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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)
)
Implementation of Section 703(e))
of the Telecommunications Act)
of 1996)
)
Amendment of the Commission's Rules)
and Policies Governing Pole)
Attachments)

CS Docket No. 97-151

**REPLY COMMENTS OF GTE
ON PETITIONS FOR RECONSIDERATION**

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To: The Commission

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GTE Service Corporation and its affiliated domestic telecommunications,¹
wireless,² and long distance companies³ (collectively "GTE"), respectfully submits these

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., Contel of the South, Inc., and GTE Communications Corporation.

² GTE Wireless Incorporated and GTE Airfone Incorporated.

³ GTE Communications Corporation, Long Distance Division.

reply comments in response to certain comments filed in response to Petitions for Reconsideration in the above-referenced docket.⁴ Those comments raise two issues that GTE believes require the Commission's attention: (1) the notice requirements applicable to overlashers and (2) the use of census level information in calculating the number of attaching entities.

I. In Order to Ensure the Safety and Integrity of Poles, The Commission Should Require Notice to Pole Owners Prior to Overlashing.

In its *Order*, the Commission left unclear the obligation of overlashers to give pole owners advance notice of their attachments. Adequate prior notice to affected parties obviously is a fundamental component of any effective pole attachment policy. Indeed, the Commission has gone to great lengths to ensure that overlashers be "subject to the same safety, reliability, and engineering constraints" as all attaching entities.⁵ Yet, these precautions are only effective if the pole owner is aware of the overlashing entity and can take steps to ensure the safety and integrity of the pole system in light of the more burdensome overlashed attachment. Moreover, because overlashing entities will "count" as attaching entities and will have to be classified based on the type of services provided, prior notice is a necessary administrative step to facilitate the effective operation of the Commission's new regulatory regime.

⁴ Implementation of Section 703(e) of the Telecommunications Act of 1996, Amendment of the Commission's Rules and Policies Governing Pole Attachments, CS Docket No. 97-151, *Report and Order* (rel. Feb. 6, 1998) ("*Order*"). These reply comments are timely filed. See *Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding*, 63 Fed. Reg. 20633 (Apr. 27, 1998).

⁵ See *Order* at ¶ 68.

As US West observed in its petition,⁶ under the current regime pole owners may be the last ones to learn about third party overlashers. GTE agrees with the many commenters who explained that, absent an explicit notice requirement and the requisite engineering evaluation by the pole owner, pole integrity may be compromised.⁷ Safety requirements will be largely vitiated if the pole owner is notified only after an overlash is in place. The current ambiguity creates unwarranted risks by inviting circumvention of important safety and integrity evaluations prior to overlashing.

Overlashers would also benefit from a notice regime. Notice will permit effective planning by the pole owner for additional attachers and overlashers. Similarly, pole owners can plan for pole change outs and modifications of existing attachments to accommodate overlashers. But, this can only be accomplished if owners are advised of the overlashers' intent prior to the actual overlash.⁸

Finally, in a regulatory regime that relies on information regarding the number of attachers and the types of services being provided over a given attachment,⁹ prior notice is a minor administrative requirement that will have a substantial positive impact

⁶ Petition for Clarification of US West, Inc. at 3-4 (filed Apr. 13, 1998) ("US West Petition").

⁷ US West Petition at 4; Comments of Ameritech Corporation on Petitions for Reconsideration at 4-5 (filed May 12, 1998) ("Ameritech"), Comments and Opposition of BellSouth Corporation at 1 (May 12, 1998) ("BellSouth"); Joint Petition for Clarification And/Or Reconsideration of the Edison Electric Institute and UTC, the Telecommunications Association at 6 (filed Apr. 13, 1998) ("Edison").

⁸ See BellSouth at 1.

⁹ See 47 U.S.C. § 224(e)(2)(attaching entities); § 224(d)(3)(type of service).

on the efficient operation of the new regime. The complicated billing arrangements that separate cable from telecommunications service rates requires advance notice in order to implement the necessary administrative adjustments promptly and accurately.¹⁰ Moreover, to the extent that overlashers will count as attaching entities, their presence or lack thereof will impact every other pole attachers' rate. Post overlashing notice – whenever it comes – may create needless confusion and complications regarding which rate applied when and to whom. The Commission should act preemptively to preclude this potential administrative quagmire.

II. The Commission Should Allow Utilities To Use a Statewide Average in Calculating the Number of Attaching Entities.

As persuasively explained by a number of petitioners, the average number of attachers in the attachment rate formula should be calculated based on a permissive system that allows the use of statewide averages rather than detailed breakdowns by census category.¹¹ There are three central problems with the census categorizations adopted by the FCC: (1) the pole data is not currently available, (2) the proposed categories overlap, and (3) the system would be immensely burdensome with only

¹⁰ Comments of Bell Atlantic on Petitions for Clarification or Reconsideration at 8 (filed May 12, 1998) (“Bell Atlantic”).

¹¹ Petition for Reconsideration of the United States Telephone Association at 10-11 (filed Apr. 13, 1998); see also Petition for Reconsideration and Clarification of SBC Communications Inc. at 10-16 (filed Apr. 13, 1998); Edison at 22-23; Order at ¶¶ 77-78.

marginal gains in accuracy. Thus, it is not surprising that many commenters voiced support for the more flexible approach advanced in the USTA petition.¹²

Those commenters who contend that pole owners possess the necessary information to develop the census-based data required by the Commission's *Order* are simply incorrect.¹³ GTE does not currently maintain the detailed data necessary to calculate the average number of attachers based on the (1) urban, (2) urbanized or (3) rural nature of a pole location. Moreover, such data will not be easy to obtain. The acquisition of this information for the sole purpose of plugging it into the formula would not be a productive use of ratepayers' resources,¹⁴ but would only serve to further complicate the billing process. As MCI observes, use of the data would also create inconsistencies in the formula given the incorporation of statewide averages in some calculations while relying on census level data for others.¹⁵ In view of all the circumstances, the Commission should allow the parties to utilize statewide data in developing the average number of attachers for ratemaking purposes.

¹² Ameritech at 1; Bell Atlantic at 8-9; Edison at 18-19; SBC at 1-4.

¹³ See National Cable Television Association, Opposition at 12 (filed May 12, 1998).

¹⁴ GTE believes attaching entities are the most logical parties to bear the costs of developing this data; certainly GTE's ratepayers gain no advantage from this regulatory boondoggle.

¹⁵ MCI Corp. Opposition at 6-7 (filed May 12, 1998).

CONCLUSION

Based on the foregoing, the Commission should grant the petition of US West to require prior notice to pole owners by third party overlashers and the petitions of USTA, SBC, and Edison to permit the use of statewide data in calculating the average number of attaching entities for ratemaking purposes.

Respectfully submitted,

GTE SERVICE CORPORATION,
on behalf of its domestic
telecommunications, wireless, and long
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May 26, 1998

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I hereby certify that on this 26th day of May, 1998, I caused copies of the foregoing REPLY COMMENTS OF GTE ON PETITIONS FOR RECONSIDERATION to be mailed via first-class postage prepaid mail to the following:

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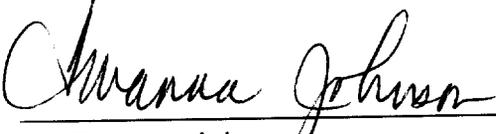
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