

**Before the  
Federal Communications Commission  
Washington, D.C. 20544**

In the Matter of	)	
	)	
GTE Service Coporation	)	ASD File No: 01-19
	)	
Petition for Waiver of Section 32.27(c)	)	
of the Commission's Rules	)	

**MEMORANDUM OPINION AND ORDER**

Adopted: February 16, 2001

Released: February 20, 2001

By the Chief, Accounting Safeguards Division, Common Carrier Bureau:

**I. INTRODUCTION**

1. On March 1, 2000, GTE Service Corporation (GTE) filed a petition for waiver of the affiliate transactions rules,<sup>1</sup> as codified in section 32.27 of the Commission's rules.<sup>2</sup> Specifically, GTE seeks permission to use fully distributed cost, in lieu of fair market value, to value services GTE provides to affiliates and former affiliates. BellSouth Corporation (BellSouth) filed comments in support of GTE's petition.<sup>3</sup> In this Order we grant GTE's request for a waiver of the affiliate transactions rules.

**II. BACKGROUND**

2. The affiliate transactions rules set forth the procedures that all incumbent local exchange carriers (ILECs), other than average schedule companies, must use in recording transactions between regulated and nonregulated affiliates.<sup>4</sup> Section 32.27 of the Commission's rules requires an ILEC to record transactions for services provided to its affiliated entities at the greater distributed cost (FDC) or fair market value when, as here, no tariff rate, prevailing price, or publicly filed agreement exists. This assures that the ratepayer receives the most reasonably advantageous result from the transaction and protects the ratepayer from subsidizing the entity's affiliate activities.

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<sup>1</sup> Petition for Waiver GTE Corporation., filed March 1, 2000 (GTE Waiver Petition). See GTE Files Petition for Waiver of the Commission's Affiliate Transactions Rules," *Public Notice*, 15 FCC Rcd. 5544 (2000).

<sup>2</sup> 47 C.F.R. § 32.27.

<sup>3</sup> See Bell South Comments.

<sup>4</sup> See 47 C.F.R. § 32.27.

3. In its petition, GTE states that it currently provides, or will provide, a limited set of services to entities that are GTE Corporation subsidiaries.<sup>5</sup> GTE further states that the subsidiaries receiving these services have been or will be sold to outside interests. The services, and costs of service, that GTE provides (or will provide) to its subsidiaries are detailed below.

4. In its waiver petition, GTE states that on September 1, 1999, General Dynamics Corporation purchased three divisions of GTE Government Systems, a wholly owned subsidiary of GTE Corporation.<sup>6</sup> GTE currently provides the following services to General Dynamics Government Systems Corporation (GDGSC): accounts payable, payroll tax, tax and human resources, and “other miscellaneous services to GDGSC.”<sup>7</sup> GTE states that the value of these services covered under the service agreements between GDGSC and GTE were provided at a cost of \$1.4 million through December 1999. GTE states that all of these service agreements expire on or before April 1, 2000.<sup>8</sup>

5. GTE states that on December 10, 1999, Dyncorp purchased GTE Information Systems, a wholly owned subsidiary of GTE Corporation. GTE currently provides the following services to DynCorp Information Systems LLC (DCIS): payroll, human resources, pension plan, accounts payable, tax and other services. GTE states that these services are being provided on a transitional basis only, from the closing of the sale until December 31, 2000, for \$200,000 per month.<sup>9</sup>

6. GTE states that on January 16, 2000, it “announced” that Baltimore Technologies plc had agreed to purchase GTE Cybertrust Solutions Incorporated (Cybertrust). GTE further maintains that Baltimore Technologies plc has requested that GTE perform certain services upon the close of the sale, for a term “not expected to be longer than 12 months.” The services GTE will provide to Baltimore Technologies plc are accounting services, systems support, and “other services on a transitional basis.” The total cost of the services will be between one and five million dollars.<sup>10</sup>

### III. DISCUSSION

7. The Commission may grant a waiver of its rules for good cause shown.<sup>11</sup> Waiver of the Commission's rules is appropriate only if special circumstances warrant a deviation from

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<sup>5</sup> GTE Waiver Petition at 1.

<sup>6</sup> GTE Waiver Petition at 2.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> GTE Waiver Petition at 3.

<sup>10</sup> *Id.*

<sup>11</sup> 47 C.F.R. § 1.3.

the general rule and such deviation will serve the public interest.<sup>12</sup> Finally, a waiver request must be consistent with the principles underlying the rule for which a waiver is requested.

8. Due to the limited duration and scope of these services, we conclude that the burden of requiring GTE to perform a good faith determination of fair market value for services provided under these circumstances would outweigh any benefits derived from strict adherence to the rules in this specific situation. We agree with GTE that the public interest will be served by avoiding the cost to conduct fair market value studies for these relatively minimal service agreements. Accordingly, we grant the petition for waiver of section 32.27(c) filed by GTE. This waiver is limited to those corporate services provided under contract between GTE and the affiliates listed in the waiver request.

#### IV. ORDERING CLAUSE

9. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), 201-205, and 218-220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, and 218-220, and Sections 0.91, 0.291, 1.3, 1.106, 32.18, and 32.27 of the Commissions rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 1.106, 32.18, and 32.27, that the Petition for Waiver filed by GTE Services Corporation IS GRANTED to the extent described above in paragraph 8.

FEDERAL COMMUNICATIONS COMMISSION

Kenneth P. Moran  
Chief, Accounting Safeguards Division  
Common Carrier Bureau

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<sup>12</sup> See United States Telephone Association Petition for Waiver of Part 32 of the Commission's Rules, *Order*, 13 FCC Rcd 214 (Com. Car. Bur. 1997) (citing *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C.Cir. 1990) (*Northeast Cellular*); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. Denied*, 409 U.S. 1027 (1972) (*WAIT Radio*)).