BRAD PURDY

DEPUTY ATTORNEY GENERAL

IDAHO PUBLIC UTILITIES COMMISSION

472 WEST WASHINGTON STREET

PO BOX 83720

BOISE, IDAHO  83720-0074

(208) 334-0357

Street Address for Express Mail:

472 W WASHINGTON

BOISE ID  83702-5983

Attorney for the Commission Staff

BEFORE  THE  IDAHO  PUBLIC  UTILITIES  COMMISSION

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| IN THE MATTER OF THE APPLICATION OF GTE NORTHWEST INCORPORATED IN TARIFF ADVICE 96-15 TO REVISE TOLL RATES AND INTRODUCE TWO NEW INTRALATA CALLING PLANS. | )  )  )  )  )  ) | CASE NO. GTE-T-97-1  COMMENTS OF THE COMMISSION STAFF |

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Brad Purdy, Deputy Attorney General, and submits the following comments.

On November 19, GTE filed Tariff Advice 96-15 with a requested effective date of February 11, 1997.  The filing proposes to offer two new toll discount calling plans, one for business and one for residential customers, and to restructure Message Telecommunications Service (MTS) by eliminating the distance-sensitive rate steps and replacing the current time-of-day discounts with peak and off-peak rates.  The Commission subsequently issued Order No. 26762 suspending the effective date and issued a Notice of Modified Procedure soliciting comments in response to the Company’s filing.  Staff’s comments in response to the filing follow.

Calling Plans

GTE’s proposed “GTE’s Easy Savings Plan for Residence” would provide various discounts based on the amount of monthly intraLATA toll usage.  GTE’s proposed discounts are:

Monthly Toll Usage VolumeDiscount

$ 0.00 -   9.99  0%

10.00 -  24.9910%

25.00 & over25%

The discounts would be applied when the customer meets or exceeds the required toll usage dollar amount on direct-dialed station-to-station calls, customer-dialed calling card station-to-station calls, operator-handled person-to-person calls and operator-handled station-to-station calls.  The discount would not be applied to calls made under any of GTE’s other calling plans.  No monthly recurring rate or nonrecurring charge would be incurred with the plan.  Subscription would be limited to residential customers.

“GTE’s Easy Savings Plan for Business” would provide discounts based on the amount of monthly intraLATA toll usage and the length of service commitment.  Like the residential plan, these discounts would be applied when the customer meets or exceeds the required toll usage dollar amount on direct-dialed station-to-station calls, customer-dialed calling card station-to-station calls, operator-handled person-to-person calls and operator-handled station-to-station calls.  GTE’s proposed discounts are:

MonthlyMonth-to-Month1-Year2-Year3-Year

Volume       Discount       DiscountDiscountDiscount

$          0 - 24.99   0%10%15%20%

     25.00 - 99.9910%15%20%25%

  100.00 - 199.9915%20%25%30%

  200.00 and over20%25%30%35%

Calls would be rated using sub-minute rating with the initial 18 seconds rated at the initial period rate and subsequent six second increments rated at the additional period rate.  This sub-minute rating program will result in additional savings for participants of the plan.  No monthly recurring rate or nonrecurring charge would be incurred.  Customers could select one-, two- or three-year term commitments and could move from shorter to longer commitments without penalty.  Early termination penalties of $100, $200 or $300 would be applied to customers who withdrew from the plan before their terms were completed.  This plan was initially proposed to be available only to business customers.

Staff is concerned about the possible deaveraging or discriminatory effect that results from limiting these Title 61 services to certain classes of service.   After some discussion with GTE, the Company has submitted revised pages that do not restrict GTE’s Easy Savings Plan for Business to only business customers.  GTE has declined, however, to lift the restriction from its residential plan.

Idaho Code § 61-315 provides that, “[N]o public utility shall establish or maintain any unreasonable difference as to rates, charges, services, facilities or in any other respect, either as between localities or as between classes of service.”  (emphasis added)   The Idaho Supreme Court expanded:

Since the Commission has power to regulate and fix charges and rates, but a utility is enjoined from establishing rates or charges which are preferential or discriminatory, it follows by implication that the Commission’s authority may only be exercised in such a way as to fix nondiscriminatory, and nonpreferential rates and charges.

Idaho State Homebuilders v. Washington Water Power, 107 Idaho 415, 690 P.2d 350 (1984).Regarding rate differentiation between classes of service, the Homebuilders Court held:

[a]ny such difference (discrimination) in a utility’s rates and charges must be justified by a corresponding classification of customers that is based upon factors such as cost of service, quantity of electricity used, differences in conditions of service, or the time, nature and pattern of the use.

107 Idaho at 420 (Citing Utah-Idaho Sugar Co. v. Intermountain Gas, 100 Idaho 368, 597 P.2d 1058 (1979).

Based upon the ruling in Homebuilders, Staff cannot find a reason  to justify GTE’s exclusions.  Historically, rate differentials have been applied to basic local service-related charges based on whether the service is business or residential.  The rationale for these differentials is that business services are larger and more sensitive to outages than are residential services.  Businesses generate most of their calls during peak periods, thus placing greater demands on switching systems and facilities.  Business systems are often more complex, and service and maintenance efforts are consequently greater.  These differences generate different costs and different technical support for providing service and therefore fit the justification imposed by the Homebuilders case.  However, there are no differences between a business call and a residential call.  None of the differences (if any) in the cost or facilities required to transmit telephone calls can be attributed to a class of customers, such as business or residential, and therefore, a difference in rates, terms or conditions is discriminatory.  Moreover, Staff fears that allowing this discrimination will eventually result in differences that will have harmful effects on rural Idaho customers.

Staff sees no valid reason to restrict a GTE customer from using a calling plan if that customer is willing to comply with the terms and conditions set by the Company.  Assuming that the rates GTE sets for calls are designed to recover costs and produce a profit, any stimulation created by a special calling plan should result in greater revenue, whether the caller is a business or a residential customer.

GTE argues that a number of Title 61 and Title 62 companies have implemented similar discriminatory rates.  However, Staff has attempted to ensure, when accepting such rates for filing, that even though rates may be designed for a particular class of service, a customer outside of that class of service may subscribe to the plan in question if the customer so requests and meets the requirements of that service.  Most plans require volumes or monthly recurring charges that make them undesirable to classes other than those for which they are designed.

Revision of Message Telecommunications Services

GTE also proposes a restructure of its Message Telecommunications Services tariff.  Currently, GTE’s rate schedule for MTS are as follows:

RateInitialEach Add'l

MileageMinute   Minute

 0 - 10.16.07

11 - 16.22.10

17 - 23.31.16

24 - 30.38.27

31 - 40.46.34

41 - 55.51.38

56 - 70.54.43

71 & over.58.45

GTE provides a 30% discount for evening rates (5:00 p.m. to 11:00 p.m. weekdays and Sundays) and a 45% discount for night and weekend rates (11:00 p.m. to 8:00 a.m. week days, all day Saturday and 11:00 p.m. to 5:00 p.m. Sundays)

GTE proposes flat rates of $0.32 per minute during peak times and $0.21 for off-peak times.  (GTE proposes to discontinue the rates for mileage bands of 23 miles or less since the Local Calling Plan implemented throughout GTE’s service area makes calls in these bands local calls rather than MTS.)  Peak times are identified as between 7:00 a.m. and 7:00 p.m. Monday through Friday and off-peak times are all other times and holidays.  GTE has built distance-sensitive steps into its proposed rate schedules, but at least for the present time, it does not propose distance-sensitive rates.  It has built separate but identical peak and off-peak schedules for each of the five following services:  Direct Dialed Station-to-Station; Customer Dialed Calling Card Station-to-Station, Operator Handled Station-to-Station; Operator Handled Person-to-Person; and Coin Telephone Station-to-Station.  The currently tariffed additional charges for operator handling will continue to apply.

GTE reported that although “the off-peak discount will begin two hours later and end one hour earlier during the week, the discount will be increased from 30% to more than 34%.  This will be beneficial to most residential customers and some business customers.”  Staff notes that calls made in the 24-30 mile band will almost always cost more in GTE’s proposed plan than they do now, as will most calls made between 7:00 a.m. and 8:00 a.m. and 5:00 p.m. and 7:00 p.m.

The Commission has received eight calls and letters from customers who have received GTE’s notice of the proposed plans and they were unanimous in their objection to GTE’s proposal.  Nearly all of them objected to losing the evening and nighttime discounted hours they currently enjoy, although some were under the misunderstanding that GTE’s proposal would take away from them the ability to use the Pacific/Mountain Time Zone to their advantage.  GTE’s plan only applies to GTE's intraLATA calling, and as such, will not cross the time zone.

The net annual result of GTE’s proposed tariff, as GTE calculates it, would be a revenue reduction of $737,459.  Of this, a large amount is attributable to reduced MTS revenue, with a significant number of minutes projected to migrate to one of GTE’s new toll plans. (The actual numbers are reported in a proprietary cost support document and is available for perusal by authorized persons.)  GTE’s current annual revenue is $94,633,000, according to its 1995 annual report, and GTE reports its 1996 revenue from toll at $6,323,994.

One issue is whether a decrease of nearly $750,000 per year to MTS rates is in the public interest, or whether consumers may be better served by applying a decrease to local exchange rates or to access rates.  FCC rules regarding interstate access rates are expected very soon, and one likely result will be a downward pressure on intrastate access rates as well.  GTE’s proposed reduction of revenue due to its revised toll structure implies that it can afford to forego this revenue without harming customers.

Finally, AT&T has objected to this tariff on the grounds that GTE’s access rates exceed its proposed rates during the hours of 7:00 and 11:00 p.m.  GTE’s proprietary cost support information calculates that a weighted average for its toll service will produce a small excess of revenue over access rates.  Staff does not know how much other cost AT&T incurs to provide toll within the GTE area, but Staff notes that much lower access costs in U S WEST’s and other service areas have not produced notably lower toll rates for AT&T calls.

Staff Conclusions

AT&T argues that the slim margin of revenue over access charges that GTE proposes results in a price squeeze and there is no room for interexchange carriers to price their calls above cost and still compete with GTE.  What AT&T does not say is that, to maintain averaged pricing within the state of Idaho, the access charges it should use in its calculations are the weighted averages of all access charges in the state.  According to the 1996 Universal Service Report, the statewide average access rate is $0.129 for an intrastate call.   AT&T’s MTS rates range from $0.21/minute for a discounted nighttime call in a 23-55 mile band to $0.52 for a daytime call over distances greater than 292 miles.  AT&T’s margin of revenue over average statewide access cost ranges from $0.08 to $0.30/minute.   It is true that GTE’s narrow margin could be interpreted as a price squeeze if it were only considered for the GTE service area, but AT&T and other interexchange carriers do not compete solely on an intraLATA basis.  GTE has submitted confidential exhibits showing that its proposed rates are sufficient to cover its cost of access as well as a reasonable profit.  GTE is required only to impute its access charges when setting a pricing floor, so we do not have cause to reject GTE’s proposed tariff on the basis of the narrow margin.  Certainly it would not be reasonable to expect GTE to impute an additional $0.08 or more in order to keep its rates at a level where AT&T or other interexchange carriers could “compete.”

Staff acknowledges GTE’s proposal as an attempt to create an attractive package for its customers as the Company nears the implementation of its intraLATA equal access program.  Will GTE’s proposal result in a noncompetitive environment where other carriers will not provide service to GTE customers?  Staff believes it will not.  Competitive carriers will carry calls across the state and they will average their rates based on averaged access charges and offer interstate as well as intrastate toll in packages that are attractive to GTE’s customers.  GTE believes that its proposed reduction of toll rates will be in the public interest because it will reduce customer costs.  In fact, GTE proposes to give a nearly $750,000 reduction to its customers.  Those customers who make their calls between 7:00 and 8:00 in the morning and between 5:00 and 7:00 in the evening will see increased costs due to the removal of GTE’s time-of-day discounts during the period before its proposed off-peak rates set in.  This charge will not, however, affect the customer’s interLATA calling, which is frequently used to make calls to businesses in southern Idaho.  Those customers with significant calling volumes will see further savings if they use GTE’s new calling plans.  Staff believes that customers will be willing to adjust their calling patterns to work around GTE’s proposed peak and off-peak time periods once they understand that their interLATA calling patterns will not be affected.

It is not Staff’s position, however, to make the arguments for GTE or AT&T.  Staff is concerned about the overall effect of these rate changes over time.  In order to evaluate this effect, we must look at the events on the horizon.  The FCC has opened a Notice of Proposed Rulemaking (CC 96-262) that will set rules for interstate access charge reform for all incumbent local exchange carriers that will, hopefully, result in greater toll competition.  GTE has indicated that it plans to adjust its rates but is not willing to make a commitment until after the FCC rules are in place.  GTE is a fully regulated company, and as such, has had its rates set at a level to recover costs.  Unless GTE is overearning by a significant amount, it is likely that decreasing access rates will result in increasing rates for other services in order to maintain revenue neutrality.  It is implicit in its proposal that GTE is overearning by nearly $750,000 at a minimum.  Would it be of greater benefit to the public interest to use this money to offset anticipated increases in other services?  There will not be enough evidence to evaluate this possibility until GTE brings its access rate plan to the Commission.

Staff concludes that there are two options:  First, the Commission might defer approval of GTE’s restructured toll rates until we have the opportunity to consider its access rates and any effect that revisions will have on local rates.  Second, the Commission might approve this rate restructure with the knowledge that these rates are subject to revision when the Commission evaluates GTE’s adjustment to its access rates.  Either way, Staff proposes that GTE be required to bring in its plan for revised access rates to the Commission by the end of the year.

Staff does not know if GTE is willing to implement its calling plans without its overall toll restructure, but Staff would like to see the calling plans put into effect without the class-of-service discriminations discussed above.

DATED  at Boise, Idaho, this               day of February 1997.

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Brad Purdy

Deputy Attorney General

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Birdelle Brown

Telecommunications Analyst

bb/bp/bls/N:gtet971.com