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

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Provision of Directory Listings Information under the Telecommunications Act of 1934, as amended;	CC Docket No. 99-273
Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities;	CC Docket No. 98-67
Telegate's Proposal for Presubscription to "411" Directory Assistance Services	DA 00-930

COMMENTS OF GTE

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No. of Copies rec'd 0+6
List A B C D E

May 30, 2000

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SUMMARY

The FCC has requested comment on a proposal of Telegate, Inc. to require local exchange carriers to provide presubscription to N11 codes, particularly the code "411." The Telegate proposal is a costly, unnecessary diversion that simply cannot produce the benefits that would justify the tremendous cost of the program.

The only significant benefit that Telegate can point to is that 411 presubscription will allow competition in the DA market. This claim is astounding, as an initial matter, given the fact that the Commission has repeatedly recognized that the DA marketplace is already competitive. Such a conclusion was, and continues to be, completely justified. Competitors to LEC DA services include providers using alternative access codes, such as AT&T and MCI (and Telegate in its home market in Germany). There are also an increasing number of companies, including Yahoo!, AltaVista, among others, providing these services over the Internet. Finally, new technologies and changing business models will ensure that such competition will only expand in the future as broadband services, wireless Internet, and web-television all provide alternative means of accessing DA services.

The level of competition illustrates that Telegate's alleged benefits to 411 presubscription are truly hollow. Not only has Telegate failed to establish the most fundamental premise of its argument—that there is a consumer need for 411 presubscription, the Commission itself has characterized Telegate's claims as mere "conjecture" in other proceedings. Moreover, the real effects of the presence of these alternative sources of DA information provides real world proof that Telegate's claim is

all wet. Each of the LECs has experienced decreases in DA call volume as new technologies and providers have changed the manner in which consumers access DA information.

Yet, in its zeal to obtain regulatory validation of its business model, Telegate has grossly underestimated the costs associated with implementing its proposal. First, Telegate's fundamental cost assumption that Advanced Intelligent Network ("AIN") capabilities are nearly ubiquitous is incorrect. Telegate pushes an AIN 411 presubscription solution because it believes such an option costs are far lower than an alternative solution. However, AIN deployment is not nearly as widespread as Telegate assumes because the level of AIN deployment needed for 411 presubscription is not the same as that needed to comply with other regulatory requirements. Given this fact, by Telegate's own assessment, the cost of 411 presubscription will be much higher than Telegate projects.

A second factor undercutting Telegate's cost estimate is that it simply neglects to include or compute some very costly elements of implementation. Such expenses, totaled at a nationwide level, would include:

- $40 million - cost to equip switches with full AIN capabilities
- $5.5 million - cost to turn up the 411 trigger in AIN equipped switches
- $100s millions - cost to modify LEC ordering, provisioning and billing 411 DA

Moreover, Telegate did not include the costs associated with the modifications required to support the additional equipment needed on the network.

Finally, when Telegate did provide cost figures, a review of that data finds that these estimates under shoot the mark by orders of magnitude. For instance, when comparing GTE's estimate with Telegate's, one finds:

- $50 million vs. $21.6 million - cost of LAN/WAN facilities
- $1 million vs. $0.2 million - one time application development cost
- $20 million vs. $1.6 million - cost to deploy, manage and maintain SMS
- $200 million vs. no total computation - cost of balloting for 411

In the end, GTE estimates that the total costs of implementation will be well over $310 million, which is nearly ten times larger than Telegate's total estimate of $29.7 million.

In addition to the dollar costs to implementation, there will also be substantial regulatory implementation issues associated with 411 presubscription. For one, implementation of 411 presubscription would likely complicate the existing balance of Federal/State regulatory jurisdiction in this area. Traditionally, states have regulated all aspects of the provision of local 411 DA services. With presubscription, the FCC would now be required to decide whether or not it would need to pre-empt state regulation of these issues. Also, because Telegate's proposal would eliminate one level of customer control over selection of a DA provider, its system would open up another opportunity for consumer slamming. The FCC would be required to devise an extensive set of additional consumer protection measures to prevent or curb such anti-consumer behavior.

When the Telegate proposal is placed on the cost/benefit scale two inescapable conclusions are quite evident. First, the Telegate proposal is devoid of its primary benefit—the creation of a competitive DA market—because such a market already exists. Second, the costs associated with Telegate's proposal are much larger—well over ten times larger—than Telegate estimates. Given these two facts, it is clear that the balance of the costs/benefits of Telegate's 411 presubscription proposal definitely falls on the side of rejecting this proposal outright.

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COMMENTS OF GTE

GTE Service Corporation and its affiliated carriers (collectively "GTE")[1] respectfully submit these Comments in response to the Federal Communications Commission's ("Commission" or "FCC") *Public Notice* requesting comment on a proposal submitted by Telegate, Inc. ("Telegate").[2] In this proposal, Telegate asks the

[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., GTE West Coast Incorporated, Contel of the South, Inc., GTE Communications Corporation, and GTE Wireless Incorporated.

[2] *Public Notice: Common Carrier Bureau Seeks Further Comment on Telegate's Proposal for Presubscription to "411" Directory Assistance Services*, DA 00-930 (Apr. 27, 2000) ("*Public Notice*").

FCC to require local exchange carriers ("LECs") to implement presubscription to the N11 code of "411," and to install millions of dollars of infrastructure all in the name of promoting directory assistance competition, which the Commission has already found to be competitive.[3]

For the reasons stated below, the Telegate proposal is a costly, unnecessary diversion. It is unnecessary because the directory assistance ("DA") market is already competitive. Moreover, Telegate's proposal costs nearly ten times more than it states in its *ex parte* materials, and it would impose significant regulatory implementation issues to avoid consumer confusion and other potential harms. However, no one can be certain the costs would ever be justified because, at bottom, Telegate has failed to demonstrate that any consumer demand exists for 411 presubscription.

I. TELEGATE'S PROPOSAL WILL YIELD NO BENEFITS, SINCE DIRECTORY ASSISTANCE IS ALREADY A COMPETITIVE MARKET.

A. The FCC Has Previously Found that DA is a Competitive Market.

Telegate fails to pay attention to the fact that the Commission has repeatedly found the DA marketplace to be competitive. In each instance, the Commission found a richly competitive and robust marketplace, full of innovation and opportunity. When it was considering the question of whether competitive local exchange carriers ("CLECs") required access to unbundled/LEC DA services to provide competitive services, the Commission concluded that a DA unbundled network element was not "necessary" to

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[3] *Ex Parte Presentation of Telegate, Inc.* (dated Mar. 10, 2000) ("*Telegate Ex Parte*").

provide telecommunications service.[4] The FCC based its holding on "the existence of multiple alternative providers of OS/DA service in the marketplace, coupled with the evidence of competitors' decreasing reliance on incumbent OS/DA services."[5] The evidence of competition in the DA marketplace was overwhelming, and not seriously disputed. The Commission noted that "[e]ven requesting carriers advocating the unbundling of operator and directory assistance services acknowledge that there exists a substantial number of alternative providers of operator and directory assistance."[6]

Similarly, in its declaratory ruling on US West's provision of national directory service, the Commission found that there were a large and increasing number of players in the DA market.[7] Indeed, when the FCC evaluated US West's request, it found that the company faced competition not only from AT&T and MCI, but also from "Internet service providers, providers of payphone and cellular telephone services, and independent directory assistance service providers, such as Metro One and INFONXX."[8] It was the existence of strong competition that led the FCC, in part, to conclude that US West need not separate its national directory assistance service from

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4 *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, (Third Report and Order)*, 15 FCC Rcd 3696, ¶ 441 (1999) ("*UNE Remand Order*").

5 *Id.* at ¶ 449.

6 *Id.* at ¶ 448.

7 *See* Petition of US West Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance, 14 FCC Rcd 16252, ¶ 43 (1999) ("*US West Order*").

8 *Id.* at ¶ 33.

its regulated business. Given that these decisions were rendered only last year, there is no indication that the market has changed as to require a different conclusion.[9]

B. The Provision of DA Services Has Become Increasingly Competitive, and Competition will Continue To Increase in the Future.

Not only will there be no immediate benefit to Telegate's proposal, but there will be no generation of such benefits in the future. For instance, as the Commission highlighted in the *UNE Remand Order*, the number of alternative providers of DA is *growing*.[10] These providers include a range of "dial around" and other telephone accessed services, such as AT&T, MCI WorldCom, and Sprint, who all offer national directory assistance using easily recognizable codes, such as "00" or "10-10-9000."

There are also an increasing number of companies providing national directory access over the Internet. These providers include large portal sites, such as Yahoo! and AltaVista, which offer directory access as part of a suite of services used by millions of customers every day. In the *UNE Remand Order*, the Commission noted these, as well as other providers, such as AnyWho, 555-1212.com, InfoSpace, InfoUSA, Switchboard.com, Who Where, Worldpages, and Zip2, as providing competition in the directory access marketplace.[11] There are many other companies offering similar services on the Internet, such as Bigfoot, Yellowpages.com, Whitepages.com, and 411.com. Each of these services provides directory listings free

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9 *Id.* at ¶ 31.

10 *UNE Remand Order*, ¶ 488.

11 *Id.* at n.888.

of charge, recovering costs via advertising, which makes them formidable competitors for traditional, telephone-based DA services.

Significantly, DA promises to be even more accessible in the future. Broadband services, which are "always on," will make on-line DA services even more appealing to customers who need to look up a number quickly. Television-based Internet services, such as Web TV, will allow a broader base of people to access on-line DA services. The expansion of single-rate PCS and cellular service means that more customers are using their wireless telephones more frequently, and thus relying on the DA services offered by their wireless provider. Wireless Internet access is also becoming more prevalent, allowing users to access a tremendous range of information, such as access to directory listings, using either an Internet enabled telephone or a Personal Digital Assistant. Internet functionality will become a much more widespread component of cellular or PCS services in the near future, which will further decrease the reliance of these customers on established DA services.

C. The Number "411" Is Not a Bottleneck Facility that Requires FCC Mandated Access.

This level of existing and future competition clearly demonstrates that there is no benefit to "411" presubscription because the "411" number is not a bottleneck. Therefore, at bottom, access to the "411" number is not required in order to offer an effective and competitive DA service.

The Commission itself has already concluded that N11 codes are not an essential facility that could create a "bottleneck" as that term has been used by the Commission. In its *N11 Order*, the Commission held that "although an N11 number

may be considered 'novel,' and might be convenient for some users, it is by no means essential to making the service available."[12] Furthermore, the Commission characterized as "conjecture" the proposition that "from a *user's* perspective, using N11 codes significantly enhances the quality of access to information services."[13]

Additionally, the Commission has stated that providers like AT&T and MCI "do not appear to have been deterred from providing [DA] using an alternative access code given US West's use of the 411 dialing code."[14] The Commission concluded that US West's use of the 411 dialing code did not provide an insurmountable advantage, but at most a "potential competitive advantage" that was outweighed by the "pro-consumer benefits" of allowing US West's use of the number to continue in order to provide competition for the newer entrants into the DA market.[15]

Telegate claims that, in the absence of "411" access, new competitors such as AT&T and MCI have "failed to make substantial inroads, despite substantial, expensive marketing campaigns,"[16] and that "the chances for smaller competitors to succeed in the present environment are thus highly questionable."[17] However, Telegate offers no evidence whatsoever in support of these claims. Notably absent from Telegate's filing

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12 *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, 12 FCC Rcd 5572, ¶ 20 (1997).

13 *Id.* (emphasis in original).

14 *US West Order*, ¶ 43.

15 *Id.* at ¶ 44.

16 *Telegate Ex Parte*, 11.

17 *Id.*

are market penetration data, consumer surveys, or other hard facts of any kind to back up its allegations about the state of the DA market.

In fact, all available evidence demonstrates that, contrary to Telegate's unsupported assertion, competitive providers are taking a large section of the DA market away from incumbent LECs. As a result of increased competition, GTE has seen its call volume drop precipitously. In fact, GTE projects that in the period from 1998 to 2000, the number of local DA units will decrease by over 30 percent. GTE is not alone. The Commission has recognized that the "increasing availability of competitive OS/DA providers coincides with a decrease in incumbent LEC OS/DA call volumes."[18] SBC's call volumes dropped 30 percent between 1995 and 1999, and Bell Atlantic saw a decline of 67 percent in its wholesale directory assistance calls from 1994 to 1998.[19]

Because of the successful competitive entry of a variety of DA service providers, DA services offered by incumbent LECs have seen a substantial erosion of market share in the past five years. Moreover, a raft of new products and services promises to bring even more competition to this market in the very near future. Since competition has already taken hold, and only shows signs of increasing in the future, it is clear that the "411" number is not a competitive bottleneck, and it is simply not necessary for the Commission to mandate access to it.

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18 *UNE Remand Order*, ¶ 449.

19 *Id.*

D. Telegate Has Not Shown that there Is Any Demand For Presubscription.

Telegate makes another conclusory assertion that "competitive providers of directory assistance cannot effectively compete unless they are given non-discriminatory access to the universally recognized directory assistance number, 411."[20] No evidence is offered to support this statement. Telegate has failed to even establish the most fundamental premise of its argument: that there is a consumer need for 411 presubscription. Telegate is asking the Commission to require all LECs to spend vast sums of money to implement without one shred of evidence of consumer need or demand for 411 presubscription. Would consumers be interested in, and willing to pay additional for, 411 presubscription to access specific providers of DA enhanced services? Telegate doesn't give us one clue about the answer to this question. In light of this uncertainty, it would be unreasonable for the Commission to impose the burdensome requirements necessary to implement Telegate's proposal.

On the other hand, in today's market, consumers wishing to access DA services already have a number of options, in addition to dialing "411." As Telegate acknowledges, consumers may access DA by calling numbers such as AT&T's "00" info or MCI's 10-10-9000. Telegate asserts, without citing supporting evidence, that competitive DA service cannot be provided in the United States without the use of "411" presubscription. Yet, according to its own filing, Telegate has been very successful providing DA in its home country of Germany by using the same kind of special access

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[20] *Telegate Ex Parte*, 9.

code that it alleges will not work here.[21] Telegate attempts to distinguish the German market from the American market by saying that there is no German equivalent to "411."[22] This distinction is unpersuasive, since aside from a variety of naked assertions, Telegate offers no support of any kind for the proposition that the use of "411" is an insurmountable competitive advantage. There is also no showing that it would be any more difficult for Telegate to establish a brand identity for a particular access number in the United States than it was for them to do so in Germany.

Consumers may also access DA and related information through the Internet, which is increasingly displacing traditional sources of DA information. In addition to providing simple DA, the Internet also provides a wealth of related information, such as weather, maps, entertainment, and news. There is no reason to believe that customers prefer to access this information by dialing "411" rather than by using the Internet or any of the other alternatives that are currently available. The Commission should allow this competitive market to continue to develop, without imposing discriminatory policies and regulations that favor one type of technology over others.

Thus, any demand/need for alternative access to directory assistance services is currently being met without the addition of a cumbersome regulatory regime and an expensive technical modification to the PSTN. Telegate has not shown that that there is a demand by consumers for 411 presubscription in order to access the wide variety

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21 *Telegate Ex Parte*, 6. In Germany, Telegate's customers must use its special access number "11880" to access its services. *See* Die Auskunft für Deutschland, Homepage of Telegate, <http://www.telegate.de/english/home_fset.html> (visited May 22, 2000).

22 *Telegate Ex Parte*, n.6.

of DA services they already enjoy. Therefore, in GTE's view, it would be unwise and contrary to the public interest for the Commission to impose a new, cumbersome, and expensive regulatory regime that would, in the end, generate little, if any, consumer benefit.

II. TELEGATE GROSSLY UNDERESTIMATES THE ECONOMIC COSTS OF IMPLEMENTING ITS PROPOSAL.

In its zeal to push for 411 presubscription, Telegate has grossly underestimated the cost of implementing its proposal. As an initial matter, one of the critical assumptions it makes in deriving its cost estimates is wrong, which significantly increases the difficulty, and cost, of implementation. Moreover, Telegate's cost estimates do not include a number of necessary, and costly, aspects of implementation. Finally, even the cost data that Telegate does provide vastly understates the cost of implementation. In the end, Telegate estimates that it will cost roughly $29.7 million to implement and operate 411 presubscription, yet GTE's rough estimate of the major costs is over $310 million.[23]

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[23] Of note, GTE's discussion in this section focuses on the cost of providing 411 presubscription only. If the program proposed by Telegate were to be expanded to other N11 codes, the costs described herein would be relevant to each new N11 presubscription requirement. That is, the costs would be cumulative, not incremental. Additionally, no attempt was made to determine the costs for mandating wireless N11 presubscription. Given the fact that these carriers are not required by statute to provide equal access, similar reasons exist to exempt these carriers from any N11 presubscription policy.

A. Telegate's Basic Cost Assumption that AIN Capabilities Are Widely Deployed Is Incorrect.

Telegate discusses two alternative technical means of implementing 411 presubscription in its proposal. According to Telegate, presubscription can be technically achieved by either (1) using Advanced Intelligent Network ("AIN") capabilities to route calls to preselected 411 providers or (2) installing in each central office switch new call processing and translation software for appropriate call routing.[24] Telegate itself concludes that the second option would be "costly and difficult to implement" and, therefore, focuses its attention on the first method—use of AIN to provide the necessary technological solution to 411 presubscription.[25]

Central to Telegate's claim that "the impact of 411 presubscription on the ILEC's central office switches would be minimal"[26] is that AIN is operational in switches that serve over 90% of the total access lines in the U.S.[27] Telegate reaches this conclusion by assuming that the deployment of AIN on a switch necessarily means that it is capable of supporting its 411 presubscription solution. This assumption is simply not true. It is important to understand that the offering of true AIN services (*e.g.*, Intelligent Call Routing, Enhanced Call Forwarding, etc.) requires that an office be "AIN Certified." That is, the switch must be configured properly, all necessary licenses obtained, and

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[24] *See Ex Parte Presentation of Telegate, Inc., Attachment A (Affidavit of John Celentano)*, ¶ 8 (dated Mar. 10, 2000) ("*Celentano Affidavit*").

[25] *Celentano Affidavit*, ¶ 8.

[26] *Telegate Ex Parte,* 13.

[27] *See Celentano Affidavit*, ¶ 24.

complete suite of software installed for all of the AIN 0.1 capabilities. Only 70% of GTE's access lines are served by offices that are "AIN Certified."

Telegate attempts to bolster its assessments by pointing to the Commission's local number portability ("LNP") rules. Telegate assumes that an LNP-capable switch is one that must also be "AIN Certified"—especially if it uses AIN to provide this functionality.[28] This assumption is likewise misguided. The fact that 30% of GTE's access lines are served by central offices that are not "AIN Certified" does not mean that those offices are incapable of supporting the Commission's LNP rules. The provisioning of LNP at the switch only requires a subset of the full suite of AIN capabilities. In some switches, only an LNP subset of AIN 0.1 was installed, where the switch was capable of supporting this solution. In other switches where no AIN capabilities have been installed, GTE is using alternative techniques and methodologies to support LNP. In short, the assumption that AIN must be widely deployed to support the Commission's LNP requirements is overstated.

The fact that AIN is not as widely deployed as Telegate assumes severely undercuts the basis for the cost estimates it provides throughout its proposal. Moreover, as Telegate notes, the alternative switch-dependent solution is far more costly. According to Telegate, "the total cost to develop a switch-dependent solution could amount to tens of millions of dollars."[29] Yet, the numbers discussed above illustrate that the number of switches requiring a switch-dependent solution is much

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[28] *See id.*

[29] *Id.* at ¶ 15.

larger than Telegate assumed. Therefore, even Telegate would admit that implementation would require significant expenditures, if its assumptions were corrected.[30] Additionally, Telegate recognizes that the right-to-use ("RTU") fees to be paid represent "a substantial investment by the local exchange carriers"[31]—a figure that is much larger now because Telegate underestimated the number of switches that lack full AIN capabilities.

B. Telegate's Cost Computation Does Not Include an Estimate of Some of the Costliest Components To Implement 411 Presubscription.

In the cost computations provided in the *Telegate Ex Parte*, many costs are simply dismissed as "minimal."[32] No attempt is made to even arrive at an estimate of what these costs could be. Other implementation costs are not even considered. Yet, some of the costs simply assumed away are some of the costliest components necessary to implement Telegate's 411 presubscription plan.

For one, Telegate does not include the cost of equipping local switches with AIN 0.1 software functionality.[33] Yet, such expenses are not trivial. For instance, assuming

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30 In fact, such developmental costs should be added into the mix even if the number of non-AIN capable switches is small. If 411 presubscription is to be made available nationwide, then all switches, including the non-AIN capable switches, must be modified to support 411 presubscription. The development of a software solution for the non-AIN switches is, most likely, a fixed cost. That is, the amount of resources necessary to develop a software solution is not dependent upon the number of switches for which such a solution is required. A larger number of switches requiring the fix would only reduce the per-switch cost, not the total amount of resources needed to develop the solution.

31 *Celentano Affidavit*, ¶ 15.

32 *Id.* at ¶ 53.

33 *Id.*

no hardware upgrade is required, GTE believes that over $40 million would be necessary to deploy full AIN capabilities in every switch that is not currently running some version or subset of AIN 0.1. Such costs would include the payment of additional RTU fees for the added capabilities, actual installation of the software package on the switch, and any required engineering studies to determine software/switch compatibility. If additional hardware is required (such as additional memory cards), or if special capabilities are needed (such as an announcement function) the cost could soar well above this $40 million figure.

Additionally, Telegate makes no attempt to estimate the costs associated with activating the 411 trigger and maintaining the local switch translations.[34] Again, such costs are not insignificant. If GTE's situation is typical of the industry, another $3.5 million would be spent nationwide to make those switches with some AIN capabilities fully "AIN Certified." For those switches that are already "AIN Certified", an additional $2 million would need to be expended to turn up the trigger for 411.

Other costs simply left out of Telegate's calculation include the costs associated with the new network its proposal would require. For instance, Telegate fails to mention the costs to interconnect the seven new STPs to the existing SS7 signaling networks. This will involve a significant number of quad links from all local STPs and/or Regional STPs to the new "411" STPs. Additionally, Telegate did not factor into its calculations the costs for the STP ports required at the existing local and regional STPs to interconnect with the "411" STPs. Another network cost left out of Telegate's

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34 *See id.*

discussion are those additional costs of the links required to interconnect the "411" SCPs with the "411" STPs if the associated "411" SCPs are not physically located with their respective STPs.

Finally, Telegate makes no attempt to estimate the "cost of process changes in the ILEC SOP [standard operating procedures] to acquire and transmit the presubscribed DA provider to the SMS/service center."[35] The costs associated with these changes could potentially dwarf all other ignored costs combined. The Commission's experience with LNP is instructive. To implement LNP, all LECs were required to modify their ordering, provisioning, and billing systems to accommodate LNP. The same is true here. To implement 411, all LECs will be required to make similar modifications to their ordering, provisioning and billing systems. Given the fact that all LECs (both ILECs and CLECs) will be required to support this program, the costs of modifications could potentially run into the hundreds of millions of dollars.

C. Telegate's Cost Figures Severely Underestimates the True Price of the Proposal.

When Telegate does provide more concrete cost data, a review of that data shows that it underestimates dramatically the costs of implementation.

For one, Telegate estimates that the cost of the new STP/SCP pairs will run around $21.0 million, with a total investment of $21.6 million including site preparation and the establishment of associated LAN/WAN facilities.[36] This estimate should be more than doubled. Based on the costs associated with a number of recent purchases

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35 *Id.* at ¶ 53.

36 *See id.* at Table 1.

of such equipment, GTE estimates that the one-time investment to deploy seven STP/SCP pairs would actually be closer to $50 million, including installation and right-to-use ("RTU") fees, far more than the $21.6 million Telegate estimate.

The *Telegate Ex Parte* did not indicate who would install and own these new STP/SCP platforms. Given the practice with the implementation of the Toll Free (8XX), LIDB, and LNP network databases, it is likely that the ILECs would individually deploy these systems in their respective regions to serve both their retail customers and competing providers operating in their service territory. Based upon this practice, the one-time application development cost would run, conservatively, $1 million nationally, five times higher than the $200 thousand estimate provided by Telegate.

It is GTE's assessment that implementation will require a new national service management system ("SMS"). The costs associated with the deployment, management, and maintenance of a national SMS database should be similar to those costs currently incurred for the Toll Free (8XX) system. These costs, which are estimated to be around $1.6 million by Telegate,[37] ran around $80-100 million for the SMS for Toll Free (8XX). While GTE does not expect that 411 presubscription would require capabilities as sophisticated as that required for Toll Free (8XX), nevertheless, a reasonable estimate is that the cost of SMS for 411 presubscription could easily run around one-quarter of that figure or $20-25 million. Again, the Telegate estimate fails to reflect the real world experiences of similar deployments.

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[37] These costs would be analogous to the "Initial Database Development", "Database Update Operations", and "Database Generation Operations" costs in the *Celentano Affidavit*.

Again, as in the case of the costs Telegate ignored, one set of implementation costs could potentially dwarf all others. Significantly, missing the target here by only a small number has big consequences. After all, the estimated cost per line for balloting must be multiplied by the over 200 million access lines in the United States. In fact, even taking Telegate's lowest estimate of $1.00 per line for balloting, the cost of implementation—for this aspect alone—is over $200 million.

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At bottom, total costs are over $310 million. This figure is nearly ten times the combined amount of Telegate's initial implementation and annual operating estimate of $29.7 million.

III. PRESUBSCRIPTION TO 411 ACCESS OPENS A PANDORA'S BOX OF IMPLEMENTATION ISSUES.

In addition to failing to include all of the costs in its proposal, Telegate also neglects to investigate, consider and evaluate the impact of a number of additional regulatory issues and costs that its proposal will introduce. A cursory review suggests two such issues—the interplay between federal and state regulation in this area and consumer protection issues.[38] Each of these issues introduces additional complexity

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[38] Additionally, but not discussed in these comments, the Commission would need to take steps to lift the prohibition on LECs providing enhanced services on 411 DA services. Such a step would be necessary to ensure that the DA competitive landscape would not be tilted in favor of non-ILEC DA providers. In the *N11 Order*, the Commission concluded that LECs would not be allowed to provide enhanced or information services "unless that LEC offers access to the code on a reasonable, nondiscriminatory basis to competing enhanced service providers." *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, 12 FCC Rcd 5572, 5575 (1997) ("*N11 Order*").

and cost to any 411 presubscription proposal. GTE does not suggest the answers to these issues, but the Commission must recognize that implementation of this program entails serious political and consumer consequences.

A. Implementation Raises Thorny Federal/State Jurisdictional Issues.

Implementation of presubscription for 411 services would likely complicate the existing balance of Federal/State regulatory jurisdiction in this area. Traditionally, local 411 DA services have been regulated by state public utility commissions. State commissions establish many of the detailed rules that govern the provision of local 411 services, including the rates, terms, and conditions of such service. For example, state commissions typically establish the rate at which 411 calls can be charged and mandate the number of free local 411 calls an end user can make. For example, Hawaii requires LECs to provide customers with as many as ten free local 411 calls per billing period. Other states, however, such as Illinois or Oregon, do not require LECs to provide any free access to local 411 services.

Mandating presubscription for 411 services would now require the FCC to decide whether or not it would need to pre-empt state regulation of these issues. For example, the FCC needs to establish a number of policies that states now decide, such as the number of free local 411 calls a customer could make. Additionally, the issue of cost recovery for implementing and operating the 411 presubscription system will need to be sorted out. The FCC would need to determine which entity would establish the cost recovery mechanism for implementing and operating the 411 presubscription system.

B. Presubscription Would Introduce a Host of Consumer Protection Issues.

Telegate's model removes a level of affirmative control that the customer exercises when selecting a service provider. That is, under Telegate's proposal, when a customer dials "411", she cannot be as certain that she is reaching a specific DA provider as she would be if she dialed a specific access code, such as "10-10-9000" or something else.

Such a system opens opportunities for consumer fraud with which the FCC is all too familiar—slamming. Last year, in the long distance industry, the Commission received over 21,000 slamming complaints.[39] The Commission has issued over $10 million in forfeitures, reached consent decrees with 12 carriers, and has proposed over $7.6 million in Notices of Apparent Liability against 5 companies.[40] As in the case of "1+" presubscription, it is likely that the FCC will need to devise an extensive set of slamming rules to protect consumers from these threats. In fact, GTE posits that such rules would probably need to look quite similar to those rules adopted to govern the long distance industry and would likely impose similar costs on the industry to implement, operate, and maintain such a system.

IV. CONCLUSION

The cost/benefit evaluation of the Telegate proposal yields only one result: rejection of this proposal. The major benefit cited by Telegate—enhanced competition—is developing quite well on its own as a result of natural market forces and

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[39] *See Federal Communications Commission Takes Further Steps to Take Profit Out of the Illegal Practice of Telephone "Slamming" – Fact Sheet* (rel. Apr. 13, 2000).

[40] *Id.*

technological change. Even if there were some residual benefits, these would be swamped by the substantial cost of resources, both financial and regulatory, that would need to be expended to implement this program. Therefore, for all of the foregoing reasons, GTE respectfully requests the Commission to reject Telegate's proposal and allow the market to develop the competitive alternatives and options that consumers, not Telegate, demand.

Respectfully submitted,

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May 30, 2000