

STATE OF FLORIDA

Commissioners:
E. LEON JACOBS, JR., CHAIRMAN
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI



DIVISION OF APPEALS
DAVID SMITH
DIRECTOR
(850) 413-6245

Public Service Commission

May 29, 2001

Mr. Carroll Webb
Joint Administrative Procedures
Committee
Room 120 Holland Building
Tallahassee, Florida 32399-1300

Re: PSC Docket No. 010699-TL

Dear Mr. Webb:

The Commission has received a Petition for Declaratory Statement of GTC, Inc. d/b/a GT Com. A copy of the petition is enclosed. A notice will be published in the Florida Administrative Weekly on Friday, June 8, 2001.

Sincerely,

A handwritten signature in black ink that reads "Richard C. Bellak".

Richard C. Bellak,
Associate General Counsel

cc: Division of Records and Reporting

Enclosure

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0862

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of GTC, Inc., d/b/a)
GT Com for Declaratory Statement)
_____)

Docket No. 010699-72

Filed: May 7, 2001

**PETITION OF GTC COM, INC., D/B/A GT COM
FOR DECLARATORY STATEMENT**

GTC, Inc., d/b/a GT Com ("GT Com"), by and through its undersigned counsel, and pursuant to Section 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code, hereby files this Petition for Declaratory Statement which seeks a determination from the Commission that the transfer of telephone number (850) 227-2121 from SeaCliff's Beach Homes to Abacus Realty by GT Com in March of 2000 constituted a valid initiation and transfer of service as contemplated by Rule 25-4.108, Florida Administrative Code, and Section 2.18 of GT Com's Commission-approved Tariff, and that the transfer of that telephone number by GT Com be given full force and effect by the Commission. In support of this position, GT Com states as follows:

1. The name, address, telephone number and facsimile number of the Petitioner is as follows:

GTC, Inc., d/b/a GT Com
502 Cecil Costin Blvd.
Port St. Joe, FL 32456
(850) 229-7309 (telephone)
(850) 227-7366 (telecopier)

2. The name, address, telephone number and facsimile number of GT Com's counsel in this docket are as follows:

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DIVISION OF ADMINISTRATION

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BACKGROUND

3. GT Com seeks a declaratory statement regarding the application of Rule 25-4.108, Florida Administrative Code, and Section 2.18 of its Commission-approved Tariff filed pursuant thereto, to GT Com's particular set of circumstances as outlined below.

4. GT Com is a local exchange telephone company certificated by the Florida Public Service Commission pursuant to Certificate No. 29.

5. Telephone number (850) 227-2121 is currently billed by GT Com to business customer Abacus Realty ("Abacus") of Apalachicola, Florida. Abacus verbally applied to GT Com to initiate service via transfer of telephone number (850) 227-2121 on or about March 1, 2000. GT Com granted the transfer request and Abacus commenced immediately paying all bills related to the telephone line. Prior to March 2000, telephone number (850) 227-2121 was billed by GT Com to business customer SeaCliffs Beach Homes ("SeaCliffs"), Port St. Joe, Florida.

6. GT Com has filed this Petition for a Declaratory Statement seeking confirmation that Abacus should remain the customer of record for telephone number (850) 227-2121 based on the following ultimate facts: the transfer of the number from SeaCliffs to Abacus was conducted by agreement of the parties; SeaCliffs effectively abandoned the telephone number, as shown by the course of conduct by both parties more fully stated below; and the transfer was completed in compliance with GT Com General Service Tariff 2.18(A) and (B).

7. In or about January, 2000, Dennis Weaver, on behalf of SeaCliffs, and Irene Cochran, on behalf of Abacus, entered into a business agreement whereby Abacus contracted to be the exclusive sales company for SeaCliffs and Abacus leased the premises on SeaCliffs' property on Cape San Blas, wherein telephone number (850) 227-2121 was located. In approximately March 2000, Irene Cochran, the president of Abacus, requested GT Com to provide all future bills for telephone number (850) 227-2121 to the central office of Abacus, P. O. Box 400, Apalachicola, Florida. The request was granted by GT Com in March 2000. Since that time, Abacus has paid for all services relative to the (850) 227-2121 phone number in a timely manner. Abacus advertises locally and uses (850) 227-2121 as its contact number in advertisements for potential real estate purchasers, including potential purchasers of property at SeaCliffs Beach Homes. The telephone number remains listed in the telephone directory as SeaCliffs, as no direction or request to change the listing was ever provided by SeaCliffs or Abacus to GT Com.

8. On or about March 5, 2001, more than one year after GT Com approved the transfer of (850) 227-2121, Dennis Weaver orally requested GT Com to rescind the previous transfer and return the billing address to SeaCliffs, stating that he had never approved the initial transfer. Ms. Cochran, on behalf of Abacus, advised GT Com that she does not want the transfer rescinded.

9. Rule 25-4.108, F.A.C., regulates the initiation of telephone service, and states as follows:

25-4.108 Initiation of Service. Any applicant for a telephone service may be required to make application in writing in accordance with standard practices and forms prescribed by the utility, provided that the policy adopted by the utility for the initiation of service shall have uniform application and shall be set forth in its filed tariff. Such application shall be considered as notice to the utility that the applicant desires service and upon compliance by the applicant with

such other provisions governing utility service as may be in effect, the utility shall undertake to initiate service without unreasonable delay. Each company shall permit residential customers to pay service connection charges in equal monthly installments over a period of at least three months. A company may charge a monthly service fee of \$1.00 to applicants who elect to pay the service connection charge in installments.

10. Abacus initiated service of number (850) 227-2121 pursuant to a transfer of service between subscribers consistent with the General Services Tariff of GT Com which pursuant to Rule 25-4.108, F.A.C., is effective and on file with the Commission. Section 2.18 of the Tariff states in pertinent part:

GENERAL REGULATIONS

2.18 TRANSFER OF SERVICE BETWEEN SUBSCRIBERS

- A. Service previously furnished one subscriber may be assumed by a new subscriber upon due notice of cancellation, or in case of abandonment, provided there is no lapse in service. Such transfers are subject to service connection charge regulations and may be arranged for in either of two ways:
1. If the new subscriber, fully understanding the regulations governing the service and the status of the account, willingly assumes all obligations thereunder. Future bills are then rendered to him without an adjustment to or from any particular date, with the Company arranging for the requested change in billing and directory listing.
 2. If the new subscriber does not wish to assume payment of the old account, a new service application is taken and an adjustment in billing is made to and from the date the transfer is effective.
- B. Under either method of transfer, the re-assignment of the old telephone number to the new subscriber is not permitted unless all charges due under the current account have been paid and the former customer has relinquished his account either by ordering the service

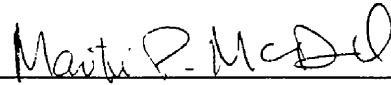
terminated, removal for cause, or by common agreement; and then only when, in the judgment of the Company, a change of number is not required.

- C. Where there is a change of responsibility without requiring a change of records, other than substituting a new contract for the contract in force, there is no charge. (emphasis added)

11. Under the facts presented, it is the position of GT Com that Abacus properly initiated service pursuant to Rule 25-4.108, F.A.C., because GT Com transferred service from SeaCliffs to Abacus in conformance with Section 2.18 of GT Com's Tariff. Specifically, by common agreement of the parties, as evidenced by the actions of SeaCliffs authorizing Abacus to maintain the responsibility of answering telephone number (850) 227-2121 for the business purpose of selling SeaCliffs' homes, and abdicating to Abacus the responsibility of paying the telephone bills in full since March 2000, and by otherwise engaging in the course of conduct more fully described above, the transfer was completed in compliance with GT Com Tariff 2.18 (B). In addition, by waiting one full year after the initial transfer from SeaCliffs to Abacus to seek rescission of the transfer, SeaCliffs voluntarily "abandoned" telephone number (850) 227-2121 as that term is used in GT Com Tariff 2.18(A).

WHEREFORE, GT Com respectfully requests that the Commission issue a Declaratory Statement finding that the transfer of telephone number (850) 227-2121 from SeaCliffs to Abacus be given full force and effect by the Commission and that Abacus Realty should remain the customer of record for telephone number (850) 227-2121.

Respectfully submitted this 7th day of May, 2001.



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