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March 23, 1998

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

Re: Docket No. 980184-TP
Complaint of Teleport Communications Group Inc./TCG South Florida Against
BellSouth Telecommunications, Inc. for Breach of Terms of Interconnection
Agreement Under Section 252 of the Telecommunications Act of 1996, and
Request for Relief

Dear Ms. Bayo:

Please find enclosed an original and fifteen copies of GTE Florida Incorporated's
Petition for Limited Intervention for filing 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) 483-2617.

Very truly yours,

Kimberly Caswell
Kimberly Caswell

KC:tas

Enclosures

A part of GTE Corporation

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU Norton
- CTR _____
- EAG _____
- LEG 1
- LIN _____
- OFC _____
- RCH _____
- SEC 1
- WAS _____
- OTH Brad

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03428 MAR 23 1998
FPSC-WFO-REG/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Teleport Communications)	Docket No. 980184-TP
Group Inc./TCG South Florida Against)	Filed: March 23, 1998
BellSouth Telecommunications, Inc. for)	
Breach of Terms of Interconnection Agreement))	
Under Section 252 of the Telecommunications)	
Act of 1996, and Request for Relief)	
_____)	

**GTE FLORIDA INCORPORATED'S
PETITION FOR LIMITED INTERVENTION**

Under Commission Rule 25-22.039, GTE Florida Incorporated (GTEFL) asks the Commission to allow GTEFL to intervene in this docket to the extent necessary to protect its interests. GTEFL is a telecommunications company as that term is defined in Section 364.02 of the Florida Statutes. As such, its regulated intrastate operations are subject to the jurisdiction of the Commission.

Communications in regard to this proceeding should be directed to:

Kimberly Caswell
GTE Florida Incorporated
P. O. Box 110, FLTC0007
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GTEFL is entitled to intervene in this proceeding because its interests will be substantially and directly affected by the decision here. This proceeding involves a dispute over the nature of traffic terminated with Internet service providers (ISPs). Under their interconnection agreement in Florida, BellSouth Telecommunications, Inc. (BellSouth) and Teleport Communications Group Inc. (TCG) are required to pay each other reciprocal compensation for transport and termination of local traffic. BellSouth contends that the ISP traffic at issue is interstate in nature, while TCG claims it is local.

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FPSC-RECORDS/REPORTING

GTEFL is aware of the Commission's policy to deny intervention to third parties in disputes concerning the interpretation of a provision in an interconnection contract between two other parties. However, this is not such a case.

The decision to be made here is more one of policy than strict contract interpretation. The Commission has, through arbitration proceedings under the Telecommunications Act of 1996, imposed a reciprocal compensation scheme for the termination of local traffic in interconnection situations. This policy applies not just to BellSouth and Teleport, but to numerous other entities, including GTEFL and the parties with which it has interconnection agreements. See, e.g., Petitions by AT&T Comm. of the Southern States, Inc., MCI Telecomms. Corp. and MCI Metro Access Transmission Services, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE Florida Incorporated Concerning Interconnection and Resale Under the Telecommunications Act of 1996, Docket Nos. 960847-TP, 960980-TP (Jan. 17, 1997), at 85. The reciprocal compensation scheme was included in these parties' contracts as a matter of Commission mandate, rather than negotiation. Now, the Commission is being asked to interpret its reciprocal compensation policy and to issue an opinion--which will, again, be a policy matter--as to whether ISP traffic under that scheme is local or interstate. It is highly unlikely that the Commission can, in practical terms, decide that the ISP traffic in this case is local and decide later that it is interstate (or vice versa) under other parties' reciprocal compensation provisions.

In other words, this is not just a matter of contract interpretation that should preclude intervention by other parties. The Commission has ordered a reciprocal compensation

scheme in numerous arbitrations under the Act. That scheme has been applied again and again for other carriers adopting arbitrated contracts. The decision to be made here will potentially affect all parties who have been ordered to implement reciprocal compensation schemes, including GTEFL. Thus, GTEFL believes it has a right to participate in this case. It defies logic to suggest that GTEFL is not a substantially affected party when the Commission's determination in this proceeding will set precedent for the treatment of ISP traffic under GTEFL's own reciprocal compensation provisions in its contracts with interconnectors.

When a proceeding—even a proceeding involving a dispute between two other parties—raises policy matters or complex issues, the Commission has granted intervention to third parties in the interest of educating the Commission. See, e.g., Petition of Talquin Elec. Coop., Inc. to Resolve Territorial Disputes with City of Tallahassee, 89-5 FPSC 439 (1989). Consistent with this recognition of the need for a thorough exposition of important issues, GTEFL's input here would help the Commission make a better-informed policy decision about ISP traffic and would protect GTEFL's rights to a meaningful hearing on this issue which directly affects its interests.

This intervention request is designated as "limited" because GTEFL does not seek to participate in strict contract interpretation issues concerning only BellSouth and TCG-- for example, determining the intent of the parties at the time they contracted. But intervention is nonetheless necessary because this proceeding cannot practically be confined to those party-specific issues. This point was discussed at length during the March 10 agenda in which the Commission addressed a complaint filed by WorldCom

against BellSouth on exactly this same issue--whether ISP traffic was local or interstate. Commissioner Deason raised the concern that the WorldCom complaint could not be decided without deciding the policy issue of the jurisdictional nature of the traffic, then applying it to the contract dispute. While some of the Commission Staff may have disagreed, GTEFL believes Commissioner Deason will be proved correct once this case and the WorldCom case are underway. Particularly in view of BellSouth's arguments on the WorldCom issue at the March 10 agenda, there is no plausible way to avoid a policy determination about the nature of ISP traffic in both this case and the WorldCom case. For this reason, GTEFL is entitled to intervene in these cases.

Some months ago, Staff had convened workshops intended to establish procedures to address complaints under interconnection contracts. During those workshops, the parties discussed the situation that is now before the Commission--that is, a complaint raises a policy matter that will necessarily and directly affect other parties to different contracts. GTEFL recalls that many of the participants (in particular, the ALECs) felt that allowing some level of intervention might be appropriate when the dispute implicated general policy matters, rather than being confined to just strict contract interpretation. Otherwise, entities will have no opportunity to influence the formulation of policies that directly affect them. Unfortunately, the workshops never concluded and rules were never proposed in this regard. But these concerns remain very acute and, in the absence of procedural rules, the Commission is obliged to address them in the context of individual proceedings, such as this one.

Because the decision made here cannot reasonably be confined to this docket, but will likely affect all carriers which operate under the reciprocal compensation scheme, including GTEFL, GTEFL asks the Commission to allow it to intervene in this proceeding to the extent necessary to protect its interests.

Respectfully submitted on March 23, 1998.

By:



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of GTE Florida Incorporated's Petition for Limited Intervention in Docket No. 980184-TP were sent via U. S. mail on March 23, 1998 to the parties on the attached list.



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