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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
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Policy and Rules Concerning the	)	
Interstate, Interexchange Marketplace	)	CC Docket No. 96-61
	)	Part II
Implementation of Section 254(g) of the	)	
Communications Act of 1934, as amended	)	

<u>OPPOSITION OF THE</u>
<u>COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS</u>
<u>TO MOTION FOR PARTIAL STAY OR REQUEST FOR EXTENSION</u>
<u>OF GTE SERVICE CORPORATION</u>

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June 27, 1997

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SUMMARY OF OPPOSITION

The Commonwealth of the Northern Mariana Islands ("Commonwealth") opposes the Motion for Partial Stay or Request for Extension filed with the Commission by GTE Service Corporation ("GTE"). GTE fails to demonstrate that it is entitled either to a stay of Paragraph 69 of the Commission's Report and Order or an extension of the tariff filing deadline, and GTE's motion must accordingly be denied.

If the Commission grants GTE a stay of Paragraph 69, it will do irreparable harm not only to the Commonwealth's residents, but also to all U.S. consumers who would benefit from rate integrated telecommunications services to the Commonwealth. A stay will effectively gut the rate integration doctrine, since it would allow corporations such as GTE to avoid integrating the rates charged by affiliates such as Micronesian Telecommunications Corporation ("MTC"). If MTC is allowed to continue charging exceptionally high, unintegrated rates in the Commonwealth, both the Commonwealth's residents and all U.S. consumers will be deprived of the uniform, nationwide system of integrated rates required by Section 254(g) of the Telecommunications Act of 1996 ("1996 Act"). Such a deprivation will cause the Commonwealth serious economic, social and political harm, and would be inconsistent with the U.S. government's legal obligation to assist the Commonwealth in achieving a higher standard of living.

The public interest clearly favors denying a stay to GTE. A stay would contravene the Section 254(g) requirement that the Commission implement rate integration on a nationwide basis within six months of the passage of the 1996 Act, as the Commission has done. A stay would also allow the absurd result of permitting GTE to avoid the express mandate of Section 254(g), and would potentially render the policy of rate integration ineffective. Further, it is certain that a stay would impede the significant economic, social and political benefits which rate integration promises the Commonwealth. It is also clear that Paragraph 69 complies with the Commission's long standing rate integration policies, and that GTE needs no more time in which to comply with the Report and Order.

GTE's arguments wholly fail to demonstrate that the Commission's rate integration requirements will be overturned on appeal. It is clear that, in order to achieve Section 254(g)'s mandate, the Commission has the authority to interpret "provider" to include corporate parent companies such as GTE. If rate integration was not required at the corporate level, then affiliates such as MTC would not have to participate in rate integration, resulting in regional, fragmented, "route-by-route" integration of rates which the Commission has long prohibited. Such fragmentation would render rate integration ineffective, and would be entirely contrary to Congress' statutory intent. Contrary to GTE's claims, established legal precedent permits the Commission's interpretation of Section 254(g), and it is apparent that GTE and MTC operate in such close coordination that their operations are indistinguishable for regulatory purposes.

In contrast to the harm a stay would clearly cause the Commonwealth, GTE has failed to demonstrate that it faces "irreparable harm" itself if it is required to integrate its rates. GTE's claims that it would face "unrecoverable" losses are contradicted by the very terms of the Commission's rate integration policies, which explicitly permit the recovery of costs through rate averaging. It is also clear that the rate integration of MTC would have a de minimus effect on GTE's interexchange rates, and that compliance with the Report and Order will neither harm competition nor injure GTE's reputation.

Lastly, the Commission should not grant GTE any extension of the deadline in which to file rate integrated tariffs. Any such extension would compromise the Commonwealth's due process rights to review GTE's tariff submissions, and would be the functional equivalent of a stay if it extended past the August 1, 1997 implementation date for rate integration.

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OPPOSITION OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS TO MOTION FOR PARTIAL STAY OR REQUEST FOR EXTENSION OF GTE SERVICE CORPORATION

The Commonwealth of the Northern Mariana Islands ("Commonwealth"),[1] by its attorneys and pursuant to Rule 1.45(a) of the Commission's Rules, 47 C.F.R. § 1.45(a), hereby opposes the Motion for Partial Stay or Request for Extension filed by GTE Service Corporation ("GTE"), on behalf of its affiliated telecommunications companies, and the Micronesian Telecommunications Corporation ("MTC"), in the above-captioned matter ("GTE Motion").

As demonstrated below, GTE has failed to show that it is entitled to the relief it has requested. Accordingly, its motion should be denied.

I. THE COMMONWEALTH ITSELF, AS WELL AS RATEPAYERS IN THE COMMONWEALTH AND THE MAINLAND U.S., WILL SUFFER IRREPARABLE INJURY IF A STAY IS GRANTED

GTE has requested that the Commission issue a stay of Paragraph 69 of the Commission's

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[1] This Opposition is filed by the Office of the Governor on behalf of the people of the Commonwealth.

Report and Order in this docket, which requires the rate integration of MTC's interexchange rates with those of GTE's other corporate affiliates.[2] Granting of a stay of Paragraph 69 would effectively gut the rate integration doctrine, and would therefore irreparably harm the Commonwealth, its residents, and all U.S. citizens which benefit from rate integration.

In its Motion, GTE argues that a stay of Paragraph 69 will not harm consumers.[3] Clearly, nothing could be further from the truth. As the Commission is aware, if GTE is not required to integrate rates across its affiliates, GTE affiliates such as MTC will be able to avoid the rate integration obligation altogether.[4] A stay would allow MTC to continue charging exceptionally high, unintegrated rates. Given that MTC's services between the Commonwealth and the mainland U.S. are currently tariffed at international rates,[5] any delay in rate integrating the Commonwealth would have an irreparable and negative impact upon not only the Commonwealth's ratepayers but also ratepayers throughout the Nation who place calls to the Commonwealth. Simply put, such consumers would be deprived of uniform, nationwide rate integration, which Congress mandated

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[2] In re Implementation of Section 254(g), Report and Order, CC Dkt. 96-61, FCC 96-331, ¶ 69 (Aug. 7, 1996)("Report and Order").

[3] GTE Motion at 21.

[4] For a further discussion of this issue, see infra at 13-14.

[5] The present non-integrated rates charged for long distance interexchange services in the Commonwealth are almost three times the mainland rates. For example, MTC's current rates are tariffed at $.99 a minutes for direct-dialed daytime calls. See MTC Tariff F.C.C. No. 1, 1st Original Page 16B, dated August 9, 1996. By contrast, the rates currently charged by Sprint Communications Company, L.P. ("Sprint") are $.35 per minute for direct-dialed daytime calls to locations within the contiguous U.S. up to 4,251 miles apart. See Sprint Tariff F.C.C. No. 1 at 18th Revised Page 168, dated March 17, 1997.

in Section 254(g) of the Telecommunications Act of 1996 ("1996 Act").[6] The harm which would result from a stay would extend beyond ratepayers alone, however.

Any delay in the implementation of rate integration would also have serious economic, political and social consequences for the Commonwealth. As a U.S. commonwealth located approximately 5,687 miles from San Francisco,[7] the Commonwealth is critically dependent upon long distance, interexchange telecommunications services to the mainland U.S. A delay in the substantially lower rates which rate integration would inevitably bring would also mean a delay in the increased use of information services by citizens residing in the Commonwealth, including the Internet, which would be stimulated by rate integration. Today, with the advent of telemedicine and distance learning programs, prompt implementation of rate integration will also translate into the more rapid availability of improved health care and educational services in the Commonwealth. Indeed, rate integration will bestow a host of important economic and social benefits upon the Commonwealth, all of which would be delayed were the Commission to grant GTE's request for a stay.

A delay in rate integration implementation would also be inconsistent with the legal obligations of the U.S. to assist the Commonwealth in achieving a higher standard of living. The political union between the Commonwealth and the United States is governed by the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United

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6 See Pub. L. No. 104-104, 110 Stat. 56 (1996).

7 This distance estimation was obtained through the use of an on-line mileage calculator. See How Far Is It? (visited June 24, 1997) <http://www.indo.com/distance>

States of America."[8] One of the provisions of this Covenant requires the U.S. government to assist the Commonwealth in achieving a higher standard of living for residents and develop the economic resources needed to meet the financial responsibilities of self-government.[9] In light of the benefits which rate integration poses for the Commonwealth, it is apparent that a stay of rate integration would run counter to federal obligations under the Covenant.

While GTE attempts to argue that a stay of rate integration will help protect and foster competition in the Commonwealth's market, the exact opposite is true.[10] As the Commission has repeatedly found, it is rate integration, not the lack of it, which promotes and fosters competition.[11] Thus, were the Commission to grant the requested stay, such a delay would also deprive the Commonwealth of the benefits of increased competition in its telecommunications market, together with the attendant benefits of such competition.

Finally, GTE argues that an accounting mechanism could be used to "ensure that the stay

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[8] See 48 U.S.C. §1681 note (1987), approved by Congress in Public Law 94-241 (March 24, 1976, 90 Stat. 263 ("Covenant"). The Covenant was entered into following a plebescite held under the United Nations' supervision in which the residents of the Commonwealth voted to enter into political union with the U.S. as a commonwealth.

[9] See Covenant at §701. Specifically, the Covenant provides that, "[T]he Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to develop the economic resources needed to meet the financial responsibilities of local self-government." Id.

[10] GTE Motion at 21-23.

[11] The Commission has determined that rate integration serves to promote increased competition between carriers, leading to the adoption of new technologies, the adoption of new and innovative services, and improved customer service. See In re Integration of Rates and Services, Memorandum Opinion and Order, 9 FCC Rcd 3023, 3023 (May 24, 1994).

does not harm third parties . . . ."[12] In addition to admitting that harm could in fact result to third parties, GTE's accounting mechanism proposal only takes into account the irreparable harm that would occur to ratepayers in the form of higher rates in placing calls between the Commonwealth and the mainland. The proposal neglects to address in any fashion the lost benefits of competition as well as the economic and social harm which the Commonwealth would suffer, addressed supra at 3-4.

II. THE PUBLIC INTEREST FAVORS THE DENIAL OF A STAY

It is an established legal principal that the public interest is a uniquely important consideration when evaluating the merits of a party's request for an injunction.[13] In the instant case, the public interest favors a denial of GTE's stay request for several important reasons. First, the tight deadline specified in Section 254(g) of the 1996 Act makes plain that Congress wanted rapid implementation of rate integration. Section 254(g) requires the Commission to adopt rules which establish the rate integration of all U.S. points within six months of the date of enactment of the 1996 Act, as the Commission has done. This mandate represents a clear expression of Congress' intent that rate integration not be delayed.

Second, a stay of Paragraph 69 would further frustrate the will of Congress since it is obvious that the petitioners' reading of Section 254(g) would produce absurd results. As demonstrated infra at 12-14, rate integration can only be effective if the integration of rates occurs across corporate

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[12] GTE Motion at 22-23.

[13] See National Association of Farmworkers Organizations, et al. v. Marshall, 628 F.2d 604, 616 (D.C. Cir. 1980).

affiliates.

Third, any delay in the implementation of rate integration would impede the substantial public interest benefits which rate integration will bestow on the Commonwealth. These benefits, discussed supra at 4, include lower off-island rates to the mainland U.S. for Commonwealth ratepayers; lower rates for U.S. mainland ratepayers for calls to the Commonwealth; the benefits of a competitive telecommunications marketplace; more affordable access to information services, including telemedicine, distance learning and the Internet; promotion of federal obligations under the Covenant;[14] and the economic and social integration that will follow as a result of lower cost communications to the mainland U.S.

The petitioners' argument that the public interest is served by "a Commission that complies with past policies, acts expeditiously and provides guiding principles, when necessary"[15] is clearly inapplicable since the Commission's ruling in Paragraph 69 is in clear compliance with both Section 254(g) and the Commission's past rate integration decisions.

Finally, GTE's argument that a stay would afford the Commission time to provide the necessary guidance sought by the petitioners is unavailing.[16] The Commission's Report and Order provides unambiguous guidance as to what GTE's obligations are. GTE has had more than sixteen months of advance notice that the 1996 Act required it to integrate its rates, and has had ample time in which to decide the details of its compliance with the Report and Order's requirements. GTE

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[14] See supra at note 9.

[15] GTE Motion at 23.

[16] See id. at 17-21.

needs no more guidance and needs no more time in which to comply.

III. THE MOTION DOES NOT DEMONSTRATE A LIKELIHOOD THAT THE COMMISSION'S RULES WILL BE OVERTURNED ON APPEAL

The 1996 Act allows the Commission both the discretion and the legal authority to require rate integration across corporate affiliates. Integration across affiliates is absolutely essential to the success of rate integration, and furthers the clearly stated purposes of Section 254(g) of the 1996 Act. As demonstrated below, the Commission must therefore reject GTE's arguments to the contrary.

A. The Commission Is Justified In Defining GTE As a Provider of Telecommunications Services

GTE claims that "Section 254(g) is clear on its face" that a "provider" of interexchange services can only be the entity which actually provides services to subscribers.[17] Accordingly, GTE claims that the Commission lacks the legal authority to define a "provider" of telecommunications services to include parent companies for purposes of rate integration.[18] This argument -- rejected by the Commission in its Report and Order -- is wholly incorrect. Contrary to GTE's assertions, neither Section 254(g) nor any other provision of the 1996 Act contains this limitation, leaving the Commission free to adopt its own definition of the term.

The term "provider" is not defined anyplace within the 1996 Act, as GTE has even admitted in a past filing.[19] GTE nonetheless makes the contradictory argument that Section 254(g) is "clear

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[17] GTE Motion at 8-11.

[18] Id..

[19] See Petition for Reconsideration and Clarification submitted by GTE Service Corporation in CC Dkt. No. 96-61, at 2-5 (Sept. 16, 1996).

on its face" in equating carriers and providers and that the statute "requires no additional interpretation."[20] GTE manages this argument not by citing Section 254(g), which contains no such distinction, but rather by reading negative implications into the use of the term "affiliate(s)" in connection with unrelated provisions in Section 224(g), Section 271, and Section 572(a) of the 1996 Act. On this basis, GTE accuses the Commission of abusing its discretion by interpreting "provider" to include corporate holding companies for purposes of rate integration.[21]

GTE's reasoning contradicts both precedent and good sense. Under the accepted rules of statutory analysis, the administrative agency charged with administering a statute may adopt any permissible construction of an undefined term.[22] Such interpretations are to be given controlling weight unless they are arbitrary, capricious, or manifestly contrary to the statute.[23] GTE attempts to turn this standard on its head by claiming that since Section 254(g) does not expressly equate "affiliates" with "providers," the Commission is therefore barred from doing so.[24] In sharp contrast to GTE's interpretation, however, the Commission's definition makes eminent sense. The Commission's inclusive definition of "provider" fulfills Section 254(g)'s express mandate that rate integration bring consumers in remote, insular and high cost areas telecommunications rates that are

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[20] GTE Motion at 9.

[21] Id. at 8-9.

[22] See Chevron U.S.A. v. National Resources Defense Council, Inc., 467 U.S. 837, 842-45 (1984).

[23] Id.

[24] GTE Motion at 10. Specifically, GTE asserts that since Section 254(g) does not expressly equate the terms "affiliate" with the term "provider," this fact "strongly implies" that Section 254(g) is not intended to "encompass affiliated entities." Id. What GTE has pointed out is an absence, not a definition, and no amount of argumentation can turn such an absence into an "express limitation."

no higher than those paid by urban consumers. The narrow definition urged by GTE, on the other hand, would allow companies to establish regional subsidies in order to avoid rate integration altogether, thereby rendering the policy meaningless.[25] Clearly, this is not what Congress intended.

Alternatively, even if GTE could demonstrate that its interpretation of the term "provider" had any validity, this interpretation would still not bind the Commission. Since GTE's interpretation would undermine the very rate integration policies which Congress was enacting as federal law, GTE's interpretation cannot be upheld. As the Supreme Court has noted, "[I]f a literal construction of the words be absurd, the [statute] must be construed to avoid the absurdity."[26] In the present case, it would be absurd to interpret the single term "provider" in such a manner that would overcome the very mandate of Section 254(g).

B. Both the Law and GTE's Actual Operations Confirm That Corporations, for Purposes of Rate Integration, Should Be Required to Integrate Across Affiliates

GTE claims that both the law and actual operations of the company demonstrate that the GTE affiliates are separate operating entities.[27] Not only is this characterization untrue, but it misses the point. As an initial matter, it must be stressed that the Commission's rate integration doctrine does

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[25] As the Commission recognizes in the Report and Order, "nothing in the record supports a finding that Congress intended to allow providers of interexchange service to avoid rate integration by establishing or using their existing subsidiaries to provide services in limited areas." Report and Order at ¶ 69.

[26] Holy Trinity Church v. United States, 143 U.S. 457, 459 (1898); see also United States v. Ron Pair Enterprises, Inc., 489 U.S. 235, 242 (1989)(stating that where "the literal application of a statute will produce a result demonstrably at odds with the intention of its drafter[,] . . . the intention of the drafters, rather than the strict language, controls").

[27] GTE Motion at 12.

not allow exceptions based upon corporate structure. Whether GTE's affiliates are separate companies or not, these affiliates must integrate their rates. The Commission's past rate integration decisions required AT&T, for example, to integrate rates with unaffiliated carriers that serve offshore points.[28] By GTE's own admission, Congress intended that the Commission incorporate existing rate integration policies.[29] Thus, if unaffiliated entities are required to rate integrate under Commission precedent, GTE's affiliates are certainly required to integrate with each other.

Notwithstanding the foregoing, GTE's affiliates operate as a single entity and should be treated as such for rate integration purposes. Contrary to GTE's claims, both the *de facto* and *de jure* control that GTE exercises over its affiliates demonstrates that the affiliates are by no means independent service providers.[30] GTE and its affiliated carriers frequently operate so closely that their identity is often indistinguishable. MTC serves as a case in point. MTC is a 100% owned subsidiary of GTE Hawaiian Tel, which in turn is a 100% owned subsidiary of GTE.[31] In addition

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[28] See In re Integration of Rates and Services, 61 F.C.C.2d 380 (requiring AT&T to integrate rates with Hawaiian Telephone Company, RCA Alascom, and other carriers serving offshore points).

[29] GTE Motion at 14.

[30] As the Commission is aware, *de jure* control of a corporation or partnership exists where there is 51% or greater ownership by any single shareholder, such as a parent company. See Stephen F. Sewell, "Assignments and Transfers of Control of FCC Authorization Under Section 301(d) of the Communications Act of 1934, 43 Fed. Comm. L. J. 3, 296-99 (July 1991). *De facto* control is in turn determined on a fact-based, case-by-case analysis in which the determinative question is whether the alleged controlling party has the power to dominate the management of corporate finances, licenses, business practices and corporate affairs. Id.; see also Application of Fox Television Stations, Inc., 10 FCC Rcd 8452, 8514 (1995), citing In re Applications of Univision Holdings, Inc., 7 FCC Rcd 6672, 6675 (1992). Under either measure, GTE's control over MTC and GTE Hawaiian Telephone Company ("GTE Hawaiian Tel") is overwhelming.

[31] See Reply Comments of the Commonwealth of the Northern Mariana Islands, File No. AAD 95-86 (Sept. 14, 1995).

to being the Commonwealth's monopoly local exchange company ("LEC"), MTC also provides interexchange traffic from the Commonwealth to other U.S. and international points while other GTE affiliates, such as GTE Hawaiian Tel, GTE Card Services, GTE Mobilenet Incorporated and GTE Airfone Incorporated in turn provide interexchange services to the Commonwealth from offshore points.[32] GTE's arguments are also contradicted by the fact that GTE files annual reports containing consolidated financial statements encompassing its telecommunications subsidiaries.[33]

In the particular case of MTC, the inseparability of its operations from GTE goes still further. Contrary to GTE's claim, GTE has explicitly held itself out as a common carrier to the public on MTC's behalf. On the inside front cover of MTC's telephone book for the Commonwealth, MTC promotes its technical expertise as being "backed by the strength of GTE, the world's 4th largest publicly-owned telephone company."[34]

GTE also represents MTC for regulatory purposes. GTE voluntarily includes MTC in its access tariff,[35] files rates on behalf of MTC,[36] and submits other Commission filings on behalf of MTC.[37] GTE's position is further contradicted by the fact that it files annual reports containing

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[32] GTE Motion at 2-3.

[33] See GTE Corp., 1994 Annual Report (1995).

[34] 1996 MTC Telephone Directory at inside cover.

[35] See GTE Telephone Operating Companies Transmittal No. 783, GTE Telephone Operating Companies Tariff F.C.C. No. 1, Description and Justification at 3 (Apr. 19, 1993)("GTOC Tariff F.C.C. No. 1").

[36] See GTOC Tariff F.C.C. No. 1 at 3.

[37] See, e.g., In re Petition for Rulemaking to Implement Domestic Rate Integration Policies for the Northern Mariana Islands, Comments of GTE in DA 95-1361 (Aug. 5, 1995); In re Federal-State Joint Board on Universal Service, GTE's Comments to the Notice of Proposed Rulemaking and

consolidated financial statements which encompass its affiliates.[38] In short, despite GTE's claims to the contrary, GTE's and MTC's actual operations clearly illustrate that the two entities typically operate as one.

In the final analysis, however, the fact that GTE has established a holding company structure for business and/or tax purposes does not bind the Commission. Section 254(g) allows, indeed obligates, the Commission to look beyond such corporate strategies in implementing the rate integration provisions of the 1996 Act. In this case, the Commission's clear objective is that GTE and other carriers implement rate integration by rate averaging across operating entities, whether affiliated or not. Was the policy only to apply to individual affiliates such as MTC, the practical effect of rate integration would be altogether undermined.

C. The Commission's Interpretation of Section 254(g) Is Consistent With Congressional Intent

GTE asserts that Paragraph 69 "completely conflicts with prior FCC policies," and violates Congress' intent that the Commission employ its established practices to fulfill Section 254(g).[39] Despite GTE's misleading claim, however, the Conference Report to the 1996 Act reveals no

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Order Establishing Joint Board in CC Dkt. No. 96-45 (Apr. 12, 1996); GTE's Reply Comments in CC Dkt. No. 96-45 (May 7, 1996); GTE's Comments on Cost Models in CC Dkt. 96-45 (Aug. 9, 1996); In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Reply Comments of GTE in CC Dkt. No. 96-98 (June 3, 1996); In re Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, and Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area, Comments of GTE in CC Dkt. 96-149 (Aug. 29, 1996). GTE's instant motion is yet another example.

[38] See GTE Corp., 1994 Annual Report (1995).

[39] GTE Motion at 14-15.

Congressional intent to limit rate integration to "each individual service provider." Quite to the contrary, a review of the Commission's past rate integration decisions reveals that it is GTE rather than the Commission which is urging a departure from established practice.

The Conference Report explicitly states that Section 254(g) is intended to codify the FCC's existing rate integration policies.[40] Such policies include the clear principle that carriers may not integrate rates on a limited, route-by-route basis.[41] As the Commission has concluded in the past, "[R]ate integration of the offshore points into the domestic pattern includes within it the concept that all costs and revenues are jointly shared. A route-by-route sharing would not be consistent with the concept of interstate rate averaging."[42] GTE's interpretation of the "particular provider" reference in the Conference Report, which GTE has taken out of context, would flatly contradict this long-established policy and would seriously undermine rate integration as a result. If the telecommunications market were allowed to fragment into a maze of specific routes and separate subsidiaries, each with their own unshared high cost or low cost rate pool, it is clear that rate

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40 See H.R. Conf. Rep. No. 104-458, at 132 (1996)("Conference Report"). Specifically, the Conference Report states that, "[N]ew Section 254(g) is intended to incorporate the policies of geographic rate averaging and rate integration of interexchange services in order to ensure that subscribers in rural and high cost areas are able to continue to receive both intrastate and interstate interexchange services at rates no higher than those paid by urban subscribers." Id. The Conference Report specifies that to accomplish this mandate, the Commission's rules are to "require geographic rate averaging and rate integration, and to incorporate the policies contained in the Commission's proceeding entitled 'Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the United States Mainland and the Offshore Points of Hawaii, Alaska and Puerto Rico/Virgin Islands' (61 FCC2d 380 (1976))." Id.

41 See In re Integration of Rates and Services, Memorandum Opinion and Order, 65 F.C.C.2d 324, 327 (1977).

42 Id.

integration would be rendered a nullity.

As discussed previously, the Commission has also required that unrelated carriers integrate their rates to offshore points, using a settlements process to balance costs. See infra at 9-10. Such a requirement is considerably more sweeping than the rate integration of corporate affiliates, and makes it clear that rate integration transcends corporate boundaries. As a result, the Report and Order's requirement of rate integration across corporate affiliates is fully in keeping with these precedents, and fulfills Section 254(g)'s mandate of broad-based, national rate integration.

It should also be noted that GTE is unable to point to any positive, binding Commission precedent which supports its narrow interpretation of "provider." Neither of the Commission decisions which GTE cites in its motion specifically address the implementation of rate integration across corporate affiliates.[43] While GTE attempts to interpret the Commission's failure to address this issue in past proceedings as a positive, binding precedent, such an interpretation of these cases is both legally unsound and unpersuasive.

IV. GTE HAS NOT DEMONSTRATED THAT IT WILL SUFFER IRREPARABLE INJURY

GTE has not demonstrated to the Commission that it will suffer "irreparable harm" in the absence of a stay. Despite GTE's bluster, GTE has not shown that integrating MTC's rates with those of GTE's other corporate affiliates will actually cost GTE any money.

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[43] See In re Integration of Rates and Services, Memorandum Opinion, Order and Authorization, 61 F.C.C.2d 380 (1976) and In re Application of GTE Corporation and Southern Pacific Co. for Consent to Transfer Control of Southern Pacific Satellite Co., Memorandum Opinion and Order, 94 F.C.C.2d 235 (1983). It is clear that the Commission's failure to address the rate integration of corporate affiliates in these cases does not establish a precedent.

GTE claims that the Commission's rate integration policies will require MTC to charge "non-compensatory rates," which GTE asserts will be unrecoverable.[44] GTE's claims are directly contradicted by the Commission's rate integration policies, however. Rate integration, by definition, allows GTE to recover any losses suffered on high cost routes through rate averaging.[45] As a result, even if compliance with Paragraph 69 of the Report and Order forced MTC to provide interexchange services "below cost,"[46] such costs could be recovered through GTE's other interexchange services.

Moreover, MTC's operations comprise a tiny portion of GTE's total access lines, and the averaging of MTC's costs would have a de minimus effect upon GTE's interexchange rates.

Unable to indicate any real financial injury, GTE is forced to rely upon a series of second-tier effects which would purportedly flow from rate integration. For example, GTE's claims that it will lose "its credibility in the marketplace" if it lowers and raises its rates in response to regulatory uncertainty.[47] Not only is this a weak and implausible injury, it ignores the "rate rollercoaster" which MTC has recently implemented of its own making. Within the last year, MTC has sliced its interexchange rates by approximately 45% in an effort to remain competitive.[48] Such price

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[44] GTE Motion at 17.

[45] See In re Policy and Rules Concerning Rates for Dominant Carriers, Report and Order and Second Notice of Proposed Rulemaking, 4 FCC Rcd 2873, 3132 (1989)(explaining the cost-spreading function of rate integration).

[46] GTE's Motion, although it alleges this, fails to provide any actual support whatsoever regarding below-cost rates.

[47] GTE Motion at 19.

[48] Compare MTC Tariff F.C.C. No. 1 at Original Page 16B (Feb. 1, 1996)(establishing direct-dial rates of $1.85/minute for the first minute and $1.55 for each additional minute) and MTC Tariff F.C.C. No. 1 at 1st Revised Page 16B (Aug. 9, 1996)(cutting MTC's direct-dial rates to $0.99 per minutes overall).

fluctuations far outweigh the reduction outlined in GTE's final rate integration proposal,[49] and suggest that an enormous profit margin has traditionally been built into MTC's rates. If MTC had any credibility to lose concerning the justification for its rates, it has already been lost.

GTE also claims that it is concerned that integrating MTC's rates will harm MTC's competitors, and make the Commonwealth's telecommunications market less competitive. This claim is meritless. As the Commission has shown, rate integration actually enhances competition rather than harming it. See infra at 4.

V. FOR ALL THE ABOVE REASONS, GTE'S EXTENSION REQUEST MUST ALSO BE DENIED

GTE alternatively requests that the Commission "extend the deadline for GTE-affiliated carriers to file their tariff revisions" until the Commission has ruled on GTE's Petition for Reconsideration.[50] For all the reasons discussed above, such an extension is not justified.

If the Commission grants GTE an extension which allows GTE to file its tariff revisions later than the effective deadline of July 17, 1997,[51] it will compress the amount of time during which the Commonwealth could review GTE's tariffs before the August 1, 1997 implementation date for rate integration.[52] Anything less than the 15 day public notice period afforded under 47 C.F.R. Section

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[49] See Letter from F. Gordon Maxson, GTE, to William F. Caton, Acting FCC Secretary (June 2, 1997)(specifying GTE's proposed schedule of integrated rates).

[50] GTE Motion at 2.

[51] Id. at 20.

[52] Id.. The Report and Order requires "providers of interexchange services to integrate services offered to subscribers in Guam and the Northern Marianas with services offered in other states no later than August 1, 1997." See Report and Order at ¶ 68 (Aug. 7, 1996). As GTE indicates, its will need to file its tariff revisions establishing integrated rates no later than July 17, 1997 in order to

61.58 would compromise the Commonwealth's due process rights by depriving it of an adequate opportunity to review the tariff filing and petition the Commission to address any deficiencies. Moreover, GTE has neither sought a waiver of Section 61.58 of the Commission's Rules, nor has it made the requisite showing for such a waiver.

Of course, if the Commission grants an "extension" which allows GTE to file its tariff revisions after the August 1, 1997 implementation date for rate integration, such an extension will be the equivalent of granting GTE a stay. The instant filing, of course, shows that GTE has not -- and cannot -- justify such a stay.

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allow for a fifteen-day notice period to run before the August 1 implementation deadline. See 47 C.F.R. § 61.58.

VI. CONCLUSION

For the reasons stated herein, GTE's request for a stay of the effectiveness of Paragraph 69 of the Report and Order or extension of the deadline for filing tariff revisions must be denied.

Respectfully submitted,

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Dated: June 27, 1997

CERTIFICATE OF SERVICE

I, Michael B. Adams, Jr., an attorney with the Law Offices of Thomas K. Crowe, P.C., hereby certify that a copy of the foregoing Opposition of the Commonwealth of the Northern Mariana Islands to Motion for Partial Stay or Request for Extension of GTE Service Corporation was sent by first class United States mail, postage pre-paid, or by hand delivery where indicated by an asterisk (*), this 27th day of June, 1997, to the following:

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