

ADVISORY CONTRACT

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ANNEX I

This Agreement, dated as of January 23, 1991, entered into by and between ATLANTIC TELE-NETWORK, INC. ("ATN"), a Delaware corporation, GUYANA TELEPHONE AND TELECOMMUNICATIONS COMPANY LIMITED, a Guyana corporation ("G.T. & T.").

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RECITALS

A. ATN has officers, directors and consultants at its disposal who are trained and experienced in the tele-communications field and who are familiar with the economical and efficient organization, development and operation of tele-communications systems and services. This staff has extensive experience in finance, law, accounting, regulatory matters and the development of communications apparatus, equipment and services and the rapidly changing technological and regulatory environment affecting the tele-communications industry.

B. Accordingly, ATN is in a position to render valuable assistance in the solution of the various legal, financial, accounting, technical, engineering, developmental, administrative and regulatory problems which may arise from time to time in the operation by G.T. & T. of its telephone business, which assistance will be conducive to the economical and efficient development and operation of G.T. & T.'s telephone system and will enhance its ability to provide dependable, state-of-the-art telephone service to its subscribers.

C. G.T. & T. desires to avail itself of the full advantages of the technical, professional and financial advice and cooperation available from ATN.

Now, therefore, in consideration of the recitals and the mutual agreements, provisions and covenants herein contained, it is agreed as follows:

Section 1. Services to be Provided by ATN. ATN agrees to provide the following services to G.T. & T.:

(a) To keep G.T. & T. generally informed as to the progress made in the development of the science and art of tele-communications and the application thereof in actual practice, and to keep it advised as to developments for the promotion of efficiency, economy or safety in the construction, installation or operation of tele-communication systems.

(b) To give advice and assistance in all branches of the operations of G.T. & T., including engineering, plant, traffic, commercial, labor relations, employee benefits, strategic planning, accounting (including advice and assistance in connection with the auditing of accounts), cash management, legal, administrative and other matters, such advice and assistance to be rendered by ATN through personal contact, through the issuance to G.T. & T. of data, memoranda of discussions and conclusions, including bulletins, books, circulars, letters and through the performance of specific work in cases where the magnitude and complexity of the problems involved render such specific work necessary or desirable.

(c) At the request of G.T. & T., to supply G.T. & T. with managerial or technical personnel on a part-time or full-time basis.

(d) To advise and assist G.T. & T. in the formation and establishment of rate schedules.

(e) To give G.T. & T. advice on questions of business policy and relationships with customers, employees and the public generally, advising as to the type and qualifications of personnel required in various departments, and, when deemed necessary, to seek out, investigate the qualifications of and arrange for the employment by G.T. & T. of experienced engineers, accountants, commercial persons and other qualified employees.

(f) To assist G.T. & T. in analyzing its legal problems and rights and to select outside counsel from time to time who have the expertise to handle such problems.

(g) To assist in the development and implementation of new tele-communications products and services, including contracts with international telephone companies.

(h) To aid in the instruction of G.T. & T. personnel.

(i) To give advice in connection with all classes of insurance and, where requested by G.T. & T., to place insurance for the account of G.T. & T. and prepare applications and schedules thereof, and, in case of loss, to revise and file proofs of claim and generally to assist in the collection of claims arising under such insurance.

(j) To advise and assist G.T. & T. in the adoption and application of an adequate modern system of accounting suitable to the special requirements of G.T. & T.

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(k) From time to time, to give advice and assistance as to the form and methods of any financing required to be done by G.T. & T. in connection with the extension, development or improvement of its system, and in connection with its finances in general; and to give such assistance as it is able to render in securing for G.T. & T. funds, on reasonable terms, as and when needed for new construction and other expenditures, but not at any time to a greater extent than the then condition of the finances and credit of G.T. & T. may permit; as well as to render active assistance in marketing such securities of G.T. & T. as G.T. & T. may from time to time undertake to issue, and such other necessary financial assistance in the premises as will best tend to serve the interests of G.T. & T. and of the general public.

(l) To give advice upon tax questions and to furnish information as to comparative tax laws and as to the practices relating thereto and the precedents which have been established, supervising the preparation of all schedules, reports, returns or certificates required.

Section 2. Payments by G. T. & T. G. T. & T. agrees:

(a) To pay to ATN a monthly fee for the services rendered by G. T. & T. hereunder, in the amount of 6% of G.T. & T.'s total operating revenues. G. T. & T. agrees to furnish to ATN proper statements from time to time of such total operating revenues.

(b) To reimburse ATN, or any of its affiliates, for the salaries and expenses of any employee (including the usual overhead chargeable in such cases), and for any materials used by such employees, (i) in cases where such employees are supplied to G.T. & T. as contemplated by Section 1(c) hereof and (ii) in cases where it is necessary in carrying out ATN's obligations under this Agreement to send or maintain employees of ATN, either in Guyana or elsewhere, outside of the locations where they are habitually employed.

(c) To reimburse ATN, or any of its affiliates, for the fees and expenses of all attorneys, accountants, or other professionals as may be engaged by ATN, or any of its affiliates, from time to time, to perform specific services for G.T. & T.

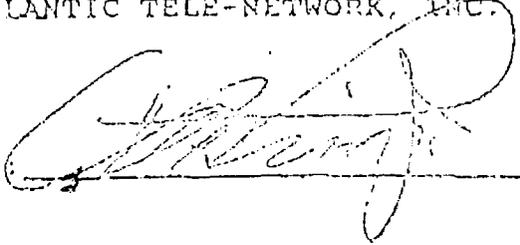
(d) All amounts payable hereunder shall be payable to ATN in U.S. Dollars at an account or accounts designated by ATN from time to time by written notice to G.T. & T.

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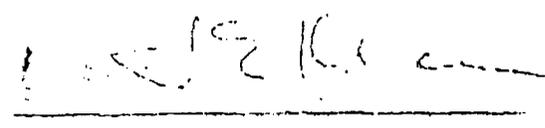
Section 3. Term. This Agreement shall be and remain in effect from the date of this Agreement until December 31, 1995, and from year to year thereafter unless or until terminated by either party by written notice to the other party given not less than three months prior to December 31, 1995 or any subsequent December 31.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under their respective corporate seals, as of the date and year herein above first set forth.

ATLANTIC TELE-NETWORK, INC.

BY: 

GUYANA TELEPHONE AND TELEGRAPH COMPANY LIMITED

BY: 

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Letters...Letters...Letters...Letters...Letters...Letters...

GT&T's obligation to pay 6% advisory fees to ATN was an integral part of the privatisation deal

Dear Sir,

I am writing in response to the letter by Mr. Joseph A. Tyndall captioned "The 6% advisory fees for ATN were not in the purchase agreement" (SN 25/01/00) in which he asserts that the agreement of GT&T to pay 6% advisory fees to ATN was not properly authorized by GT&T and was not agreed to by the Government of Guyana. These assertions are false.

I am an attorney currently representing ATN, and I represented ATN in 1990 and 1991 when the agreements by which ATN acquired its share interests in GT&T were negotiated and concluded. The facts are as follows:

The Purchase Agreement between ATN and the Government of Guyana (GOG) recognized that ATN would be providing a wide variety of managerial services and know-how to GT&T as GT&T modernized and expanded the antiquated telephone network which it was acquiring from the Government owned Guyana Telecommunication Corporation. Early drafts of the Purchase Agreement specifically provided that ATN would be entitled to an advisory fee for these services equal to 6% of GT&T's revenues. The final Purchase Agreement was changed to eliminate the specific 6% fee

and to provide that the advisory fees payable to ATN would be "in such amounts as the Board of Directors of GT&T shall approve". This change was made to reflect the fact that both ATN and the GOG believed the GT&T Board of Directors should approve the fee. It was clearly understood, however, that the fee which would be submitted to the GT&T Board would be a 6% fee.

Indeed, at the time this change in the Purchase Agreement draft was made, ATN was completing its negotiations with Northern Telecom International Finance BV (NTIF), and NTIF was relying on the cash flow which ATN would generate by this 6% fee in evaluating ATN's ability to repay NTIF. As Mr. Tyndall notes in his letter, the acquisition financing agreement between ATN and NTIF expressly required as a condition to NTIF's loan that GT&T "shall have entered into an agreement . . . pursuant to which [ATN] will provide certain management services to GT&T and GT&T will pay [ATN] a fee . . . equal to not less than six per cent (6%) of the aggregate gross income of GT&T".

This acquisition financing agreement was shown to representatives of GOG in advance of the January 28, 1991 transfer date, and was approved by GOG in the form

of an opinion dated January 28, 1991 of Julien C. Nurse S.C., Solicitor General of Guyana acting on behalf of the Attorney General of Guyana.

Moreover, contrary to Mr. Tyndall's assertion, the advisory fee agreement between GT&T and ATN was duly authorized and executed on behalf of GT&T.

On January 28, 1991, at a closing held in my offices in New York City, the Board of Directors of GT&T was reconstituted to consist of four persons designated by ATN and two persons, Mr. Edward Mortimer Downer and Mr. Patrick Chandra Bahn Persaud, appointed by the GOG. These persons unanimously approved the advisory contract between GT&T and ATN with its 6% fee, unanimously appointed Mr. James Kean as general manager of GT&T, and unanimously authorized Mr. Kean to execute that agreement on behalf of GT&T.

Accordingly, the record is unmistakably clear that GT&T's obligation to pay 6% advisory fees to ATN was an integral part of the agreements by which ATN made its investment in GT&T and was well known to and approved by the GOG in January 1991.

Yours faithfully,
Lewis A. Stern, P.C.

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How could the Board of GT&T have approved the advisory fees contract before the completion of the sales transaction?

March 2
2000

Dear Sir,
I am responding to a letter by Mr Lewis A. Stern, P.C., an attorney representing ATN, captioned 'GT&T's obligation to pay 6% advisory fees to ATN was an integral part of the privatisation deal' (SN 25-01-2000).

Mr Stern agrees with me that the purchase agreement does not stipulate a six per cent fee. Section 6.10 of the agreement states as follows:-

Where GT&T has engaged ATN or any of its subsidiaries to render any management services, GT&T shall pay fees in foreign currency in such amounts as the board of directors of GT&T shall approve.

However, Mr Stern seems to believe that GT&T's Board is free to set the fee at whatever level it chooses. Here we part company, for reasons that will appear later.

Mr Stern is correct in say-

ing that an earlier draft of the agreement (which was initialled by the heads of the Guyana and ATN negotiating teams, on December 18, 1989) included a specific six per cent fee. The draft was sent to me in Washington DC, a few days later, and I was so alarmed by some of its provisions, that I wrote to President Hoyte, suggesting that he should suspend further action, to give me an opportunity to present my views. The President accepted my suggestion and, after receiving from me a fifty-one page comment, ordered that the agreement be re-negotiated.

One of the terms of the draft that I found most objectionable was the six per cent advisory fee. I wrote, inter alia, that the arrangement was "little more than a device to enable ATN to extract a greater surplus from its

[GTC's] operations." Mr Stern has confirmed this opinion when he wrote that: "NTIF was relying on the cash flow which ATN would generate by this six per cent fee in evaluating ATN's ability to repay NTIF."

What is most incredible about the advisory fees contract, which was signed on January 28, 1991, was that the six per cent fee is payable to ATN, after all, repeat all, expenses incurred by ATN in providing the services, including overhead expenses, have been paid for by GT&T. GT&T is giving away six per cent of its gross revenues for absolutely nothing in return. Moreover, the fee is payable, irrespective of the amount of service performed or even if no service is performed. Mr Stern should say whether this statement is false. His claim that the government of

Guyana had agreed, behind the scenes, to this flagrant exploitation of the Guyanese people is a serious indictment.

Mr Stern claimed that "the advisory fee agreement was duly authorised and executed on behalf of GT&T." For this to be true, he must resolve the following enigma: If the advisory fees contract had to be signed and delivered to the lender (NTIF) before the loan could be approved and disbursed to ATN, and if the proceeds of the loan had to be paid over to the GOC, before ATN could acquire its 80% equity share and its control of GT&T, how was it possible for the Board of the privatised GT&T to be legally constituted for the approval of the contract and for Mr Kean to sign the contract in the capacity of General Manager of GT&T,

Turn to page 7

How could the Board of GT&T have approved the advisory fees contract before the completion of the sales transaction?

From page 6

before the completion of the sales transaction?

Presented in a more schematic way, the sequence of events was as follows: (i) signing of advisory contract by Mr Kean on behalf of GT&T; (ii) delivery of advisory contract to NTIF; (iii) approval of loan by NTIF; (iv) payment of loan proceeds to ATN; (v) transfer of loan proceeds by ATN to GOG; (vi) acquisition of shares and control of GT&T by ATN. It is only after stage (vi) that Mr James Kean could have assumed the post of General Manager of GT&T, with legal authority to enter into agreement on behalf of the company. I find it logically and logistically impossible for Mr Kean to sign the agreement at stage (i), as the General Manager of GT&T, which was obviously a state-owned corporation until stage (vi) was completed.

The Acquisition Financing Agreement (AFA) is an agreement exclusively between ATN and NTIF. Nothing contained in that agreement could impose an obligation on the Government of Guyana or on GT&T and its consumers. I fail to see the contractual relevance of the Solicitor General's opinion to the AFA, or to the Advisory Fees Contract.

GT&T's licence and the PUC Act require the commis-

sion to honour the purchase agreement (which does not stipulate a six per cent fee) and any other agreement that exists between government and a public utility or an investor. There is no other agreement between the government and ATN and none, as far as I am aware, between the government and GT&T. The commission has no obligation, under this mandate, to honour any other agreement, neither the AFA nor the Solicitor's General opinion, even if the latter could be elevated to the status of an agreement.

The Public Utilities Commission does not have the authority to tell GT&T what price it should pay for goods and services procured for its business. That is a prerogative of its management (or its Board). In this sense, there is nothing unusual about the provision contained in the purchase agreement, which says that the board shall fix the amount of the fees. But it is reasonable to expect that the directors of a company will not approve the payment of unjustified charges to the company's suppliers, whoever they may be.

The commission has a statutory duty to disallow any cost, or any portion of a cost, that it considers 'unjustified and unreasonable' for rate making purposes. (Section 35(1) of the PUC Act). All

disallowed costs are below the line items, meaning that they have to be charged against shareholders' profits. This authority is at the heart of rate of return regulation.

There are thousands of reported decisions of regulatory commissions and courts in the US state and federal systems, approving or confirming such disallowances. Mr Stern does not have to go further than the US Virgin Islands for commission and court decisions against Vitelco, an original subsidiary of ATN. He will find that the Virgin Islands public service commission rejected an agreement between Vitelco and ATN for a similar six per cent advisory fee.

There is one final hurdle for Mr Stern. The imposition of a charge on consumers, that is not matched by any value received, as in the case of the six per cent advisory fee, amounts to confiscation of the property of consumers, just as the fixing of rates that do not allow a utility to recover its costs amounts to confiscation of the capital of the investors. GT&T is not a tax authority; it is a service agency. Guyanese enjoy the same constitutional protection against confiscation of property as citizens of the USA. No contract, no statute, can override the constitution.

Yours faithfully,
Joseph A. Tyndall



Annex 3

EMBASSY OF THE REPUBLIC OF GUYANA

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WASHINGTON, D.C. 20008
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FEDERAL COMMUNICATIONS COMMISSION
DIRECTOR OF THE SECRETARY

THE FOLLOWING ARE THE FACTS AS THEY PERTAIN TO AUDIO TEXT OR "X-RATED PHONE LINES" SERVICES IN GUYANA, AND THE GOVERNMENT'S STAND ON THE MATTER.

1. The Guyana Telephone and Telegraph Company Limited (GT&T), 80 percent of which is owned by a U.S. entity, commenced offering audio text services sometime in 1992. The Government believes that a great proportion of GT&T's audio text service is of an offensive nature.
2. The Government is concerned that GT&T is departing from the stated objective of its license to operate the business of providing telephone facilities to the people of Guyana, and is in fact making its business mainly one that provides audio text services to customers outside Guyana. (As the article admits, persons living in Guyana have no access to the audio text services of GT&T). According to a release issued on May 7, 1996 by the US company, Atlantic Tele-Network, Inc. (ATN), the principal shareholder of GT&T, during the three-month period ending on March 31, 1996, a total of 63.9 percent of the international call minutes through the GT&T system was taken up by audio text services. The figure for the corresponding period in 1995 was 51.6 percent. While audio text revenues of GT&T are rapidly rising, the company's investment in providing telephone service seems to be declining. It is understood that for this year only 3000 lines have been added so far.
3. The Government is concerned that the company's pre-occupation with audio text service is not matched by a commitment to fulfilling its contractual obligations regarding expansion of, and provision of basic telephone service to Guyanese. In fact, these obligations are neglected and this has necessitated the filing of a complaint by the Government against GT&T before the Guyana Public Utilities Commission, regarding the company's continuing failure to implement an Expansion and Service Improvement Plan that was contractually required to be fulfilled some 19 months ago. The Government, from time to time, has directly made known to the company its displeasure at the company's increasing focus and reliance upon audio text services. Government nominated members of GT&T's board have also repeatedly voiced these concerns of the Government.

4. As early as February 1993, following the change in political administration after the October 1992 elections -- the first free and fair elections in 25 years -- the new Government wrote to GT&T regarding discontinuance of offensive audio text services. Again in 1994, the Government by letter requested that offensive audio text services be terminated. This written request was followed by a meeting between the President of Guyana, Dr. Cheddi Jagan and senior members of the Cabinet of Ministers and representatives of the company at which the Government's request was repeated. The Government on this latter occasion stressed its displeasure over the offensive nature of the service offered and stated that the international image of the country was being tarnished and, further, that offering such offensive services contravened the law. The religious bodies and the general public are also pressing for termination of offensive audio text services.
5. In response to the Government's request for the termination of the service, representatives of the company claim that since audio text services generate substantial revenues, withdrawal of the service would necessitate great increase in rates charged for telephone services, e.g., approximately 1000 percent in domestic rates and approximately 92.9 percent in international rates, in order to earn their contractually assured 15 percent return on investment.
6. On this argument by GT&T, the Government is of the view that it will be the Public Utilities Commission of Guyana that will make the determination as to the necessity of any rate adjustments, consequent upon the termination of GT&T's self-imposed reliance upon audio text services. The Public Utilities Commission, by application of its statute, will also determine the method by which any necessary increases may be collected.
7. It should also be noted that the Public Utilities Commission is actively considering measures for reducing the extent to which facilities are provided for audio text services. One public hearing on this matter has already taken place; another occurred on September 24, 1996.

September 25, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IX. ADDITIONAL FINDINGS

A. Lack of Accounting Controls

- Based upon evidence given in the deposition of Senior GT&T management personnel, it appears that senior management of GT&T in Guyana lack fundamental and significant controls that would be expected of officers responsible for serving the public.³ Several individuals who are employees of ATN (as opposed to the GT&T) have frequent and direct access to the most critical accounting and other systems of GT&T.⁴ Senior management in Guyana do not have complete knowledge of what these individuals do when they access these systems nor are these individuals required to request any permission before the systems are accessed. Further, any control and description as to what is done when the systems are accessed is simply not available and no one in the current management team could provide reasonable explanations of these actions to the PUC.
- The signatures of Senior Executives who are not currently in the employ of GT&T (e.g. James Keanes and Jim Heying) continued to be used on letters authorizing payments to the Bank of New York, Banco Popular de Puerto Rico and other banks. Checks drawn on these banks through May 1998 are signed with signature stamps with their names on them. Two

³Deposition given by Mr. Roopnauth, the General Manager, on November 2, 1998 and that given by Ms. Jagan on August 11 and 12, 1998.

⁴Specifically Kevin Hemmingway, Lawrence Fucella, Joseph Charles and Mike Morgan as brought out in the depositions of August 12, 1998 given by Miss Jagan, the Deputy General Manager Finance.

junior officers of the Company control these signature stamps.⁵ One of these junior officers is allowed to make payments without the written authority of the Deputy General Manager Finance or any other more senior officer.⁶

- The accounting and audiotext systems could be accessed from overseas and the Company could not provide us with the identity of or the level of control granted to those persons who have access to these systems.
- Overseas consultants in at least two cases are employed on what the Deputy General Manager Finance called "a gentleman's agreement" between the company and them. No written contract exists to allow for independent verification of their terms of employment.⁷ Neither could the Deputy General Manager testify to their terms of employment, including their rates of pay and how their monthly payment statements relate to those rates if any.⁸
- At least two such consultants, Kevin Hemmingway and Mike Morgan who reside in Nebraska and the US Virgin Islands respectively and who work out of those locations, have access to the information system of GT&T. In the case of Mr. Hemmingway, the access is to the accounting system, and in Mr. Morgan's case to the audiotext system. In neither case could

⁵See page 21 of the transcript of the hearing of August 12, 1998.

⁶See page 8 of the transcript of the hearing of August 12, 1998 for Ms. Batson's deposition.

⁷See testimony of Ms. Jagan on page 74 of the transcript of the hearing of August 11, 1998.

⁸See testimony of Ms Jagan on pages 61 and 74 of the transcripts of the hearing of August 11 and 12, 1998 respectively.

the limits of their access be established. According to the Deputy General Manager Finance and the Director of Data Processing they can be requested to perform any task the company requires them to do.⁹

- The tendering systems are frequently abrogated by the General Manager even though the system is clearly outlined in writing and is part of the manual of procedures.
- Too often did our investigation have to rely on the words of a senior officer for verifications that should have been part of an audit trail. In some cases, we had to wait inordinately long periods for information that should form part of the company's day to day database, while in other cases information was not produced at all.
- Questions asked of the company regarding its contractual services were not always properly answered, e.g. discovery of 1-97 and contractors' payments for 1997. Answers to Staffs discovery were often incomplete, vague, and/or non-responsive.

B. Audiotext Services

In Tariff Notice 1-95, GT&T filed for an increase in rates without including the contribution from audiotext services. During those proceedings, it was determined by the Commission that

⁹See testimony of Ms Jagan on pages 58 and 59 of the transcript of the hearing of August 12, 1998.

inclusion of the audiotext contributions would eliminate the need for rate increases. Although GT&T did not agree with the PUC decision in that filing, GT&T has included the contribution from audiotext services in this rate filing, but the margin and total contribution to GT&T had dropped precipitously from the levels existent in 1995. A detailed investigation was undertaken to determine the causes for this sharply decreased contribution.

The following summarizes our investigation into audiotext services:

- Certain actions of Senior GT&T management personnel appear highly questionable. Payments to audiotext providers take an irregular form. Instructions to provide payments are provided on blank sheets of paper to various persons in the hierarchy required to make such payments. There appears to be a complete lack of understanding, or even a willingness to inquire, as to where these payments are going and to whom these payments are made. In addition, one of the principals of the major audiotext providers uses a private jet for his private travel purposes, is invoiced for the use of this jet and an informal offset is requested for these transactions from monies allegedly owed him by GT&T.¹⁰ From a business standpoint, these actions appear highly questionable and it would be much more appropriate if ATN directly made the collection from this individual rather than the method currently employed. We could not ascertain from the depositions whether the expenses made for audiotext are legitimate and made to legitimate persons. In our computations in this

¹⁰Deposition given by Mr. Stata Deputy General Manager Legal and Corporate Affairs on August 13, 1998 and found on pages 21 and 22 of the transcript of the hearing.

proceeding, we have assumed that the audiotext payments are legitimate. To the extent that the PUC wishes to make a decision that the legitimacy of audiotext expenses have not been established and therefore should be disallowed, G\$ 3.7 billion in audiotext expenses would be disallowed as an operating expense.

- GT&T senior personnel could not identify by name the President of Beylen Telecommunications, the largest audiotext provider.¹¹ The Deputy General Manager, who is responsible for making payments on the audiotext contracts, could not recognize his signature even though Mr. Noble frequently requests payments to be made not only to himself but to others on his behalf.¹²
- GT&T has contracted to operate audiotext services with four audiotext providers whose equipment is located on GT&T's premises, but could provide no information on the business credentials of the principal officers of the company themselves. Even worse, the practice of inviting companies to locate on GT&T's premises without first investigating them to establish their bona fides seems to be extremely irregular and not business-like, particularly when the government of the country is a minority shareholder.¹³

¹¹See pages 32 and 33 of the transcript of the hearing of August 12, 1998.

¹²See pages 32 and 33 of the transcript of the Hearing of August 12, 1998 for the deposition of Ms. Jagan, Deputy General Manager, Finance.

¹³See pages 80 and 81 of the transcript of the hearing of August 11, 1998 for deposition given by Ms. Jagan, Deputy General Manager, Finance.

- GT&T raises invoices on itself for services provided by the audiotext providers. We have been informed that there has been no dispute or investigation of the amounts provided to Beylen and that full reconciliation occurs without adjustments. No audit trail exists for any of the transactions and no independent verification could be had. Even the phone number given on one of the documents for Beylen Telecommunications was out of order when called. Serious doubt of the appropriate contribution to GT&T has been raised by these items.¹⁴
- Faxes sent to GT&T (on which large payments were made) showed neither evidence of their origination nor the signature of anyone authorized to instruct that such payments be made.¹⁵ Specimen signatures of persons authorized to give such instruction could not be produced.

¹⁴See pages 12, 13, 14, 19 and 40 of the transcript of the hearing of August 12, 1998 for the deposition of Ms. Batson and Ms. Jagan.

¹⁵See pages 20 – 27 of the transcript of the hearing of August 12, 1998 for the deposition of Ms. Batson.

C. **Affiliate Relationship**

One of the largest expenses in the test year is advisory fees that are accrued and paid to ATN. Staff investigated this item and the relationship between GT&T and its parent ATN. The following summarizes our investigation into this matter:

- Not all payments on behalf of ATN were charged to ATN, e. g. some payments made on behalf of Mr. Humphrey were charged to GT&T.
- ATN is being paid advisory fees, which according to GT&T is in keeping with the practice of the industry in payment for services provided. GT&T has also paid expenses on behalf of ATN, but has not charged back these amounts to its parent.
- No invoice for services rendered was provided to GT&T by ATN.
- GT&T could not provide a detailed list of services and related costs that would tie to the amount of advisory fees; and
- GT&T did not perform any meaningful comparison to justify these charges as reasonable compared to services that might be performed by other agencies.

To summarize our investigation into the practices and procedures of GT&T: Poor internal controls were found, especially when involving GT&T affiliates, making suspect the assumption of the reasonableness of the costs to provide services.

X. RECOMMENDED FUTURE PROCEEDINGS

We also recommend that the PUC consider further investigations into the policies and practices of GT&T as a result of what has been discovered thus far. We suggest that these issues be addressed by a separate and distinct investigation.

1. A complete review of the accounting and financial systems. GT&T auditors should provide recommendations for appropriate checks and balances to prevent the loose accounting controls and irregular affiliate transactions.
2. A complete review and documentation of current accesses to the system by ATN personnel. A description of what is currently allowed and recommendations for providing stricter control of the system from Guyana, and consideration of the propriety of access from foreign sites should be examined.
3. A review and documentation of the amounts paid to the audiotext providers and a complete reconciliation of current and future audiotext revenues and expenses. Such documentation would included investigation of current and proposed contracts with these providers and

establishment of a complete audit trail for these transactions. The Commission should have all data needed to ensure that the amounts paid to the provider are consistent with the contract and to establish an audit trail for the minutes attributable to the revenues.

4. An investigation into whether GT&T has transferred profits to related or affiliated interests in order to raise rates and avoid Guyana taxes on these services. This investigation should include whether any of the audiotext providers are in any way affiliated with GT&T, ATN, the primary shareholders of ATN or any entity in which the primary shareholder has an interest.

5. Staff recommends that billing for all GT&T calls that are time sensitive should be billed less than one minute. This would include all inter and intra exchange calls as well as all outbound long distance calls. It is our understanding that in order to accomplish this billing change, additional software and programming may be required. In addition, this recommendation would have some financial impact on GT&T since, at the current time, GT&T bills and collects for all calls rounded up to the next full minute of use. It is our recommendation to the PUC to have a full hearing on this issue during the amended rate filing. GT&T should be instructed to file all information with regard to the following:

1. All technical requirements to institute billing on a fraction of a minute basis.
2. The net investment required to make the change; and
3. The net financial impact on GT&T from implementing such a change.

This information should then be appropriate reviewed, commented on and a final decision reached by the PUC in the amended rate filing.