

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaint of Intermedia Communications Inc. and Petition for Emergency Relief Against GTE Florida Incorporated

DOCKET NO.: 981854-TP
FILED: 12-11-98

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COMPLAINT OF INTERMEDIA COMMUNICATIONS INC. AND PETITION FOR EMERGENCY RELIEF

Intermedia Communications Inc. (Intermedia), through its undersigned counsel, pursuant to Sections 364.01, 364.03, and 364.05, Florida Statutes, and Rule 25-22.036(5), Florida Administrative Code, hereby files this complaint against GTE Florida Incorporated (GTEFL) because GTEFL has denied Intermedia's request for physical collocation in specific GTEFL central offices. GTEFL and Intermedia have an Interconnection Agreement approved by the Commission by Order No. PSC-97-0719-FOF-TP, issued on June 19, 1997 and as subsequently amended by GTEFL and Intermedia and approved by the Commission by Order No. PSC-97-0788-FOF-TP, issued July 2, 1997 (collectively "Agreement").

I. JURISDICTION

- 1. The exact name and address of the complainant is:

Intermedia Communications Inc.
3625 Queen Palm Drive
Tampa, Florida 33619-1309
(813) 829-3011 (telephone)
(813) 829-4923 (telecopier)

- 2. All notices, pleadings, orders and documents in this proceeding should be provided to the following on behalf of Intermedia:

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DOCUMENT NUMBER-DATE
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3. The complete name and principal place of business of the respondent to the Complaint is:

GTE Florida Incorporated
201 North Franklin Street
Tampa, Florida 33602

4. Both Intermedia and GTEFL are authorized to provide local exchange services in Florida.

5. Pursuant to Section 252 of the Telecommunications Act of 1996 (Act), Intermedia and GTEFL negotiated the Agreement and filed it with the Florida Public Service Commission (Commission), on February 20, 1997. In accordance with Section 252(e) of the Telecommunications Act of 1996 (Act), the Commission approved the Agreement by Order No. PSC-97-0719-FOF-TP, issued on June 19, 1997, and approved the amendment by Order No. PSC-97-0788-FOF-TP, issued July 2, 1997.

6. Intermedia files this complaint at this time to preserve its priority consistent with the Commission's decision in Docket No. 980800-TP. (Supra Telecommunications Inc.'s complaint against BellSouth Telecommunications, Inc., Order No. PSC-98-1417-PCO-TP, issued on October 22, 1998) Intermedia acknowledges that the

unbundled network elements pursuant to the terms and conditions in the applicable GTE federal and state collocation tariffs.

12. A copy of the relevant portions of the Agreement is attached as Exhibit 1.

III. INTERMEDIA HAS REQUESTED AND GTEFL HAS DENIED PHYSICAL COLLOCATION IN CERTAIN CENTRAL OFFICES

13. Intermedia has requested physical collocation in the following GTEFL central offices and GTEFL subsequently denied Intermedia's request:

<u>Central Office</u>	<u>Date Requested</u>	<u>Date Denied</u>
Beach Park	10-30-98	11-3-98
Feather Sound	10-30-98	11-3-98
Tampa #5	10-12-98	10-27-98
Tampa Main	10-30-98	11-3-98
University (Tampa)	10-30-98	12-2-98

Moreover, Intermedia has submitted three other requests for physical collocation with GTEFL on October 30, 1998 that are pending: Lakeland Main, St. George, and Temple Terrace.

14. When GTEFL notified Intermedia that it was denying Intermedia's request for physical collocation in the University (Tampa) central office, GTEFL also informed Intermedia that virtual collocation was not available in that central office.

IV. THE ACT AND THE AGREEMENT REQUIRE GTEFL TO PROVIDE PHYSICAL COLLOCATION OR TO DEMONSTRATE TO THE STATE COMMISSION THAT IT IS NOT PRACTICAL TO DO SO.

15. Under Section 251(c)(6) of the Act, GTEFL has the duty to provide physical collocation of equipment necessary for interconnection or access to unbundled network elements at GTEFL's

premises, except that "the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations."

16. The Federal Communications Commission (FCC) promulgated rules implementing Section 251(c)(6), including 47 C.F.R. §51.321 and §51.323. Among other requirements, these sections provide that the ILEC must demonstrate to the state commission that physical collocation is not practical because of space limitations and must submit detailed floor plans or diagrams.

V. GTEFL HAS NOT JUSTIFIED DENIALS IN ACCORDANCE WITH THE REQUIREMENTS OF THE ACT

17. To date, GTEFL has not filed with the Florida Public Service Commission a petition for waiver of the physical collocation requirement of Section 251(c)(6) of the Act for any central office in the state of Florida. Nor has GTEFL submitted detailed floor plans or diagrams for any central office in Florida.

18. The FCC granted to GTEFL an exemption from providing physical collocation for intrastate access purposes for some but not all of the central offices requested by Intermedia.¹ GTEFL, however, has the affirmative obligation under the Act and under the

¹ Section 17.7.1 of GTEFL's Florida intrastate access tariff states that the following wire centers and access tandems are exempt from physical EIS requirements due to lack of existing suitable space: Beach Park, Brandon, Carrollwood, Feathersound, Tampa #5 (TAMPFLXX), Tampa-Main (TAMPFLXA), and Westside. Moreover, Section 17.11.1 provides that the Beach Park office has been granted an exemption from the requirement to provide Virtual EIS.

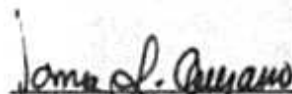
Supra docket. Intermedia recognizes that a motion for reconsideration has been filed in the Supra case; however, if the Commission upholds its decision, the timing of Intermedia's filing may be a critical factor in determining priority if the Commission determines that space is available in the central offices that are the subject of this complaint.

21. Intermedia is petitioning the Florida Public Service Commission for immediate emergency relief to resolve this matter. Intermedia will suffer immediate and irreparable harm if GTEFL is allowed to deny physical collocation in these central offices, because they are essential to Intermedia's business plans.

WHEREFORE, Intermedia Communications Inc. requests that this Commission: 1) order GTEFL to accord Intermedia Communications Inc. physical collocation space in each of the central offices that are the subject of this complaint; 2) order GTEFL to file immediately petitions for waiver from the physical collocation requirements of the Act for all affected wire centers and access tandems where there is or will be soon space exhaust; 3) require GTEFL to provide immediately a "walk-through" of the affected wire centers and access tandems consisting of Commission staff,

Intermedia representatives and GTFFL employees; and 4) grant such other relief as the Commission deems appropriate.

Respectfully submitted,



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Counsel for Intermedia
Communications Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by hand delivery(*) or U.S. Mail this 11th day of December, 1998, to the following:

Martha Carter Brown*
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Kimberly Caswell
GTE Florida Incorporated
P.O. Box 110, FLTC0007
Tampa, FL 33601-011

Scott A. Sapperstein
Intermedia Communications Inc.
3625 Queen Palm Drive
Tampa, Florida 33619-1309



Donna L. Canzano

ARTICLE IX COLLOCATION

1. Physical Collocation. GTE shall provide to ICI physical collocation of equipment necessary for interconnection or for access to unbundled network elements, provided that GTE may provide virtual collocation in place of physical collocation, or in some cases deny a particular collocation request entirely, if GTE demonstrates that physical collocation, or perhaps even virtual collocation, is not practical because of technical reasons or space limitations, as provided in Section 251(c)(6) of the Act. GTE will provide such collocation for purposes of interconnection or access to unbundled network elements pursuant to the terms and conditions in the applicable GTE federal and state collocation tariffs.
2. Existing Virtual Collocation. If, on the effective date of this Agreement, ICI is virtually collocated in a GTE premise, ICI may (i) elect to retain its virtual collocation arrangement in that premise or (ii) unless it is not practical for technical reasons or because of space limitations, convert its virtual collocation arrangement at that premise to physical collocation. If ICI elects the latter option, ICI's request shall be treated as a new physical collocation request and ICI shall pay GTE at the applicable tariff rates for construction and rearrangement of ICI's equipment as well as all applicable tariffed physical collocation recurring charges.