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OFFICE OF SECRETARY

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May 6, 1996

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

**EX PARTE: Telecommunications Services Inside Wiring  
CS Docket No. 95-184**

Dear Mr. Caton:

Today I delivered the attached letter to Meredith Jones, Chief of the FCC's Cable Services Bureau. Please incorporate this letter into the records of the above-captioned proceeding.

Please call me if you have any questions.

Sincerely,

Whitney Hatch

Attachment

c: L. Walke  
R. Chessen

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Ms. Meredith Jones, Chief  
Cable Services Bureau  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

**RE:** CS Docket No. 95-184 - Telecommunications Services Inside Wiring

Dear Ms. Jones:

In reply comments filed in the Commission's Inside Wiring proceeding<sup>1</sup>, the National Private Telephone Association (NPTA) alleges that GTE's positions here are somehow inconsistent with its telephone operating companies' practices in establishing demarcation point locations for telephony services. In reality, however, NPTA severely misinterprets the Commission's inside wiring rules as well as the positions which GTE has advocated in this proceeding.

In its Comments, GTE generally stated that a common demarcation point and inside wire policy should be established for both telephone and cable services. With respect to cable systems which provide services to multiple dwelling units (MDUs,) GTE believes that the Commission should adopt a "minimum point of entry" (MPOE) requirement, similar to that which today applies to telephone.<sup>2</sup> While GTE's position is therefore quite straightforward, NPTA erroneously claims that by advocating a MPOE approach to cable, GTE is also arguing that only a single point of demarcation can be established at a multiple dwelling unit ("MDU") premises for cable services. In other words, NPTA (at 2-3) insists that telephone companies must provide a *single* point of demarcation on MDU properties. This contention implies that telephone companies have no flexibility under current rules in establishing operating practices which comply with the policy of locating the telephone network termination point at a MPOE. This is neither the law nor has GTE ever advocated such a position.

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<sup>1</sup>In the Matter of Telecommunications Services Inside Wiring and Customer Premise Equipment, Notice of Proposed Rulemaking, CS Docket No. 95-184, FCC 95-504, released January 26, 1996 ("Notice").

<sup>2</sup>Under current rules, the demarcation point for cable services is established at a point within twelve inches from where the wiring enters the individual subscriber's premises.

Under existing rules, telephone companies are allowed to establish reasonable operating practices to comply with the MPOE requirement. Pursuant to Section 68.3, Minimum Point of Entry is defined as:

...the closest practical point to where the wiring crosses a property line or the closest practical point to where the wiring enters a multiunit building or buildings. The telephone company's reasonable and nondiscriminatory standard operating practices shall determine which shall apply. The telephone company is not precluded from establishing reasonable classifications of multiunit premises for purposes of determining which shall apply

Thus, while contemplating that a single demarcation point *could be* established, *e.g.*, at the property line, Section 68.3 has *never* precluded carriers from establishing operating policies which could result in multiple termination points for certain types of MDU premises.

GTE believes that this same policy, as well as other relevant provisions of Section 68.3, should generally be applied to services rendered by cable operators to MDU locations. In reality, the positions which GTE has taken relative to cable services are not contrary to GTE's own practices in establishing multiple demarcation points for telephony services at MDU locations. For example, in MDU locations involving multiple apartment buildings, GTE may locate a demarcation point at a MPOE within each individual apartment building in compliance with the Rules.<sup>3</sup> GTE is advocating that the Commission do no less with respect to formulating inside wiring policies for cable.<sup>4</sup>

In its Comments, GTE offered a general definition for such a common demarcation point:

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. GTE Comments, at 4.

GTE also recognizes that some degree of flexibility should be allowed, similar to the same flexibility granted under the telephone rules, in the location of cable system demarcation points and also acknowledges that multiple demarcation points may be necessary:

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<sup>3</sup>Alternative service providers are free to provide their own facilities to these points in order to service customers of the apartment complex.

<sup>4</sup>Contrary to NPTA's claims (at 2), GTE's demarcation point policy does not prevent access to an STS provider by tenants of an MDU. The STS provider only needs to install feeder cable to access the established demarcation point at the MDU building, or enter into a "mutually agreeable" arrangement with the incumbent provider.

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. GTE Comments, at 10.<sup>5</sup>

Additionally, in no instance has GTE insisted that the cable system point of termination be located at a *single* location on multiple-building MDU properties:

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. 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.<sup>6</sup>GTE Comments, at 10-11.

Finally, NPTA contends (at 5-6) that arguments presented by GTE before the Texas Public Utilities Commission (Texas PUC) conflict with its observations in its Docket 95-184 comments that giving cable subscriber's greater control over cable inside wiring would not constitute a "taking." In the Texas case, GTE has asserted that telephone customers have no right to control or own certain buried network cable installed and owned by GTE on MDU property since that wiring properly resides on the network side of the demarcation point established in accordance with the Commission's rules. Thus, any action forcing GTE to cede control of such

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<sup>5</sup>GTE reiterated these same positions in its Reply Comments submitted on April 17, 1996. See Reply Comments of GTE at 3-8.

<sup>6</sup>NPTA (at 2) falsely accuses GTE of stating in its comments that it has "willingly moved its demarcation points to such a single location." GTE has made no such representation. GTE did, however, respond to the unfounded allegations by the cable industry that moving the cable demarcation point from a point of "maximum insertion" to the MPOE would prevent cable operators from ever providing new and competitive telecommunications services to subscribers. GTE Comments, at 11 n. 7. The adoption of a MPOE policy by the Commission has not impaired GTE's ability to develop and provide new innovative and competitive services to subscribers.

Ms. Meredith Jones

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wiring would not only be contrary to federal regulations but would indeed constitute an unconstitutional "taking." Moreover, under Texas law, the Texas PUC lacks statutory authority to effect such a taking. Therefore, the issue in that case is not whether GTE may receive just compensation for its property, but that the Texas PUC may not effect such a taking in the first instance. Dissimilarly, in the case of cable inside wiring, the assumption of control by cable subscribers of their inside wiring is fully permissible because -- *even if* a "taking" occurs -- this Commission has existing authority to implement such a policy and cable operators will be properly compensated.

In summary, NPTA misinterprets the positions GTE has advocated with respect to cable inside wiring and offers no substantive response to the *Notice's* request for comments concerning changes in the Commission's inside wire policies. A copy of this letter has been filed with the FCC Secretary for incorporation into the record of this proceeding. Please call me if you have any questions.

Sincerely,



Whitney Hatch

c: FCC Secretary