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August 11, 1999

BY HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
TW-A325
Washington, DC 20554

RECEIVED

AUG 11 1999

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

**Re: Supplement to GTE's Application for Review and Review of
Freedom of Information Action in Response to Further Notice
of Proposed Rulemaking: Universal Service – CC Docket No.
96-45 and Forward-Looking Mechanism for Non-Rural LECs
– CC Docket No. 97-160**

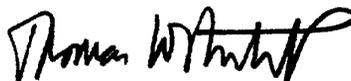
Dear Ms. Salas:

Please find enclosed for filing an original and four (4) copies of the Supplement to GTE Service Corporation's Application for Review and Review of Freedom of Information Action released on May 28, 1999.

I have also enclosed two additional copies that I request be file stamped and returned to my messenger.

If you have any questions, please call me at (202) 342-8522. Thank you.

Sincerely,



Thomas W. Mitchell

TWM:maj
Enclosure

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

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AUG 11 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Forward-Looking Mechanism for High Cost Support for Non-Rural LEC's)	CC Docket No. 97-160
)	

**SUPPLEMENT TO GTE'S APPLICATION FOR REVIEW
AND REVIEW OF FREEDOM OF INFORMATION ACTION**

GTE Service Corporation and its affiliated domestic telephone operating companies ("GTE")^{1/}, pursuant to 47 C.F.R. §§ 0.461 and 1.115, respectfully submit this supplement to GTE's Application for Review of the Common Carrier Bureau's Order dated December 17, 1998, and Review of Freedom of Information Action ("the Application"), filed on January 15, 1999.

As explained in the Application and supplemented here, the Commission should grant the requested relief^{2/} even though the Common Carrier Bureau ("CCB") produced

^{1/} The GTE affiliated domestic telephone operating companies are GTE Alaska Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., GTE West Coast Incorporated, and Contel of the South, Inc.

^{2/} The Application requests, among other things, reversal of the CCB's denial of GTE's Freedom of Information Act Request ("FOIA Request"). See In the Matter of Federal-State Joint Board on Universal Service, In the Matter of Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, CC Docket Nos. 96-45, 97-160, Order, DA-98-2567 (rel. Dec. 17, 1998) (the "Order").

some additional data subsequent to GTE's Application and the Commission tentatively concluded in its May 28, 1999, Further Notice Of Proposed Rulemaking ("FNPRM") not to use some of the data that GTE had requested but which the CCB had withheld.^{3/} These decisions have not in any way mooted the issues raised in the Application because GTE still does not have all of the information to which it is entitled under the FOIA and which it needs to evaluate the Model Platform. GTE therefore respectfully requests that Commission act favorably on its Application.

1. The CCB Still Has Not Produced The Data Underlying Adoption Of The FCC Model Platform

Although the CCB notified GTE in writing on or about February 9, 1999 -- approximately three weeks after GTE filed the Application -- that it had decided to release two computer disks showing that the FCC Model performed some of its mathematical calculations correctly, it reiterated its position in that February 9 letter, at a meeting with GTE on February 12, 1999, and in another letter dated March 11, 1999, that it would not produce any other information sought by GTE because it was either publicly available, or privileged. Included among the withheld materials were customer location information provided by PNR Associates, Inc. ("PNR"), including PNR's geocode data and National Access Line Model ("NALM"). The Commission used this PNR data to evaluate and adopt the Platform. Therefore, as explained in the Application, GTE is entitled to this information

^{3/} See In the Matter of Federal-State Joint Board on Universal Service, In the Matter of Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, CC Docket Nos. 96-45, 97-160, *Further Notice of Proposed Rulemaking*, FCC 99-120 (rel. May 28, 1999) ("FNPRM").

under the FOIA -- including but not limited to PNR's geocode data, NALM and surrogate customer location algorithm -- and it should be produced.

The CCB suggested that GTE might be able to obtain the PNR data directly from PNR. GTE pursued this option without success. PNR confirmed that it, too, would not provide GTE with copies of the geocode information and NALM upon which the FCC Model was based, and which GTE's cost model experts need to evaluate the accuracy of the FCC Model's customer location process, even though GTE has offered to sign a protective and/or confidentiality agreement. With respect to the limited data that PNR was willing to allow GTE to review, PNR has demanded that GTE review them only at PNR's offices, pay PNR a steep daily fee (approximately \$1,000 per computer per day), and would impose other improper restrictions on GTE's ability to review and utilize the data, including reserving the right to censor and confiscate GTE's analysis.^{4/} None of these conditions are permissible under the FOIA.

As a result, GTE still does not have the data specified in the FOIA Request. Because the FOIA requires that the requested data be produced, the Commission should reverse the CCB's prior FOIA decision.

^{4/} See Letter to Charles White (PNR Associates, Inc.), dated April 22, 1999 (copy attached as Exhibit A).

2. The FNPRM's Tentative Rejection Of PNR's Geocode Data Does Not Affect GTE's Right To Obtain All PNR Data Under The FOIA

The Commission's recent FNPRM also does not obviate the need to rule on GTE's Application. The portions of the FNPRM most relevant to the Application are the Commission's "tentative" conclusions not to use PNR's geocode data in the federal universal service mechanism, at least initially, and to use the NALM and PNR surrogate data.^{5/} The "tentative" rejection of PNR geocode data does not alter GTE's right to obtain the PNR data or NALM -- or any other material -- under the FOIA.

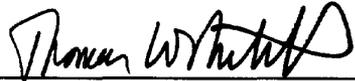
The FCC Model platform adopted in the Fifth Report and Order in October 1998 was based on PNR's geocode data and NALM. The Commission received and then utilized the requested PNR data to determine that the FCC Model was a suitable platform for the new federal universal service mechanism. The Commission's subsequent decision in the May 1999 FNPRM to use a different customer location methodology does not alter the facts underlying its decision made several months ago about the Platform, nor insulate the PNR data from production under the FOIA. The Model relies on the NALM and PNR surrogate data, but they have never been produced for review.

^{5/} See FNPRM at ¶ 28.

For these additional reasons and those set forth previously in the Application, GTE's Application for Review of the Common Carrier Bureau's Order dated December 17, 1998, and Review of Freedom of Information Action should be granted.

Respectfully submitted,

GTE SERVICE CORPORATION and its affiliated domestic telephone operating companies

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August 11, 1999

CERTIFICATE OF SERVICE

I, Thomas W. Mitchell, do hereby certify that on this 11th day of August, 1999, I have caused a copy of the foregoing Supplement to GTE's Application for Review and Review of Freedom of Information Action to be served, via hand delivery upon the persons listed on the attached service list.



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April 22, 1999

VIA TELECOPY AND MAIL

Charles White
PNR and Associates, Inc.
101 Greenwood Avenue, Suite 502
Jenkintown, Pennsylvania 19046

Re: PNR Data and the FCC's Cost Proxy Model

Dear Mr. White:

The purpose of this letter is to confirm the substance of our telephone call on Friday, April 16, 1999, regarding GTE's ongoing efforts to obtain certain data required to evaluate the cost proxy model adopted in the FCC's 5th Report and Order, dated October 30, 1998 ("FCC Model").

As I indicated at the start of the call, GTE made a request to the FCC under the Freedom of Information Act for all data needed to fully evaluate the FCC Model, including all PNR data used in the geocoding process. The FCC's response to GTE's FOIA request acknowledged the importance of the PNR data, but instructed GTE to obtain all relevant PNR data (as described below) that is needed to perform a complete evaluation the FCC Model from PNR. In fact, it appears that the FCC may have failed to provide GTE with material under the agency's control based on its understanding that all PNR data would be produced by PNR itself. Our call last Friday was to determine whether, in fact, PNR is currently willing to provide all such information to GTE for analysis of the FCC Model.

I have summarized below the PNR data requested by GTE, and PNR's current positions on their availability:

Geocoded Database. GTE asked whether PNR will make available its entire geocoded database, meaning all actual customer location point files showing the longitude and latitude coordinates for all locations, as well as all other databases relied on by PNR to create the geocoded

Charles White
PNR and Associates, Inc.
April 22, 1999
Page 2

database. These other databases include address databases from Metromail, Dun & Bradstreet, and Claritas. GTE requested that this data be made available in a form that would enable GTE to perform an "off-site" analysis of the FCC Model, i.e., an analysis at GTE's own offices.

PNR stated that the actual point and cluster files may be reviewed by GTE during an "on-site" review session at PNR's offices, but that PNR will not under any circumstances provide those files to GTE for "off-site" analysis. PNR will not permit any "off-site" analysis of this data because (1) PNR has already taken the position in state administrative proceedings that PNR's geocoded database cannot be reviewed outside its offices under any circumstances, and (2) PNR's third-party vendor agreements prohibit PNR from relinquishing control of the database to GTE or anyone else. PNR stated that it would not agree to a confidentiality agreement or protective order that would ensure the confidentiality of data for purposes of GTE's "off-site" analysis. PNR, in fact, offered no terms under which an "off-site" analysis would be permitted. PNR did agree to send copies of the vendor agreements to enable GTE to verify their restrictions on disclosure.

For any "on-site" review, PNR would require that GTE use rental computers provided by PNR and pay a fee to PNR of \$1,000 per day, per computer, subject to alternative terms acceptable to both parties. At the conclusion of any "on-site" review, GTE would have to allow PNR to review all of GTE's work product, including the work product stored on the hard drive of any computer used by GTE, and PNR would have the right to delete any information or analysis deemed by PNR to violate the intellectual property rights of PNR or the contracts with its third-party vendors.

PNR stated that updated .bin files are now available to interested parties such as GTE, and that it would ship copies of those files to GTE upon payment of the \$25 fee. As before, however, these .bin files specifically do not permit an evaluation of the underlying point and cluster files, nor enable GTE to perform analysis involving "reverse engineering."

Models and Algorithms. GTE asked whether PNR would make available all models and algorithms that are employed to create the geocoded database, including the National Access Line Model ("NALM") developed by PNR. The NALM is a proprietary product of PNR, and thus not subject to the third-party vendor agreements that prohibit release of the geocoded database for "off-site" analysis.

PNR said that it would allow GTE to review the end results of the NALM during an "on-site" review session, but will not allow GTE to review the process which leads to those end results, either at PNR's offices or elsewhere. PNR refuses to allow GTE to review the NALM process in part because of its complexity, but primarily because of its proprietary and commercial nature. Again,

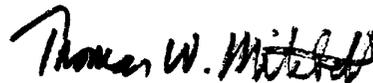
Charles White
PNR and Associates, Inc.
April 22, 1999
Page 3

PNR is not even amenable to negotiating the terms of a confidentiality agreement that prohibits GTE's use of NALM beyond its analysis of the FCC Model.

Documentation of Databases, Models and Algorithms. GTE asked for copies of documentation explaining the contents, organization and functioning of the databases, models and algorithms discussed above. PNR advised that the only documentation responsive to this request would be its filings with the FCC. PNR mentioned specifically a recent filing in February 1999 concerning the FCC Model, and generally referred to filings it has made over the past few years in connection with the Hatfield Model, the cost proxy model sponsored before the FCC by AT&T and MCI. Other than these filings, of which PNR agreed to provide GTE copies, PNR is not aware of additional documentation.

These are the positions we understood PNR to take on the conference call. If I have not summarized them correctly, please let me know immediately, as GTE plans to discuss these matters further with the FCC. If I have not heard from you in writing by April 29, 1999, I will assume my representations are accurate for purposes of GTE's further dealings with the agency. Thank you for your consideration.

Sincerely,



Thomas W. Mitchell

cc: Gerald Harris
Christian M. Dippon
Barry A. Nigro, Jr.

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