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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of: )  
 )  
Telephone Number Portability ) CC Docket No. 95-116

**PETITION FOR CLARIFICATION AND RECONSIDERATION**

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behalf of its affiliated domestic  
telephone operating and wireless  
companies

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TABLE OF CONTENTS

	<u>Page</u>
SUMMARY .....	iii
I. INTRODUCTION .....	1
II. THE COMMISSION SHOULD MODIFY AND CLARIFY THE RULES REGARDING LONG-TERM NUMBER PORTABILITY IN THREE RESPECTS .....	3
A. The Commission Should State that Waivers of the Implementation Dates for Long-Term Number Portability Will Be Granted where a LEC Shows that Failure To Meet Those Dates Is Due to Causes Outside Its Control .....	3
B. The Commission Should Establish a Process for Exempting Smaller Offices in the Top 100 MSAs from the Deployment Deadlines .....	8
C. As Explained in the Pacific Telesis QOR Petition, the Commission Should State that QOR May Be an Acceptable Method of Providing Long-Term Number Portability .....	10
III. THE INTERIM NUMBER PORTABILITY RULES AND COST RECOVERY MECHANISM SHOULD BE CLARIFIED TO BETTER PROMOTE CONGRESS'S GOALS .....	11
A. The Commission Should Permit LECs to Recover the Costs of Interim Number Portability Through a Pooling Mechanism Funded by End User Charges .....	11
1. The Commission Should Identify Cost Pooling as a Competitively Neutral Mechanism that Complies With its Cost Recovery Principles .....	12

2.	The Cost Recovery Pool for INP Should be Designed Consistent with GTE's Recommendations Regarding Cost Recovery for Long-Term Number Portability . . . . .	14
B.	The Commission Should Clarify that LECs May Discontinue Offering Interim Number Portability in Offices Where Long-Term Portability Has Been Implemented . . . . .	16
C.	The Commission Should Not Require LECs To Provide Detail for Every Call in Order To Implement Meet Point Billing of Terminating Access to Ported Numbers . . . . .	18
IV.	THE COMMISSION SHOULD ESTABLISH TARGETS RATHER THAN DEADLINES FOR CMRS IMPLEMENTATION OF NUMBER PORTABILITY . . . . .	21
V.	CONCLUSION . . . . .	24

## SUMMARY

The *First Report and Order* in this proceeding adopts rules directing local exchange carriers to implement long-term number portability, and to offer currently available methods of interim number portability pending deployment of the upgrades necessary for a database solution. GTE supports many aspects of the Commission's decision. Nonetheless, it seeks clarification and reconsideration in several respects, in order to assure that number portability is provided in a manner that maximizes consumer benefits and assures adequate cost recovery by all affected telecommunications carriers.

With respect to long-term number portability, the Commission should state that waivers of the implementation dates will be granted if a LEC cannot meet those dates because of delays beyond its control. GTE intends to discharge its obligations in a timely fashion. Nonetheless, its ability to do so will depend, among other things, on switch manufacturers meeting their commitment dates for major software revisions in time for thorough testing and deployment, software vendors supplying upgrades to critical operations supports systems ("OSSs"), the North American Numbering Council ("NANC") determining interoperability and operational standards, user interfaces, network interfaces, and technical specifications for the regional data bases, and state regulators deciding whether new entrants and incumbent LECs must use the same rate centers. Failure of or

delay in any of the links in this implementation chain will jeopardize GTE's ability to comply with the Commission's schedule.

The Commission also should establish procedures for waiving the implementation deadlines for smaller offices in the top 100 MSAs, where the LEC shows that such offices will not be subject to imminent competition. GTE has 571 offices in the top 100 MSAs, 114 of which serve fewer than three thousand access lines, and many of which use older technology that would be prohibitively expensive to upgrade. There is likely to be little demand for number portability at many of these locations, and treating these offices akin to areas outside the top 100 MSAs would permit GTE to focus its resources on implementing portability in places where competition likely will emerge most quickly.

In addition, GTE supports the Pacific Telesis petition regarding Query on Release ("QOR"). GTE will not reiterate the arguments made in that filing, except to note that the Commission's determination that QOR should not be pursued may saddle carriers and customers with greater costs, reduce network reliability, and impede, rather than promote, competition.

Clarification of the Commission's rules regarding interim number portability ("INP") is also warranted. *First*, the Commission should permit a cost pooling approach to recovery of INP implementation costs. Such an approach will assure that charges for INP do not influence the choice of LEC by any customer and is fully consistent with the principles established in the *First Report and Order*. *Second*, the Commission should clarify that LECs may discontinue offering INP

once long-term number portability is available. Doing so is particularly important because the Commission's interpretation of "competitively neutral" recovery of INP costs places substantial, inequitable burdens on incumbent LECs, and maintaining INP and long-term methods concurrently would be confusing and invite service degradation. *Third*, the Commission should state that LECs need not make expensive modifications to their billing systems to accommodate meet point billing of terminating access. GTE's experience demonstrates that new entrants and incumbents can agree to mutually acceptable alternatives that do not encumber LECs in this manner.

Finally, the Commission should modify its rules regarding implementation of number portability by CMRS providers by establishing targets rather than firm deadlines. CMRS providers -- particularly cellular carriers, which have existing networks requiring substantial modification -- face considerable challenges in deploying the capability for long-term number portability, and the deadlines in the *First Report and Order* appear unrealistic.



telecommunications carriers on a competitively neutral basis as determined by the Commission."<sup>3</sup> The *First Report and Order* adopts rules to implement these requirements. Specifically, it (1) requires LECs to provide "currently available number portability methods," including Remote Call Forwarding ("RCF") and Direct Inward Dialing ("DID") until long-term service provider portability is available,<sup>4</sup> (2) establishes "guidelines that the states must follow in mandating cost recovery mechanisms for currently available number portability methods,"<sup>5</sup> (3) articulates criteria that must be satisfied by any long-term number portability method,<sup>6</sup> and (4) defines a phased-in schedule for implementing long-term service provider portability in the top 100 Metropolitan Statistical Areas ("MSAs").<sup>7</sup>

GTE supports both interim and long-term number portability under rules that protect network integrity and permit adequate cost recovery by all affected telecommunications carriers. To this end, GTE agrees with many aspects of the *First Report and Order*. Nonetheless, clarification and reconsideration of that decision in several respects, as discussed herein, will help assure that number

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<sup>3</sup> *Id.* § 251(e)(2).

<sup>4</sup> *First Report and Order* ¶¶ 110-116.

<sup>5</sup> *Id.* ¶¶ 126-140.

<sup>6</sup> *Id.* ¶¶ 46-59.

<sup>7</sup> *Id.* ¶¶ 74-85 and Appendix F. In a companion *Further Notice of Proposed Rulemaking*, the Commission sought comment on a cost recovery mechanism for long-term number portability. GTE submitted its opening comments in response to the *Further Notice* on August 16.

portability is implemented in a manner that maximizes consumer benefits and accords more closely with the language and goals of the Telecommunications Act of 1996.

**II. THE COMMISSION SHOULD MODIFY AND CLARIFY THE RULES REGARDING LONG-TERM NUMBER PORTABILITY IN THREE RESPECTS.**

**A. The Commission Should State that Waivers of the Implementation Dates for Long-Term Number Portability Will Be Granted where a LEC Shows that Failure To Meet Those Dates Is Due to Causes Outside Its Control.**

The *First Report and Order* establishes a deployment schedule under which LECs in the 100 largest MSAs must offer long-term service provider portability commencing on October 1, 1997 and concluding by December 31, 1998. The Commission notes that its schedule requires deployment in one MSA in each of the seven BOC regions by the end of the fourth quarter 1997, and concedes that "in establishing this schedule, [it has] relied upon representations of switch vendors concerning the dates by which the necessary switching software will be generally available."<sup>8</sup> It also directs carriers that are members of the Illinois Local Number Portability Workshop (including GTE) to "conduct a field test of LRN or another technically feasible long-term number portability method that comports with our performance criteria concluding no later than August 31, 1997," in order to "help

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<sup>8</sup> *First Report and Order* ¶¶ 77, 78.

to identify technical problems in advance of widespread deployment, thereby safeguarding the network."<sup>9</sup>

As discussed below, GTE is concerned that its ability to comply with the deployment schedule is dependent on a multitude of matters that are simply beyond its control.

Development, testing, and deployment of switch software. The Commission properly recognized that switch software upgrades are essential to a data base method of service provider portability, and it explicitly relied on assertions by Lucent, Northern Telecom, Siemens, and Ericsson that they could begin supplying LRN software in early-to-mid 1997.<sup>10</sup> GTE has no reason to doubt that these manufacturers can meet their commitments. However, the service provider portability software must be available in time to permit thorough testing, which often can take three to six months. Moreover, the testing program must encompass the full range of deployed switches and network operating conditions in order to assure against risks to network reliability.<sup>11</sup> In contrast, the Illinois trial cited in paragraph 79 of the *First Report and Order* apparently will not include several switch types, including Vidar, Stromberg DCO, and Mitel, and only involves

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<sup>9</sup> *Id.* ¶ 79.

<sup>10</sup> *See id.* ¶ 71.

<sup>11</sup> GTE is concerned that the two months allowed by the *First Report and Order* (at ¶ 79) between completion of testing and initial deployment may not permit sufficient time for evaluation of test results.

one specific network configuration. The telephone network is exceedingly complex, and any such non-comprehensive testing regimen cannot prove that LRN or any other approach can be implemented on a network-wide basis without resulting in "unreasonable degradation in service quality or network reliability when implemented [or] when customers switch carriers."<sup>12</sup> Nor can such testing demonstrate with certainty that there will be "no significant adverse impact outside the areas where number portability is deployed."<sup>13</sup>

Finally, even if software has been developed and tested in a prompt manner, there must be sufficient time to permit the careful cutover of all affected switches, including the removal of any interim solutions.<sup>14</sup> Although each BOC has only one MSA that must be converted in the fourth quarter of 1997, GTE has four scattered across the country -- Chicago, Houston, Los Angeles, and Minneapolis -- involving 88 host switches and 34 remotes. Similarly, GTE is in 61 of the top 100 MSAs; each BOC generally is in 15 or fewer. If there is limited availability of the needed upgrades (and of personnel to assure they are installed correctly), GTE's ability to meet the deadlines would be compromised.

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<sup>12</sup> Such degradation may, for example, result from "looping" -- a circular routing scheme where each network believes a message is destined for a location in the other network. This increases network signalling loads and prevents certain services from working because underlying processes are tied up until they "time out."

<sup>13</sup> *Id.* ¶ 48 (identifying minimum performance criteria for any long-term number portability method).

<sup>14</sup> See Section III.B, *infra*.

Upgrades to OSSs. Several OSSs will require some change in functionality and/or capacity to support any form of long-term number portability. These OSSs include systems for billing, provisioning, traffic management, service order administration, trouble analysis, and testing. Without making the necessary upgrades to these systems, GTE will only be able to provide long-term number portability through makeshift modifications that may adversely affect network reliability. Notably, the *First Report and Order* fails to recognize the need for such upgrades, and there is no record evidence that they will be available in accordance with the Commission's schedule. In reality, GTE will depend on unaffiliated software vendors to engineer many of the required upgrades -- and, as discussed below, some of the necessary modifications cannot even be identified until other entities, including the NANC, discharge their portability-related obligations.

Action by the NANC. The *First Report and Order* tasks the NANC with several critical assignments related to implementation of long-term number portability, including:

- selecting one or more local number portability administrators;<sup>15</sup>
- determining the geographic coverage and location of the regional databases;
- specifying technical interoperability and operational standards;

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<sup>15</sup> *Id.* ¶ 93.

- dictating the user interface between telecommunications carriers and the administrator(s) and the network interface between the SMS and downstream databases; and,
- developing the technical specifications for the regional databases.<sup>16</sup>

As of the filing of this Petition, however, the members of the NANC have not even been named. Accordingly, there is a significant risk that the NANC may be unable to complete these tasks in time to permit reasonable testing of software and development of the necessary upgrades to carrier OSSs, particularly given its other substantial responsibilities.

Impact of state PUC decisions. The *First Report and Order* held that rating and billing questions regarding number portability are best addressed by the states.<sup>17</sup> GTE agrees with this determination, but urges the Commission to recognize that state decisions permitting new entrants to establish inconsistent rate centers could affect the timing of long-term number portability deployment. Switch vendors have begun development of number portability software based on the assumption that all LECs will use consistent rate centers for identifying and billing calls. Modifying industry specifications and vendor software to accommodate inconsistent rate centers permitted or required by state PUCs will take additional time, which was not reflected in the estimated availability dates contained in the record.

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<sup>16</sup> *Id.* ¶ 95.

<sup>17</sup> *Id.* ¶ 63.

Each of these factors -- development, testing, and deployment of switch software; upgrades to OSSs; identification of technical and interface specifications by NANC; and state decisions allowing inconsistent rate centers -- is outside the control of GTE and other LECs. Each may affect the viability of the Commission's implementation deadlines. Although GTE is committed to doing what is necessary to achieve compliance, it urges the Commission to recognize that the implementation schedule may be at risk, and to clarify that a LEC will be entitled to a waiver if it cannot meet the schedule for reasons beyond its command.

**B. The Commission Should Establish a Process for Exempting Smaller Offices in the Top 100 MSAs from the Deployment Deadlines.**

The *First Report and Order* recognizes that "differing levels of local exchange competition ... are likely to emerge in the different geographic areas throughout the country."<sup>18</sup> Accordingly, the Commission provided that, outside the largest 100 MSAs, long-term number portability should be deployed six months after a request, rather than in compliance with a specific implementation deadline. In doing so, the Commission found that a six-month interval "is appropriate given the more significant network upgrades that may be necessary for carriers operating in these smaller areas."<sup>19</sup>

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<sup>18</sup> *Id.* ¶ 82.

<sup>19</sup> *Id.*

GTE agrees with the Commission's treatment of areas outside the 100 largest MSAs, but urges the Commission to grant waivers to extend similar treatment to smaller offices within those MSAs in appropriate circumstances. In particular, waivers of the relevant compliance deadlines are warranted where it is evident that competitive entry in a particular area will not be immediate, and where implementation of long-term number portability would require significant network upgrades. To assure an appropriate record is presented to the Commission in support of such a request, a LEC could follow a process of coordinating with prospective entrants and with the affected state PUC. If no entrant expresses an immediate interest in entry, and if the state PUC does not object, then the LEC should be entitled to present a waiver petition to the Commission with the expectation that it will be granted. Following grant, the LEC would not be required to implement long-term number portability until six months after a request from a competing carrier, assuming the switch already has SS7 and AIN capabilities.<sup>20</sup>

Such a limited waiver policy would serve the public interest in several respects. Most notably, it would enable LECs that have a mix of more densely populated and less densely populated service areas to devote their resources to upgrading offices in areas where competition will develop most quickly. This is

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<sup>20</sup> Six months is likely reasonable if a switch already has SS7 and AIN. A period longer than six months would be required, however, if upgrades in addition to number portability software are needed. If a new switch is required, 18 months or more may be necessary.

particularly important because the equipment in many smaller offices will require expensive upgrades to support long-term number portability. The waiver policy would not impede competition because LECs would commit to coordinate with prospective entrants before filing for waiver with respect to a particular office. In addition, any subsequent request for number portability would be fulfilled within six months where possible. Accordingly, GTE urges the Commission to state that it will be receptive to waivers of the implementation schedule with respect to smaller offices in the top 100 MSAs, where a LEC shows that no competitive entry is imminent.

**C. As Explained in the Pacific Telesis QOR Petition, the Commission Should State that QOR May Be an Acceptable Method of Providing Long-Term Number Portability.**

GTE fully supports the Pacific Telesis QOR Petition.<sup>21</sup> As explained therein, the Commission erred in rejecting QOR, particularly for use within a LEC's network. This method has the potential to be much less costly than the Location Routing Number ("LRN") approach proposed by AT&T, and it may be implemented in a manner that is consistent with the Commission's nine principles. In addition, since QOR requires fewer database queries, QOR will pose less of a threat to network reliability than LRN. Consequently, the Commission should grant the relief sought in Pacific Telesis's QOR petition.

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<sup>21</sup> Petition for Clarification Or, In the Alternative, Reconsideration of Pacific Telesis, CC Docket No. 95-116, filed August 26, 1996.

**III. THE INTERIM NUMBER PORTABILITY RULES AND COST RECOVERY MECHANISM SHOULD BE CLARIFIED TO BETTER PROMOTE CONGRESS'S GOALS.**

**A. The Commission Should Permit LECs to Recover the Costs of Interim Number Portability Through a Pooling Mechanism Funded by End User Charges.**

The 1996 Act requires that the costs of number portability be borne by all telecommunications carriers on a "competitively neutral basis."<sup>22</sup> In the *First Report and Order*, the Commission interpreted this phrase to mean that "the cost of number portability borne by each carrier does not affect significantly any carrier's ability to compete with other carriers for customers in the marketplace."<sup>23</sup> The Commission also concluded that any "competitively neutral" cost recovery mechanism: (1) should not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber<sup>24</sup>; and (2) should not have a disparate effect on the ability of competing service providers to earn normal returns on their investment.<sup>25</sup>

GTE submits that the cost recovery principles set forth by the Commission are insufficient to guarantee "competitive neutrality" as mandated by the 1996 Act. By themselves, these principles advance the interests of specific competitors

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<sup>22</sup> 47 U.S.C. § 251(e)(2).

<sup>23</sup> *First Report and Order*, ¶ 131.

<sup>24</sup> *Id.* ¶ 132.

<sup>25</sup> *Id.* ¶ 135.

-- new entrants -- not competition. Rather than ensuring that all carriers share the cost burden of implementing interim number portability, they effectively force incumbent LECs, such as GTE, to recover such costs either through increased service rates (which are generally foreclosed by local competition and state regulatory constraints on increasing end user charges) or by requiring shareholders to bear the financial burden (which would constitute a "taking" in violation of the Fifth Amendment).

To avoid these problems, the Commission should supplement the two criteria adopted in the *First Report and Order* by stating that a "competitively neutral" cost recovery mechanism must not influence a customer's selection of his or her service provider. More likely than not, if a customer can avoid a charge for number portability (or perhaps pay a lesser charge) and get the same service by switching carriers, it will do so. Incenting customers to switch providers simply to avoid paying for number portability is antithetical to competitive neutrality. GTE suggests below a cost recovery mechanism that is consistent with the *First Report and Order* yet also assures competitive neutrality.

- 1. The Commission Should Identify Cost Pooling as a Competitively Neutral Mechanism that Complies With its Cost Recovery Principles.**

In the *First Report and Order*, the Commission concluded that a variety of cost recovery approaches currently in use comply with its competitive neutrality

criteria.<sup>26</sup> GTE urges the Commission to identify cost pooling as another satisfactory model. GTE recommended such a cost recovery method for long-term number portability in its Comments on the *Further Notice of Proposed Rulemaking*,<sup>27</sup> and believes this mechanism is equally appropriate for recovering the costs of interim number portability.

The cost pool would be funded from two sources. The first would be a uniform, mandatory charge on all customers of local service. To comply with the principle of "competitive neutrality," this charge must be: (1) explicitly identified as a separate line item for number portability on customer bills; (2) uniform across all local service customers; and (3) mandatory. The second source would be a per-call charge collected by interexchange carriers ("IXCs") from customers of interexchange toll service. IXCs would be free to recover these charges from their customers as they deem appropriate.

This cost pooling mechanism plainly satisfies the two cost recovery principles identified in the *First Report and Order*. Because the end user charge is identical for all customers, cost pooling does not give one carrier a cost advantage over another. In addition, because costs are recovered from end users, not through inter-carrier payments, the cost pool would not disparately impact the

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<sup>26</sup> *First Report and Order*, ¶ 136.

<sup>27</sup> See GTE Comments, CC Docket No. 96-116, filed Aug. 16, 1996, at 6-12.

ability of any carrier to earn a normal return. Unlike the cost recovery mechanisms endorsed in the *First Report and Order*, however, the explicit uniform charge prevents any competitive distortion resulting from customers gravitating to carriers assessing lower charges. Cost pooling also fully comports with traditional cost causation principles, under which the cost causer pays for the costs that he or she incurs.<sup>28</sup> Number portability costs are caused by all telecommunications users, not just the subscribers of incumbent LECs or new entrants. Accordingly, it is reasonable to recover INP costs from all end users.

**2. The Cost Recovery Pool for INP Should be Designed Consistent with GTE's Recommendations Regarding Cost Recovery for Long-Term Number Portability.**

GTE's Comments on the *Further Notice* presented a detailed plan for recovering the costs of long-term number portability. That plan is equally suitable to recovering the costs of INP. Specifically, the funds generated through the charges on local service and interexchange toll service customers would be forwarded to a cost recovery pool that would be administered by a neutral third party designated by either the Commission or the North American Numbering Council. The level of funding would be determined as follows:

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<sup>28</sup>In the *First Report and Order*, the Commission erroneously concluded that adopting a competitively neutral cost recovery method requires it to depart from its longstanding practice of relying on cost causation principles. *Id.* ¶131 There is nothing in the language of the Act or the legislative history that mandates rejection of these principles.

- Any costs incurred by the industry as whole<sup>29</sup> and all costs incurred to provide INP would be pooled on a national level for all telecommunications carriers through direct submission from carriers of their estimated costs for the year.
- Based upon the information supplied by the telecommunications carriers, the pool administrator would estimate total number portability costs for the coming year.

The mandatory uniform charge on all customers of local service and the charges collected by interexchange carriers from customers of interexchange toll services would be established and collected as follows:

- Through industry data, the pool administrator would estimate the total number of local service calls and the total number of interexchange toll calls from all providers offering interexchange service for the coming year.
- The estimated total annual cost of number portability (as described above) would be divided by the estimated total number of calls (for both local service and interexchange toll service) to develop a per-call cost of number portability.
- The estimated total annual cost of number portability would be divided between local service calls and interexchange toll service calls by multiplying the per-call cost times the total number of calls in each category.
- The portion of the estimated total annual cost of number portability associated with local service calls would be divided by the total estimated number of end user local service lines resulting in a uniform charge that would be collected from all end users on a monthly basis by their service providers.

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<sup>29</sup> Such costs likely would be minimal or nonexistent in the *INP* context, in contrast to the long-term portability context.

- Interexchange carriers would collect an amount equal to the per-call cost times the number of calls from their customers and forward those funds to the pool. Interexchange carriers would have the discretion to recover this amount from their customers in any manner they deem appropriate.

Periodic distributions would be made by the pool administrator to all telecommunications carriers submitting cost reports. Each carrier would receive a pro rata distribution based on its share of the total costs submitted for the year. Any excess amount would be carried over and taken into consideration in estimating the next year's funding requirement. Similarly, any costs that are not covered would be carried over and taken into consideration in calculating the next year's total costs.

This cost recovery mechanism is simple, equitable, and most importantly, competitively neutral. Accordingly, the Commission should explicitly identify cost pooling as a competitively neutral scheme for recovering INP costs.

**B. The Commission Should Clarify that LECs may Discontinue Offering Interim Number Portability in Offices Where Long-Term Portability Has Been Implemented.**

The *First Report and Order* states that "Congress intended that currently available number portability measures be provided *until* a long-term number portability method is technically feasible and available."<sup>30</sup> It further explains that "[t]he 1996 Act ... clearly contemplates that these [interim] measures should serve

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<sup>30</sup> *First Report and Order* ¶ 111 (emphasis added).

as only *temporary* measures until long-term number portability is implemented."<sup>31</sup> GTE interprets these statements as permitting LECs to withdraw INP once competing carriers can utilize long-term number portability to serve customers in an area, and urges the Commission to confirm that this understanding is correct.

GTE is concerned that some new competitors may desire to continue using INP measures even after long-term portability is available, even though it is an inferior product, because the Commission's current cost recovery method for INP gives a significant price break to new entrants. In addition, regardless of the INP cost recovery method, if AT&T's LRN becomes the long-term portability standard, the long-term approach may impose significantly greater costs on competing LECs than INP measures do. Faced with a less capable but cheaper alternative, some non-incumbent carriers may wish to forego long-term portability.

This option should not be allowed. Under the Commission's cost recovery rules for INP -- even if clarified as requested above -- incumbent LECs will be subsidizing new entrants in order to advance the Commission's goal of jump-starting local competition. This subsidy, if at all tolerable, should be sharply limited in duration.

In addition, retaining INP in an area once long-term portability has been implemented would perpetuate inefficient network design and likely cause confusion and technical problems. A database solution to portability is most

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<sup>31</sup> *Id.* ¶ 115 (emphasis added).

beneficial and efficient only if all inter-switch calls to ported numbers make use of the system. If some carriers continue to use relatively inferior INP measures, two processing scenarios may be necessary for some or all calls -- one involving the data base and the other involving switch-based routing. For these reasons, the Commission should permit LECs to discontinue INP once long-term portability is available.

**C. The Commission Should Not Require LECs To Provide Detail for Every Call in Order To Implement Meet Point Billing of Terminating Access to Ported Numbers.**

When an interexchange call is terminated to a number that has been ported using an INP method, the call will be handled by two LECs: the carrier that originally served the called party will receive the call from the IXC, determine that the number has been ported, and send the call on to the new carrier. The *First Report and Order* established an "overarching principle" that both LECs should share the terminating access charges, and stated that "meet-point billing arrangements between neighboring incumbent LECs provide the appropriate model for the proper access billing arrangement for interim number portability."<sup>32</sup> It also directed the forwarding carrier to provide "the necessary information to permit the terminating carrier to issue a bill," including sharing percent interstate use data and

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<sup>32</sup> *Id.* ¶ 140.

requiring the terminating carrier to issue a bill based on allocated interstate minutes per IXC.<sup>33</sup>

GTE endorses the principle that the forwarding and terminating carrier should share in the access charges, since both carrier's facilities are used to terminate the interexchange call. At the same time, however, incumbent LECs should not be required to implement costly changes to billing systems and switch software in order to permit the terminating carrier to bill its portion of the call. Today, existing billing systems and switch software do not have the ability to identify and link the records of the interexchange portion of the calls (from the IXC to the forwarding LEC) with the inter-office portion of the call (from the forwarding LEC to the terminating LEC). Rather, current switch software treats the forwarded portion of an interexchange call as a separate local call from the forwarding office to the terminating office, producing no record of the call.

Modifying billing systems to track and record all the necessary details to allow the terminating office to bill access charges would be very expensive. If INP were to remain in place for several years, such modification might survive a cost/benefit analysis. With the aggressive implementation schedule for long-term

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<sup>33</sup> *Id.*