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

In the Matter of

Implementation of Section 402(b)(2)(A)) CC Docket No. 97-11
of the Telecommunications Act of 1996)

REPLY COMMENTS OF GTE

GTE Service Corporation ("GTE"), on behalf of its affiliated domestic telephone operating companies, hereby submits its Reply to Comments filed in the Notice of Proposed Rulemaking ("Notice" or "NPRM") in the above-captioned proceeding.[1]

I. Introduction and Summary

Section 402(b)(2)(A) of the Telecommunications Act of 1996 ("the 1996 Act") amends Section 214(a) by exempting common carriers from the requirements of Section 214 for the "extension of any line." GTE and others filing Comments urged the Commission to assure that the deregulatory intent of 1996 Act is met by applying a broad reading to "extension of a line" to include any expansion of a carrier's existing network, whether or not that extension is within the carrier's existing geographic operating territory. Moreover, extensions of international lines also should be afforded the full exemption mandated by the

---

1 Notice of Proposed Rulemaking, CC Docket N0. 97-11, FCC 97-6, released Jan. 13, 1997.

1996 Act. Finally, GTE supports the streamlined Section 214 discontinuance provisions for all carriers, as proposed in the NPRM.

II. The Commission Should Reject Attempts to Maintain Unnecessary Regulatory Burdens.

MCI Telecommunications Corporation ("MCI") (at 2-3) constructs an elaborate argument alleging that elimination of Section 214 requirements would allow Incumbent Local Exchange Carriers ("ILECs") to make inefficient investments for the purpose of foreclosing competitive entry. MCI (at 5) claims such anti-competitive activities could occur "even if [the ILEC] does not inflate rates."

In Comments filed in this proceeding, MCI claims that ILECs would systematically engage in inefficient investments, spending excessive amounts even though they lack the ability to raise prices to recover those investments. In sharp contrast, in the Commission's price cap proceeding, MCI supports the position "that LEC's have been able to achieve interstate productivity of as much as 9.9 percent over the last five years."[2] MCI is also on record stating the obvious impact of competition: "As competition does occur, the incumbent LECs' incentive to cut their costs will increase, and they should be able to achieve even higher productivity."[3] MCI needs to decide which story it wants to tell -- ILECs

---

2 CARE Coalition Ex Parte Comments, CC Docket No. 94-1, Price Cap Performance Review for Local Exchange Carriers, April 16, 1996, as quoted in MCI Comments, CC Docket No. 96-262 (D.96-262), Access Charge Reform at n.40.

3 Reply Comments of MCI, D.96-262 at 30 (Feb. 14, 1997).

are either super efficient or they make inefficient investments for which no recovery is possible.

MCI's argument that 214 regulation is needed to prevent inefficient investment in this proceeding should be seen for what it is -- an obvious attempt to constrain the ILECs through the imposition of regulatory burdens. The inconsistency of MCI's positions makes this abundantly clear. The Commission must reject MCI's transparent attempt to maintain unnecessary ILEC regulatory burdens.

MCI admits that duplication of facilities, the stated regulatory concern remedied by Section 214, is no longer a problem. Nonetheless, MCI boldly attempts to re-write legislative history by arguing that 214 authorization is still needed to address competitive problems. Clearly there are other and better provisions under the Act to address these concerns, such as Section 251. The Commission should reject MCI's attempt to make Section 214 more intrusive. Many parties filing Comments agree that 214 authorizations are, for the most part, unnecessary in the current regulatory environment.

III. The Record Does Not Justify An In-Region/Out-Of-Region Distinction For Line Extensions Or A Distinction Between "New" and "Extended" Lines.

In its Comments, GTE (at 5-6) suggests that any augmentation or expansion of lines in a carrier's network should be treated as an extension. Distinguishing between "new" and "extended" lines for an existing carrier is meaningless. Several commenters similarly urge the Commission to adopt a single definition for a line extension.[4] GTE agrees with Independent Telephone & Telecommunications Alliance ("ITTA") that "there is no longer a basis for distinguishing between 'extending lines' and deploying 'new lines' because the market will ensure that only those lines that are economically viable in a competitive market will be deployed." GTE also agrees with ITTA's statement that "[r]egardless of the activity involved, either the extension of an existing line or the deployment of a new line, the 1996 Act has established a competitive market structure that eliminates the need for the Commission to impose regulations that distinguish between these two types of activities."[5]

GTE (at 4) also shows that confining extensions only to lines outside the geographic territory of the carrier's existing network is contrary to the statute and needlessly confuses and complicates the Section 214 requirements. Other commenters agree that nothing in the 1996 Act nor the legislative history suggests that Congress was excluding extensions within a carrier's serving area from the exemption in Section 402(b)(2)(A).[6] If expansions within an existing network are considered extended lines, already exempted by the 1996 Act from 214 requirements, the Commission would not have to engage in the forbearance analysis suggested in the NPRM. While there may be some limited situations involving new lines, most expansions from existing network facilities should

---

4 *See, e.g.*, USTA at 2-3; Bell Atlantic/NYNEX at 3-4; BellSouth at 6; Pacific Telesis Group at 6-7; Ameritech at 6-7.

5 ITTA at 5-6.

6 *See, e.g.*, Ameritech at 9.

properly be considered extended lines. Thus, GTE urges the Commission to adopt a definition that does not distinguish between "new" and "extended" lines and does not contain an in-region/out-of-region distinction.

IV. Extensions of International Lines Must Be Afforded an Exemption.

Telefonica Larga Distancia De Puerto Rico ("TLD") argues "that Section 402(b)(2)(A), which explicitly eliminates the need for any common carrier to seek Commission authorization for the extension of any line, should not be implemented differently in the international than in the domestic context." TLD also supports the proposal that would "treat all 'extensions' uniformly, without distinguishing between extensions of domestic lines and extensions of international lines. Under such a definition all "extensions," i.e., all expansions into new territory, would no longer require FCC approval."[7] GTE agrees that the Commission should address line extensions on the same basis, regardless of whether the extensions are international or domestic in nature. Thus, GTE urges the Commission to afford international lines the exemption mandated in the 1996 Act.

V. Streamlined Discontinuance Procedures Are Appropriate For All Carriers.

Most interexchange carriers filing Comments object to applying streamlined discontinuance procedures to ILECs, while the LECs support the streamlining proposal. AT&T Corp. ("AT&T") (at 3) argues that the Commission

---

[7] TLD at 1-2.

should retain the requirement for dominant carriers to provide advance written notice to affected customers before discontinuing service, although it does not advocate the same burden for non-dominant carriers. AT&T claims access customers would be competitively harmed in their interexchange services if ILECs are afforded the same discontinuance notification provisions as non-dominant carriers.

GTE believes that the Commission should adopt the same requirements for customer notification of discontinuance for all carriers. The Commission should be concerned that customers are not taken by surprised if their service provider exits a market without notification. Whether a carrier serves a small or large number of customers, or whether a carrier is dominant or non-dominant, any individual customer would be adversely affected by a service discontinuance without notification. For this reason, the same notification requirements should be applied to all carriers.

As a separate matter, GTE does not believe that the Commission needs to establish in this proceeding a specific customer notification process for any ILEC that decides to relinquish its local exchange service obligations. In the Commission's universal service docket, GTE advocated that the Commission should impose a set of minimum federal guidelines for provisioning and administering universal service which states would have to meet as a condition for receipt of universal service support from the federal fund.[8] An obligation to serve would by necessity limit carriers that had been designated as eligible telecommunications carriers ("Eltels") from exiting an area for the term of their obligation. GTE believes that an obligation to serve is necessary in high cost areas. Otherwise, certain Eltels would receive universal service support without undertaking the same obligations and therefore costs as, for example, the ILEC. After the term of the obligation to serve expires, the 1996 Act sets forth in Section 214(e)(4) a specific process by which an Eltel can relinquish its Eltel status. State commissions have authority under the 1996 Act to govern this relinquishment process to ensure that service will not be disrupted in high cost areas. In the unlikely event that no carrier will serve a high cost area, Section 214(e)(3) permits state commissions to order a carrier to provide service to an unserved community. The Commission need not be concerned that carriers will exit low cost areas because they are the most profitable and will attract vigorous competition.

The Commission has correctly concluded that "the streamlined procedures contained in Section 63.71 appears to strike a reasonable balance between protecting consumers and reducing unnecessary barriers to exit for all carriers, whether dominant or non-dominant."[9] GTE agrees that streamlined

---

8 *See* GTE Comments, Federal - State Joint Board on Universal Service, CC Docket No. 96-45, GTE's Comments, December 19, 1996 at 47-50.

9 *Notice* at ¶70.

Section 214 discontinuance procedures are appropriate for all carriers and should be revised as proposed in the NPRM.

VI. Conclusion

For the foregoing reasons, GTE urges the Commission to apply a broad reading to the Section 214 exemption for "extended" lines to include any expansion of a carrier's existing network, whether or not that extension is within the carrier's existing geographic operating territory. Moreover, the Commission should afford international lines the exemption mandated by the 1996 Act. In addition, the proposed streamlined Section 214 discontinuance provisions are appropriate for all carriers and will not undermine universal service obligations.

Respectfully submitted,

GTE Service Corporation on behalf of its affiliated domestic telephone operating companies

By ______________________

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

March 17, 1997

THEIR ATTORNEY

Certificate of Service

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "Reply Comments of GTE" have been mailed by first class United States mail, postage prepaid, on March 17, 1997 to all parties on the attached list.

Ann D. Berkowitz

Marybeth M. Banks
Sprint Communications Company
1850 M Street, NW
Suite 1100
Washington, DC 20036

Mitchell F. Brecher
Fleischman and Walsh
1400 16th Street, NW
Washington, DC 20036

Randall E. Cape
Pacific Telesis Group
140 New Montgomery Street
Room 1526
San Francisco, CA 94105

David Cosson
National Telephone Cooperative
2626 Pennsylvania Avenue, NW
Washington, DC 20037

Sam Cotton
Alaska Public Utilities Commission
1016 West Sixth Avenue
Suite 300
Anchorage, AK 99501

Lawrence Fenster
MCI Telecommunications Corp.
1801 Pennsylvania Avenue, NW
Washington, DC 20006

Margaret E. Garber
Pacific Telesis Group
1275 Pennsylvania Avenue, NW
Washington, DC 20004

Carol C. Henderson
American Library Association
1301 Pennsylvania Avenue, NW
Suite 403
Washington, DC 20004

Carolyn C. Hill
ALLTEL Service Corporation
655 15th Street, NW
Suite 220
Washington, DC 20005

Walter P. Jacob
Leventhal, Senter & Lerman
2000 K Street, NW
Suite 600
Washington, DC 20006

Peter H. Jacoby
AT&T Corporation
295 North Maple Avenue
Room 3244J1
Basking Ridge, NJ 07920

Michael J. Karson
Ameritech Operating Companies
2000 West Ameritech Center Drive
Suite 4H88
Hoffman Estates, IL 60196

Alfred M. Mamlet
Steptoe & Johnson
1330 Connecticut Avenue, NW
Washington, DC 20036

Edward Shakin
Bell Atlantic Telephone Company
1320 North Courthouse Road
Eighth Floor
Arlington, VA 22201

Diane Smith
ALLTEL Corporate Services, Inc.
655 15th Street, NW
Suite 220
Washington, dc 20005

William D. Smith
NYNEX Telephone Companies
1095 Avenue of the Americas
Room 3725
New York, NY 10036

M. Robert Sutherland
BellSouth
1155 Peachtree Street, NE
Suite 1700
Atlanta, GA 303093610

John L. Taylor
U S West, Inc.
1020 19th Street, NW
Suite 700
Washington, DC 20036

Keith Townsend
United States Telephone Association
1401 H Street, NW
Suite 600
Washington, DC 20005

Marjorie M. Weisman
Southwestern Bell Telephone Company
One Bell Center
Room 3520
St. Louis, MO 63101