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Kimberly Caswell
Counsel

GTE SERVICE CORPORATION
One Tampa City Center
201 North Franklin Street (33602)
Post Office Box 110, FLTC0007
Tampa, Florida 33601-0110
813-483-2606
813-204-8870 (Facsimile)

April 7, 2000

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

Re: Docket No. 000121-TP
Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies

Dear Ms. Bayo:

Please find enclosed an original and 15 copies of GTE Florida Incorporated's Post-Workshop 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.

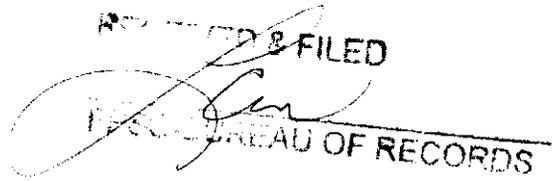
Sincerely,


Kimberly Caswell

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Investigation into the Establishment of)
Operations Support Systems Permanent)
Performance Measures for Incumbent)
Local Exchange Telecommunications)
Companies)
_____)

Docket No. 000121-TP
Filed: April 7, 2000

GTE FLORIDA INCORPORATED'S POST-WORKSHOP COMMENTS

In accordance with Staff's instructions at the March 30, 2000 workshop in this docket, GTE Florida Incorporated (GTE) provides its comments to supplement its workshop presentation. In these comments, GTE briefly summarizes its positions on the issues Staff presented for discussion in the notice of workshop.

Authority:

- 1. Does the Commission have authority to set performance standards on the level of service that ILECs provide through Operations Support Systems?

The FCC has determined that operations support systems (OSS) is a network element that ILECs must unbundle under section 251 of the Telecommunications Act of 1996 (Act). Section 252 of the Act prescribes negotiation and, if that fails, arbitration to address issues related to an ILEC's section 251 unbundling obligations.. Unless all affected parties agree otherwise, the only way the Commission can intervene into the establishment of OSS requirements is through an arbitration initiated under Section 252 of the Act; it cannot set such requirements through a generic proceeding unless parties seek Commission rulings on particular issues. As such, GTE hopes that a voluntary agreement on all or most OSS issues can be reached in this proceeding.

- 2. Does the Commission have the authority to require ILECs to report results on performance standards on a monthly or quarterly basis?

The Commission likely has the authority to require such reporting, but mandated, periodic reports would be unnecessary under GTE's proposal to allow the Commission Staff continuous access to OSS reports. Please see GTE's response to issue D.1, below.

- 3. Does the Commission have the authority to assess penalties for non-compliance with set performance standards?

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GTE's tentative position on this issue is that the Commission is constrained in its ability to set penalties for non-compliance with any OSS standards. The Act encourages contract negotiations as a means of arriving at interconnection terms and conditions. Penalties or punitive damages are typically not allowed in such negotiated contracts. The parties may agree to a fixed sum for damages, as long as these damages "are reasonable in light of the anticipated or actual loss caused by the breach and the difficulties of proof of loss." (Restatement (Second) of Contracts sec. 356 (1981).) A term fixing unreasonably large liquidated damages "is unenforceable on the ground of public policy as a penalty." *Id.* Applying this contract analysis, performance incentives must be reasonably related to the anticipated or actual loss caused by the ILEC's missing a particular performance standard. For example, an ILEC should not suffer a \$100,000 penalty for failing to meet performance standards where the ALEC loses one day of serving one residential customer.

4. What should be the ultimate result of this proceeding – rules, guidelines established by commission Order, tariffing requirements or something else?

Whatever the ultimate result of this proceeding, it should allow for flexibility in addressing evolving systems and requirements. An Order could probably best accommodate changes in OSS functions and concomitant measures. In addition, GTE would propose incorporating by reference any OSS orders into its interconnection contracts to ensure uniformity of OSS measurements across carriers.

5. Should all ILECs be subject to the same performance standards? If not, how should the requirements be modified to accommodate smaller ILECs or non-RBOC LECs?

All ILECs should not be subject to the same performance standards. Performance measurements and standards for each should take into consideration the procedures and systems used by each ILEC.

Administrative:

1. What should be the time frame for establishing performance measures?

Time frames will probably depend on the approach used to address performance measures. If a workshop and negotiation approach is selected, the schedule should be sufficiently stringent to encourage progress, but without arbitrary cut-off dates as long as the process continues to be productive. The time frame must consider whether or not the parties are starting anew or if the accomplishments in other jurisdictions are to be considered a starting point. This process will be quicker if parties are permitted to build upon agreements in other states.

2. Will a hearing be necessary?

If voluntary negotiations are used to address performance measures, a hearing may be necessary to address only the issues for which the industry cannot reach a consensus.

C. Establishment of Standards

1. Should the Commission set performance standards that apply to an ILEC's aggregate level of performance across all ALECs, to individual ALECs, or to both?

Performance standards should be set as to all ALECs at a state level for each submetric.

2. Should standards be set at the statewide ILEC level or some lower geographic level?

Performance standards should be set at a statewide ILEC level, with exceptions for measurements that are processed at a national level (e.g., answer time for ordering and trouble reporting). For GTE, all trouble reports come into one center; for ordering, GTE has three centers that work virtually as one center, so measurement occurs as if there were only one center. In such instances, standards should be at a national level.

3. For which wholesale functions should standards be set? How should standards be set? How should wholesale offerings be grouped for purpose of setting standards?

Functions should be set for each of the major categories of wholesale functions. These are: Pre-Ordering, Ordering, Provisioning, Maintenance, Network Performance, Billing, Collocation, Data Base Updates, and Interfaces. Standards should be set based upon abilities and historical experience at a submeasure level. Submeasures should be established to account for the processes, procedures and capabilities of each ILEC.

D. Monitoring Performance Standards:

1. Should the Commission review ILEC performance on a monthly, quarterly or some other basis?

GTE publishes OSS monitoring reports on the fifteenth of each month for the previous month. These reports are available to each ALEC and to state utilities commissions. Because the commission would have the ability to review the reports at whatever interval they deem necessary, there is no need to set a mandatory periodic reporting or reviewing requirement. Indeed, the Commission would likely only need to review reports on an exception basis when there is an unresolved issue between the ILEC and ALEC. GTE performance measurement results can be downloaded and a customized report generated that meets the specific needs of ALECs and the Commission.

2. What type of periodic performance reports should an ILEC be required to file with the Commission?

When performance reports are available electronically from an ILEC's web site, there should be no requirement for filing performance reports with the Commission.

E. Penalties for Non-Compliance

1. Are penalties for non-compliance appropriate?

As stated above, in response to issue A.3, if penalties are assessed for non-compliance with a particular measure, they should be reasonably related to ALEC's actual loss related to that non-compliance.

2. How should penalties for non-compliance be determined?

As explained in response to issue A.3, penalties for non-compliance should ideally be resolved through negotiations and incorporated into interconnection contracts.

Respectfully submitted on April 7, 2000.

By:



Kimberly Caswell
P. O. Box 110, FLTC0007
Tampa, FL 33601
Telephone: 813-483-2617

Attorney for GTE Florida Incorporated

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of GTE Florida Incorporated's Post-Workshop Comments in Docket No. 000121-TP was sent via U. S. mail on April 7, 2000 to the parties on the attached list.

A handwritten signature in cursive script, appearing to read "Kimberly Caswell", is written over a horizontal line.

Kimberly Caswell

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

Pennington Law Firm
Peter Dunbar
Karen Camechis
P. O. Box 10095
Tallahassee, FL 32302

AT&T
Marsha Rule
101 N. Monroe Street
Suite 700
Tallahassee, FL 32301-1549

BellSouth Telecommunications
Nancy B. White
c/o Nancy H. Sims
150 South Monroe St., Suite 400
Tallahassee, FL 32301-1556

Florida Cable Telecomm. Assoc
Michael A. Gross
310 N. Monroe Street
Tallahassee, FL 32301

Florida Public Tele. Assoc.
Angela Green
125 S. Gadsden St., #200
Tallahassee, FL 32301-1525

MCI WorldCom
Donna C. McNulty
325 John Knox Road, Suite 105
Tallahassee, FL 32303-4131

MediaOne Florida Telecomm.
c/o Laura L. Gallagher, P.A.
101 E. College Ave., Suite 302
Tallahassee, FL 32301

Messer Law Firm
Floyd Self
P. O. Box 1876
Tallahassee, FL 32302

Rutledge Law Firm
Kenneth Hoffman/John Ellis
P. O. Box 551
Tallahassee, FL 32302-0551

Supra Telecom
Doris M. Franklin
1311 Executive Center Drive
Suite 200
Tallahassee, FL 32301

Time Warner Telecom
Carolyn Marek
233 Bramerton Court
Franklin, TN 37069

ITC^DeltaCom Comm.
Nanette Edwards
4092 S. Memorial Parkway
Huntsville, AL 35802

Intermedia Comm. Inc.
Scott Sapperstein
3625 Queen Palm Drive
Tampa, FL 33619