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October 8, 1999

Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 991226-TL

Dear Ms. Bayó:

Enclosed for filing in the above-styled docket are the original and fifteen (15) copies of the Florida Public Telecommunications Association, Inc.'s Comments in Response to GTE's Petition.

An extra copy of this letter is enclosed. Please mark it to indicate that the original was filed.

Thank you for your assistance with this matter.

Sincerely,

Angela B. Green
General Counsel

- AFA
- APP Detton
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12265 OCT-89

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: GTE Florida Incorporated's Petition)
for Declaratory Statement Before the Florida)
Public Service Commission, or, in the)
Alternative, Variance from Rules 25-24.516(3))
and 25-24.630(2), F.A.C.)
_____)

Docket No. 991226-TL

Dated: October 8, 1999

FLORIDA PUBLIC TELECOMMUNICATIONS ASSOCIATION, INC.'S
COMMENTS IN RESPONSE TO GTE'S PETITION

Pursuant to Sections 120.542 and 120.565, Florida Statutes, and Chapters 28-104 and 28-105 of the Uniform Rules, the Florida Public Telecommunications Association, Inc. ("FPTA") hereby files these comments in response to GTE Florida Incorporated's ("GTE's") Petition for Declaratory Statement Before the Florida Public Service Commission, or, in the Alternative, Variance from Rules 25-24.516(3) and 25-24.630(2), F.A.C. ("Petition").

- 1. The complete name and address of the entity responsible for these comments is:

Florida Public Telecommunications Association, Inc.
125 South Gadsden Street
Suite 200
Tallahassee, Florida 32301

- 2. All notices, pleadings, orders, and other documents should be directed to:

Angela B. Green
Florida Public Telecommunications Association, Inc.
125 South Gadsden Street
Suite 200
Tallahassee, Florida 32301

- 3. FPTA is a domestic, not-for-profit corporation organized pursuant to Chapter 617, Florida Statutes. The membership of the FPTA includes payphone service providers ("PSPs") certificated by the Florida Public Service Commission ("FPSC" or "the Commission"). FPTA's members, as PSPs, have a substantial interest in the subject matter of the rules being addressed

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through this docket because these rules directly affect the terms and conditions under which FPTA's members conduct business in the State of Florida.

4. Initially, FPTA notes that it is not opposed to finding a workable solution to the problems faced by GTE as noted in its Petition. In fact, FPTA had been under the impression that a settlement had been reached on this matter through the work it has done with certain of GTE's operational personnel. In light of this assumption, FPTA was surprised to learn that this pleading had been filed. FPTA opposes the solution proposed by GTE in its Petition. Additionally, FPTA takes issue with a number of GTE's factual assertions and believes it is critically important to set the record straight before the Commission rules on GTE's Petition.

5. On page 2 of its Petition, GTE states:

GTE's billing system is unable to distinguish 0- local calls from the other types of payphone calls. In other words, GTE has to bill set use fees for all 0- and 0+ calls or for none of these calls.

Initially, FPTA is puzzled by GTE's assertion that its billing system cannot distinguish 0- local calls from other types of payphone calls. If this is true, does this mean that GTE is billing toll rates for 0- local calls? FPTA does not believe that is the case, so obviously, GTE's billing system can, in fact, distinguish 0- local calls from other types of payphone calls. GTE then goes on to say that it has to bill set use fees for all 0- and 0+ calls or for none at all. If that is the case, then that is because GTE's billing system has been programmed that way and it does not necessarily mean that GTE could not properly bill this class of calls if it reprogrammed its system. It is important to clarify what GTE means when it says that it is "unable" to do this. GTE itself admits that this is the case on page 3 of its Petition where it states that "It would cost GTE about \$75,000 to modify its system." Obviously, then, its system can distinguish these calls and can bill the set use fee. The question is merely one of time and cost.

6. To the extent that GTE is troubled over the cost of modifying its billing system, FPTA believes that GTE should have raised this issue in response to the Staff Recommendation that was filed during July 1998, in Docket No. 951560-TP, where the set use fee rule revision and other pay telephone rule revisions were proposed. These revised rules went into effect on February 1, 1999. It took GTE almost eight months after the rules went into effect to request relief. On the other hand, FPTA members have been held accountable for adhering to these rules and have, in fact, been subject to show cause orders and substantial fines for their noncompliance with the revised rules. FPTA is struck by this seeming inconsistency.

7. GTE states on page 3 of its Petition that:

GTE is currently compensating PSPs under the federal scheme for all 0+ and 0- PSP calls, including local 0- calls.

FPTA is confused by this assertion, as 0- local calls are not dial-around calls. A dial-around call is, by definition, a call where the end user "dials around" the carrier that has been presubscribed to the pay telephone. In cases where GTE is the provider of local exchange service, a 0- local call from a pay telephone would not be a dial-around call and would not meet the definition of a dial-around call under the federal scheme. In fact, this is the very reason that Staff recommended continuing the set use fee for this class of pay telephone calls when it otherwise recommended abolishing set use fees in its July 1998 Recommendation. Again, this class of call is not a compensable call for dial-around purposes, at least in Florida, where the PSP is required to "give" the call to a local exchange service provider, who then receives all of the revenue from this call. The set use fee would be added to the end user's bill by the local service provider (in this case, GTE) and then passed on to the PSP, after application of a bad debt factor. The set use fee does not come out of GTE's call revenues, but rather, is paid by the end user who is billed for the call.

8. In a footnote that appears at the bottom of page 3 of the Petition, GTE says:

GTE assessed the 0- local set use fee (along with the other types of set use fees) until the end of June 1999. From October of 1997, GTE also paid per-call compensation under the federal rules. As such, PSPs received a financial windfall for nearly two years.

Initially, FPTA notes that it seriously questions the assertion that 0- local calls were included in federal per call compensation payments. FPTA demands that GTE provide proof of this allegation if the Commission believes it is appropriate to base any part of its decision on this claim. Additionally, FPTA finds GTE's use of the term "windfall" to be both inflammatory and insulting to FPTA's members. The federal per-call compensation system has been anything but a bed of roses for PSPs. The entire process has been replete with problems, including, but not limited to, serious underpayment by the carriers, multiple reconsideration requests, court proceedings, and accounting nightmares. To insinuate that PSPs have enjoyed any type of "windfall" in relation to the federal dial-around system is outrageous and offensive to the PSPs who have had to resort to expensive, complicated, and protracted litigation in order to collect the payments that are due to them by law. Hopefully, this will not be necessary on the state level.

9. Further, to the extent that GTE may have paid set use fees on other than 0- local calls after the February 1st effective date, GTE has only itself to blame. GTE should not attempt to shield itself from the consequences of its own inaction by alleging that PSPs have somehow prospered. GTE was on notice regarding the effective date of the rule. For whatever reasons, GTE was not in compliance with the rule by the deadline. The PSPs bear no part of the blame for the situation GTE finds itself in. As to the allegation that GTE has paid both dial-around and set use fees on the same class of calls, again, FPTA would insist upon proof of this from GTE before the Commission bases any type of finding on this declaration. GTE provides no call detail to PSPs for either set use fees or dial-around payments, so PSPs have no way of knowing

whether they were compensated once, twice, or maybe not at all on any given call, without spending a considerable amount of time and effort extensively auditing their own records, which GTE might or might not accept as proof.

10. On page 4 of its Petition, GTE states that certain figures it has calculated are “probably overstated because it [GTE’s model] incorrectly assumes that all IPPs send their 0- local calls to GTE’s network.” Unfortunately, GTE cannot tell us how far off these numbers are. It is quite possible that GTE’s numbers are skewed in the opposite direction, as the Commission’s rules require that 0- calls be handled only by an authorized provider, which currently means only providers of local exchange service can handle these calls. Further, the Commission requires that 0- local calls be billed as local calls, not on a per-minute basis, effectively precluding almost everyone except GTE from handling these calls where GTE is the local service provider.

11. On page 5 of the Petition, GTE states that “the FCC’s per-call compensation scheme applies to ‘each and every completed intrastate and interstate call originated by payphones.’” This quote is technically correct, as far as it goes. What GTE does not say, however, is that the federal per-call compensation system applies only to dial-around calls. As FPTA has stated in paragraph 7 above, a dial-around call is a call where the end user “dials around” the carrier that has been presubscribed to the pay telephone. In cases where GTE is the provider of local exchange service, a 0- local call from a pay telephone would not be a dial-around call.

12. On page 5 of its Petition, GTE states:

The Commission’s rules thus seem to assume that the FCC’s rules apply only to calls completed by IXC’s, and that PSP’s won’t be compensated for 0- local calls absent the state set use scheme.

This is not correct. The Commission's rules are not based upon that distinction. Rather, the Commission's rules are based upon the fact that 0- local calls from pay telephones are not competitive calls in Florida. If the Commission were to allow PSPs to route 0- local calls to the carrier of their choice, then a set use fee would not be necessary, as PSPs could choose a carrier that would fairly compensate them for these calls. Even when that occurred, these would not be dial-around calls because, again, a dial-around call is a call where the end user "dials around" the carrier that has been presubscribed to the pay telephone. 0- local calls do not fall under the definition of a compensable call under the current federal per-call compensation system.

13. On page 9 of its Petition, GTE implies that it expects to be able to recover the costs of modifying its billing system in response to the rule changes that became effective on February 1st. Unfortunately, the order that GTE is relying upon does not support this position. There was no finding by the Commission in the current proceeding that local exchange companies could pass on these costs. Therefore, FPTA would vigorously oppose any such attempt by GTE to foist these costs upon the PSPs.

14. FPTA is not indifferent to the issues GTE is facing. In fact, the FPTA is amenable to finding a compromise that would minimize GTE's costs while still providing fair compensation to the PSPs. What the FPTA is opposed to, however, is any method by which state-mandated compensation payments become entangled in an already confused and overburdened federal compensation system. The FPTA does not agree with GTE making these payments in the manner that it has proposed, as part of federal per-call compensation. This proposal would force the PSPs to bill GTE for these calls or to pay a clearinghouse to process these collections. That has never been the methodology envisioned by this Commission. Rather,

PSPs are due a set use fee for 0- local calls and GTE should pay the PSPs for these calls without the need for the PSPs to subscribe to some type of billing and collection service.

15. As stated at the beginning of this response, FPTA had been under the impression that a settlement had been reached on this matter. Perhaps, at this time, the most appropriate step for GTE to take would be to have its operational personnel get back in touch with the FPTA to see if we still have an agreement and then convey the substance of this agreement to their legal staff. Until such time as this step takes place, FPTA feels it would be inappropriate to discuss the contents of any settlement proposal with the Commission or its Staff. If GTE and the FPTA can return to the Commission with a settlement, it would then be unnecessary for the Commission to delve further into this matter, so long as the Commission found the proposed settlement to be in the public interest. FPTA hereby commits to the Commission that it will work diligently with GTE in finding a solution that is fair to all parties concerned, if GTE will also commit to do the same.

WHEREFORE, FPTA requests that the Commission consider these comments before entering a ruling on GTE's Petition.

Respectfully submitted this 8th day of October, 1999.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Florida Public Telecommunications Association, Inc.'s Comments in Response to GTE Florida Incorporated's Petition was furnished by U.S. Mail this 8th day of October, 1999, to the following parties of record:

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BY: 
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