

ORIGINAL



Kimberly Caswell  
Counsel

**GTE SERVICE CORPORATION**  
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Tampa, Florida 33601-0110  
813-483-2606  
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March 2, 2000

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

000275-TP

Re: Docket No.  
Petition of GTE Florida Incorporated for Approval of Interim Interconnection  
Agreement with Teligent Incorporated

Dear Ms. Bayo:

Please find enclosed for filing an original and five copies of GTE Florida Incorporated's  
Petition for Approval of Interim Interconnection Agreement with Teligent Incorporated.  
The interim agreement consists of a total of four pages. 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.

Very truly yours,

*for*

Kimberly Caswell  
KC:tas  
Enclosures

RECEIVED & FILED  
*WNY*  
FPSC-BUREAU OF RECORDS

A part of GTE Corporation

DOCUMENT NUMBER-DATE  
02824 MAR-28  
FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of GTE Florida Incorporated for )  
Approval of Interim Interconnection Agreement )  
with Teligent Incorporated )  
\_\_\_\_\_ )

Docket No. 000275-TP  
Filed: March 2, 2000

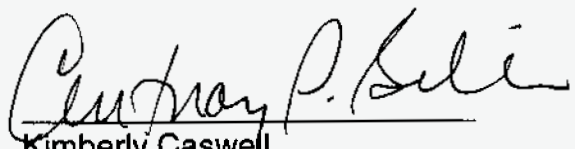
**PETITION OF GTE FLORIDA INCORPORATED  
FOR APPROVAL OF INTERIM INTERCONNECTION AGREEMENT WITH  
TELIGENT INCORPORATED**

GTE Florida Incorporated (GTE) files this petition before the Florida Public Service Commission (Commission) seeking approval of an interim interconnection agreement which GTE has entered with Teligent Incorporated (Teligent). In support of this petition, GTE states:

The Commission approved GTE's interconnection agreement with Teligent on March 4, 1998 in Order No. PSC-98-0354-FOF-TP in Docket No. 971565-TP. This agreement was terminated effective November 26, 1999, and the parties are currently in good faith negotiations regarding a new interconnection agreement.

GTE respectfully requests that the Commission approve the attached interim agreement and that GTE be granted all other relief proper under the circumstances.

Respectfully submitted on March 2, 2000.

By:   
Kimberly Caswell  
P. O. Box 110, FLTC0007  
Tampa, Florida 33601-0110  
Telephone No. (813) 483-2617

Attorney for GTE Florida Incorporated

DOCUMENT NUMBER-DATE

02824 MAR-28

FPSC-RECORDS/REPORTING

**INTERIM INTERCONNECTION AGREEMENT  
BETWEEN  
GTE FLORIDA INCORPORATED  
AND  
TELIGENT INCORPORATED**

**THIS INTERIM INTERCONNECTION AGREEMENT** (the "Interim Agreement") is by and between GTE Florida Incorporated ("GTE") and Teligent, Inc. ("Teligent"), (GTE and Teligent being referred to collectively as the "Parties" and individually as a "Party") effective this 26<sup>th</sup> day of November, 1999 (the "Effective Date"). This Interim Agreement covers services in the state of Florida.

**RECITALS**

**WHEREAS**, Teligent has previously negotiated an Interconnection, Resale and Unbundling Agreement (the "Terminated Agreement") pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 (the "Act");

**WHEREAS**, the Terminated Agreement was approved by the Florida Commission's Order PSC-98-0354-FOF-TP dated March 4, 1998 in Docket No. 971565-TP;

**WHEREAS**, the Terminated Agreement was terminated effective November 26, 1999;

**WHEREAS**, GTE and Teligent are currently in good faith negotiations regarding an interconnection agreement pursuant to Section 251 and 252 of the Act to replace the Terminated Agreement;

**WHEREAS**, the Parties did not commence negotiations in a manner to permit a new interconnection agreement (the "New Interconnection Agreement") to be completed under the time schedule set forth in Section 252 of the Act before the Terminated Agreement terminated;

**WHEREAS**, the Parties have recognized that the customers of Teligent should not suffer an interruption in service even though the Terminated Agreement has been terminated; and

**WHEREAS**, in light of the foregoing, and subject to the terms and conditions set forth herein, the Parties agree that effective since the Termination Date, Teligent has the right to continue to operate under the terms of the Terminated Agreement pursuant to this Interim Agreement.

**INTERIM AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual promises, provisions and covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Effective upon this Effective Date, Teligent shall have the right to operate under the Terminated Agreement, subject to the following terms and conditions:

(a) This Interim Agreement shall not extend, amend, replace or otherwise modify the Terminated Agreement. Rather, this Interim Agreement is a separate interim arrangement that permits Teligent to operate under the Terminated Agreement pending the Parties' completion of good faith negotiations regarding a New Interconnection Agreement.

(b) For administrative ease and the reasons set forth above, the Parties have agreed to abide by the Terminated Agreement while this Interim Agreement remains in effect, except to the extent inconsistent with any terms and conditions contained herein (if any provision in the Terminated Agreement conflicts with this Interim Agreement, this Interim Agreement shall control). Notwithstanding this, by entering this Interim Agreement, the Parties do not waive, and hereby expressly reserve, their rights to challenge the legality of any terms of the Terminated Agreement. All obligations which expressly survive the termination of the Terminated Agreement shall also survive the termination of this Interim Agreement.

(c) The Parties have not agreed as to how ESP/ISP Traffic (i.e., any traffic bound to any enhanced service provider or Internet service provider) should be exchanged between the Parties and whether and to what extent compensation is due either party for exchange of such traffic. GTE's position is that the FCC cannot divest itself of rate setting jurisdiction over such traffic, that such traffic is interstate and subject to Part 69 principles, that if compensation is required a specific interstate rate element should be established for such traffic and that such rate element should be based on the trunk to trunk switching associated with the transmission of such traffic. Teligent's position is that ESP/ISP traffic should be treated as local for the purposes of inter-carrier compensation and should be compensated on the same basis as voice traffic between end users. The FCC has issued a NPRM on the prospective treatment of compensation for ESP/ISP Traffic. Without waiving any of its rights to assert and pursue its position on issues related to ESP/ISP Traffic, each Party agrees that pending the completion of the New Interconnection Agreement or until the FCC enters a final, binding, and nonappealable order ("Final FCC Order"), whichever shall occur sooner, no compensation shall be owed for ESP/ISP Traffic exchanged between the Parties and neither Party shall bill the other for such traffic. Should the Final FCC Order determine that for the purpose of compensation ESP/ISP Traffic is local, the Parties shall negotiate a rate governing such compensation, and shall compensate each other for such traffic retroactive to the effective date of the Final FCC Order. Such retroactive compensation shall also include interest computed at the prime rate of the Bank of America, N.A. in effect at the date of the Final FCC Order. This agreement not to compensate for ESP/ISP Traffic, in the interim, shall in no manner whatsoever establish any precedent, waiver, course of dealing or in any way evidence either Party's position or intent with regard to exchange and/or compensation of ESP/ISP Traffic for purposes of the New Interconnection Agreement or otherwise, each Party reserving all its rights thereafter with respect to these issues.

(d) By entering this Interim Agreement, GTE offers the arbitrated rates and terms included on an opt-in basis in the Terminated Agreement ("Arbitrated Terms") solely for the reasons specified above. GTE does not waive, and hereby expressly reserves, its rights to assert or continue to assert that: (1) certain of the Arbitrated Terms are unlawful, illegal and improper; (2) the Arbitrated Terms do not afford GTE the opportunity to recover its actual costs, as mandated by the Act and applicable law; (3) the Arbitrated Terms should not become effective until such time as the Commission has established an explicit, specific, predictable, sufficient and competitively neutral universal service mechanism that provides GTE the opportunity to

recover its actual costs; and (4) certain provisions of the FCC's First, Second, and Third Report and Order in FCC Docket No. 96-98 and other FCC orders or rules (collectively, the "FCC Orders") are unlawful, illegal and improper. GTE further expressly reserves its past, present and future rights to challenge and seek review of any and all Arbitrated Terms or any permanent rates, charges or terms established in any other proceeding, in any court or commission of competent jurisdiction or other available forum.

(e) GTE and Teligent agree that if the Arbitrated Terms are adjusted or otherwise modified, in whole or in part, by the Commission or in any other proceeding, then this Interim Agreement shall be deemed to have been automatically amended, and such amendment shall be effective upon the date of the applicable Order. Such adjusted or modified rates and charges will be applied prospectively pending the issuance of a final, binding and non-appealable order in the subject proceeding. At such time as the applicable Order becomes final, binding and non-appealable, the adjusted or modified rates and charges established therein shall be applied retroactively to the effective date of this Interim Agreement. The Parties will true-up any resulting over or under billing. Such true-up payments, if any, shall also include interest computed at the prime rate of the Bank of America, N.A. in effect at the date of said final, binding and non-appealable Order. Any underpayment shall be paid, and any overpayment shall be refunded, within forty-five (45) business days after the date on which such Order becomes final, binding and non-appealable. The Parties agree that the provisions of this paragraph (e) shall survive the termination, rescission, modification or expiration of this Interim Agreement without limit as to time, and that, in the event the Commission establishes permanent rates in any proceeding after this Interim Agreement terminates or expires, nothing contained herein shall prohibit a true-up of the effected rates and charges retroactive to the effective date of this Interim Agreement as contemplated by this paragraph (e). Teligent acknowledges that GTE may seek to enforce the provisions in this paragraph before a commission or court of competent jurisdiction.

(f) GTE and Teligent further agree that the Arbitrated Terms and any subsequent permanent terms, rates or charges are further subject to change and/or modification resulting from future orders or decisions of any commission, court or other governmental authority having competent jurisdiction that address, without limitation, the following: (1) GTE's unrecovered costs (e.g., actual costs, contribution, undepreciated reserve deficiency, or similar unrecovered GTE costs (including GTE's interim universal service support charge)); (2) the establishment of a competitively neutral universal service system; (3) any and all actions seeking to invalidate, stay, vacate or otherwise modify any FCC Order in effect as of the effective date, or during the term, of this Interim Agreement which impact the Arbitrated Terms or any subsequent permanent terms, rates and charges, including, without limitation, the current appeal of the FCC pricing rules pending before the Eighth Circuit Court of Appeals and any appeal of the FCC's new UNE rules; or (4) any other relevant appeal or litigation. The Parties agree that if the Arbitrated Terms or any subsequent permanent terms, rates or charges are deemed to be unlawful or otherwise modified pursuant to such an order or decision, or are otherwise stayed, enjoined or impacted, or the methodology from which they were derived, are held to be unlawful or otherwise invalid, in whole or in part, by such an order or decision, then this Interim Agreement shall be deemed to have been automatically amended, by modification of terms, rates or charges (as defined in the Terms) for such terms, rates and charges, and such amendments or substitutions shall be effective upon the date of the applicable Order. Such modified or substituted terms, rates and charges will be applied prospectively pending the issuance of a final, binding and non-appealable Order in the subject proceeding. At such time as the applicable Order becomes final, binding

and non-appealable, the modified or substituted terms, rates and charges established therein shall be applied retroactively to the effective date of this Interim Agreement. The Parties will true-up any resulting over or under billing. Such true-up payments, if any, shall also include interest computed at the prime rate of the Bank of America, N.A. in effect at the date of said final, binding and non-appealable Order. Any underpayment shall be paid, and any overpayment shall be refunded, within forty-five (45) business days after the date on which such Order becomes final, binding and non-appealable. The Parties agree that the provisions of this paragraph (f) shall survive the termination, rescission, modification or expiration of the Interim Agreement without limit as to time. Teligent acknowledges that GTE may seek to enforce the provisions in this paragraph (e) before a commission or court of competent jurisdiction.

2. Unless sooner terminated by either Party, this Interim Agreement shall remain in effect until August 12, 2000. Either Party shall have the right to terminate this Interim Agreement at any time upon written notice to the other Party.

3. This Interim Agreement constitutes the entire agreement of the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied, have been made or relied upon in the making of this Interim Agreement other than those specifically set forth herein.

**IN WITNESS WHEREOF**, each Party has executed this Interim Agreement and it shall be effective upon the date of execution by both Parties.<sup>1</sup>

GTE FLORIDA INCORPORATED

TELIGENT INCORPORATED

By: Connie Nicholas

By: Carolyn K. Stup

Name: Connie Nicholas

Name: Carolyn K. Stup

Title: Assistant Vice President  
Wholesale Markets-Interconnection

Title: Assistant Secretary

APPROVED BY LEGAL DEPT.	
<u>TBP</u>	<u>04/9/00</u>
ATTORNEY	DATE

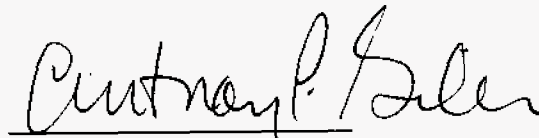
<sup>1</sup> GTE has agreed to allow this Interim Agreement to become effective upon execution in order to permit Teligent to remain in operation prior to approval by the Commission. In light of this, Teligent hereby agrees that its obligations pursuant to this Interim Agreement shall remain in effect notwithstanding the Commission's possible rejection thereof.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of GTE Florida Incorporated's Petition For Approval of Interim Interconnection Agreement with Teligent Incorporated was sent via overnight delivery on March 1, 2000 to:

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

Teligent Incorporated  
Attention: Carolyn Stup  
8065 Leesburg Pike  
Vienna, VA 22182

  
by Kimberly Caswell