



ORIGINAL

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August 28, 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. 980986-TP
Complaint of Intermedia Communications Inc. against GTE Florida Incorporated
for breach of terms of Florida Partial Interconnection Agreement under Sections
251 and 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
Answer to Complaint of Intermedia Communications, Inc. for filing in the above matter.
Service has been made as indicated on the Certificate of Service. If there are any
questions regarding this filing, please contact me at (813) 483-2617.

- ACK _____
- AFA _____
- APP _____
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- EAG _____
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- LIN _____
- OPC _____
- RCH _____
- SEC 1 _____
- WAS _____
- OTH _____

Sincerely,

Ernesto Mayor Jr for

RECEIVED & FILED
[Signature]
FPSC BUREAU OF RECORDS

Kimberly Caswell

KC:tas
Enclosures

A part of GTE Corporation

DOCUMENT NUMBER DATE

09450 AUG 28 98

COMMUNICATIONS

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Intermedia Communications)
Inc. against GTE Florida Incorporated for breach)
of terms of Florida Partial Interconnection)
Agreement under Sections 251 and 252 of the)
Telecommunications Act of 1996, and request)
for relief)
_____)

Docket No. 980986-TP
Filed: August 28, 1998

**GTE FLORIDA INCORPORATED'S ANSWER TO
COMPLAINT OF INTERMEDIA COMMUNICATIONS, INC.**

Pursuant to Florida Rule of Civil Procedure 1.110 and Commission Rules 25-22.037 and 25-22.0375, GTE Florida Incorporated (GTEFL) files its Answer to the Complaint of Intermedia Communications Inc. (ICI), filed August 3, 1998. ICI claims that GTEFL has breached its Interconnection Agreement with ICI because GTEFL does not apply reciprocal compensation to information service providers' traffic traversing ICI's network. There is no basis in the parties' Interconnection Agreement or applicable law to grant ICI the relief it seeks in this proceeding. Instead, the Commission should dismiss ICI's Complaint.

With regard to ICI's specific allegations in its Complaint, GTEFL responds as follows:

1. GTEFL does not have sufficient information or knowledge about the allegations in Paragraph 1 of the Complaint, and so they are denied.
2. GTEFL does not have sufficient information or knowledge about the allegations in Paragraph 2 of the Complaint, and so they are denied.
3. GTEFL admits the allegations in Paragraph 3 of the Complaint.

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4. GTEFL admits the allegations in Paragraph 4 of the Complaint.

5. GTEFL admits the allegations in Paragraph 5 of the Complaint and avers that the provisions of the GTEFL-ICI Interconnection Agreement speak for themselves.

6. GTEFL admits the allegations in Paragraph 6 of the Complaint.

7. With regard to Paragraph 7, GTEFL admits that the Commission has jurisdiction over the GTEFL-ICI Interconnection Agreement. However, GTEFL emphasizes that the Agreement provides that disputes arising under the Agreement are to be determined through arbitration. GTEFL's responding to the Complaint in this forum is in no way intended to expand the Commission's jurisdiction over future disputes arising under the Agreement. Moreover, GTEFL denies that the Florida Public Service Commission has jurisdiction over ISP traffic, which is interstate in nature.

8. GTEFL denies the allegations of Paragraph 8 of the Complaint.

9. GTEFL denies the allegations of Paragraph 9 of the Complaint.

10. GTEFL denies the allegations of Paragraph 10 of the Complaint.

11. In response to Paragraph 11 of the Complaint, GTEFL admits the existence of the correspondence between GTEFL and ICI, but avers that that correspondence speaks for itself.

12. In response to Paragraph 12 of the Complaint, GTEFL admits the existence of the correspondence between GTEFL and ICI, but avers that that correspondence speaks for itself.

13. GTEFL admits the allegations in Paragraph 13 of the Complaint.

14. In response to Paragraph 14 of the Complaint, GTEFL admits the existence of the correspondence between GTEFL and ICI, but avers that that correspondence speaks for itself.

15. In response to Paragraph 15 of the Complaint, GTEFL admits the existence of the correspondence between GTEFL and ICI, but avers that that correspondence speaks for itself.

16. GTEFL does not have sufficient information or knowledge about the allegations in Paragraph 16 of the Complaint, and so they are denied.

17. In response to Paragraph 17 of the Complaint, GTEFL admits the existence of the correspondence between GTEFL and ICI, but avers that that correspondence speaks for itself. GTEFL denies all remaining factual allegation contained in that Paragraph.

18. GTEFL denies the allegations of Paragraph 18 of the Complaint.

19. In response to Paragraph 19 of the Complaint, GTEFL avers that the Interconnection Agreement speaks for itself.

20. GTEFL denies the allegations of Paragraph 20 of the Complaint.

21. In response to Paragraph 21 of the Complaint, GTEFL avers that the Interconnection Agreement speaks for itself.

22. In response to Paragraph 22 of the Complaint, GTEFL responds that the original Agreement referred to in this Paragraph speaks for itself.

23. GTEFL does not have sufficient information or knowledge about the allegations in Paragraph 23, so they are denied.

24. GTEFL denies the allegations of Paragraph 24 of the Complaint, and avers that calls to the Internet through ISPs do not terminate on ICI's network.

25. GTEFL denies the allegations of Paragraph 25 of the Complaint, and avers that calls to the Internet through ISPs do not terminate on ICI's network.

26. GTEFL denies the allegations of Paragraph 26 of the Complaint.

27. In response to Paragraph 27 of the Complaint, GTEFL admits that it charges its ISP customers local business rates and that GTEFL customers can access their ISP by making a local phone call. However, this situation persists only because the FCC has continued to exempt ISPs from paying access charges and to allow ISPs to pay only local business rates and subscriber line charges for their switched access connection to local exchange company central offices. The FCC's exemption for ISPs applies only to incumbent local exchange carriers (ILECs), however, so ICI, as an alternative local exchange carrier (ALEC), is free to charge appropriate access rates to fully compensate it for the services it provides to ISPs. GTEFL denies the remaining factual allegations of Paragraph 27.

28. In response to Paragraph 28 of the Complaint, GTEFL admits that it treats the revenues associated with local exchange traffic to its ISP customers as local for purposes of interstate separations and ARMIS reports. GTEFL emphasizes, however, that this

treatment is a result of the FCC's continued decision to exempt ISPs from paying access charges and to allow them to pay only local business rates and subscriber line charges for their switched access connection to ILEC central offices. Moreover, the FCC governs separations and ARMIS reporting. GTEFL denies the remaining allegations of Paragraph 28.

29. GTEFL denies the allegations of Paragraph 29 of the Complaint.

30. GTEFL denies the allegations of Paragraph 30 of the Complaint, avers that the Commission's Order number 21815 speaks for itself, and avers that the FCC has jurisdiction over this matter.

31. GTEFL denies the allegations of Paragraph 31 of the Complaint, and avers that the Telecommunications Act of 1996 speaks for itself.

32. GTEFL denies the allegations of Paragraph 32 of the Complaint, and avers that the Telecommunications Act of 1996 speaks for itself.

33. GTEFL denies the allegations of Paragraph 33, and asserts that the FCC has repeatedly confirmed that it has jurisdiction over jurisdictionally interstate traffic, including ISP traffic. See, e.g., Access Charge Reform, Notice of Proposed Rulemaking, Third Report and Order and Notice of Inquiry, CC Dkt. no. 96-262, 284 (Dec. 24, 1996); Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Supplements for Open Network Architecture, 4 FCC Rcd 3983, 3987 (1989); Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service

Providers, 2 FCC Rcd 4305, 4306 (1987); MTS and WATS Market Structure, 97 FCC 2d 682, 711-12 (1983). In addition, the FCC has rejected ICI's theory that "the local call to the telephone exchange service of an ISP is a separate and distinguishable transmission from any subsequent Internet connection enabled by the ISP." See, e.g., Petition for Emergency Relief and Declaratory Ruling Filed by BellSouth Corp., 7 FCC Rcd 1619 (1992),

34. In response to Paragraph 34, GTEFL admits that in In the Matter of Federal-State Joint Board on Universal Service, Report and Order, CC Dkt. 96-45 (May 8, 1997), the FCC exempted ISPs from universal service contributions. GTEFL denies the remaining allegations in Paragraph 34.

35. In response to Paragraph 35, GTEFL admits that in the Access Charge Reform Order, the FCC continued its policy exempting ISPs from interstate access charges. GTEFL denies the remaining allegations of Paragraph 35.

36. In response to Paragraph 36, GTEFL admits that in the Non-Accounting Safeguards Order, the FCC found that when an interLATA telecommunications service from a Bell Operating Company Section 272 affiliate and an intraLATA information service provided by that affiliate or by the BOC itself are provided, purchased, and priced separately, they do not constitute an interLATA information service, but rather interstate interexchange access. GTEFL denies the remaining allegations in Paragraph 36.

37. In response to Paragraph 37, GTEFL admits that the FCC is conducting two proceedings to examine issues concerning ISPs' use of the public switched network, and that the FCC continues to exercise its jurisdiction over ISP traffic. GTEFL denies the remaining allegations in Paragraph 37.

38. In response to Paragraph 38, GTEFL responds that it does not have sufficient information to form a belief about the allegations in Paragraph 38, and so they are denied.

39. GTEFL denies the allegations in Paragraph 39, as phrased.

40. GTEFL does not have sufficient information to form a belief about the truth of the allegations in Paragraph 40, as so they are denied.

41. GTEFL denies the allegations in Paragraph 41 of the Complaint.

42. GTEFL denies the allegations in Paragraph 42 of the Complaint.

43. GTEFL admits that it offers an Internet access service. GTEFL denies the remaining allegations in Paragraph 43.

Having fully answered ICI's Complaint, GTEFL asks the Commission to dismiss that Complaint.

Respectfully submitted on August 28, 1998.

By: Ernesto Mayan Jr.
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Telephone: 813-483-2617

Attorney for GTE Florida Incorporated

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of GTE Florida Incorporated's Answer to Complaint of Intermedia Communications, Inc. in Docket No. 980986-TP were sent via overnight delivery on August 27, 1998 to the following:

Martha Brown, Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Donna L. Canzano
Patrick Knight Wiggins
Wiggins & Villacorta, P.A.
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