

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Petition for Declaratory Ruling That)
Carriers May Assess Interstate)
Customers an Interstate Universal)
Service Charge Which is Based on)
Total Revenues)

CC Docket No. 96-45

REPLY COMMENTS OF GTE

Dated: May 1, 1998

GTE Service Corporation and its affiliated
domestic telecommunications, wireless, and
long distance companies

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REPLY COMMENTS OF GTE

GTE Service Corporation, and its affiliated domestic telecommunications companies,¹ wireless,² and long distance³ companies (collectively, "GTE"), respectfully submit these Reply Comments in response to Comments filed by the Washington Utilities and Transportation Commission ("WUTC"), the Public Utilities Commission of Ohio ("PUCO") and Frontier Corporation ("Frontier") in regard to MCI's Petition for Declaratory Ruling. In its petition, MCI seeks clarification that "carriers are not precluded by the Universal Service Order from imposing a charge on interstate

¹ GTE Alaska Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., and Contel of the South, Inc.

² GTE Wireless Incorporated.

³ GTE Communications Corporation, Long Distance division.

customers that is based on the customers' total billed revenues, including intrastate revenues, to recover federal universal service costs."

DISCUSSION

I. THE COMMISSION HAS THE AUTHORITY AND ABILITY TO APPLY A FEDERALLY TARIFFED RATE TO BOTH INTERSTATE AND INTRASTATE RETAIL REVENUE.

The Washington Utilities and Transportation Commission ("WUTC") (at 3) claims that MCI is applying a charge to intrastate rates that does not appear in its intrastate price list and that it may not do so. The Public Utilities Commission of Ohio ("PUCO") (at 5) questions whether the FCC has the necessary authority to require intrastate charges to fund interstate universal service programs. Contrary to the claims of the WUTC and the PUCO, GTE does not believe that MCI is applying an interstate charge to intrastate rates. There are several examples where the Commission has authorized the application of interstate charges to customers' bills on the basis of combined interstate and intrastate services or just intrastate services.

One recent example is found in the Commission's December, 1997 Fourth Order on Reconsideration in CC Docket No. 96-45 in which the Commission determined that it would "permit CMRS providers to recover their [interstate] contributions through rates charged for all their [interstate and intrastate] services."⁴ A second example is the application of the federally imposed Subscriber Line Charge ("SLC"). The SLC is found in the interstate tariff and the revenue is interstate revenue but the application of the charge to a customer's bill is triggered by a customer's purchase of an intrastate

⁴ ¶ 309.

service, the access line.⁵ The Telecommunications Resellers Association ("TRA") (at 3) describes a third situation in its Comments in which "the Commission has long recognized that carriers may combine intrastate and interstate minutes in determining customer satisfaction of federally-tariffed volume commitments or may apply federally-tariffed discounts to customers' combined intrastate and interstate billings."

Each of these demonstrates the Commission's authority and ability to permit carriers to apply a federally-tariffed rate, charge, or surcharge to both interstate and intrastate retail revenues for the express purpose of recovering federal universal service contributions. Likewise, GTE believes that state commissions may permit carriers to recover their intrastate universal service contributions on the same basis of combined intrastate and interstate revenues. Use of both interstate and intrastate retail revenues will not disturb the Commission's goals of "continued affordability of residential dial tone service..." or disrupt "comity between the federal and state governments."⁶ Use of both interstate and intrastate retail revenues will only result in broader contribution and recovery bases. Even Frontier (at 4), who recommends that MCI's petition be denied, states "... whatever methodology an individual carrier employs, it will be recovering a federally-mandated cost through a federal recovery mechanism. The basis upon which this charge is calculated has no jurisdictional significance."

⁵ NARUC v. FCC, 737, F.2d 1095 (D.C. Cir. 1984), cert. denied, 469 U.S. 1227 (1985).

⁶ In the Matter of Federal-State Joint board on Universal Service, CC docket No. 96-45, *Report and Order*, ("*Universal Service Order*"), 12 FCC Rcd 8776 (1997) at 9198-9199, 9203-9204.

As GTE expressed in its Comments (at 2), it supports the use of both interstate and intrastate retail revenues to develop the contribution fund base for both the interstate and intrastate plans. GTE also supports federal and state contribution recovery mechanisms that distribute contribution costs on the same basis as the contribution mechanism in order to ensure competitively neutrality among all contributing carriers. GTE, therefore, supports the basis for MCI's Petition for Declaratory Ruling.

II. THE COMMISSION MAY REEVALUATE ITS POSITION IN DA 98-715

Unlike Frontier (at 2, 3) who claims that "the Universal Service Order clearly and unambiguously contradicts MCI's proffered interpretation" and recommends that the Commission initiate a rulemaking to consider substantive merits of MCI's petition and the PUCO (at 5) who claims that "if the FCC now reverses its prior decision and adopts MCI's approach, this critical aspect of the decision will become uncertain and reopen controversial issues that are now closed," GTE believes that the Commission left the door open to re-evaluate its position on this issue in its Universal Service Order⁷ where it states "we will seek further guidance on this subject from the Joint Board." GTE further believes that the Commission recently opened that door in CC Docket Nos. 95-45 and 97-160, DA 98-715 (released April 15, 1998) in which it seeks alternative proposals for revising the methodology for determining universal service support.⁸

⁷ ¶ 824.

⁸ GTE Comments at 28.

Dated: May 1, 1998

Respectfully submitted,

GTE Service Corporation and its affiliated
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long distance companies

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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 May 1, 1998 to all parties of record.


Ann D. Berkowitz