-to-person calls that are carried and billed by the Company.

In calculating the usage volume discount, the discount will generally be applied against the customer's intrastate intraLATA charges. However, if the intraLATA offering is part of a joint toll offering, the threshold for application of the discount will be determined by total gross monthly toll usage associated with the joint offer. In that case, the discount applied will be as specified by the joint offering, and the discount will be apportioned to the proper jurisdiction proportional to the accumulated usage charges.

- a. Please list each joint toll offering to which section A18.3.3 applies.
- b. Please describe how the discount is determined for each joint toll offering listed in 15.a, above.
- c. Please list each entity with which GTEFL provides joint toll offerings.
- d. Please list each entity with which GTEFL has an agreement to provide joint toll offerings.

GTEFL objects to this interrogatory by claiming that the requested information is not relevant to any issue in the proceeding and is not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues its Easy Savings Plan is an approved tariff and that GTEFL is complying with the Commission's imputation guidelines. GTEFL argues that MCI has not alleged any unlawful cross-subsidization associated with the Easy Savings Discounts. GTEFL also argues that GTEFL's toll plans are irrelevant to MCI's complaint about the level of GTEFL's access rates.

Basis for MCI's Motion to Compel

As discussed above, MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. GTEFL's argument that its Easy Savings Plan is an approved tariff is irrelevant to MCI's Complaint. MCI has not requested that the tariff be disapproved. If GTEFL wants to give discounts to its customers for competitive services that is wonderful; but it should not fund such discounts with supracompetitive profits charged to its competitors for monopoly services. The purpose of this interrogatory is to determine what the Joint Toll Offerings referred to in the tariff

are. MCI is particularly concerned that these joint offerings may include other competitive services such as long distance offerings through GTE Long Distance.

GTEFL argues that MCI's complaint fails to allege unlawful subsidization. See Section 364.3381(1) and (2), Florida Statutes. Of course, MCI filed its Complaint under 364.3381(3) and 364.01(4)(g), not 364.3381(1) and (2). As described above, MCI is alleging that GTEFL's behavior constitutes anti-competitive conduct. MCI has alleged specific conduct by GTEFL, which if proven to be true at a hearing, would justify such a finding by this Commission.

Further, the statutory imputation requirement (which requires that ILEC-provided toll service and other non-basic services cover the direct costs of providing the service and, to the extent not included in the direct cost, the imputed charges) is not sufficient protection against the anti-competitive effects of overpriced access charged by a competitor to subsidize competitive services. See 364.051(6)(c).

When an IXC competes with an ILEC for toll service, the ILEC extracts a monopoly rent for the underlying access service. The net effect of this pricing is that the ILEC's margin on the access component of an IXC-provided toll call exceeds the IXC's margin on that call. This gives the ILEC an unfair competitive advantage. The IXC must earn some margin on the non-access component of the toll call in order to remain in business. The ILEC, on the other hand, can meet the statutory imputation standard and stay in business without any margin on the non-access component of its toll calls -- the margin on the "imputed access charge" component is sufficient to make the overall service profitable to the ILEC. Viewed in another way, the ILEC can effectively cross-subsidize its toll service with monopoly profits from access. This competitive problem is exacerbated as ILECs begin to compete in the interLATA and interstate toll markets as GTEFL is doing. As described above, Interrogatory 15 is reasonably calculated to lead to the discovery of admissible evidence and is directly relevant to the allegations contained in the Complaint.

Interrogatory 16.

16. Does GTE Long Distance offer any discount savings plans, such as the GTE Easy Savings Plan, to its customers?
- a. If you answered yes to question 16 above, please list each plan offered.
 - b. Please describe the terms, conditions, and discounts of each plan listed in response to 16.a above.
 - c. Do any of the plans listed in response to 16.a offer the customer a discount on the amount the customer pays for interLATA telephone service? If yes, list the plan and describe the applicable discount.
 - d. Do any of the plans listed in response to 16.a offer the customer a discount on the amount the customer pays for intraLATA telephone service? If yes, list the plan and describe the applicable discount.
 - e. Do any of the plans listed in response to 16.a offer the customer a discount on the amount the customer pays for local telephone service? If yes, list the plan and describe the applicable discount.
 - f. Are any of the discounts contained in the plans listed in response to 16.a available only to customers of GTE Florida? If yes, list the plans and describe the limitations.

GTEFL objects to this interrogatory by claiming that the requested information is not under the control of or in the possession of GTEFL. GTEFL argues that the Interrogatory seeks information in the possession of GTE Long Distance. GTEFL also objects to this interrogatory by claiming that the requested information is not relevant to any issue in the proceeding and is not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that the service offerings of GTE Long Distance are irrelevant to MCI's complaint about the level of GTEFL's access rates.

Basis for MCI's Motion to Compel

As discussed above, at least one other state has found that GTE Long Distance was not operating at arm's length with a GTE local exchange affiliate. MCI has reason to believe that GTEFL is also not operating at arm's length with GTE Long Distance and that GTEFL's supracompetitive profits are being used to subsidize GTE Long Distance entry into the long distance market. MCI also believes that both GTEFL services and GTE Long Distance services are being marketed in Florida simply as "GTE" services. MCI believes that in many instances these services are being marketed as a package such that the savings from one of the services influences the decision to buy other services. The Responses to Interrogatories 1 through 6 and

Docket Production Requests 1 through 3, which GTEFL has refused to answer, would support this assertion. Therefore, GTEFL should be required to provide the requested information to MCI.

As discussed above, MCI is not merely complaining about GTEFL's access rates in isolation. It is the use by GTE and its affiliates of the supracompetitive profits, earned by GTEFL's overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. The purpose of this interrogatory is to determine what discounts GTE Long Distance is offering so that MCI can determine to what extent it is subsidizing these discounts through access charges.

When an IXC competes with an ILEC for toll service, the ILEC extracts a monopoly rent for the underlying access service. The net effect of this pricing is that the ILEC's margin on the access component of an IXC-provided toll call exceeds the IXC's margin on that call. This gives the ILEC an unfair competitive advantage. The IXC must earn some margin on the non-access component of the toll call in order to remain in business. The ILEC, on the other hand, can meet the statutory imputation standard and stay in business without any margin on the non-access component of its toll calls -- the margin on the "imputed access charge" component is sufficient to make the overall service profitable to the ILEC. Viewed in another way, the ILEC can effectively cross-subsidize its toll service with monopoly profits from access. This competitive problem is exacerbated as ILECs begin to compete in the interLATA and interstate toll markets as GTEFL is doing. As described above, Interrogatory 16 is reasonably calculated to lead to the discovery of admissible evidence and is directly relevant to the allegations contained in the Complaint.

Interrogatories 17 to 20.

17. **Since January 1, 1995, has GTE Florida waived any non-recurring charges (NRCs) for new customers?**
 - a. **If yes, please identify each type of NRC.**

- b. For each NRC listed in response to Question 17.a, please provide the number of such NRCs which have been waived, the dollar amount of the NRC, the dollar amount waived (if less than the entire amount), and the period of time during which such waiver was offered.
18. Does GTE Florida waive any non-recurring charges for new services for existing customers?
- a. If yes, please identify each type of NRC.
- b. For each NRC listed in response to Question 18.a, please provide the number of such NRCs which have been waived, the dollar amount of the NRC, the dollar amount waived (if less than the entire amount), and the period of time during which such waiver was offered.
19. Does GTE LD waive any non-recurring charges (NRCs) for new customers?
- a. If yes, please identify each type of NRC.
- b. For each NRC listed in response to Question 19.a, please provide the number of such NRCs which have been waived, the dollar amount of the NRC, the dollar amount waived (if less than the entire amount), and the period of time during which such waiver was offered.
20. Does GTE LD waive any non-recurring charges for new services for existing customers?
- a. If yes, please identify each type of NRC.
- b. For each NRC listed in response to Question 20.a, please provide the number of such NRCs which have been waived, the dollar amount of the NRC, the dollar amount waived (if less than the entire amount), and the period of time during which such waiver was offered.

GTEFL objects to these interrogatories by claiming that the requested information is not relevant to any issue in the proceeding and they are not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that its practice of waiving non-recurring charges (NRCs) is irrelevant to MCI's complaint about the level of GTEFL's access rates. GTEFL also argues that this information is confidential and competitively sensitive information.

Basis for MCI's Motion to Compel

As discussed above, MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. When an ILEC extracts an exorbitant monopoly rent for access service, the ILEC can afford to waive NRCs and still stay profitable in business. Competitors who are not receiving the windfall access profits would be unable to match such waivers for long and thus would be at a

competitive disadvantage. Such conduct, if prove to be true at a hearing, would constitute anti-competitive behavior. Interrogatories 17 through 20 seek to determine the extent of the waivers GTEFL is providing and therefore are reasonably calculated to lead to the discovery of admissible evidence and are directly relevant to the allegations contained in the Complaint.

GTEFL also argues that this information is confidential and competitively sensitive information. As GTEFL knows, this Commission has procedures in place to address the use of confidential information. MCI is willing to sign appropriate confidentiality agreements where necessary to protect proprietary information.

Interrogatories 21 to 24.

- 21. How many GTE Phone Marts are in the State of Florida?**
- 22. Can the following services be ordered at a Florida Phone Mart:**
 - a. InterLATA toll service?**
 - b. IntraLATA toll service?**
 - c. Local telephone service?**
- 23. Can the GTE Easy Savings Plan be ordered at a Florida Phone Mart?**
- 24. Please list any other discount telecommunication service that can be ordered at a Florida Phone Mart.**

GTEFL objects to these interrogatories by claiming that the requested information is not relevant to any issue in the proceeding and they are not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that the number of GTE Phone Marts and the services that can be ordered there have nothing to do with MCI's complaint about the level of GTEFL's access rates.

Basis for MCI's Motion to Compel

MCI believes that both GTEFL services and GTE Long Distance services are being marketed in Florida simply as "GTE" services. MCI believes that in many instances these services are being marketed as a package such that the savings from one of the services influences the

decision to buy other services. Much of this marketing is being done at GTE Phone Marts. As discussed above, MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. At least one other state has found that GTE Long Distance was not operating at arm's length with a GTE local exchange affiliate. MCI has reason to believe that GTEFL is also not operating at arm's length with GTE Long Distance and that GTEFL's supracompetitive profits are being used to subsidize GTE Long Distance entry into the long distance market. If true, this would clearly constitute anti-competitive conduct subject to Commission jurisdiction under Sections 364.3381(3) and 364.01(4)(g), Florida Statutes.

For the reasons discussed above, Interrogatories 21 through 24 are reasonably calculated to lead to the discovery of admissible evidence and are directly relevant to the allegations contained in the Complaint.

Interrogatory 25.

25. **Have any state utility commissions found that arrangements between GTE-LD and any of the GTE Telephone Operating Companies were not arm's length arrangements? If yes, please list the state and give the commission case or docket number.**

GTEFL objects to these interrogatories by claiming that the requested information is not relevant to any issue in the proceeding and they are not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that State Commission decisions regarding GTEFL's affiliate relationships can have nothing to do with MCI's complaint about the level of GTEFL's access rates.

Basis for MCI's Motion to Compel

As discussed above, MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services of itself and its affiliates that

forms the core of MCI's complaint. MCI also believes that both GTEFL services and GTE Long Distance services are being marketed in Florida simply as "GTE" services. MCI believes that in many instances these services are being marketed as a package such that the savings from one of the services influences the decision to buy other services. At least one other state has found that GTE Long Distance was not operating at arm's length with a GTE local exchange affiliate. MCI has reason to believe that GTEFL is also not operating at arm's length with GTE Long Distance and that GTEFL's supracompetitive profits are being used to subsidize GTE Long Distance entry into the long distance market. If true, this would clearly constitute anti-competitive conduct subject to Commission jurisdiction under Sections 364.3381(3) and 364.01(4)(g), Florida Statutes.

Decisions by other State Commissions can shed further light on the relationships of the various GTE affiliates, and, therefore, Interrogatory 25 is reasonably calculated to lead to the discovery of admissible evidence and is directly relevant to the allegations contained in the Complaint.

Interrogatories 26 to 27.

26. To the extent not covered by Questions Nos. 17 and 18, please list all promotional offerings made by GTEFL since January 1, 1995.
 - a. For each promotional offering listed in response to Question 26.a, please provide a description of the promotion, the period the promotion was in effect, the price immediately prior to the effective date of the promotion, the promotional price, the number of units sold during the last full month prior to the effective date of the promotion, the average number of units sold during each month of the promotion, and the revenues foregone as a result of the promotion.

27. Please list all services for which GTEFL has reduced the rates (other than on a promotional basis) since January 1, 1995.
 - a. For each service listed in response to Question 27.a, please provide the effective date of the rate reduction, the rate in effect prior to the reduction, the rate in effect after the reduction, the number of units sold during the last full month prior to the reduction, the number of

units sold during the most recent full month for which data is available.

GTEFL objects to these interrogatories by claiming that the requested information is not relevant to any issue in the proceeding and they are not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues its promotional discounts and other rate reductions are irrelevant to MCI's complaint about the level of GTEFL's access rates. GTEFL objects to the extent that the Interrogatories require GTEFL to produce publicly filed information. GTEFL also objects that this information is confidential and competitively sensitive information.

Basis for MCI's Motion to Compel

As discussed above, MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. When an ILEC extracts an exorbitant monopoly rent for access service, the ILEC can afford promotional discounts and other rate reductions and still stay profitable in business. Competitors who are not receiving the windfall access profits would be unable to match such promotions and discounts for long and thus would be at a competitive disadvantage. Such conduct, if prove to be true at a hearing, would constitute anti-competitive behavior. Interrogatories 26 and 27 seek to determine the extent of the promotions and discounts GTEFL is providing and therefore are reasonably calculated to lead to the discovery of admissible evidence and are directly relevant to the allegations contained in the Complaint.

GTEFL objects to the extent that the Interrogatories require GTEFL to produce publicly filed information. GTEFL is in a better position to identify details regarding its promotional practices. More importantly, the Interrogatories inquire as to numbers of units and average numbers of units sold. This information is not filed publicly with the Commission and is not available to MCI.

Finally, GTEFL also argues that this information is confidential and competitively sensitive information. As GTEFL knows, this Commission has procedures in place to address the use of confidential information. MCI is willing to sign appropriate confidentiality agreements where necessary to protect proprietary information.

Interrogatory 28.

28. **What is the total service long run incremental cost (TSLRIC) to GTEFL of providing an interexchange carrier:**
- a. **an originating intraLATA switched access minute of use**
 - b. **a terminating intraLATA switched access minute of use**
 - c. **an originating interLATA switched access minute of use**
 - d. **a terminating interLATA switched access minute of use**

If GTEFL does not have the data to answer this interrogatory based on TSLRIC costs, please provide the data on whatever cost basis or bases is available and describe each such basis.

GTEFL objects to these interrogatories by claiming that the requested information is not relevant to any issue in the proceeding and they are not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that its cost to provide access is irrelevant since GTEFL, this Commission, and MCI all know that the rates are significantly above their costs and since these rates were set above cost as a result of social pricing decisions. GTEFL also argues that the cost information is confidential and competitively sensitive.

Basis for MCI's Motion to Compel

As discussed above, MCI is complaining about GTE's supracompetitive profits which are earned by overcharging for monopoly access service provided to its competitors, and which are used to subsidize competitive services. To compute the amount of those profits, it is necessary to know the cost of the service.

As MCI discussed in its Response to GTEFL's Motion to Dismiss, the revisions to Chapter 364, Florida Statutes, were part of a comprehensive scheme to bring more competition to the telecommunications industry. The Legislature was well aware that this was a bold departure from the traditional regulation of telecommunications. Accordingly, in addition to setting out a

basic regulatory framework, the Legislature included general provisions granting the Commission the authority to address the innumerable unforeseen obstacles to effective competition that might arise.

As mentioned above, Sections 364.01(4)(g) and 364.3381(3) give the FPSC explicit authority over anti-competitive behavior. In addition, Section 364.01(4)(c) states that the FPSC shall exercise its jurisdiction to "Protect the public health, safety, and welfare by ensuring that monopoly services provided by telecommunications companies continue to be subject to effective price, rate and service regulation." Section 364.01(4)(d) provides that the Commission shall "Promote competition by encouraging new entrants into telecommunications markets." Section 364.01(4)(i) provides that the Commission shall: "Continue its historical role as a surrogate for competition for monopoly services provided by the local exchange telecommunications companies."

All of these statutes are part of the Legislature's scheme to transform the telecommunications market. Section 364.163 can be and should be interpreted consistently with the goals of Chapter 364, i.e., to eventually achieve true competition by reducing regulatory restrictions and allowing market forces to work by ensuring fairness to competitors. Section 364.01(3). In furtherance of this goal, this Commission no longer exercises its traditional rate of return authority over access charges of price-regulated LECs. However, when GTEFL engages in pricing behavior that threatens the underlying goal of true competition, it is ludicrous to suggest that the Commission must ignore the explicit mandate that it prevent anti-competitive conduct.

GTEFL argues that the Legislature choose a course of gradual access rate reductions and that steeper cuts would disrupt a careful balance struck by the Legislature. This argument ignores the fact that GTEFL's use of excessive access charges to subsidize activities of its long-distance affiliate

in an anti-competitive manner was not possible until the Telecommunications Act of 1996 freed GTEFL from the consent decree prohibition on GTE offering integrated local and long distance service. This occurred well after the close of the 1995 legislative session, and the Florida legislature could not have contemplated these activities when it established minimum required access charge reductions.

GTEFL also argues that access charge revenues are used to maintain universal service. While there is an historical connection between the two, in its Universal Service Order issued on December 27, 1995, in Docket No. 950696-TP, this Commission recognized that the currently existing implicit subsidy mechanisms were not matched with the universal service need. Universal Service Order, pp. 22-25. This Commission stated: "The appropriate solution is to identify the amount required to fund a US subsidy, not the amount of support for US purportedly being generated. Determining the presence and amount of a subsidy requires the use of an incremental cost standard." *Id.* at 25. Even assuming that a portion of the windfall from access services still supports universal service, which GTEFL has not demonstrated, it appears clear that access charges produce revenues far above the amount needed to cover access costs and any required universal service support, thereby still giving GTEFL excess profits from access charges.

Based on the above, Interrogatory 28 is reasonably calculated to lead to the discovery of admissible evidence and is directly relevant to the allegations contained in the Complaint.

Finally, GTEFL also argues that this information is confidential and competitively sensitive information. As GTEFL knows, this Commission has procedures in place to address the use of confidential information. MCI is willing to sign appropriate confidentiality agreements where necessary to protect proprietary information.

Interrogatory 29.

29. Please identify all cost studies performed by or for GTEFL within the past

three years for:

- a. local interconnection**
- b. switched access**
- c. intraLATA toll provided by GTEFL**

GTEFL objects to these interrogatories by claiming that the requested information is not relevant to any issue in the proceeding and they are not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that switched access is not required to be cost based and local interconnection costs and intraLATA toll costs have no relation to access rates. GTEFL also argues that the cost information is confidential and competitively sensitive.

Basis for MCI's Motion to Compel

As explained in item number 28 above, the cost of switched access is relevant to this proceeding. Similarly, the cost of local interconnection is relevant to determining the cost of switched access. As this Commission has recognized in the past: "The network over which the toll and local calls are terminated is one and the same." See, Order No. PSC-97-0128-FOF-TL at 23. Further, the cost of intraLATA toll is certainly relevant to the question of whether this service is being subsidized.

Finally, GTEFL argues that this information is confidential and competitively sensitive information. As GTEFL knows this Commission has procedures in place to address the use of confidential information. MCI is willing to sign appropriate confidentiality agreements where necessary to protect proprietary information.

Interrogatory 30.

- 30. On what date did GTE-LD first offer interLATA service on a presubscribed basis in GTEFL's service territory?**

GTEFL objects to this interrogatory by claiming that the requested information is not relevant to any issue in the proceeding and is not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that the date on which GTE Long Distance began offering presubscribed interLATA service is irrelevant to MCI's complaint about the level of GTEFL's access rates.

Basis for MCI's Motion to Compel

MCI has reason to believe that GTEFL is not operating at arm's length with GTE Long Distance and that GTEFL's supracompetitive profits are being used to subsidize GTE Long Distance entry into the long distance market. As discussed in item 16 above, if true, this constitutes anti-competitive conduct. Since one issue is whether GTEFL is subsidizing GTE Long Distance's entry into the long distance market, the date GTE Long Distance began providing such service is relevant and Interrogatory 30 is reasonably calculated to lead to the discovery of admissible evidence

Interrogatory 31.

- 31. As of the most recent date available:**
- a. What is the total number of GTEFL access lines?**
 - b. What is the number of GTEFL access lines presubscribed to GTE-LD for interLATA service?**
 - c. What is the number of GTEFL access lines presubscribed to GTE-LD for intraLATA service?**

GTEFL objects to this interrogatory by claiming that the requested information is not relevant to any issue in the proceeding and is not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that the number of access lines is irrelevant to MCI's complaint about the level of GTEFL's access rates.

Basis for MCI's Motion to Compel

MCI has reason to believe that GTEFL is not operating at arm's length with GTE Long Distance and that GTEFL's supracompetitive profits are being used to subsidize GTE Long Distance entry into the long distance market. As discussed in item 16 above, if true, this constitutes anti-competitive conduct. The number of access lines GTE Long Distance has gained since it began providing such service is relevant to the question of whether GTE Long Distance has an unfair advantage over its competitors and Interrogatory 31 is reasonably calculated to lead to the discovery of admissible evidence

Interrogatory 32.

- 32. Please provide the following data for GTEFL for 1995, 1996, and 1997 year-to-date:**
- a. total switched access revenues
 - b. total switched access minutes of use
 - c. interstate switched access revenues (separated between originating and terminating if the data is available on that basis)
 - d. interstate switched access minutes of use (separated between originating and terminating if the data is available on that basis)
 - e. intrastate switched access revenues (separated between originating and terminating if the data is available on that basis)
 - f. intrastate switched access minutes of use (separated between originating and terminating if the data is available on that basis)

GTEFL objects to these interrogatories by claiming that the requested information is not relevant to any issue in the proceeding and they are not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that switched access revenues are irrelevant since switched access rates are not required to be cost based.

Basis for MCI's Motion to Compel

As explained in item number 28 above, the cost of switched access is relevant to this proceeding. Similarly, the revenues from switched access are relevant to determining the amount of the supracompetitive profits GTEFL receives. Thus the information is relevant and Interrogatory 32 is reasonably calculated to lead to the discovery of admissible evidence

Interrogatories 33 and 34.

- 33. How many extended calling service (ECS) routes are there in GTEFL's service area?**
- a. On how many of such ECS routes is toll competition permitted?
- 34. Please provide the following data for GTEFL's ECS routes for 1995, 1996, and 1997 year-to-date:**
- a. total residential messages
 - b. total residential minutes of use
 - c. total residential revenues
 - d. total business minutes of use
 - e. total business revenues

GTEFL objects to these interrogatories by claiming that the requested information is not relevant to any issue in the proceeding and they are not reasonably

calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that its extended calling service (ECS) routes, usage, and revenues are irrelevant to MCI's complaint about the level of GTEFL's access rates. GTEFL also argues that this information is confidential and competitively sensitive information.

Basis for MCI's Motion to Compel

As discussed above, MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. When an ILEC extracts an exorbitant monopoly rent for an access service, the ILEC can afford to provide services at little or no margin and still stay profitable in business. Competitors who are not receiving the windfall access profits would be unable to match such prices for long and thus would be at a competitive disadvantage. Such conduct, if prove to be true at a hearing, would constitute anti-competitive behavior.

More significantly in regards to ECS routes, some of GTEFL's routes are in direct competition with IXC intraLATA services. When competing against such routes, MCI must pay GTEFL's exorbitant access rates. As described in MCI's Complaint in this matter, GTEFL's access charges represent a 1500% mark-up over cost. Thus MCI incurs a great expense not incurred by GTEFL to provide this competitive service. Not only do GTEFL's switched access charges constitute a barrier to entry of this market, they are clearly anti-competitive.

Interrogatories 33 and 34 seek to determine the extent of GTEFL's ECS service and, for the reasons discussed above, are reasonably calculated to lead to the discovery of admissible evidence and are directly relevant to the allegations contained in the Complaint.

GTEFL also argues that this information is confidential and competitively sensitive information. As GTEFL knows, this Commission has procedures in place to address the use of confidential information. MCI is willing to sign appropriate confidentiality agreements where

necessary to protect proprietary information.

Interrogatory 35.

35. Please provide the following data for GTEFL's intraLATA toll for 1995, 1996 and 1997 year-to-date:
- a. total toll minutes
 - b. total equivalent access minutes
 - c. total revenues

GTEFL objects to this interrogatory by claiming that the requested information is not relevant to any issue in the proceeding and is not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that information about its intraLATA toll usage and revenues are irrelevant to MCI's complaint about the level of GTEFL's access rates.

Basis for MCI's Motion to Compel

As discussed above, MCI is not merely complaining about GTEFL's access rates in isolation. It is the use by GTE and its affiliates of the supracompetitive profits, earned by GTEFL's overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. IntraLATA toll is a competitive service provided by GTEFL. This interrogatory seeks information relative to GTEFL's usage and revenues related to IntraLATA toll.

When an IXC competes with an ILEC for toll service, the ILEC extracts a monopoly rent for the underlying access service. The net effect of this pricing is that the ILEC's margin on the access component of an IXC-provided toll call exceeds the IXC's margin on that call. This gives the ILEC an unfair competitive advantage. The IXC must earn some margin on the non-access component of the toll call in order to remain in business. The ILEC, on the other hand, can meet the statutory imputation standard and stay in business without any margin on the non-access component of its toll calls -- the margin on the "imputed access charge" component is sufficient to make the overall service profitable to the ILEC. Viewed in another way, the ILEC can effectively cross-subsidize its toll service with monopoly profits from access. As described above, Interrogatory 35 is reasonably calculated to lead to

the discovery of admissible evidence and is directly relevant to the allegations contained in the Complaint.

RESPONSE TO GTE'S SPECIFIC OBJECTIONS - PRODUCTION REQUESTS

Requests 1 to 3.

- 1. Provide a copy of an organizational chart showing the corporate relationship(s) between and among GTE Florida, Incorporated, GTE Corporation, GTE Card Services, Inc. d/b/a GTE Long Distance, GTE Information Services, Inc., GTE Service Corporation, and GTE Telephone Operations.**
- 2. Provide every document identified in response to Interrogatory No. 5.**
- 3. Provide every document identified in response to Interrogatory No. 6.**

GTEFL objects to these Production Requests by claiming that the requested documents are not relevant to any issue in the proceeding and they are not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that GTE's corporate structure and the nature of GTEFL's affiliate relationships can have nothing to do with MCI's complaint about the level of GTEFL's access rates.

Basis for MCI's Motion to Compel

MCI is not merely complaining about GTEFL's access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. MCI also believes that both GTEFL services and GTE Long Distance services are being marketed in Florida simply as "GTE" services. MCI believes that in many instances these services are being marketed as a package such that the savings from one of the services influences the decision to buy other services. At least one other state has found that GTE Long Distance was not operating at arm's length with a GTE local exchange affiliate. MCI has reason to believe that GTEFL is also not operating at arm's length with GTE Long Distance and that GTEFL's supracompetitive profits are being used to subsidize GTE Long Distance entry into the long

distance market. If true, this would clearly constitute anti-competitive conduct subject to Commission jurisdiction under Sections 364.3381(3) and 364.01(4)(g), Florida Statutes. Production Requests 1 through 3 seek to untangle GTEFL's affiliate relationships and therefore are reasonably calculated to lead to the discovery of admissible evidence and are directly relevant to the allegations contained in the Complaint.

Request 4.

- 4. Provide all workpapers supporting the responses to Interrogatory Nos. 7, 8, 9, 10, 11, 12, 13, and 14.**

GTEFL objects to this Production Request by claiming that the requested information is not relevant to any issue in the proceeding and is not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues its Easy Savings Plan, its Total Solutions, and its One Easy Price Plan are approved tariffs and that GTEFL is complying with the Commission's imputation guidelines. GTEFL also argues that GTEFL's toll plans are irrelevant to MCI's complaint about the level of GTEFL's access rates.

Basis for MCI's Motion to Compel

As discussed above, MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. GTEFL argument that its Easy Savings Plan, its Total Solutions, and its One Easy Price Plan are approved tariffs is irrelevant to MCI's Complaint. MCI has not requested that the tariffs be disapproved. If GTEFL wants to give discounts to its customers for competitive services that is wonderful; but it should not fund such discounts with supracompetitive profits charged to its competitors for monopoly services.

Further, the statutory imputation requirement (which requires that ILEC-provided toll service and other non-basic services cover the direct costs of providing the service and, to the extent not included in the direct cost, the imputed charges) is not sufficient protection against the

anti-competitive effects of overpriced access charged by a competitor to subsidize competitive services. See 364.051(6)(c). When an ILEC extracts an exorbitant monopoly rent for access service, the ILEC can meet the statutory imputation standard and stay profitable in business without earning any margin on the discounted services. Competitors who are not receiving the windfall access profits would be unable to survive long without any margin and thus would be unable to price their own services at a level to compete with GTE. Interrogatories 7 through 14 seek to determine the size of the discounts GTEFL is providing and therefore Production Request 4 is reasonably calculated to lead to the discovery of admissible evidence and is directly relevant to the allegations contained in the Complaint.

Request 5.

- 5. Provide every agreement between GTEFL and each entity identified in response to Interrogatory No. 15.d.**

GTEFL objects to this Production Request by claiming that the requested documents are not relevant to any issue in the proceeding and are not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL also argues that GTEFL's toll plans are irrelevant to MCI's complaint about the level of GTEFL's access rates.

Basis for MCI's Motion to Compel

As discussed above, MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. GTEFL argument in its Response to Interrogatory 15 that its Easy Savings Plan is an approved tariff is irrelevant to MCI's Complaint. MCI has not requested that the tariff be disapproved. If GTEFL wants to give discounts to its customers for competitive services that is wonderful, but it should not fund such discounts with supracompetitive profits charged to its competitors for monopoly services. The purpose of this interrogatory is to determine what the

Joint Toll Offerings referred to in the tariff are. MCI is particularly concerned that these joint offerings may include other competitive services, particularly long distance offerings through GTE Long Distance. As discussed in the Basis for the Motion to Compel of Production Requests 1 through 3 above, GTEFL is subsidizing the services of its affiliates. Agreements with those affiliates are, therefore, relevant to this proceeding. MCI is alleging that this behavior constitutes anti-competitive conduct. MCI has alleged specific conduct by GTEFL, which if proven to be true at a hearing, would justify such a finding by this Commission.

Further, the statutory imputation requirement (which requires that ILEC-provided toll service and other non-basic services cover the direct costs of providing the service and, to the extent not included in the direct cost, the imputed charges) is not sufficient protection against the anti-competitive effects of overpriced access charged by a competitor to subsidize competitive services. See 364.051(6)(c).

When an IXC competes with an ILEC for toll service, the ILEC extracts a monopoly rent for the underlying access service. The net effect of this pricing is that the ILEC's margin on the access component of an IXC-provided toll call exceeds the IXC's margin on that call. This gives the ILEC an unfair competitive advantage. The IXC must earn some margin on the non-access component of the toll call in order to remain in business. The ILEC, on the other hand, can meet the statutory imputation standard and stay in business without any margin on the non-access component of its toll calls -- the margin on the "imputed access charge" component is sufficient to make the overall service profitable to the ILEC. Viewed in another way, the ILEC can effectively cross-subsidize its toll service with monopoly profits from access. This competitive problem is exacerbated as ILECs begin to compete in the interLATA and interstate toll markets as GTEFL is doing. As described above, Production Request 5 is reasonably calculated to lead to the discovery of admissible evidence and is directly relevant to the allegations contained in the Complaint.

Request 6.

- 6. Provide copies of the tariffs for each non-recurring charge waiver identified in response to Interrogatory Nos. 17, 18, 19 and 20.**

GTEFL objects to this Production Request by claiming that the requested information is not relevant to any issue in the proceeding and is not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that its practice of waiving non-recurring charges (NRCs) is irrelevant to MCI's complaint about the level of GTEFL's access rates. GTEFL also argues that tariffs are publicly filed documents which MCI can obtain itself.

Basis for MCI's Motion to Compel

MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. When an ILEC extracts an exorbitant monopoly rent for access service, the ILEC can afford to waive NRCs and still stay profitable in business. Competitors who are not receiving the windfall access profits would be unable to match such waivers for long and thus would be at a competitive disadvantage. Such conduct, if proven to be true at a hearing, would constitute anti-competitive behavior. Information regarding GTEFL's waiver of NRCs is therefore reasonably calculated to lead to the discovery of admissible evidence and is directly relevant to the allegations contained in the Complaint. GTEFL is in the best position to know which of its tariffs are covered by Interrogatories 17 through 20.

Requests 7 to 8.

- 7. Provide copies of the tariffs for each promotional offering identified in response to Interrogatory No. 26.**
- 8. Provide copies of the tariffs for each rate reduction identified in response to Interrogatory No. 27.**

GTEFL objects to these Production Requests by claiming that the requested

information is not relevant to any issue in the proceeding and is not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues its promotional discounts and other rate reductions are irrelevant to MCI's complaint about the level of GTEFL's access rates. GTEFL objects to the extent that the Interrogatories require GTEFL to produce publicly filed information.

Basis for MCI's Motion to Compel

As discussed above, MCI is not merely complaining about the access rates in isolation. It is the use by GTE of its supracompetitive profits, earned by overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint. When an ILEC extracts an exorbitant monopoly rent for access service, the ILEC can afford promotional discounts and other rate reductions and still stay profitable in business. Competitors who are not receiving the windfall access profits would be unable to match such promotions and discounts for long and thus would be at a competitive disadvantage. Such conduct, if prove to be true at a hearing, would constitute anti-competitive behavior. Interrogatories 26 and 27 seek to determine the extent of the promotions and discounts GTEFL is providing and therefore production Requests 7 and 8 are reasonably calculated to lead to the discovery of admissible evidence and are directly relevant to the allegations contained in the Complaint.

GTEFL objects to the extent that the Interrogatories require GTEFL to produce publicly filed information. GTEFL is in the best position to identify details regarding its promotional practices.

Request 9.

9. **Provide copies of all studies identified in response to Interrogatory No. 29.**

GTEFL objects to this Production Request by claiming that the requested information is not relevant to any issue in the proceeding and they is not reasonably calculated to lead to the discovery of any relevant or admissible evidence. GTEFL argues that switched access is not required to be cost based and local interconnection costs and intraLATA toll costs have no relation to access

rates.

Basis for MCI's Motion to Compel

As explained above in MCI's Basis for its Motion to Compel for Interrogatories 28 and 29, the cost of switched access is relevant to this proceeding. Similarly, the cost of local interconnection is relevant to determining the cost of switched access. As this Commission has recognized in the past: "The network over which the toll and local calls are terminated is one and the same." See, Order No. PSC-97-0128-FOF-TL at 23. Further, the cost of intraLATA toll is certainly relevant to the question of whether this service is being subsidized.

Request 10.

10. **Provide copies of all marketing materials used by GTEFL and GTE-LD in the marketing of any joint services.**

As discussed above, at least one other state has found that GTE Long Distance was not operating at arm's length with a GTE local exchange affiliate. MCI has reason to believe that GTEFL is also not operating at arm's length with GTE Long Distance and that GTEFL's supracompetitive profits are being used to subsidize GTE Long Distance entry into the long distance market. MCI also believes that both GTEFL services and GTE Long Distance services are being marketed in Florida simply as "GTE" services. MCI believes that in many instances these services are being marketed as a package such that the savings from one of the services influences the decision to buy other services.

As discussed above, MCI is not merely complaining about GTEFL's access rates in isolation. It is the use by GTE and its affiliates of the supracompetitive profits, earned by GTEFL's overcharging for monopoly access service provided to its competitors, to subsidize competitive services that forms the core of MCI's complaint.

For these reasons, GTE's joint marketing material is directly relevant to the allegations contained in the Complaint and Production Request 10 is reasonably calculated to lead to the discovery of admissible evidence.

RESPECTFULLY SUBMITTED this 15th day of September, 1997.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by hand delivery this 15th day of September, 1997.

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