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

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
)  
Policy and Rules Concerning the )  
Interstate, Interexchange Marketplace )  
)  
)  
Implementation of Section 254(g) of the )  
Communications Act of 1934, as amended )

CC Docket No. 96-61  
Part 1

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REPLY COMMENTS OF GTE

GTE Service Corporation and its affiliated  
domestic telephone and interexchange  
companies

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## SUMMARY

GTE supports the Commission's proposed definitions for the relevant product and geographic markets for domestic, interstate, interexchange telecommunications services incorporating the U.S. Department of Justice/Federal Trade Commission 1992 Merger Guidelines as basically sound for determining market power. GTE believes that the Commission's proposed definitions would appropriately provide the Commission the necessary flexibility to evaluate market power. GTE's support for the Commission's proposal, however, is subject to the understanding that, as described in the *NPRM*, the Commission would consider a more narrow market definition only when there is "credible evidence" that competition is lacking in a particular market.

In considering nondominant treatment for Independent LECs, GTE believes that the *Competitive Carrier* separation conditions are plainly irrelevant and unnecessary for out-of-region operations. When a carrier is operating in another LEC's service area, there are no jointly owned facilities to share and access is obtained at tariffed rates from the incumbent LEC. The *Competitive Carrier* conditions are equally unnecessary for Independent LEC's *in-region* interexchange operations. An Independent LEC does not have the ability "to raise price or restrict output" in the interstate, interexchange services marketplace, whether operating in or out-of-region. The outmoded *Competitive Carrier* conditions now actually serve to impede competition by increasing Independent LECs' costs of providing interstate, interexchange services. The Commission should encourage Independent LEC entry in the interexchange market,

both out-of-region and in-region, by doing away with the conditions for nondominant status.

GTE supports applying rate averaging and rate integration only to basic, undiscounted Message Telephone Service. Such a policy would comply with the plain language and intent of the 1996 Act and maintain current practices. Given the heightened competition among carriers for provision of non-basic interexchange services, the Commission should forbear from applying the rate averaging and rate integration regulations to other services. Rate averaging policies are not necessary to ensure just and reasonable rates and are not necessary to protect consumers. Forbearance would serve the public interest by driving rates closer to costs, a process that increases economic efficiency and competition in the interstate, interexchange services market. Section 10 of the 1996 Act requires the Commission to forbear from applying statutory provisions if these conditions are satisfied.

GTE supports rate integration and will work with the Commission to implement it in the Commonwealth of the Northern Mariana Islands ("CNMI"). However, rate integrating the insular points of Guam, the CNMI and American Samoa will be quite different than integrating offshore points had been in the past because carriers must provide service to these insular points using distance sensitive facilities. Rate integration of these areas must be undertaken with caution in order not to upset the competitive marketplace that now exists in these insular areas. GTE believes that a separate task force is required to address specifically the unique economic and policy issues regarding the extension of rate integration to Guam and the CNMI and American

**Samoa. GTE believes that any working or task group should be sponsored by the Commission so that the unique characteristics of each commonwealth or territory can be addressed with input from the appropriate local governments.**

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**REPLY COMMENTS OF GTE**

GTE Service Corporation ("GTE"), on behalf of its affiliated domestic telephone and interexchange companies, submits its response to comments regarding Sections IV, V and VI of the *Notice of Proposed Rulemaking* ("*Notice*" or "*NPRM*") in the above-captioned proceeding, FCC 96-123, released March 25, 1996. These sections address the relevant product and geographic market for domestic, interstate, interexchange services, the elimination or modification of separation requirements for Independent Local Exchange Carriers ("LECs") when operating as interexchange carriers outside their local operating areas, and rate averaging and integration provisions of the Telecommunications Act of 1996 ("the 1996 Act").

**I. *COMPETITIVE CARRIER CRITERIA SHOULD BE USED UNTIL "CREDIBLE EVIDENCE" SUGGESTS THE NEED FOR CHANGE.***

Those commenters addressing the relevant product and geographic markets for domestic, interstate, interexchange telecommunications services fall into three main groups. First, many parties, including GTE, support the Commission's proposed definitions incorporating the U.S. Department of Justice/Federal Trade Commission

1992 Merger Guidelines as basically sound for the future identification of either product or geographical markets where certain carriers may have market power.<sup>1</sup> Other commenters, fearful that the Commission's proposed definitions will be used to disadvantage them in the marketplace, support the retention of the *Competitive Carrier* criteria.<sup>2</sup> A third group advocates even more narrow definitions in an apparent attempt to protect the incumbents' positions in the marketplace and to restrain new entrants.<sup>3</sup>

Both those supporting the Commission's proposal and those advocating retention of the current definitions agree that, at this time, the relevant product market for interstate, interexchange carriers should continue to be all domestic, interstate, interexchange services and the relevant geographic market should remain the United States. What distinguishes the positions of these parties is the issue of whether the existing definitions need to be modified so as to give the Commission additional flexibility to adjust to future conditions. Specifically, whether the Commission should retain the current *Competitive Carrier* criteria or should incorporate the proposed

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<sup>1</sup> See, e.g., Ameritech at 13; SBC at 5; MCI at 5; Sprint at n.1; Telecommunications Resellers Association ("TRA") at 31; Florida PSC at 7-8; GSA at 2.

<sup>2</sup> See, e.g., Pacific Bell at 3; NYNEX at 4; U S WEST at 2; BellSouth at 10; Bell Atlantic at 5.

<sup>3</sup> See, e.g., AT&T at 14; Frontier at 2; General Communications, Inc. ("GCI") at 2; America's Carriers Telecommunications Association ("ACTA") at 2; LDDS at 4-6; MFS at 3.

definitions which are more in line with the U.S. Department of Justice/Federal Trade Commission 1992 Merger Guidelines.

**A. The Commission Should Not Change the Definition of the Relevant Product Market at This Time.**

The current *Competitive Carrier* definition of the relevant product market is presented in absolute terms: all interstate, domestic, interexchange telecommunications services. The Commission's proposed relevant product market definition allows for future evaluation: "an interstate, interexchange service for which there are no close substitutes or a group of services that are close substitutes for each other but for which there are no other close substitutes."<sup>4</sup> While GTE agrees with SBC (at n.2) that the Commission should not "'prejudge' an issue as complex as market power," GTE believes that the Commission's proposed definition would appropriately provide the Commission the necessary flexibility to evaluate market power.

GTE's support for the Commission's proposal is subject to the understanding that, as described in the *NPRM*, the Commission would consider a more narrow market definition only when there is "credible evidence" that competition is lacking in a particular market. This limitation is important, for the certainty of the Commission's standard would diminish if a different evaluation were applied in the absence of a relatively strong threshold showing. The "credible evidence" approach proposed in the *NPRM* thus appears appropriate

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<sup>4</sup> *NPRM* at ¶46.

Consistent with this view, GTE strongly disagrees with LDDS (at 4) that a LECs' long distance services should constitute a different product market than other carriers' services. A product market simply is not and should not be defined based on the entity supplying the product.<sup>5</sup> LDDS has provided no credible evidence that LEC long distance services will have any ability to raise price or restrict output in interstate, interexchange services.

Therefore, GTE submits that the relevant product market should be all domestic, interstate, interexchange telecommunications services until there is "credible evidence" that a lack of competition in a particular market is resulting in a carrier exerting market power to control prices. If this occurs, then the Commission should have the flexibility to take action to remedy the situation by establishing a separate product market that is constrained by different regulations in order to protect the public interest.

**B. The Relevant Geographic Market Should Remain One Nationwide Market Until Sufficient Evidence Indicates That Market Power is Being Exerted by a Carrier on a Particular Route.**

The Commission's proposed definition of the relevant geographic market as "all calls from one particular location to another particular location"<sup>6</sup> as opposed to the *Competitive Carrier* definition of one relevant geographic market -- the United States --

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<sup>5</sup> The Pennsylvania PUC (at n.4) clearly understands that there is no product distinction based on the carrier: "carriers . . . will be selling essentially the same products to fulfill the same consumer demand."

<sup>6</sup> *NPRM* at ¶49.

has raised much controversy. Most of the controversy involves re-entry of the LECs into the interexchange marketplace and concerns that the LECs will exercise market power on certain routes.

GTE supports the Commission's proposed definition of the relevant geographic market *assuming* that all carriers would be subjected to the same scrutiny for the presence of market power on certain routes. Thus, the new analysis would apply to formidable incumbent interexchange competitors such as AT&T and MCI, as well as newly entering carriers. Indeed, with those Interexchange Carriers' ("IXCs") quick entry into the local exchange business, it is all the more important that the Commission apply its test for determining market power in an even-handed manner.

GTE believes that all carriers should be treated the same. Although several parties advocate handicapping LECs in the interexchange marketplace,<sup>7</sup> GTE urges the Commission to reject such proposals. Competition and the public interest would not be served by subjecting some carriers to asymmetric treatment. The Commission should

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<sup>7</sup> Incumbent IXCs attempt to confuse the issue by tying the relevant geographic market with the LECs "bottleneck" control over access. See, e.g., ACTA at 7 (proposing two guiding principles that are based on the "ownership/management/control of origination and termination facilities."); AT&T at 14 (essentially making the same argument); LDDS at 6 (tying the relevant geographic market to its definition of "bottleneck" control over access). This is a transparent attempt to change the subject. These firms would have the Commission apply dominant carrier regulation to firms having zero share of the interexchange market, while treating as *nondominant* AT&T, which currently controls some 60 percent of the market.

reject these attempts to handicap potential new entrants into the marketplace and recognize their self-serving purpose.

Moreover, the Commission should resist "prejudging" the market in this context as well. The fact that a carrier is an access provider does not mean that it has the ability to control interstate, interexchange prices. The continuing claims regarding the existence of "essential" facilities are meant to cloud the issue. First, alternatives to the LECs' local loops currently exist and are increasing. It has not been shown that alternatives to the LECs network are not feasible.<sup>8</sup> Moreover, safeguards in the existing rules and required by the 1996 Telecommunications Act assure the ongoing and expanded interconnection for local exchange competitors.

Second, antitrust law also has addressed the downstream effect claimed here by the parties and found that "[a] facility that is controlled by a single firm will be considered 'essential' only if control of the facility carries with it the power to *eliminate* competition in the downstream market."<sup>9</sup> The notion that a LEC will be able to eliminate competition -- that is, drive the likes of AT&T, MCI, and Sprint from the market -- is absurd.

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<sup>8</sup> This requires a showing of more than inconvenience and economic loss. A showing that alternatives are not feasible is required before a facility is considered essential. See *Twin Laboratories, Inc. v. Weider Health & Fitness*, 900 F.2d 566, 570 (2d Cir. 1990).

<sup>9</sup> See *Alaska Airlines, Inc. v. United Airlines, Inc.*, 948 F.2d at 544 (9th Cir. 1991), *cert. denied*, 112 S. Ct. 1603 (1992) (emphasis in the original).

GTE submits that there is absolutely no basis for establishing separate geographic markets subject to asymmetric regulatory treatment based on the ownership/management/control of either the originating and terminating facilities or only the originating facilities. There is no possible way that the LECs could *eliminate* competition in the interstate, interexchange market. The Commission should adopt its proposed definition and rely on "credible evidence" before examining whether or not a carrier has the ability to exert market power on particular routes.

**II. THE SEPARATE AFFILIATE REQUIREMENT AS A CONDITION OF NONDOMINANT STATUS SHOULD BE LIFTED FOR INDEPENDENT LECs.**

One of the fundamental issues of the *NPRM* in determining nondominant treatment for Independent LECs is whether an Independent LEC will have the ability "to raise price or restrict output" in the interstate, interexchange services marketplace. In its opening Comments, GTE demonstrated that the regulatory status of its interstate, interexchange services as nondominant should be based upon a realistic appraisal of current market and regulatory conditions. GTE also demonstrated that the preconditions to nondominant status should be removed for in-region, as well as for out-of-region, services offered by Independent LECs.

Indeed, in its Comments, MCI concedes (at n.20) that the 1996 Act "effectively abolished the separate subsidiary requirement for GTE." This result occurred because the 1996 Act eliminated the GTE Consent Decree, and specifically did not establish a new separate affiliate requirement for interexchange service for GTE, as it did for the

Bell companies in Section 272. Thus, it is clear that Congress found separation unnecessary for GTE.

Even if the 1996 Act were not dispositive of the issue, notwithstanding the objections of incumbent IXCs<sup>10</sup> who trot out once again the usual arguments, an objective analysis must conclude that an Independent LEC such as GTE could not possibly exercise market power in the interstate, interexchange market. Therefore, conditioning nondominant classification of GTE's interstate, interexchange services on a *Competitive Carrier* separate affiliate is unnecessary.

There is no dispute that GTE, as a new entrant in the interexchange marketplace, began offering interstate, interexchange service with a market share of zero, and that it faces extremely large, well-financed incumbents that obviously are dedicated to maintaining their imposing market shares.<sup>11</sup> No party seriously contends that the Commission's price cap and cost accounting rules fail to provide an effective check on the ability of any Independent LEC to cross-subsidize interexchange services with local service revenues. Nor does any party dispute that the 1996 Act has

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<sup>10</sup> Notably, some IXCs, such as Cable & Wireless and LDDS, offered no objection to the removal of the separate affiliate requirement for Independent LECs. See also *Vanguard Cellular Systems, Inc.* at n.7.

<sup>11</sup> The principal motivation of commenters such as AT&T and TRA appears to be less a fear that an Independent LEC would raise interstate, interexchange prices than a desire to protect themselves, and their inflated rates and oligopolistic market shares from competition.

eliminated whatever legal monopolies that Independent LECs have held over local exchange and local access services.

Most importantly, no party makes any showing that the fears they so darkly assert, *even if true* -- which they are not, would enable GTE or any other Independent LEC to raise price or restrict output in the interstate, interexchange market. Thus, the IXCs' concerns are irrelevant to whether Independent LECs should be relieved of the preconditions for nondominant status.<sup>12</sup>

As GTE explained in its opening Comments, the *Competitive Carrier* separation conditions are plainly irrelevant and unnecessary for out-of-region operations. When a carrier is operating in another LEC's service area, there are no jointly owned facilities to share. Instead, the Independent LEC must obtain access at tariffed rates from the incumbent LEC, either an RBOC or another Independent LEC, or from an alternative LEC. No party disputed these facts. GTE also demonstrated that the *Competitive Carrier* conditions are equally unnecessary for Independent LEC's *in-region* interexchange operations. Given the name recognition of the three largest carriers, AT&T, MCI and Sprint, their established customer base and their extensive facilities-based networks, it would be impossible for an Independent LEC, who is newly entering

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<sup>12</sup> The Commission should certainly reject the urgings of AT&T (at 27) and TRA (at 19-23) that it impose even *more* intrusive and burdensome safeguards modeled on *Computer II*, and refer to MCI (at 19) who argues that more regulation is not the answer.

the interstate, interexchange market, to exert market power even in its in-region operating areas.

Nothing in the oppositions by certain IXCs to the proposed relief provides any basis for retaining the preconditions for Independent LECs' nondominant status, even in-region. First, the "leveraging of the local exchange monopoly" argument upon which the IXCs' depend is an historical anachronism. The 1996 Act eliminated all legal barriers to entry into the local exchange marketplace, and the interconnection obligations to be established under Section 251 of the Act will further promote competition in local services. These developments are not merely theoretical, AT&T itself has applied to provide local service in every state.<sup>13</sup> For these reasons, arguments that "bottleneck" facilities could enable LECs to raise prices for in-region services have lost all meaning with the 1996 Act.

Second, not even the IXCs contend that the "harms" that they assert would have the effect of raising price or restricting output of interstate, interexchange services. Rather, their concerns -- which essentially presuppose that an Independent LEC would violate the nondiscrimination duty established by Section 202(a) -- pertain to fears that they would suffer competitively by entry of the LECs into the interstate, interexchange

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<sup>13</sup> GTE's Comments noted, for example, that AT&T has already applied to offer local service in 50 states. (*Communications Daily*, April 10, 1996, at 1). Further, AT&T just announced an agreement with Time Warner Communications to provide Tampa Bay area businesses (one of GTE's major operating areas) with local service under the AT&T name. See Trigaux, Robert, *The St. Petersburg Times*, April 12, 1996 (<http://www.sptimes.com/>).

market. Thus, these concerns relate to whether the Independent LECs should be allowed to offer interexchange service at all, a matter as to GTE now settled by Congress and not at issue here. At issue *in this proceeding* is whether the public interest requires that the Commission continue to condition nondominant status of LEC interstate, interexchange services -- despite significant changes in the market, in the regulation of the LECs, and in the law -- since the *Competitive Carrier* conditions were first adopted.

The specific concerns are easily addressed. AT&T (at 24-25) complains that despite the fact that the volume of out-of-region calls terminating in an Independent LEC's service territory "will be a fraction of the total number of out-of-region calls, they will represent a substantial expense" due to the price of terminating access and thus give the LECs "substantial opportunity to price terminating access in ways designed improperly to favor interexchange affiliates."<sup>14</sup> AT&T offers no support whatever for the notion that Independent LECs will price terminating access services to favor its affiliate. Moreover, this speculation ignores that: (1) the Commission closely regulates access charges; (2) AT&T faces no legal obstacle to bypassing the LECs' facilities; (3) such actions presumably could violate (at least) Section 202(a) of the Act; (4) IXC's are far too sophisticated not to detect such tactics; and (5) an Independent LEC would have no real incentive to do so since the volume of calls is so small. Most importantly for purposes of this proceeding, AT&T does not contend that such a strategy, even if

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<sup>14</sup> See also TRA at 14-15 (fears of "anticompetitive service manipulation").

undetected, would have the faintest ability to allow the Independent LEC to raise price or restrict output in the interstate, interexchange market.<sup>15</sup>

Second, AT&T (at 25) worries that an Independent LEC's "local in-region monopolies" would give it "illicit advantages with respect to out-of-region interexchange services" because IXCs "are required to disclose their future marketing plans and access needs to all LECs." This concern also lacks merit. AT&T has greatly exaggerated the type and value of the information that IXCs must disclose in placing access service orders. IXCs need not inform GTE from what regions of the nation it expects to originate traffic that will terminate in a GTE local service area. Even were its assertions true, which they are not, AT&T does *not* contend that the Independent LEC would have *any* ability to raise price or restrict output.

Finally, AT&T (at 25-26) imagines that "added opportunities for misconduct" would arise "to the extent that business customers are located in multiple states and individual customers have more than one residence." AT&T evidently fears that the LEC would "bundle" interexchange rates with reduced local rates or threaten inferior service for connections to other IXCs. AT&T does not mention, however, that this bundling is precisely how many IXCs, including AT&T, have been marketing their services. Furthermore, AT&T again overlooks the extensive regulation of such LECs' services, and that Independent LECs would face substantial legal sanctions for

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<sup>15</sup> Indeed, from a reading of AT&T's footnote 45 (which argues for volume discounts), it appears that AT&T's prime interest is in obtaining lower access rates for itself than for any other IXC.

intentional discrimination against any customer. Significantly -- and most importantly -- AT&T again does not contend that an Independent LEC could affect the price of interstate, interexchange services in such a manner.

The outmoded *Competitive Carrier* conditions now actually serve to impede competition by increasing Independent LECs' costs of providing interstate, interexchange services. The Commission should encourage Independent LEC entry in the interexchange market, both out-of-region and in-region, by doing away with the conditions for nondominant status.

**III. THE RECORD SUPPORTS IMPLEMENTATION OF RATE AVERAGING AND RATE INTEGRATION REQUIREMENTS IN A MANNER THAT ADVANCES IMPORTANT RATE GOALS WHILE ALSO PROMOTING COMPETITION.**

**A. Rate Averaging and Integration Requirements Should Apply Only to Basic, Undiscounted Message Telephone Service.**

The opening comments persuasively argue that the Commission should apply the rate averaging and rate integration mandates of the 1996 Act only to basic, undiscounted Message Telephone Service ("MTS").<sup>16</sup> Such rules would comport with the plain language and intent of Section 254(g). Moreover, limiting rate averaging and rate integration requirements to basic interexchange services would promote competition in the domestic, interstate, interexchange market, thereby advancing a central goal of the 1996 Act.

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<sup>16</sup> See, e.g., *Frontier* at 9; *BellSouth* at 5-8; *Cable & Wireless* at 3-6; *LDDS* at 13-14; *Sprint* at 14-15. See also *ACTA* at 9-10.

As a number of commenters appropriately stress, Section 254(g) was intended to codify the Commission's existing rate averaging and rate integration policies.<sup>17</sup> The Commission's existing policies afford interexchange carriers pricing flexibility for a number of service offerings to promote both competition and subscriber choice. Commenters noted that the Commission has allowed carriers to offer non-averaged rates for a range of services beyond basic interexchange service, including geographically-limited promotions, geographically-specific pricing for private line services, Tariff 12-like services pursuant to contract-tariffs, optional calling plans, WATS, and other customized service offerings. Cable & Wireless (at 5) states that the Commission "has traditionally recognized that different service options, in fact, constitute different services -- e.g., MTS and WATS, optional calling plans -- and that different rate plans based on different calling patterns do not contravene its geographic averaging policies." Accordingly, consistent with its current practices, the Commission's rules should expressly state that the rate averaging and rate integration regulations do not apply to services other than basic, undiscounted MTS.

In addition to being consistent with current Commission practices, this approach also is supported by Congress' placement of the rate averaging and rate integration requirements in Section 254 of the 1996 Act, which governs universal service. As several commenters observe, the purpose of universal service is to ensure that basic

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<sup>17</sup> See, e.g., PaPUC at 14; MCI at 26 & 31; TRA at 28; Sprint at 14; LDDS at 13; see also Joint Explanatory Statement at 132.

telecommunications services are available throughout the nation.<sup>18</sup> Hence, the Commission would act in a manner fully consistent with the statutory mandate by applying geographic rate averaging and rate integration rules only to basic, undiscounted MTS.

AT&T (at 39), however, seeks to eviscerate the statutory rate averaging and rate integration requirements by suggesting that the Commission should apply the regulations only to residential services. This position is entirely contrary to the intent of Section 254, which, as discussed above, directs the Commission to codify its existing policy. The Commission's current rate averaging and rate integration policy is not limited to residential services only. Indeed, the policy urged by AT&T would subvert the primary goal of geographic rate averaging, which is to ensure that ratepayers, regardless of their identity or location, benefit from a universal, nationwide telecommunications network.

If the Commission nonetheless concludes that Section 254(g) sweeps beyond basic interexchange service, it should forbear from applying the rate averaging and rate integration regulations to other services. Section 10 of the 1996 Act requires the Commission to forbear from applying statutory provisions where three conditions are satisfied: (1) enforcement of a particular provision is not necessary to ensure that charges, practices, or classifications are just, reasonable, and not unreasonably discriminatory; (2) enforcement is not necessary for the protection of consumers; and

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<sup>18</sup> See, e.g., PaPUC at 13; Competitive Telecommunications Association at 8-9.

(3) forbearance from enforcement is consistent with the public interest. As several commenters recognize, these conditions are met with respect to rate averaging and rate integration services beyond basic interexchange service.<sup>19</sup> Indeed, given the heightened competition among carriers for provision of non-basic interexchange services, rate averaging policies are not necessary to ensure just and reasonable rates and are not necessary to protect consumers (most of whom are sophisticated in their purchasing decisions). Forbearance would serve the public interest by driving rates closer to costs, a process that increases economic efficiency and competition in the interstate, interexchange services market.

Contrary to the assertions of some, a Commission rule or policy requiring telecommunications services providers to offer promotional discount plans uniformly throughout their service areas would not serve the public interest.<sup>20</sup> GTE concurs with the large body of commenters who argue that such a rule would tend to discourage carriers from making discounted and promotional offerings available to any subscribers. The simple fact is that promotional plans and discounts provide clear and direct subscriber benefits. For this undeniable reason, the Commission has generally favored such offerings, and the 1996 Act does not require the Commission to take any action that might deprive ratepayers of these gains. To the contrary, Commission policies

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<sup>19</sup> See, e.g., BellSouth at 6-7; AT&T at 33; Sprint at 9-14; Cable & Wireless at 5, n.9.

<sup>20</sup> See, e.g., Frontier at 9; USTA at 3

should promote such pro-consumer marketing mechanisms as competition in the interstate, interexchange services market intensifies. In any event, retaining policies that permit, and indeed encourage, discounts based on a range of legitimate and compelling economic factors is consistent with the statutory directive that the Commission codify its existing policies.

Finally, GTE concurs with a number of state regulators, interexchange and exchange carriers that, under the 1996 Act, the authority to set intrastate interexchange rates continues to lie with the states, rather than the Commission.<sup>21</sup> While the Commission may provide the states with general guidelines and take action to protect federal policies from inconsistent state action, states should be accorded flexibility to execute rate averaging policies for intrastate, interexchange services.

**B. Rate Integration of Insular Points Requires Considerable Planning and Preparation.**

GTE supports rate integration and will work with the Commission to implement it in the Commonwealth of the Northern Mariana Islands ("CNMI").<sup>22</sup> GTE also recognizes how important it is to the Governor's Offices of Guam and the CNMI to reduce rates and promote calling between these points and the U.S. Mainland. But, as

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<sup>21</sup> See, e.g., NARUC at 4; Alabama PSC at 7-8; Missouri PSC at 2; Ohio Consumers' Council at 4; Sprint at 17, n.7; Washington Utilities and Transportation Commission at 3-4; MCI at 15; Ameritech at 15.

<sup>22</sup> The Micronesian Telecommunications Corporation ("MTC"), a separate subsidiary of GTE Hawaiian Telephone Company Incorporated, provides local, access, and domestic and international interexchange services from the CNMI.

GTE noted in its Comments, and as other commenters also observed, rate integration for Guam, the CNMI and American Samoa is more than just an "appropriate mechanism" issue.

For example, Columbia Long Distance Services, Inc. ("CLDS") states:

CLDS believes that the Commission must tread with special care in extending rate integration to these Western Pacific possessions in order to avoid establishing rigid regulatory requirements that will redound to the detriment of telecommunications users on these islands. Imprudent application of regulatory schemes that do not fit these unique telephone markets could have a long-lasting negative impact on service by stifling the growth of true competition.<sup>23</sup>

IT&E Overseas, Inc. ("IT&E") concurs:

The Commission's experience with implementing rate integration for Alaska, Hawaii, Puerto Rico, and the Virgin Islands suggest that any plan to extend rate integration to Guam and the CNMI likewise should be implemented on a gradual and individualized basis that takes into account the dynamic market structure of telecommunications on Guam and the CNMI and the unique geographical features of these Western Pacific islands.<sup>24</sup>

The comments suggest that rate integrating these Pacific islands will be quite different than integrating offshore points had been in the past. *DOMSAT II*, which resulted in the rate integration of Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands, was based on two very pertinent facts at the time: (1) distance insensitive domestic satellite facilities satisfied the economic rationale for rate integration; and (2) only monopoly providers were involved. The solution at that time was to require

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<sup>23</sup> CLDS at 3.

<sup>24</sup> IT&E at 14.

monopoly providers to give maximum effect to the elimination of distance as a major cost factor.<sup>25</sup> Yet, even then the Commission made allowances for economic or technical factors that could warrant deviation or require a phased plan. CLDS (at 3) also notes that the history of rate integration shows that "[r]ate averaging has never been adopted for a reason other than ensuring equal treatment of customers that can be served by the same type of transmission facilities."

GTE submits that the pertinent facts have changed. Rate integration of Guam, the CNMI and American Samoa must be undertaken with caution in order not to upset the competitive marketplace that now exists in these insular areas. Further, the Commission must take into consideration the fact that carriers must provide service to these insular points using distance sensitive facilities.

**1. Geographical Location Makes the Economics of Rate Integration for the CNMI Vastly Different than that Used as the Rationale for *DOMSAT II*.**

Sprint (at 20-21), CLDS (at 5-6) and IT&E (at 17-18) concur with arguments presented by GTE that distance is a major factor when serving Guam, the CNMI and American Samoa which must be considered in implementing rate integration.<sup>26</sup> The

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<sup>25</sup> See Sprint at 19.

<sup>26</sup> CLDS (at 6) and IT&E (at 18) explain that even if domestic satellite facilities were available, the distance from the U.S. Mainland to the CNMI almost always requires a "double hop" or the use of two satellites. This is not the case for other rate integrated points.

CNMI is not served by domestic facilities, only by international satellites.<sup>27</sup> Thus, MTC currently obtains its transmission capacity from the CNMI to the U.S. mainland from COMSAT at international rates, which are almost four times greater than rates for domestic satellite facilities. As IT&E (at 17) points out, "satellite service to . . . the CNMI must be obtained at monopoly rates charged by Comsat, the U.S. signatory and only provider of INTELSAT [International Satellite Organization] space segment." This is a significant factor which must be addressed when examining rate integration for the CNMI.

The significant cost difference between domestic and international satellite facilities and the unavailability of alternative facilities makes it impossible for MTC to charge the same price as interexchange carriers operating on the U.S. Mainland. Although the Comments of the CNMI suggest (at 5) that rate integration would result in lower communications prices for CNMI ratepayers, it fails to explain how this will be accomplished. The Commission must examine these issues before adopting any rate integration mechanism.

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<sup>27</sup> Unlike Guam, the CNMI is not served by undersea cable. As IT&E (at 10) notes, MTC has had for quite some time FCC authorization to land and operate a submarine cable between the CNMI and Guam and is prepared to begin construction immediately. All that MTC lacks is a landing license from the Government of the CNMI. Until the Government of the CNMI resolves its internal differences over the fiber cable landing issue and the Governor approves MTC's submerged land lease, MTC (and the CNMI) will remain totally dependent on international satellite facilities.