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September 13, 1999

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

Re: Docket No. 990994-TP
Proposed Rule 25-4.119, F.A.C., Information Services; and Proposed Amendments to Rules 25-4.003, F.A.C., Definitions; 25-4.110, F.A.C., Customer Billing for Local Exchange Telecommunication Companies; 25-4.113, Refusal or Discontinuance of Service by Company; 25-4.114, F.A.C., Refunds; 25-24.490, F.A.C., Customer Relations; Rules Incorporated; and 25-24.845, F.A.C., Customer Relations; Rules Incorporated

Dear Ms. Bayo:

Please find enclosed an original and 15 copies of GTE Florida Incorporated's Comments 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.

Sincerely,

Kimberly Caswell/dm

Kimberly Caswell

KC:tas
Enclosures

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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Re: Proposed Rule 25-4.119, F.A.C., Information Services; and Proposed Amendments to Rules 25-4.003, F.A.C., Definitions; 25-4.110, F.A.C., Customer Billing for Local Exchange Telecommunication Companies; 25-4.113, Refusal or Discontinuance of Service by Company; 25-4.114, F.A.C., Refunds; 25-24.490, F.A.C., Customer Relations; Rules Incorporated; and 25-24.845, F.A.C., Customer Relations; Rules Incorporated)	Docket No. 990994-TP Filed: September 13, 1999

COMMENTS OF GTE FLORIDA INCORPORATED

GTE Florida Incorporated (GTE) files these Comments in response to the Notice of Proposed Rule Development issued August 19, 1999, in this docket.

It would be impossible for GTE to comply with the rules as proposed. They would require, among other things, that the Company monitor on a full-time basis all of the content transmitted over its telephone lines, all media that might carry advertisements for information services, and all of the day-to-day operations of the information service providers (ISPs) that might be using GTE's transmission facilities. It should be obvious that GTE cannot do these things. Even for those aspects of the rules with which GTE could, theoretically, comply, billing and other systems changes would cost millions of dollars and could not be implemented within the reasonably foreseeable future.

The proposed rules' excessive intrusion into Company operations is particularly troublesome because there has been no showing that it is necessary. This proceeding was ostensibly motivated by the Commission's slamming and cramming concerns. But the proposed bill format modification, refund, and other rules go far beyond these concerns.

They will affect all services--regulated and nonregulated, and those of LECs and ISPs alike.

GTE suggests more carefully defining the nature and extent of the problem the Commission wishes to address, then closely tailoring a solution to meet that problem, if one exists. This solution should seek to curb abusive behavior of unscrupulous providers without imposing unnecessary costs and burdens on entities that provide legitimate services in ways that already adequately protect the consumer. Because the consumer will ultimately pay for expensive rule changes, the Commission should be very sure such changes are truly necessary to protect the public. GTE discusses specific rule sections below.

25-4.003(19): This section defines "information service" as "[t]elephone calls made to 900 or 976 type services, but does not include Internet services."

The term "900 or 976 type services" should be clarified or revised. The word "type" implies that the rules would extend beyond just 900 and 976 services, but there are no guidelines for determining which services other than 900 and 976 the rules may encompass. Exact specification of the scope of the rules is necessary for companies to determine if or how compliance may be achieved. For instance, proposed Rule 25-4.119(3) requires the LEC to provide "blocking of Information Services." GTE already provides 900 and 976 blocking, but cannot tell whether it can provide any additional blocking this section may contemplate.

GTE suggests deleting the word "type," so that it is clear that just 900 and 976 services fall within the information services definition. In addition, GTE would propose deleting the phrase "but does not include Internet services." To GTE's knowledge,

Internet services are not accessed through 900 or 976 numbers, so the reference here is unnecessary and potentially confusing.

25-4.110: These proposed rule changes would apply to all local exchange company billing for all services. Again, GTE is puzzled as to the motivation for such sweeping changes, which do not seem to meet any slamming, cramming, or other expressed concerns. GTE is unaware of any abuses or problems that would prompt the kind of extraordinarily expensive bill restructuring that these rules contemplate.

The new language in this section sets forth, in minute detail, how and where charges for all types of services are to appear on the bill. Among other things, each "originating party" must have a separate bill heading, associated with specific designations for local, state, and federal regulatory fees and taxes (subsections (1)(b) & (c)), the "authority" for each such fee and tax (subsection (4)(l)), and the assessment base and rate for each fee and tax (subsection (5)(l)). There are also requirements about notices for blocking and disconnection conditions (subsections 5(k) & (l).). With regard to the latter, the customer would need to be notified every month exactly how much he has to pay to avoid disconnection. The billing agent would also need to print in bold the name of any "originating party" that did not appear on the customer's previous bill (subsection (2)).

As noted, these and other changes proposed in this rule would require GTE to do a fundamental bill restructuring (rather than just table changes). GTE estimates this effort would cost, at a minimum, between $300,000 and $500,000. The changes would be exceedingly difficult to accommodate because GTE's billing system is national in scope. GTE cannot redesign its bill, as the rules would require, on a Florida-specific basis only.

Rather, it would have to recast the bill to fit the Florida rules, while trying to conform it to all other state requirements, as well. Neither the FCC nor any other state requires anywhere near the detailed modifications that this rule would require. Furthermore, GTE could not even begin to undertake any such changes until well into the year 2000, in order to avoid interfering with Y2K preparations and follow-up activities.

The extraordinary burden and expense associated with the proposals are particularly troublesome because there has been no showing that such extreme and intrusive measures are warranted. GTE believes the existing rules with regard to billing information are sufficient to inform customers of the nature and level of their service charges. Among other things, the LECs are already required to clearly and separately identify regulated and nonregulated services, give notice that basic local service cannot be disconnected for failure to pay nonregulated charges, and print a notice in bold on page 1 or 2 of the bill every time any presubscribed carrier changes. GTE goes even farther, telling the customer when the provider change occurred, who the former provider was, and any charge associated with the provider change.

In addition, there are already detailed and specific rules to protect consumers from 900 and 976 abuses. LECs are required to segregate pay-per-call charges from regular long distance and local charges and to identify such charges with a specific heading. (Rule 25-4.113(11)(a).) Companies are, likewise, required to state on the bill (1) that nonpayment of pay per call charges will not result in local service disconnection; (2) that end users can obtain free blocking of 900 and 976 services; (3) the number the customer can call to dispute any such charges; (4) the name of the interexchange company providing the transmission service; and (5) the program name. (Rule 25-4.113(11)(a)1-5.)

There is no evidence that the existing, comprehensive rules do not work as intended, and no reason to believe any incremental benefits associated with the proposed requirements would justify their enormous cost. Indeed, GTE believes some of the additional information would only confuse the customer. Bills are already very crowded, with new services, providers and regulatory requirements added all the time. It is a constant struggle to maintain bill clarity, which is a fundamental concern for customers. Adding clutter to bills for no demonstrable reason undermines this objective. The new requirements would, for example, introduce information that may be of interest to only a few customers, if that. The local, state, and federal authority for each tax, fee and surcharge is a good example. This change contemplates listing the specific ordinances, statutes, and FCC and FPSC rules and orders associated with each tax, fee, and surcharge. This requirement alone would likely require a new line for each tax, fee, and surcharge–as would the requirement to set out the "assessment base and rate" for each percentage-based tax, fee, and surcharge. The result is many more lines, and perhaps a page or more, of extra bill detail for the customer to wade through. The customers interested in knowing this information (and there are probably very few) can already obtain it through a call to the Company. It is not necessary to burden all subscribers with the cost of and potential monthly annoyance of information that will likely be ignored by most customers.

This conclusion holds true for the disconnection-related information, as well. The information now on the bill--telling the customer that he cannot be disconnected for nonpayment of nonregulated charges–coupled with the existing, separate headings for

regulated and nonregulated services, is adequate notice as to how much the customer needs to pay to avoid disconnection. Customers who need confirmation of this amount in a particular month can obtain that information easily through a phone call to GTE. There is no need to develop and implement a special computer program to calculate the amount and print it on the bill every month when it will likely be disregarded by the vast majority of people who intend to pay their bills in full each month.

The subsection requiring the LEC to print "in conspicuous bold face type" an originating party's name that did not appear on the previous bill also deserves particular mention for its expense and potential to confuse customers. The conspicuous bold type is apparently intended to alert the customer that a "new" provider has appeared on the bill. But in many cases, setting apart certain providers' names in this manner will confuse, rather than clarify, matters. Simply because a provider did not have charges on the last bill does not mean it is a new provider. For example, some providers may request only bi-monthly billing. These carriers will be misidentified as "new." Also misidentified as new will be those providers that have an ongoing relationship with a customer, but which a customer did not use in a particular month. Even a carrier to which the customer has been presubscribed for years may be erroneously identified as new if the customer had no charges from that provider in the prior month. In addition, there are cases in which a provider misses posting its charges in time for a particular billing cycle, even though it has continuously provided service to a customer. In these instances, as well, the provider will be erroneously–and confusingly–identified as new with the bold type. The confusion will harm customers, as well as the LECs, which will have to field increased calls to explain the bill, and which will be blamed for what the customer perceives to be a billing mistake

or a lack of clarity.

Of course, the LEC will also have to shoulder the burden of implementing this confusing system. GTE has no capability today to identify entities that were not on last month's bill. In order to do so, it will have to develop an expensive special bill history database that will need to be accessed every time a new bill is prepared. Again, customers will ultimately pay for these costly modifications.

25-4.114(9). This rule change would require any billing overcharge to be refunded with interest. In the past, only Commission-ordered refunds (which are typically substantial total amounts) carried an obligation to pay interest. (Rule 25-4.114(4).) The revision will mean that the LEC will need to compute and pay interest on refunds or credits of even a few dollars or less. The expense of assessing the interest will probably, in most cases, exceed any interest associated with the overbilled amount. Again, the Commission must weigh the LEC's costs to develop, implement, and administer the interest assessment system–and the fact that these costs will be borne by the LEC's subscribers. GTE suggests that there is no net benefit to the average customer in the few cents' interest he will obtain in the event of an overbilling.

25-4.119: The proposed revisions here would ostensibly cast the LEC, as the billing agent, in the role of policing the ISP industry–a role it cannot possibly fulfill.

As an initial matter, the proposed rule would require the LECs "who have a tariff or contractual relationship with an originating party" to ensure that the information provider complies with numerous stated conditions. (Sec. 25-4.119(2).) Thus, it would impose obligations not only on the LEC that has a billing contract with a particular provider, but on a company that simply transmits the provider's information program over its facilities.

Compliance with this requirement would require the LEC to listen in on all telephone transmissions all the time, just in case an ISP was using tariffed services in a manner that didn't comply with the listed conditions. That, obviously, is impossible for the Company to do. There is no way the LEC can monitor or affect the behavior of an ISP with which it has no billing or other contractual relationship.

Even where the company does have a contractual relationship with an ISP, it can't reasonably police the ISP's activities to the extent the rule would seem to require. Under the proposed rule, the LEC cannot provide billing services unless the originating party does a number of things. These things include, among others: (1) providing a preamble, with specific requirements when the service is "targeted to children" or "where there is a potential for minors to be attracted to the service" (subsection (2)(a)); (2) giving parental consent notification in "all advertising and promotional materials" for services targeted at children (subsection (2)(c)); not using an autodialer or tone broadcaster (subsection (2)(d)); displaying rate information in a particular way in "all advertising and promotional materials," including broadcast promotions and "oral representations" (subsection (2)(f)); using a third party verification service to obtain customer authorization to provide and charge for the service, with specific conditions on this third party verifier's operations (subsection (2)(l)); and maintaining a customer service number in compliance with very specific response guidelines (subsection (2)(j)).

The way the rule is written, the ILEC would need to insure that the ISP and the third party verifier comply with all of the conditions the Commission has established. Again, the Company cannot do so without employing a full-time "police force." It would need to ensure, for example, that no third party verifier was ever compensated for sales made and

check to make sure that the third party verifier and the ISP were in separate buildings. The ILEC would also need to monitor all "oral representations" about information service charges, including all advertising in all media. Even if this were feasible–and it clearly is not–the LEC would need to exercise its discretion to determine subjective questions such as what services have the potential to attract minors (subsection (2)(a)); what kind of language is "understandable to children" (subsection (2)(c)); what kind of disclosure is prominent (subsection (2)(f)); and what type size in advertising can be seen "clearly and conspicuously at a glance" (subsection (2)(f)).

GTE cannot be involved in this kind of content regulation, which raises serious First Amendment issues, as well as the obvious potential for lawsuits against GTE. If that is the choice GTE has to make, it will not be able to bill for 900 or 976 services at all. GTE believes this result of such overbroad regulation would not be in the best interests of consumers, many of whom use legitimate pay-per-call services to get sports scores, to vote in television polls, and the like. Indeed, the rules would seem designed to make the consumers' use of the services more difficult, thus ensuring the demise of information services in Florida. For example, there is no plausible way an ISP can handle casual calling through an independent verifier. The verification will take longer in many cases than the call itself. This requirement is sure to cause more consumer irritation than benefits.

In sum, it is impossible for GTE to police at all the companies with which it has no contractual arrangements. With regard to companies for which it bills, GTE can and does take certain measures to ensure these entities are legitimate. GTE will take action up to termination of contracts with providers who pass a specified complaint threshold. But

GTE cannot actively police the operations of these companies and third party verifiers. The most it can do, if the Commission is intent on implementing the proposed measures, is to require certification in its contracts that the ISP is complying with those measures.

25-4.119(3). This subsection would order the LEC to give subscribers the option to be billed for only regulated telecommunications products and services. The LEC would also have to provide free blocking of information services upon request, and would need to provide the telephone numbers of such subscribers to the LEC's billing and collection contract customers.

GTE cannot turn off billing for nonregulated services. To obtain this capability would likely cost millions of dollars and take an extraordinarily long period of time to implement. GTE does not understand the motivation for such a rule, and would be compelled to do everything it could to challenge it if adopted.

The proposed rule goes far beyond information services to commonly subscribed telecommunications services. Its primary effect would be consumer confusion and consternation. GTE does not believe that most customers would know, without referring to their bill, exactly which services are regulated or nonregulated. If a customer asked to be billed for only regulated services without knowing what services were nonregulated, then he would be foreclosed from obtaining even popular services (voice mail, for instance), at least until the "block" on nonregulated service billing was removed. In addition, despite any nonregulated billing block at the state level, the bill may reflect charges for nonregulated services that are purely interstate in nature--again, a confusing situation for the customer.

Given the clear delineation of regulated and nonregulated services on the bill

today, there is no justification for an enormously costly and burdensome block on nonregulated service billing. If the customer does not want to be billed for nonregulated services, he need not buy any such services.

In addition, from a customer privacy standpoint, GTE questions the prudency of handing its billing and collection contract customers a list of customers who have requested such a blocking option, as the rule would require. The rule puts no restrictions on how these contract customers can use individual subscriber names–indeed, the Commission lacks the jurisdiction to control the use of these names. GTE does not believe its customers, especially customers with unlisted numbers, would view this requirement favorably. They, especially, expect GTE to protect their names and telephone numbers from public disclosure and would blame GTE for any misuse of this customer information.

Once again, the option of no billing for nonregulated services is a much broader remedy than necessary to combat any perceived abuses. GTE believes, instead, the Commission should encourage carriers to develop specific anti-cramming blocking options as GTE is doing. In this regard, GTE is developing a system that will block the billing of miscellaneous charges by any carrier other than GTE (as the local carrier) or the customer's presubscribed toll carriers. This bill block is offered free of charge to customers who have been crammed. GTE started its bill block pilot program in Florida in July of this year, and has received nothing but favorable comments about it.

25-4.119(4)-(9). These subsections deal with, among other things, adjustments for disputed information services charges. Again, the requirements place the LEC in an unacceptable position of policing the ISPs' activities. While the rule states that the

originating party would be responsible for resolving the customer's complaint, the rule requirements indicate otherwise. For example, the LEC could not require payment of a disputed charge if the originating party is unable to "produce evidence that an Information Service charge is valid." (Subsection (8).) To determine whether evidence was good enough, the LEC would need to engage in inquiries such as whether the party responding to the third party verification was at least 18 years old and lived in the same household as the account holder–aside from determining whether the tape was legitimate in the first place.

In addition, the customer could not be reported to a credit bureau or collection agency "solely for non-payment of Information Service charges." (Subsection (6)(b).) The rule would apparently apply to even legitimate, sustained charges. In other words, the customer can amass as much pay-per-call charges as he wants to without ever facing any negative consequences. Under these conditions, there is little motivation to pay for any such charges. Again, if the Commission's objective is to eliminate pay-per-call services, then this is a good way to do it. There is simply no justification for protecting customers from legitimately incurred debts. The vast majority of customers who pay their bills in full and on time will have to bear the burden for customers who don't intend to pay even legitimately incurred charges.

For all the foregoing reasons, the proposed rules are unreasonable and should not be adopted. If the Commission still wishes to recommend rule revisions, GTE requests a hearing to determine whether any revisions are warranted, whether their potential benefits would outweigh their costs, and how to more closely tailor any rule changes to fit the problem, if one is perceived.

Respectfully submitted on September 13, 1999.

By: Kimberly Caswell/dm

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of GTE Florida Incorporated's Comments in Docket No. 990994-TP was hand-delivered on September 13, 1999 to:

Diana Caldwell, Staff Counsel
Florida Public Service Commission
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Tallahassee, FL 32399-0850

Kimberly Caswell