

RECEIVED

MAR 18 1996

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the matter of )  
)  
Telecommunications Services )  
Inside Wiring )  
)  
Customer Premises Equipment )

CS Docket No. 95-184

DOCKET FILE COPY ORIGINAL

**COMMENTS OF GTE**

GTE Service Corporation, on behalf of its  
domestic telephone operating companies and  
GTE Media Ventures Incorporated

John F. Raposa, HQE03J27  
GTE Service Corporation  
P.O. Box 152092  
Irving, TX 75015-2092  
(214) 718-6969

Gail L. Polivy  
1850 M Street, N.W.  
Suite 1200  
Washington, DC 20036  
(202) 463-5214

No. of Copies rec'd 014  
List ABCDE

March 18, 1996

Their Attorneys

## TABLE OF CONTENTS

	<u>PAGE</u>
SUMMARY .....	ii
I. INTRODUCTION.....	1
II. DEMARCATION POINT.....	3
A. Consistent Demarcation Point Policies Should Apply To All Narrowband and Broadband Facilities .....	3
B. No Public Interest or Competitive Need Exists to Modify the Current Rules for Telephone Services .....	5
C. The Cable Demarcation Point Rules Should Be Made Comparable to Those for Telephony .....	7
D. A Flexible Common Demarcation Point Policy Should Be Adopted for Facilities Used To Provide Integrated Service Offerings.....	12
III. CONNECTIONS.....	14
IV. REGULATION OF SIMPLE AND COMPLEX, AND RESIDENTIAL AND NON-RESIDENTIAL WIRING.....	15
V. CUSTOMER ACCESS TO WIRING.....	16
VI. DUAL REGULATION .....	19
VII. SERVICE PROVIDER ACCESS TO PRIVATE PROPERTY .....	20
VIII. CUSTOMER PREMISES EQUIPMENT .....	23
IX. CONCLUSION .....	24

## SUMMARY

GTE believes that uniform, non-discriminatory rules should be adopted governing access to and ownership of inside wire for delivery of all voice, data, and video services. Accordingly, any new inside wiring policies should be: (1) designed to promote full and fair competition in the market for local video and telephony services; (2) maximize subscriber choice and convenience in the selection of alternative providers; and, (3) generally be based on technical considerations, rather than the identity of the service provider.

Within this context, the Commission must make a careful examination of existing cable and telephone configurations and determine whether the current rules inhibit or encourage competition for cable and telephone services and enable customers to choose among service providers. Accordingly, GTE believes that it is vital for the Commission retain the existing inside wiring rules for telephony services. However, there is also a compelling need, from both a competitive and technical perspective, to modify rules regarding cable services to be consistent with the rules for telephone services. While it is important that the Commission address inside wiring implications for integrated networks, the immediate need is to eliminate the anti-competitive effects of the cable home wiring rules.

GTE recommends that: (1) the Commission deregulate rates for cable home wiring; (2) establish consistent demarcation policies for telephone and cable services; and (3) extend pretermination control over all cable inside wiring to all subscribers within ninety days from the release of a final order in this proceeding. The Commission should also bar cable operators from entering into exclusive relationships with multiple

unit building owners in excess of 12 months in those markets where alternative providers have announced an intention to enter and that cable operators be required to conform all existing contracts to this 12 month limitation. Finally, where practical, the Commission should employ the same framework established for the deregulation of telephone inside wiring as a model in crafting these policy changes.

The development of competitive markets for the delivery of advanced services over integrated facilities should minimize the need for the Commission to proscribe detailed regulations for broadband networks. Thus, broadband inside wire policies should be flexible to accommodate a variety of technologies and service delivery mechanisms. To the extent that uniform technical standards are needed, the Commission should rely on industry standard-setting organizations. In addition, the Commission should defer further consideration of CPE related issues to its expected rulemaking proceeding to enact portions of the Telecommunications Act of 1996 regarding the commercial availability of cable CPE.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

MAR 18 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the matter of )  
)  
Telecommunications Services ) CS Docket No. 95-184  
Inside Wiring )  
)  
Customer Premises Equipment )

**COMMENTS OF GTE**

GTE Service Corporation, on behalf of its domestic telephone operating companies and GTE Media Ventures Incorporated (collectively, "GTE"), respectfully submits these Comments in response to the Notice of Proposed Rulemaking ("*Notice*") in the above-captioned proceeding, FCC 95-504, released January 26, 1996.

**I. INTRODUCTION.**

In the *Notice*, the Commission considers changes to its telephone and cable inside wiring rules in light of the evolving and converging telecommunications marketplace. Specifically, the Commission seeks comment on whether certain telephone and cable inside wiring rules need to be revised, harmonized, or otherwise changed and the overall impact of different statutory regimes applicable to telephone and cable networks.

The *Notice* ( at ¶ 5) addresses: (a) potential changes in the location of the demarcation point; (b) technical connection parameters; (c) the regulation of telephone simple and complex inside wiring, and residential and non-residential inside wiring; (d) subscriber ownership of, or access to, inside wiring; (e) issues arising from the dual

regulation of inside wiring by federal and local authorities; (f) service provider access to private property; and, (g) the regulation of customer premises equipment.

GTE applauds the Commission for taking the step to ensure that its telecommunications inside wire rules will promote competition and enhance consumer choice in the video marketplace. GTE believes, in principle, that uniform, non-discriminatory rules should be adopted governing access to and ownership of inside wire for delivery of all voice, data, and video services. Accordingly, any new inside wiring policies should be: (1) designed to promote full and fair competition in the market for local video and telephony services; (2) maximize subscriber choice and convenience in the selection of alternative providers; and, (3) generally be based on technical considerations, rather than the identity of the service provider.

The Commission's inside wiring rules for telephony have been carefully designed to promote competition in the market for a broad spectrum of telephone-related services, including competitive inside wiring installation and maintenance services. These rules will adequately accommodate interconnection of subscriber wiring and equipment as competition for local telephone services intensifies. Dissimilarly, however, cable inside wire rules continue to reflect the antiquated nature of cable television monopolies and must be reformed if competition is to flourish in local video distribution markets.

While it is important that the Commission address inside wiring implications for broadband networks, the immediate need is to eliminate the anti-competitive effects of cable home wiring rules. Therefore, GTE recommends that: (1) the Commission deregulate rates for cable home wiring; (2) establish consistent demarcation policies for telephone and cable services; and (3) extend pretermination control over all cable

inside wiring to all subscribers within ninety days from the release of a final order in this proceeding. Where practical, the Commission should employ the same framework established for the deregulation of telephone inside wiring as a model in crafting these policy changes.

## **II. DEMARCATION POINT.**

### **A. Consistent Demarcation Point Policies Should Apply To All Narrowband and Broadband Facilities.**

GTE generally supports the Commission's tentative conclusion that common demarcation point policies be established for wireline communications networks where services such as cable and telephony services are provided over a single broadband wire. *Notice*, at ¶ 12. Such a policy makes sense, would indeed minimize confusion and expense for consumers, property owners and service providers as LECs, cable operators, and other new market entrants begin to offer integrated service options to subscribers.

GTE believes that common demarcation policies would enhance the development of competition as new services provided over integrated facilities are introduced by a variety of carriers. All carriers, whether they are traditional cable, telephone or IXC providers, should be allowed to compete with one another on an equal footing. The establishment of consistent rules for cable and telephone services would guard against any one provider gaining an unfair advantage as new providers enter the market. Subscribers and property owners should be allowed to freely choose between video and telephone service providers. This ability to choose must not be hampered by disparate regulations for different telecommunications and entertainment services and restrictions on the use of inside wiring on their premises.

The *Notice* (at ¶ 13) requests comment on whether, generally, it would better promote competition and otherwise be in the public interest to require that the demarcation points for broadband and narrowband networks be placed at a common point or at the point at which the broadband or narrowband line becomes dedicated to an individual subscriber's use. The *Notice* also seeks comment on where this common demarcation point for cable and telephony services should be located -- *i.e.*, minimum point of entry as in telephone or a demarcation point closer to the subscriber as in cable. Alternatively, the *Notice* asks whether demarcation points should continue to be established based on the services provided over facilities (*i.e.*, telephony or cable), or whether it should create demarcation points based upon the nature of the ultimate facilities used to deliver the service (*i.e.*, narrowband termination facilities or broadband termination facilities).

For telephone and cable services, as well as services provided on an integrated basis over broadband facilities, a common demarcation point should generally be defined as the point at which ownership and control of subscriber premises wiring is transferred from the service provider to the subscriber or, more specifically, at a point where common plant or the drop meets the wiring dedicated to the individual subscriber. Within this context, the Commission must make a careful examination of existing cable and telephone configurations and determine whether the current rules inhibit or encourage competition for cable and telephone services and enable customers to choose among service providers. Accordingly, GTE believes that it is vital for the Commission retain the existing inside wiring rules for telephony services. However, there is also a compelling need, from both a competitive and technical perspective, to modify rules regarding cable services to be consistent with the rules for

telephone services. While it is important that the Commission address inside wiring implications for integrated networks, the immediate need is to eliminate the anti-competitive effects of the existing cable/MDU wiring rules.<sup>1</sup>

**B. No Public Interest or Competitive Need Exists to Modify the Current Rules for Telephone Services.**

Among the options raised in the *Notice* is whether the demarcation point for telephone services should revert to the location currently established for cable television services -- located within twelve inches outside the point in which wiring enters the subscriber's premises.<sup>2</sup> *Notice*, at ¶ 15. GTE believes that modifying the telephone inside wiring rules to reflect cable services would result in substantial disruption and confusion in telephone service-related markets, and would do more to prevent competition in local telephone markets than to encourage it.

First of all, applying the current cable rule to telephone service could result in subscribers being allowed to access the protector. The Commission has previously concluded that there could be substantial risks with providing subscriber access to the protector and would complicate assignment of the right of responsibility for injury to the customer from the effects of entry of harmful electrical pulses. See 5 FCC Rcd 4686, 4696 (1990). Indeed, before making a determination that the existing cable rules

---

<sup>1</sup> To the extent that broadband wiring and related CPE issues require more time to resolve, the Commission can and should take immediate action to revise cable inside wiring rules to more readily accommodate the emergence of alternative video distribution providers.

<sup>2</sup> For single unit dwellings, the existing telephone inside wiring rules require network termination of the service within twelve inches of the protector, or if there is no protector, within twelve inches from the point at which the wiring enters the subscriber's premises.

should apply to telephone services, the Commission would be required to reexamine and request public comment on this issue, since Section 68.213(b) of the Rules expressly prohibits subscribers from accessing the protector.

Second, moving the telephone demarcation point would also have disastrous results for those services and businesses which compete for subscriber inside wiring-related needs. Since the detariffing of inside wiring and the establishment of the current telephone demarcation rules, firms competing for inside wiring installation and maintenance services, as well as services such as shared tenant offerings, have flourished. Altering the rules would further complicate existing service arrangements as customers could potentially be forced to relinquish control over much of their telecommunications services wiring and, ultimately, limit subscribers' ability to design and control their own service arrangements.<sup>3</sup> The Commission should avoid making adjustments in its wiring rules that will interfere with existing customer service arrangements and successful inside wire-related businesses.

The Commission's inside wiring rules for telephony have been carefully designed to promote competition in the market for a broad spectrum of telephone-related services.<sup>4</sup> These rules will adequately accommodate interconnection of subscriber wiring and equipment as competition for local telephone services intensifies. The

---

<sup>3</sup> Changing the telephone demarcation point could potentially impact the regulated telephone service rate base if telephone companies were forced to compensate property owners for wiring that once belonged to them.

<sup>4</sup> In fact, the current policy applied to cable wiring has had the effect of discouraging alternative video programming providers from serving tenants of MDUs.

Commission should turn aside any attempts in this proceeding to apply the current cable television inside wiring rules to telephony.

**C. The Cable Demarcation Point Rules Should Be Made Comparable to Those for Telephony.**

The Commission should establish common demarcation point *definitions* which would treat cable and telephony services consistently. However, there is no need, nor would it be beneficial or prudent, to dictate that existing telephone and cable services be terminated at the same physical point at all locations.

For single dwelling units, the *Notice* (at ¶ 15) seeks comment on the effect of changing the demarcation point for cable, which presently does not employ protectors, to mirror the telephone demarcation point (*i.e.*, at a point within 12 inches of the protector, or where there is no protector, up to 12 inches inside the customer's premises). As stated above, one of the guiding principles of this proceeding should be to minimize subscriber service disruption while, at the same time, promoting competition and subscriber choice. In addition, a primary goal must be to permit alternative video programming service providers to have reasonable access to cable inside wiring.

In its video networks, GTE plans to terminate its drop at a network interface device ("NID") placed approximately three to four feet from ground level on the subscriber's exterior wall. The NID provides a distinct connection between the coaxial drop and the wiring extending into the customer's premises and will often function as a grounding block or protective device. In the future, it is expected that NIDs could also house active electronics in conjunction with the provision of integrated narrowband or broadband services.

When the Commission first promulgated its cable inside wiring rules in 1993, it reasoned that a demarcation point located at (or about) twelve inches outside of where the wire enters the subscriber's premises would give alternative providers adequate access to the cable home wiring. *See Report and Order, 8 FCC Rcd 1435, 1437 (1993) ("Cable Wiring Order")*. However, this is not always the case. In many existing cable wiring configurations, the coaxial cable is attached to the outside wall along with a grounding block. The actual point at which the wiring enters the premises may vary from a location near the foundation of the dwelling to a point close to the eave of the roof. If the existing inside wire demarcation point is located at the upper end of the wall, or at multiple locations on the exterior of the premises, competitive providers, such as GTE, will be forced to install duplicative and unnecessary cable simply to comply with the twelve inch rule.

GTE proposes that the demarcation point for cable services provided at single unit dwellings be located within twelve inches, and on the subscriber's side, of the ground block or NID (if employed) for both new and existing locations. Where there is no ground block or NID, alternative video service providers should be allowed to attach to the existing wiring at the most convenient point on the exterior of the dwelling.<sup>5</sup> This approach is consistent with the termination of the telephone network at a point within twelve inches of the protector. For cable services provided at a single unit dwelling, the placement of the demarcation point within twelve inches of the ground block or NID

---

<sup>5</sup> Generally, this approach was widely supported by the cable industry in the Commission's initial cable home wiring proceedings. *See Cable Home Wiring Order, 8 FCC Rcd at 1437 & nn. 23 and 24.*

will allow alternative providers to easily connect to existing cable inside wiring configurations.

*The Notice* (at ¶ 16) also requests comment on the need for changing the cable demarcation point location to generally mirror the telephone network demarcation point established for MDUs. The Commission also requests comment on whether the current location of cable demarcation points in MDUs give reasonable access to competitive providers of narrowband services.

There is an immediate public interest need to establish a common demarcation policy for cable and telephony services provided to MDUs. The existing cable rules place LECs and other alternative video providers at a distinct disadvantage in serving MDU customers. The anti-competitive effects of the cable inside wiring rules with respect to MDUs is well-documented in the record. First, as the Commission correctly notes, the existing cable rules, which establish the demarcation point within twelve inches from which it enters an individual subscriber's unit, often result in a demarcation point which is inaccessible, *i.e.*, buried in a brick or concrete wall or concealed in conduit. *Notice*, at ¶ 9. The only way to access the subscriber's wiring is to cause either damage to the MDU building or the subscriber's unit. In addition, by locating the demarcation point close to each subscriber's dwelling, alternative video providers must often install a substantial amount of new and duplicative cabling or completely re-wire a MDU buildings to reach the subscriber's dwelling. Not only are building owners extremely reluctant to allow such disruptions, these actions would result in excessive additional costs which would either deter the subscriber from selecting the new video service or prevent the alternative service provider from developing a cost-effective competitive offer.

Under the existing rules, MDU building owners who elect to disconnect cable service must be given the opportunity to purchase the cable inside wiring or the cable operator must remove it within seven days. 47 C.F.R. § 76.802. As a result, owners are reluctant to change video providers knowing that they could be saddled with the extra expense of purchasing the existing cable wiring or be faced with substantial disruption and alteration of their property as incumbent cable operators remove all inside wiring at the same time the new provider installs its own. Clearly, the existing policies governing MDUs are out of step with the basic objective of promoting competitive and alternative sources of video programming to the American public.

For cable services provided to MDUs, the Commission should establish a policy generally based on the extensive experience gained in setting demarcation point policies for telephone services. Demarcation locations for MDUs have and will vary in individual circumstances. For example, variances are to be expected between conditions faced in smaller multiple occupancy buildings as compared to high rise office towers. GTE believes that a flexible policy of locating the cable demarcation point(s) for MDUs at a "minimum point of entry" is a reasonable practice. Implementation of an minimum point of entry policy would allow reasonable access to MDU tenants for all new video service providers.

As guidance, the minimum point(s) of entry should generally be established outside the individual dwelling units but within common areas of the MDU at which the individual tenant's wires can be detached from the cable operator's wires without damaging the MDU and without interfering with the cable operator's provision of service

to other residents in the MDU.<sup>6</sup> This location(s) would be one that will allow the service provider to meet the standards of electrical and safety codes as well as enabling the provider to adequately perform testing and maintenance functions. Most importantly, it should be readily accessible by competitive providers -- in a closet, basement, or other common structure.

Generally, there are no technical constraints in moving the cable demarcation point to be comparable to that of telephony networks nor would there be any need for cable operators to rearrange existing MDU wiring configurations.<sup>7</sup> As GTE has noted, the cable demarcation point for MDUs need only to conform to a definition consistent with that for telephony. Changes in the rules proposed herein should not require a cable operator to establish a new demarcation point that is located in the exact physical location as that for telephone services provided to a specific MDU, nor would it prevent the establishment of multiple demarcation points if warranted. It needs only be at a point of minimum entry and readily accessible by alternative providers.

GTE fully agrees with the perceptions underlying the *Notice* that the current cable demarcation point policies impede competition in the video services delivery marketplace and urges the Commission to resolve this issue expeditiously. To do this,

---

<sup>6</sup> Active elements such as amplifiers and converter or decoder boxes located on the subscriber's side of this demarcation point would remain under the ownership and control of the video service provider. See Section 76.5(II).

<sup>7</sup> The Commission observes that the cable industry has generally asserted that by moving the demarcation point, they would be restricted in their ability to provide telephone services or advanced telecommunications services such as Internet access. *Notice*, at ¶ 11. To the contrary, the termination of network services at a minimum point of entry has certainly not impaired GTE from developing and providing new telecommunications services to its subscribers.

the new demarcation point definition as proposed places control of inside wiring in the hands of MDU cable subscribers so that they may freely make decisions regarding available competitive service providers. On the other hand, the existing rules restrict subscriber control and will dampen the development of competition. Therefore, GTE believes that the Commission should implement these changes to the existing cable rules immediately.

**D. A Flexible Common Demarcation Point Policy Should Be Adopted for Facilities Used To Provide Integrated Service Offerings.**

In the near future, service providers, including telephone companies, cable operators, and others, may deliver integrated voice, data, and video services over common facilities or a single broadband wire. In addition, services which are integrated over common facilities may utilize equipment which would provide the subscriber convenient access to a variety of services at a common network interface point. These services may require equipment similar to a computer modem, an "enhanced" set-top box, or may rely on a stand-alone interface unit. In this environment, since a single entity is providing multiple telecommunications services over a single facility, it makes no sense to make a distinction between services in determining the location of a network demarcation point.

The development of a unified, but flexible, network inside wire policy is appropriate and necessary for future broadband and integrated service offerings. For telecommunications facilities used to provide multiple services from a single service provider, the demarcation point should generally be defined as the point at which ownership and control of subscriber premises wiring is transferred from the broadband service provider to the subscriber. However, it cannot be assumed that integrated

services provided via common facilities can reasonably be terminated at a location within the parameters of the existing rules for telephony and cable services, *i.e.*, within 12 inches of where the wiring enters the premises or 12 inches from the location of a protector or grounding block. Therefore, for integrated services provided over common narrowband or broadband facilities, the Commission should avoid reliance on arbitrary measurement criteria in devising network demarcation policies. GTE believes that a more flexible approach would allow the demarcation point to be established at a point at or near the exterior wall or at a "minimum point of entry" -- one that allows for proper termination of the service from a technical standpoint but one that is also convenient to the subscriber.

In single service configurations, inside wiring owned by the subscriber can be easily used to interconnect network facilities at the demarcation point with customer CPE located on the subscriber's side of the demarcation point. However, in future configurations where a single carrier provides multiple services to a subscriber, ownership and control of *active service-enabling equipment*, which constitute an integral component of the facility, must reside with the service provider on either side of the inside wiring demarcation point. The Commission should affirm that broadband service providers be permitted to incorporate service enabling devices which may be located on the subscriber's side of the network demarcation point into its basic integrated narrowband or broadband service offering. Consequently, the Commission should generally define telecommunications inside wiring used to provide integrated services in a manner similar to the existing definition for cable inside wire in Section 76.5(II), which excludes "active elements" such as amplifiers, converter or decoder boxes, and remote control units.

### III. CONNECTIONS.

In the *Notice* (at ¶ 24), the Commission requests input on how to extend the signal leakage limits that are currently applied only to traditional cable service to others who provide video service over broadband facilities. GTE believes that all broadband service providers that offer cable-like video services to subscribers should be subject to the same signal leakage requirements currently imposed upon cable operators under Part 76. GTE believes such standards are acceptable and can be extended to other providers by modifying Section 76.601 to state its applicability to other wireline multichannel video distribution providers.

GTE is also not opposed to adhering to the cable service quality standards as well. However, as the Commission notes, competition for new alternative sources of video programming will not only rely on price and diversity of programming, but also the quality of the overall service. Therefore, such standards may not be needed in a more competitive environment.

GTE does not believe that the changes in demarcation point and inside wire policies which it proposes will have any negative impacts on overall system integrity. As subscribers choose alternative video providers, responsibility for signal leakage and quality standards will pass to the new provider. In addition, new providers, in order to stay competitive in the market, will face significant incentives to insure that quality standards are adhered to.

Finally, the Commission seeks comment on whether it should adopt technical requirements for standard jacks and connectors for broadband or narrowband networks and whether the Commission should establish technical standards for connections to cable networks or broadband services, where multiple services are delivered over a

single wire. GTE believes that, where possible, the Commission should allow the competitive market for new and advanced telecommunications services, in conjunction with the development of new technologies, to determine the manner in which service providers interconnect with customers. If the Commission believes that such standards should be established, it should rely on industry standards-setting organizations and not attempt to create standards solely from the comments submitted on the record in this docket.

#### **IV. REGULATION OF SIMPLE AND COMPLEX, AND RESIDENTIAL AND NON-RESIDENTIAL WIRING.**

The Commission observes that separate regulatory regimes (both technical and ratemaking) for telephone and cable inside wiring may impede the delivery, and possibly the development, of broadband and other services to the public. Therefore, the *Notice* (at ¶ 36) seeks comment whether the Commission can and should harmonize the definitions within the common carrier and cable rules with regard to simple versus complex wiring and residential versus non-residential wiring.

As stated above, there is no reason for the Commission to revisit rules that have deregulated the installation and maintenance of simple and complex inside wire. However, revisions to the cable inside wiring rules should be made consistent with regulations for telephony. In other words, policies governing telephone and video related services should be made consistent as technologies and these services converge. Establishing a consistent set of standards related to inside wiring may be appropriate. For example, GTE believes that it would be beneficial to establish standards governing the type and installation of both cable and telephone inside wire installed by carriers and independent contractors. To the extent that the Commission

finds it necessary to develop a consistent set of technical standards which would apply to providers of broadband services to both residential and non-residential subscribers, a more prudent use of Commission resources would be to defer the development technical standards to industry standard-setting organizations for both the cable and telephone industries.

#### **V. CUSTOMER ACCESS TO WIRING.**

The Commission's tentative conclusion that there is no reason to change the rules giving consumers the right to access their narrowband or broadband wiring inside the demarcation point, whether the wiring is used to provide voice, video or data services (*Notice*, at ¶ 42) is correct. Consumers should have the right, on their side of the demarcation point, to provide and to install their own inside wiring and to access wiring (for purposes of, for example, installing additional outlets, performing maintenance or reconfiguring existing wiring) on their premises which has been installed by a service provider.

The Commission has recently taken steps to facilitate the transfer of cable service from one provider to another by establishing additional procedures that cable operators must follow upon termination of cable service and shortening the amount of time in which a cable operator must remove its inside wiring after the subscriber notifies it of its intention to terminate the service.<sup>8</sup> However, the rules continue to restrict a subscriber's ability to control its inside wiring absent making a decision to change service providers. In addition, incumbent cable operators would still have the incentive

---

<sup>8</sup> See First Order on Reconsideration and Further Notice of Proposed Rulemaking in MM Docket No. 92-260, FCC 95-503, released January 26, 1996.

to adversely affect the subscriber's decision to change providers by making it potentially costly for the subscriber to terminate service (*i.e.*, purchasing the inside wire) or by otherwise misrepresenting their intention to remove the wiring.

GTE believes that the Commission should immediately deregulate inside wiring rates for cable and extend control over all cable inside wiring to subscribers, just as it has done for telephony. Deregulation of cable inside wiring will provide consumers with more service options and arrangements, will lead to greater competition in the market for inside wire and lower costs to consumers. As the Commission observes, Section 16(d) of the 1992 Cable Act and Section 623(b) of the Communications Act, as amended, specifically expresses a "preference for competition" over regulation in setting rates for cable services. In order to promote competition, current restrictions, such as the seven day rule, which inhibit competition by alternative video providers in serving existing cable subscribers, should be modified.

GTE believes that there is no valid reason to prohibit customers from accessing their inside wiring for both telephone and cable services. For the same reasons that customer control of inside wire led to heightened competition and public benefits relative to telephone wiring, those same benefits will extend to cable and, ultimately, broadband wiring. Whether the services provided are regulated under Title II or Title VI should not dictate whether the customer may install, move, or maintain its own inside wiring.

For purposes of this policy, a "cable subscriber" should be defined as one that contracts or arranges for video programming distribution services from a cable television service provider or other multi-channel video programming distributor. A "subscriber" may be a residential homeowner, and MDU building manager, a

condominium owner, an individual tenant, or authorized representative for a business. In the case of MDUs, if a building owner contracts for cable services for the entire building(s), control over the inside wire should remain with the building owner. To the extent that a cable operator deals directly with individual tenants concerning their service arrangements, or a building owner allows subscribers to choose among competing video service providers, control over the wiring should be placed with the individual subscriber.

GTE agrees that affording all subscribers the right to provide and to install their own cable inside wiring and to access cable operator-owned inside wiring would promote consumer choice, thereby fostering competition and ultimately resulting in lower prices. Currently, Commission rules do not prevent subscribers from installing their own coaxial cable inside wiring. Indeed, for a substantial percentage of homes and MDUs built in the last ten years, subscribers already own and control their inside wiring. However, as to premises with cable operator-installed inside wire, existing policies present a major impediment to subscribers' abilities to take advantage of alternative competitive providers. Therefore, these subscribers must be given pretermination rights to their cable inside wiring immediately.

Deregulation of cable inside wiring should not, however, restrict cable operators from continuing to provide inside wiring services. Subscribers should be allowed to purchase inside wiring from cable operators at its installation or allow competing providers to install wiring as well. Cable operators should be free to charge for the various inside wiring functions they perform, including new installations. There is no need to dictate how these charges should be developed or applied since other

companies can provide similar services at competitive rates. Ultimately, consumers will benefit since competition will insure that rates are kept reasonable.

Deregulating the rates for cable inside wiring and giving subscribers immediate control over cable-installed wiring would not constitute a "taking" as long as the operator is compensated for the cost of the wiring.<sup>9</sup> Cable operators should be allowed to continue to recover the costs of embedded inside wiring as a component of the ratebase used to determine basic cable rates. However, as in the case of telephone inside wire deregulation, cable operators should be precluded from asserting a claim of ownership as a basis for restricting the removal, replacement, rearrangement or maintenance of inside wiring or assessing any additional charges for such wiring other than reasonable (and optional) maintenance fees.<sup>10</sup>

The Commission should require adherence to this policy within 90 days of the release of a final order in this docket. Waiting for twelve to eighteen months, as suggested in the *Notice*, is simply too long.

## **VI. DUAL REGULATION.**

Today, inside wiring of telephone and cable service offerings are governed by a combination of federal, state, and local regulations. The Commission requests comment on whether it would be necessary to harmonize these respective disparate systems of regulation as the similarity increases between the technology employed to deliver telephony and video programming. *Notice*, at ¶ 56.

---

<sup>9</sup> See *In the Matter of Detariffing the Installation and Maintenance of Inside Wiring*, 6 FCC Rcd 1190, 1995 (¶ 30) (1986).

<sup>10</sup> *Id.*, ¶ 35.

In principle, regulation by any and all entities should diminish as competition increases and should cease as effective competition takes hold. GTE advocates the complete deregulation of cable inside wire; therefore, neither the Commission nor local franchise authorities should continue to regulate rates for such wiring. Alternatively, the Commission could choose to discontinue all aspects of cable inside wire rate regulation once effective competition for cable systems expected in a given market. Under the Telecommunications Act of 1996, "effective competition" for cable services is triggered once a LEC begins to provide alternative video distribution services. However, in order to effectively compete with incumbent cable systems, LECs, and other alternative providers, should not be restricted by inside wire regulations, such as the seven-day rule, in their ability to attract new subscribers. Therefore, if deregulation of cable inside wiring is to be triggered based on the presence of competition, it should be contingent on approvals granted to compete with the cable system, such as the awarding of a franchise for cable service or Commission certification of an open video system.<sup>11</sup>

#### **VII. SERVICE PROVIDER ACCESS TO PRIVATE PROPERTY.**

The *Notice* requests comment on the legal and practical impediments faced by telecommunications service providers in gaining access to subscribers, the current status of laws regarding access by cable operators and telephone companies, use of the same easements to provide telephony, video or other services, and whether the Commission can and should attempt to create access parity among service providers. *Notice* at ¶¶ 61-64.

---

<sup>11</sup> Technical standards, however, as discussed *supra*, should be set at a national level, subject to this Commission's oversight.

The need to create access parity is vital. As incumbent monopolists, cable operators today have established many long-term *exclusive* contracts with MDUs, in an overt attempt to thwart competition. Indeed, in those markets where competition is looming, cable operators have redoubled their efforts to "lock up" MDUs before alternative providers can offer service. Then, when alternative providers enter the market, the cable operator claims that any contact with MDUs under contract constitutes interference with their contractual or business relationships, thereby exposing the alternative provider to tort liability. This is proving to be a convenient method to significantly inhibit competition in those markets where MDUs are prevalent because only the existing monopolist currently has the ability to offer service.

In concert with this anti-competitive strategy, incumbent operators have been very successful in manipulating state and local laws to prohibit alternative providers from establishing precisely the same type of exclusive relationships with MDUs as they have. Incumbents operators utilize a variety of legal theories to advance this strategy. For example, once the incumbent has established service to an MDU, it claims a co-use