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

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| In the Matter of | ) | |
| | ) | |
| Price Cap Performance Review for Local Exchange Carriers | ) | CC Docket No. 94-1 |
| | ) | |
| Treatment of Operator Services Under Price Cap Regulation | ) | CC Docket No. 93-124 |

# COMMENTS OF GTE

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## SUMMARY

GTE endorses the proposals in the *Second Further Notice of Proposed Rulemaking* to improve the efficiency of the Local Exchange Carrier ("LEC") price cap plan. Reform of "baseline" price cap regulation will promote more efficient access prices, encourage innovation, increase the range of service options available to customers, deter inefficient entry and promote more efficient infrastructure investment by incumbents and entrants while still providing necessary protection against abuses by the LECs. GTE urges the Commission to adopt improvements in baseline price cap regulation, without regard to the extent of competition in those markets.

Because there is a critical need for immediate new services flexibility, GTE strongly supports the Commission's proposals to adopt changes to the new services rules in the context of the existing access structure in this proceeding. The Commission should immediately re-establish the presumption in favor of new services and eliminate restrictions which delay the introduction of new services.

Moreover, the Commission should adopt changes which would accommodate optional discounted services by establishing separate tariff standards for Alternative Pricing Plans. These plans incorporating volume and term discounts can improve the efficiency of access pricing and promote the development of new service options for customers.

GTE urges the Commission to permit LECs to employ contract-based tariffs, subject to appropriate safeguards, under baseline regulation. Specifically,

LEC contract-based tariffs should be permitted when the customer has issued a Request For Proposal and at least one provider other than the LEC must have responded to the Request. Contract-based pricing is needed to establish efficient entry signals. In addition, the current policy on Individual Case Basis rates should be revised to encourage new service offerings.

GTE supports the objective the *Second Notice* to eliminate the need for LECs to seek a waiver of Part 69 of the Commission's Rules in order to offer a new switched access service. New services should be allowed to proceed to the tariff review process as quickly as possible, with a minimum of delay and uncertainty. To accomplish this, GTE suggests a procedure that is simpler and more consistent with Section 7 of the Communications Act.

GTE also encourages the Commission to remove the limitations on downward pricing flexibility. The elimination of the lower service band limits would result in more efficient pricing and enhanced competition. Price reductions produce immediate, first-order benefits for access customers.

GTE strongly urges the Commission to permit LECs to extend zone pricing beyond the transport elements currently permitted. GTE proposes that the rules for baseline regulation should permit LECs generally to establish rates on a zone basis for certain switched elements, as well as for those special access transport services to which zones do not currently apply.

Moreover, GTE encourages the Commission to simplify the price cap structure in this proceeding. Access elements should be governed by a price cap mechanism that minimizes rate caps for specific elements and subcategory

banding constraints, except for zone density pricing elements. GTE recommends a simplified price cap basket structure that would simplify the existing plan by reducing the number of service categories and subindices and would accommodate zone pricing for most of the major access rate elements.

GTE commends the Commission for tentatively proposing a system of adaptive regulation for LEC interstate access services and encourages the Commission to establish the criteria to define the relevant market and the terms by which LECs can receive streamlined treatment. The mechanism for adaptive regulation should be simple and predictable; it should allow LECs to respond to competition; and it should ensure that customers in less competitive markets continue to be protected by price caps. The Commission should establish a mechanism removing relevant markets that are found to be competitive from price caps rather than moving services among baskets within price caps.

Finally, GTE strongly endorses proposals to reclassify those LEC services not already found to be nondominant. The criteria for the determination of nondominance should be similar to those used for streamlining. These criteria are consistent with those developed in the *Competitive Carrier* proceeding and rely on indicators which are simple to measure, and for which clear thresholds can be defined. A LEC found to be nondominant in a given market should be regulated in the same manner as any other nondominant carrier with which it must compete in that market.

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**COMMENTS OF GTE**

GTE Service Corporation ("GTE"), on behalf of its affiliated domestic telephone operating companies, submits the following comments regarding the *Second Further Notice of Proposed Rulemaking* (*"Second Notice"* or *"SFNPRM"*) in the Price Cap Performance Review for Local Exchange Carriers, FCC 95-393, released September 20, 1995.

GTE supports the Commission's efforts in this proceeding and urges the Commission to act expeditiously in resolving the issues addressed here. Price caps were instituted as a transitional regulatory scheme until the marketplace was competitive.[1] Now is the time to put in-place the criteria that will determine when the market is ready for streamlined regulation and nondominant reclassification of the price cap LECs. Delays in establishing these criteria would

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[1] *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, 5 FCC Rcd 6786 (1990); *recon.*, 6 FCC Rcd 2637 (1991); *aff'd sub. nom.*, *National Rural Telecom. Assn. v. FCC*, 988 F.2d 174 (D.C. Cir. 1993).

result in distorted entry signals and inefficient capital investment. The Commission should immediately remove the limitations on downward pricing flexibility, remove the Part 69 waiver requirements and simplify tariff procedures which delay the introduction of new switched access services, remove the asymmetric regulations that prohibit LECs from competing with other service providers for customer specific arrangements and establish a framework that defines relevant markets and the criteria under which LECs can receive streamlined and nondominant treatment.

## INTRODUCTION

In the *Second Notice*, the FCC proposes changes to the LEC price cap plan to respond to the changing market for interstate access services and to allow market forces to achieve the Commission's public policy goals.[2] The *Second Notice* seeks comment on a three-step plan: 1) immediate action that could be taken for services under price cap regulation to allow greater pricing flexibility; 2) establishment of the criteria that should be applied to remove services from price caps and subject them to streamlined regulation; and 3) establishment of the criteria that would determine when a LEC could be reclassified as a nondominant carrier either in a geographical area, for certain services, or a combination of the two. The Commission (at ¶1) intends for this plan to benefit consumers by: 1) encouraging market-based prices that reflect

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[2] *SFNPRM at ¶1.*

the cost; 2) encouraging efficient investment and innovation; 3) encouraging competitive entry into the interstate access and related local exchange markets; and (4) permitting the regulation of noncompetitive markets in the most efficient and least intrusive way.

## I. STREAMLINED REGULATION FOR BASELINE NEW SERVICES IS ESSENTIAL TO STIMULATE NEW OFFERINGS AND TO ADD TO CUSTOMER CHOICES.

### A. The introduction of new services should be streamlined under baseline regulation.

The *Second Notice* (at ¶44) seeks to "eliminate unreasonable restrictions or undue delays that our current rules may impose on LECs' ability to introduce new offerings." GTE agrees that the current rules unreasonably restrict the introduction of new services and urges the Commission to act quickly to reduce these barriers.

The Communications Act of 1934, as amended ("the Act"), establishes a presumption in favor of new services and places the burden of proof on any party opposing a new service to demonstrate that the service is not in the public interest.[3] Notwithstanding this clear direction in the Act, the Commission's current rules do just the opposite – the rules place a heavy burden on a LEC that proposes a new service. The first obstacle faced by a LEC proposing a new

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[3] 47 U.S.C. §157.

switched access service is the need to either waive or modify the Part 69 rules.[4] The next obstacle is the need to fit the proposed service into the prescribed Part 69 structure, even though many new services do not fit readily into the structure established over ten years ago. Finally, even after a waiver has been obtained, the new service is subjected to a lengthy tariff review process.

Although this problem will be considered in the reform of the Part 69 structure itself in a broader access reform proceeding,[5] there is a critical need, as the Commission notes (at ¶69), for immediate new services flexibility. GTE strongly supports the Commission's attempts to encourage new services as soon as possible by adopting changes to the new services rules in the context of the existing access structure in this proceeding.

### B. New services under baseline regulation should be presumed to be Track 2 services unless explicitly identified otherwise.

The *Second Notice* proposes (at ¶45) to classify new services either as "Track 1" or "Track 2." Track 1 services would have to comply with the current notice and cost support requirements while Track 2 services would be subject to reduced requirements. GTE agrees that simplification of the tariff review process for new services would benefit consumers. GTE recognizes that the Commission may be reluctant to reduce the level of scrutiny that it affords certain services. The proposed distinction between Track 1 and Track 2 therefore

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[4] This will be discussed *infra* in response to the proposals in the *Second Notice* to modify the waiver process.

[5] *SFNPRM* at ¶69.

appears to be useful. However, the *SFNPRM* (at ¶¶46-47) proposes to classify services as either Track 1 or Track 2, prior to each new service tariff filing, under a "definitional" approach.

GTE is concerned that the classification process itself would complicate, rather than simplify, new service introductions, and would lead to unnecessary disputes as to whether the criteria for classification have been met. The proposals in the *SFNPRM* would also introduce uncertainty into the process, since the LEC would not know whether the service will be treated as Track 2 until after the vetting process is complete.[6] Many of the difficulties with the current process arise because the Commission has adopted a classification scheme (Part 69), which in turn has required a separate process (a Part 69 waiver) prior to tariff review. The Commission should not recreate this problem with Track 1 and Track 2 classification. Any classification process adopted must be clear and certain.

Any definitional approach to classifying Track 1 and Track 2 services would require the Commission to establish criteria for classification. Since this portion of the *Second Notice* deals with improvements to baseline regulation, new services should not be classified on the basis of the degree of competition. Customers in all markets should benefit from the introduction of new services

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[6] The *SFNPRM* proposes (at ¶48) that the LEC should file a petition asking the Common Carrier Bureau to classify the new service as Track 2. Such a petition has all the same disadvantages of inflexibility and delays inherent in the current waiver process.

without any unreasonable restrictions or undue delays that the current rules impose.[7]

The *Second Notice* also suggests (at ¶47) that Track 1 classification could be based on a finding that a service is "essential" to the LEC's competitors. Unless this criterion is well defined, competitors could claim that many LEC services were essential. Disputes over this point would delay, rather than speed, new service introduction. Further, the Commission should not, in general, embark on a process of compiling a list of essential elements. As noted *supra*, this will simply recreate the problems associated with the current Part 69 structure. Maintaining a list of prescribed services in an environment of rapidly changing technology and customer needs, and of rapidly developing competition, is simply a hopeless task. The Commission should mandate that a service be offered only if there is an overriding public policy reason to do so; certainly this determination should not be made as part of the tariff review process.

Similarly, the application of a "close substitute" standard would require market analysis, the details of which would be subject to controversy. The issue of substitution would more efficiently be handled in the context of the definition of relevant markets for streamlining.[8]

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[7] *See SFNPRM* at ¶44. Further, the *Second Notice* includes proposals for the selective streamlining of relevant access markets, based on competitive criteria. This is the appropriate part of the proposed framework for the use of competitive showings, not with regard to baseline regulation.

[8] Of the proposals for a "definitional" approach, the substitutability standard makes the most economic sense. However, GTE does not recommend that any "definitional" standard should be applied to new services on a

GTE suggests a simpler approach that would not require the Commission to classify each new service as it is filed. Any new service should be presumed to be a Track 2 service unless it has been found explicitly by the Commission, through a prior proceeding, to be Track 1.[9] In order to be considered Track 1, the Commission should have either: 1) required the service to be offered, as in the case of expanded interconnection;[10] or 2) adopted specific filing requirements for the service, as in the case of the initial video dialtone tariffs.[11]

GTE's approach would assure that the classification process itself would not introduce uncertainty into the evaluation of new services. In most cases, the LEC would know before the service is proposed whether it will be Track 1 or Track 2. It would eliminate the need to classify the service as part of the filing process, removing a time-consuming and contentious step. It would extend the

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case-by-case basis. Further, the APP concept proposed in the *SFNPRM* would capture some of the benefits of this approach without the complexity of a separate standard, since each APP could be presumed to be cross-elastic with the existing service on which it is based.

9 Note that this is simply the obverse of the first option suggested in the *SFNPRM* (at ¶46), in which all new services would be presumed to be Track 1 unless the LEC demonstrated otherwise. GTE's proposal has the virtue that it eliminates the need for service-specific showings with each filing.

10 In the context of USTA's 1993 access reform proposal, these would be considered "public policy" elements. *See USTA's Petition for Rulemaking*, Reform of the Interstate Access Charge Rules, RM-8356, filed September 17, 1993. ("*USTA's Petition*")

11 *See SFNPRM* at ¶49. In either case, the requirement would have been adopted in an Order as a result of a Commission proceeding. GTE suggests that, for a service to be Track 1, the Commission should have made a specific finding to that effect in such an Order.

benefits of Track 2 treatment to as many new services as possible. At the same time, it would allow the Commission to extend Track 1 treatment to any service for which it finds a public policy concern that justifies the additional scrutiny.

GTE strongly disagrees, however, with the proposal in the *Second Notice* (at ¶38) to exclude video dialtone services from any consideration for baseline pricing flexibility thereby foreclosing any opportunity to treat video dialtone services as what they truly are – competitive delivery mechanisms.. This proposal ignores the fact that LEC video offerings most likely will meet each and every competitive test for streamlined regulation that the Commission is currently considering. While the Commission may have legitimate concerns that initial rates for video dialtone are not set at predatory levels, there is no reason to saddle video dialtone services with restrictive tariff filing requirements under a Track 1 scenario after a LEC's initial tariff filing becomes effective.

In order to achieve the Commission's goal of promoting the development of competition in local video markets and expanding the range of video programming options available to consumers, LECs must possess the ability to introduce new service options or modify existing service arrangements and price levels in order to compete with entrenched cable television providers. Indeed, at the very time the Commission is considering a plethora of new regulations in three separate rulemaking proceedings which could constrain the programming, operational, financial and pricing abilities of LECs, it is unilaterally considering relaxation of regulatory controls on the very entity that exerts total control over

existing video distribution markets -- the monopoly cable providers.[12] Clearly, relaxing the existing pricing and service provisioning rules for incumbent cable operators while maintaining rigid tariff and pricing constraints on video dialtone providers will do nothing to promote competition in video distribution markets. Thus, the Commission can either move forward and encourage the development of video dialtone services by applying the same type pricing flexibility standards as it proposes for access services or it can smother it with overly complex and restrictive rules which will only guarantee the continuation of the existing cable television monopoly in LEC local serving areas. GTE urges the Commission to reduce the regulatory requirements for new video dialtone services in the same manner as other price cap services.

### C. Shorter notice periods should be adopted for restructured rates.

GTE agrees with the tentative conclusion (at ¶50) that the cost support requirements for restructured services should remain essentially as they are today. The one significant change proposed in the *Second Notice* for restructured services is a reduction in the notice period. GTE agrees that a shorter notice period would be reasonable. The justification required for a restructured service consists of a relatively minimal showing that the proposed

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[12] *See Waiver of the Commission's Rules Regulating Rates for Cable Services*, as applied to cable systems operating in Dover Township, Ocean County, New Jersey, Order Requesting Comments, FCC 95-455, released November 6, 1995.

rates satisfy price cap constraints. It should be possible for the Commission staff to verify such showings in less than the current 45 day notice period.

The *SFNPRM* seeks comment (at ¶51) on whether one notice period (15 days) should be established for restructured filings that raise rates, and a shorter period (7 days) for proposals that reduce rates. GTE suggests that the proposed distinction will not generate enough benefit to justify administering it. GTE suggests that the Commission establish a uniform notice period of 14 days for all restructured services filings. This is the same notice required of within-band filings which require the same type of supporting data as restructured rates.

### D. Local Exchange Carriers should be permitted to introduce Alternative Pricing Plans.

The *Second Notice* seeks comment (at ¶54) on whether to establish a new category of tariff filing for Alternative Pricing Plans ("APPs"), which would be subject to relaxed regulatory treatment. The *SFNPRM* (at ¶59) defines an APP as a service that permits a customer to "self-select" an optional discounted rate plan for a service that currently exists. APPs would be distinguished from new or restructured service filings.

GTE supports the Commission's proposal to accommodate optional discounted services by establishing separate tariff standards for APPs. The inability of LECs to offer discounted switched access services is one of the most serious shortcomings of the current access rules. As GTE has explained in its earlier price cap Comments, the best way to address this problem is to reform the Part 69 rules to eliminate the current prescribed rate structure. However, as

an immediate step which can be taken within the current structure, GTE believes that the APP proposal would provide significant public interest benefits, and should be adopted.

### 1. APPs would provide significant benefits.

By permitting APPs incorporating volume and term discounts, the Commission can improve the efficiency of access pricing and promote the development of new service options for customers. Service options incorporating volume discounts align rates more closely with costs, by bringing the incremental rate -- the discounted rate the customer faces at the margin -- closer to the incremental cost.[13] This sends better price signals to both the Interexchange Carrier ("IXC") and its end-user customer concerning how much switched access to buy, and how to compare switched access with other alternatives.

The *SFNPRM* recognizes (at ¶24) that switched access prices held above cost

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[13] Since telecommunications networks are characterized by economies of scale, a LEC's total cost will be greater than the revenue that would be produced if all of its services were priced at incremental cost. For this reason, LEC service prices must generally be set to include a contribution above incremental cost; the size of this markup should depend on the characteristics of demand for each service. If service prices were uniform, then customers would always face incremental prices well above incremental cost. Nonlinear prices, of which term and volume discounts are two examples, are devices that allow incremental prices to be brought down toward incremental cost, while still generating necessary contribution -- something which cannot be done with uniform prices alone.

> cause toll customers at the margin to consume other goods and services rather than to increase their use of interstate long distance services. Such prices also cause high-volume and even moderate-volume business customers to substitute dedicated facilities . . . even where the use of such facilities is not economically efficient . . .

APPs would also increase the range of service options available to customers. IXCs today compete with one another by offering volume and term packages of switched interexchange service to their end-user customers. However, their ability to do this is limited by the fact that no corresponding volume and term offerings are available for all rate elements applicable to switched access services. Accordingly, IXCs have structured their higher-volume switched offerings using special access direct connections.[14] If LECs are allowed to offer APPs, IXCs will have new opportunities to structure attractive offerings for their own customers using switched access. End-users would then have a wider range of service choices, and would be able to choose the service arrangement -- using switched or special access -- that best serves their needs.

GTE has recently filed a Petition for Waiver in order to offer a new switched access service called ZonePlus.[15] ZonePlus incorporates an innovative proposal for a volume discount which would apply to certain switched access

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[14] Interexchange discount packages structured around switched access include MCI's Friends and Family and most of AT&T's Pro-WATS offerings. Packages structured around special access include such services as AT&T's Megacom.

[15] *Petition for Waiver of the GTE Telephone Operating Companies*, filed Nov. 27, 1995 ("*ZonePlus Petition*").

rate elements.[16] These discounts would be provided to the access customer (usually the interexchange carrier), but would be based on the volume of traffic originating or terminating at a given end-user's location. This feature of ZonePlus is an example of the new customer options which could be made available by LECs under appropriate APP rules.[17]

Service options that include volume and term discounts are widely available in the telecommunications industry today for virtually every service *except* switched access. The lack of these discounts has repressed the demand for switched access and has artificially encouraged the use of special access alternatives. It has also discouraged the introduction of new services in the switched network infrastructure, since switched access cannot be priced to be attractive to larger volume users.[18] The most exciting new technology on the horizon promises to make high speed transmission, advanced intelligence and customer control available through switched networks. However, carriers will find it difficult to roll out such capabilities in their networks if the largest potential

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16 Specifically, ZonePlus would provide discounts on the local switching, CCL, transport interconnection ("RIC"), and information surcharge elements. The discount would apply to all switched minutes to or from an end user location when those minutes exceed a threshold volume level.

17 GTE has been severely restricted in offering innovations such as ZonePlus under the current rules because of the need to secure a waiver before offering the new service.

18 These large business customers are the natural "early adopters" of new telecommunications services. They provide the demand for new services during the early stages of their adoption, and the revenue from these customers helps to fund the investment needed to make a new service widely available to all customers through the switched network.

customers for such capabilities find them unattractive because of artificial pricing constraints. Because any switched service arrangement must pay uniform, undiscounted access rates, large users have been encouraged instead to adopt new technology in the form of private networks.

Implementation of APPs will promote more efficient use of switched access networks by providing better price signals to customers choosing between switched and special access services. Maintaining a stable, or increasing, use of the switched access network, over time, will result in a larger, more stable demand base for price setting purposes, and thus could mitigate upward pressure on access prices. Moreover, APPs can provide customer price stability and encourage LEC network investment.

### 2. APPs should not be conditioned on a showing of competitive presence.

APPs would provide benefits in terms of efficiency and customer choice regardless of whether the access market is competitive. It is, therefore, imperative that LECs be able to introduce APPs under baseline regulation, without any test for the extent of competition in the market.[19]

Analogous changes in the regulation of AT&T, which allowed the introduction of services such as Reach-Out, Pro-WATS, Software Defined Network ("SDN") and Megacom, were all made before the Commission had even

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[19] For similar reasons, the Commission should not afford different treatment to APPs in different price cap baskets.

adopted price caps for AT&T, and certainly before the Commission had developed criteria for removing AT&T's services from price caps as they became competitive. The Notice that led to the approval of optional calling plans for AT&T explicitly assumed that AT&T retained market power for the services in question. In other words, these were changes to "baseline" regulation for AT&T.[20]

While APPs will benefit customers even in the absence of competition, it is also true that this price cap *Second Notice* is being undertaken against a background of generally developing access competition – just as the Commission's earlier decisions regarding AT&T were made in an environment of developing interexchange competition. As was true in the interexchange market, allowing the incumbent LECs to set more efficient prices under baseline regulation will help competition to develop in access markets on a sound economic basis, because it will send more reasonable price signals to prospective entrants.

### 3. APPs should be subject to simplified tariff review.

Because the continued availability of the existing service acts as a check on the LEC's pricing of APPs, these services should be subject to simplified tariff review. The *Second Notice* discusses two types of APPs.

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[20] Notice of Proposed Rulemaking, CC Docket No. 84-1235, 50 Fed. Reg. 1881, January 14, 1985 at ¶ 1.

The first type would be a promotional offering which the LEC would make available for a limited period. These services would be filed on 14 days' notice, without cost support, and could remain in effect up to 90 days.[21] GTE supports this proposal.

The second type would be a permanent offering. The *Second Notice* proposes (at ¶59) that temporary APPs could be converted to permanent ones by filing tariff revisions within the 90 day promotional period. While promotional APPs will be useful, GTE believes that, in the access market, most of the benefits will be realized from permanent APPs.[22] GTE proposes that a LEC should be able to file a permanent APP either by converting a promotional offering during the 90 day period, as the *SFNPRM* proposes, or by filing a permanent APP initially. The LEC should be able to simply file the tariff as a permanent offering, without the interim step of a promotional APP. In either case, the permanent APP filing should be subject to 21 days' notice.

Neither promotional nor permanent APP filings should require a waiver of the Part 69 rules.[23] As the *SFNPRM* notes (at ¶60), because the non-discounted offering would remain available, there would be "little likelihood of

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21 *SFNPRM* at ¶59.

22 Because access is a wholesale market with a few large customers, promotional offerings will have a limited role to play.

23 If the Commission adopts an alternative to the waiver process, such as the Notice of Intent procedure GTE will propose *infra*, this alternative should not be required for APPs either, but should apply only to new services other than APPs.

harm to customers." The *SFNPRM* (at ¶55) also notes the Commission's previous finding that term discounts were "not controversial,"[24] but that small IXCs have raised concerns that volume discounts would "benefit primarily AT&T." As GTE's recent ZonePlus proposal makes clear, however, it is possible to design volume discounts which are neutral with respect to IXCs. Because the ZonePlus discount depends only on the end-user's volume, any IXC that serves that customer can obtain the same discount, regardless of the IXC's own size.[25]

The *Second Notice* suggests (at ¶59) that permanent APP filings should be made on 45 days' notice, and should comply with a new services test. The new services test currently applied to LEC access services is designed to ensure that prices are not too low, by applying a cost floor, and that prices are not too high, by examining overhead loadings. Since APPs will be based on existing services, GTE submits that the continued availability of the existing service will guard against prices that are too high. If the APP price is not attractive, customers will simply purchase the existing service. A simple cost floor test, based on direct cost, should suffice to protect against prices that are too low. As long as the APP rates cover their direct costs, the offering of APPs cannot deter entry by an efficient provider. An APP, therefore, cannot cause "competitive

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24 *SFNPRM* at ¶55 and n.77.

25 Every plan will have greater inherent benefits to some customers than others. With the increased number and variety of plans available, each customer should find APPs that could be of benefit.

harm" as defined in the *Second Notice* (at ¶28). GTE further submits that this "relaxed review" could reasonably be completed within a 21 day notice period.

The *Second Notice* summarizes the Commission's experience with APPs for AT&T's services, and reviews (at ¶56) its concerns regarding "headroom" created under price caps by these offerings. A permanent APP which meets the standard suggested *supra* will fully cover its direct cost, and would not create any shortfall to be made up by any other service. Moreover, because a promotional APP would be held out of price caps entirely, it could not affect caps for remaining services. A permanent APP should be held out of price caps for one year, and then rolled in based on actual demand, as other new services are today. This would eliminate the need to use demand forecasts, and obviate any of the concerns over errors in such forecasts raised in the *Second Notice*.

### E. LECs should be allowed to respond to customers' needs through contract-based tariffs.

Individually negotiated contracts are important tools that are used routinely by most businesses to meet their customers' needs. GTE urges the Commission to permit LECs to employ customer-specific contracts, subject to appropriate safeguards, under baseline regulation.

#### 1. LECs should be able to offer a contract-based tariff in response to a customer request.

The *Second Notice* proposes (at ¶48) to permit LECs to offer customer-specific contract-based tariffs for services subject to streamlined regulation. GTE supports this proposal, as discussed in greater detail *infra*. However, GTE