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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation	)	CC Docket No. 92-256

REPLY COMMENTS OF THE STATE OF HAWAII

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REPLY COMMENTS OF THE STATE OF HAWAII

The State of Hawaii ("State" or "Hawaii")[1] submits these reply comments in response to the comments filed on February 22, 1993, in the above-captioned proceeding.[2]

I. INTRODUCTION.

The parties in this proceeding are almost unanimous in their support of the Commission's proposal to apply Open Network Architecture ("ONA") and other nondiscrimination safeguards to GTE Corporation.[3] The most notable

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1. These Comments are filed by the State of Hawaii, acting through its Governor and the State's Department of Commerce and Consumer Affairs.

2. Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, 7 FCC Rcd 8664 (1992) [hereinafter "NPRM"].

3. See Comments of the Association of Telemessaging Services International [hereinafter "ATSI Comments"]; Comments of the General Services Administration (filed February 1, 1993); Comments of Bell Atlantic; Comments of Independent Telecommunications Network [hereinafter "ITN Comments"]; Comments of Information Technology Association of America; Comments of MCI Telecommunications Corp.; and Comments of the National Association of Broadcasters. Unless otherwise noted, all comments cited in this reply were filed in this proceeding on or about February 22, 1993.

exception is GTE.[4] The State of Hawaii therefore primarily addresses its reply comments to issues generally raised by GTE, and specifically in relation to GTE Hawaiian Telephone Company, Inc.

The State of Hawaii finds nothing new in GTE's arguments to justify its exemption, in whole or in part, from the application of ONA and other nondiscrimination safeguards. Indeed, for the most part, GTE uses data already presented to the Commission and already addressed in the State's initial comments. Therefore, this reply need not be lengthy.[5]

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4. See Comments of GTE Corporation [hereinafter "GTE Comments"]. See also Comments of Sprint Communications Company, L.P. Sprint is the only other party not in favor of the application of ONA to GTE. Sprint's reason for its position is that "ONA in its current form is not useful to or demanded by either ESPs or IXCs." See id. at 2-3.

5. In its initial comments, the State of Hawaii argued that GTE should be subject to ONA and other nondiscrimination safeguards because GTE is as large as any Regional Bell Holding Company ("RBHC") and the company will not suffer financial harm. In addition, GTE, consumers, and competing enhanced service providers would benefit.

   The State noted that the actual cost, as presented by GTE, is only $1.33 per access line for first year expenses. However, the State pointed out that the company's estimate for providing these safeguards for Hawaii alone was $10.63 per line, which appeared to be discriminatory and unsupportable. GTE's argument that the low-density and dispersion ratio of its operations makes the implementation of safeguards uneconomic is not applicable to Hawaii, which has high-density and contiguous characteristics.

   The State also noted that GTE actually has a higher overall density than U S West, which is required to

(Footnote 5 continued on next page)

II. THE APPLICATION OF ONA AND OTHER NONDISCRIMINATION SAFEGUARDS WOULD HAVE NEGLIGIBLE FINANCIAL IMPACT ON GTE.

GTE makes two arguments regarding the costs of complying with nondiscrimination rules: one based on the cost level relative to the demand for ONA services and the second based on the relative cost advantages of the Bell Operating Companies ("BOCs"). Hawaii maintains that neither argument is valid.

A. GTE's Own Estimates Reflect That the Cost of Compliance With the Commission's Proposal Are Miniscule.

GTE provides an estimate of the costs of implementing ONA in its operating areas.[6] Despite the notable ab-

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(Footnote 5 continued from previous page)
comply with all the safeguards.

Further, the State noted that GTE's argument that network disclosure rules are unnecessary is without merit because much of the equipment in GTE's exchanges was manufactured by GTE.

The State also addressed the need for CPNI rules, given that GTE enhanced services personnel are still able to use information not available to other enhanced service providers without penalty. GTE should not be in the position of advising competing enhanced service providers of their rights at GTE's own discretion.

In addition, the State attached to its initial comments certain documents submitted in an earlier FCC proceeding, which called for the application of ONA and other nondiscrimination safeguards to GTE. Among these documents was a comparative analysis of GTE and the Bell Companies (Attachment B), showing that GTE's characterization of the company as being more rural than any RBHC was not accurate.

6. See GTE Comments at 70 & Attachment A.

sence of cost support materials to indicate how the company arrived at these bald figures, the cost identified by GTE for the initial year is only $1.33 per access line.[7] In subsequent years, the cost drops dramatically.[8] Such an expense level (even if accurate) would appear to be quite affordable for a company the size of GTE.[9] In addition, as noted below, GTE's costs will be significantly less as compliance stimulates demand.

GTE also argues that a cost/benefit analysis re-

examples of how such safeguards can both benefit unaffiliated enhanced service providers and stimulate usage.[11]

Further, the adoption of ONA and other nondiscrimination safeguards also benefits GTE. GTE itself recognizes the potential for substantial growth in its basic services arising from the increased purchases of enhanced service providers.[12] The company fails, however, to consider the

operating companies within any RBHC would differ from such an overall average.[13]

With respect to marketing costs, GTE estimates an "ad tax" based on the percentage of "in-franchise" customers located in the relevant mass media market.[14] Mass media, however, is a questionable choice of advertising vehicles for many ONA services. It is not at all clear what GTE would advertise or why. Moreover, the safeguards proposed in this proceeding are for interstate services. GTE operates on a nationwide scale, providing local interstate access in 40 states, as opposed to the 14 states served by U S West, which serves more states than any other RBHC. Therefore, if advertising for interstate services were a factor, GTE would actually have an advantage over the Bell

(which the State believes is likely),[16] then GTE's argument is meaningless because, according to GTE, its overhead costs are lower than the BOC average.[17] Similarly, although GTE identifies operating and marketing as the two major areas in which its costs differ from the Bell Companies, it does not define what proportion of costs are attributable to these areas.

III. GTE FAILS TO MAKE A SINGLE ARGUMENT RELEVANT TO ITS OPERATIONS IN HAWAII.

In all of 79 pages and lengthy attachments, GTE's comments make no relevant argument against applying ONA and other safeguards to its Hawaii operations.[18] No BOC enjoys the level of market power -- and, therefore, the concomitant ability to discriminate -- that GTE's operating company in Hawaii enjoys. In particular, the operations of GTE

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16. Based on GTE's arguments, Operating Support Systems ("OSS") is an operating cost (see GTE Comments at 55-56) because it requires standardizing the OSS systems. It is interesting, however, that GTE has a full implementa-tion of standard systems in the former Contel proper-ties, even though these are its least dense companies (see id. at 56 n.131). Again, GTE's argument does not follow. While GTE argues that OSS standardization accounts for most of the cost of implementing ONA and nondiscrimination safeguards, and that most of this expense is attributable to low density operating areas where there is no demand (a situation which GTE claims is enlarged by its Contel properties), none of the OSS costs would be incurred for Contel operations because they are already fully standardized.

17. See id. at 37.

18. See id. at 54-58.

Hawaiian are more integrated than any BOC. Like other GTE Operating Companies, GTE Hawaiian provides enhanced services and communications services.[19] More importantly, GTE Hawaiian is also a dominant interexchange carrier for the provision of international telecommunications service. GTE Hawaiian is therefore in a particularly powerful position because Hawaii's primary market for the provision of information services is international (specifically, the Pacific Rim countries).

Moreover, contrary to GTE's core arguments against the application of ONA and other safeguards (i.e., rural and dispersed operations), the operations of GTE Hawaiian are both dense and contiguous.[20] GTE also admits that operating costs in its three largest companies, including GTE Hawaiian, would be similar to those of a BOC. And, with respect to GTE's perceived "ad tax" (if there were such a thing), its costs in Hawaii would amount to zero because 100 percent of the relevant mass media market is "in-franchise."[21] There is simply no justification for exempting GTE Hawaiian

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19. See, e.g., ITN Comments at 6, 7-8 (discussion of GTE's internal signalling networks and provision of SS7 through GTE INS).

20. See Hawaii Comments at Appendix B.

21. See GTE Comments at Attachment I.

from the full range of safeguards as proposed by the Commission.[22]

IV. CONCLUSION.

For the reasons stated above, the State of Hawaii urges the Commission to adopt the full range of ONA and nondiscrimination safeguards, as proposed, to all GTE Operating Companies, or, alternatively, to GTE Hawaiian.

Respectfully submitted,

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22. In this regard, GTE argues that the cost of applying safeguards for one local operating company is not much less than the cost of doing so companywide. Although GTE's figures are suspect, its claim certainly supports applying such safeguards companywide. See Hawaii Comments at 4. See also ATSI Comments at 13.

CERTIFICATE OF SERVICE

I, Dana M. Pass, hereby certify that copies of the foregoing Reply Comments of the State of Hawaii were served by hand or by First-Class U.S. Mail, postage prepaid, upon the parties on the attached service list, this 24th day of March 1993.

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