

ORIGINAL

RECEIVED
FLORIDA PUBLIC
SERVICE COMMISSION



99 NOV -8 AM 11:00

GTE Service Corporation

MAIL ROOM

One Tampa City Center
Post Office Box 110, FLTC0616
Tampa, Florida 33601-0110
813-483-2526
813-223-4888 (Facsimile)

Beverly Y. Menard
Regulatory & Governmental Affairs
Assistant Vice President (Florida/Georgia)

November 5, 1999

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

**Re: Docket No. 991589-TP
Adoption of AT&T Communications of the Southern States, Inc.'s/GTE
Interconnection Agreement by Wamnet Communications, Inc.**

Dear Ms. Bayo:

GTE Florida filed on October 13, 1999 a 252(i) letter whereby Wamnet Communications, Inc. adopted the agreement between AT&T Communications and GTE Florida. In that letter an order number was mistakenly listed as the docket number. Attached are the corrected pages for this filing.

If you have any questions, please do not hesitate to contact me at 850/483-2526.

Sincerely,

Beverly Y. Menard
 Beverly Y. Menard
 CMU
 CTR
 EAG
 LEG
 MAS
 OPC
 PAI
 SEC
 WAW
 OTH

c: Victor Cordiano, FPSC

DOCUMENT NUMBER-DATE

~~12736~~ NOV-8 8

FPSC-RECORDS/REPORTING

Connie Nicholas
Assistant Vice President
Wholesale Markets-Interconnection



GTE Network
Services

HQE03B28
600 Hidden Ridge
P.O. Box 152092
Irving, TX 75038
972/718-4586
FAX 972/719-1523

June 10, 1999

Andrew Massias
Wamnet Communications, Inc.
123 NW 13th St. Suite 214-12
Boca Raton, FL 33432

Dear Mr. Massias:

We have received your letter stating that, under Section 252(i) of the Telecommunications Act of 1996, you wish to adopt the terms of the arbitrated Interconnection Agreement between AT&T and GTE that was approved by the Commission as an effective agreement in the State of Florida in Docket No. 960847-TP (Terms)¹. I understand you have a copy of the Terms.

Please be advised that our position regarding the adoption of the Terms is as follows.

On January 25, 1999, the Supreme Court of the United States ("Court") issued its decision on the appeals of the Eighth Circuit's decision in *Iowa Utilities Board*. Specifically, the Supreme Court vacated Rule 51.319 of the FCC's First Report and Order, FCC 96-325, 61 Fed. Reg. 45476 (1996) and modified several of the FCC's and the Eighth Circuit's rulings regarding unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, No. 97-826, 1999 U.S. LEXIS 903 (1999).

Three aspects of the Court's decision are worth noting. First, the Court upheld on statutory grounds the FCC's jurisdiction to establish rules implementing the pricing provisions of the Act. The Court, though, did not address the substantive validity of the FCC's pricing rules. This issue will be decided by the Eighth Circuit on remand.

¹ *These "agreements" are not agreements in the generally accepted understanding of that term. GTE was required to accept these agreements, which were required to reflect the then-effective FCC rules.

Andrew Massias
June 10, 1999
Page 4

As these Terms are being adopted by you pursuant to your statutory rights under section 252(i), GTE does not provide the Terms to you as either a voluntary or negotiated agreement. The filing and performance by GTE of the Terms does not in any way constitute a waiver by GTE of its position as to the illegality or unreasonableness of the Terms or a portion thereof, nor does it constitute a waiver by GTE of all rights and remedies it may have to seek review of the Terms, or to petition the Commission, other administrative body, or court for reconsideration or reversal of any determination made by the Commission pursuant to arbitration in Docket No. 960847-TP, or to seek review in any way of any provisions included in these Terms as a result of Wamnet's 252(i) election.

Nothing herein shall be construed as or is intended to be a concession or admission by either GTE or Wamnet that any contractual provision required by the Commission in Docket No. 960847-TP (the AT&T arbitration) or any provision in the Terms complies with the rights and duties imposed by the Telecommunications Act of 1996, the decision of the FCC and the Commissions, the decisions of the courts, or other law, and both GTE and Wamnet expressly reserve their full right to assert and pursue claims arising from or related to the Terms. GTE contends that certain provisions of the Terms may be void or unenforceable as a result of the Court's decision of January 25, 1999 and the remand of the pricing rules to the United States Eighth Circuit Court of Appeals.

Should Wamnet attempt to apply such conflicting provisions, GTE reserves its rights to seek appropriate legal and/or equitable relief. Should any provision of the Terms be modified, such modification would likewise automatically apply to this 252(i) adoption.

Please indicate by your countersignature on this letter your understanding of and commitment to the following three points:

- (A) Wamnet adopts the Terms of the AT&T arbitrated agreement for interconnection with GTE and in applying the Terms, agrees that Wamnet be substituted in place of AT&T in the Terms wherever appropriate.