

OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION

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BEFORE THE
ILLINOIS COMMERCE COMMISSION

ILLINOIS
COMMERCE COMMISSION

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CHIEF CLERK'S OFFICE

GTE NORTH INCORPORATED,)
GTE SOUTH INCORPORATED,)
AND JATO OPERATING TWO)
CORP.)

Joint Petition of GTE North Incorporated,)
GTE South Incorporated, and)
Jato Operating Two Corp.)
For Adoption)
Pursuant To 47 U.S.C. § 252 (i))
Regarding Adoption)
of an Interconnection Agreement)

00-0268

JOINT PETITION OF GTE NORTH INCORPORATED, GTE SOUTH INCORPORATED,
AND JATO OPERATING TWO CORP. REGARDING ADOPTION OF AN
INTERCONNECTION AGREEMENT

GTE North Incorporated and GTE South Incorporated (collectively ("GTE")) and Jato Operating Two Corp. ("Jato"), Joint Petitioners, pursuant to 47 U.S.C. §252(i), petition the Illinois Commerce Commission regarding the adoption of an interconnection agreement between GTE and Jato, on the following grounds:

1. Joint Petitioners GTE North Incorporated and GTE South Incorporated are each telecommunications carriers within the meaning of Section 13-202 of the Universal Telephone Protection Act of 1985, 220 ILCS 5/13-100, et seq. and each is authorized to provide and is currently providing, intraMSA exchange and interexchange telecommunications services to customers within certain certificated areas of the State of Illinois.

2. Jato represents that it is a certified provider of local dialtone service, authorized to provide service in the State of Illinois and that this adoption will cover only services in the State of Illinois.

3. Pursuant to Section 252(i) of the Telecommunications Act of 1996 ("Federal Act"), Jato notified GTE that it desired to adopt the terms of the Interconnection Agreement (the "Agreement") between GTE and AT&T Communications of Illinois, Inc., approved by the Illinois Commerce Commission (the "Commission") in Docket No. 99-AA-001. Subsequent to this, GTE and Jato signed a letter relating to Jato's adoption of the terms of the Agreement. A copy of this letter is attached as Exhibit 1.

4. Section 252(i) of the Federal Act provides:

(i) Availability to other telecommunications carriers:

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

The Commission approved the Agreement pursuant to Section 252(e) of the Federal Act. Accordingly, per Section 252(i) of the Federal Act, Jato has the right to adopt the Agreement's terms.¹

¹ GTE is submitting this petition pursuant to Section 252(i) of the Telecommunications Act of 1996 to notify the Commission of the adoption described herein. With respect to the prior applications of this nature, the Commission has elected to treat the adopted terms as a negotiated agreement. Because Section 252(i) requires the adoption to be implemented as a matter of law, GTE does not agree with the Commission's characterization of these agreements as negotiated

5. Subject to the terms of the letter attached as Exhibit 1, there are no outstanding issues between GTE and Jato relating to such adoption.

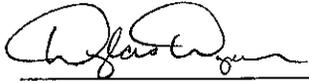
6. As stated in the attached verified Statement in Support of an Adoption of Interconnection Agreement, attached as Exhibit 2, GTE will continue to make the arrangements set forth in the Agreement available on the same terms and conditions to any duly authorized telecommunications carrier operating within the State of Illinois to the extent required and permitted under Section 252(i) of the Federal Act. Therefore, this filing is not discriminatory.

agreement. Nonetheless, GTE shall abide by the adopted terms in accordance with, and subject to, the adoption letter executed by GTE that is being submitted with this application as Exhibit 1.

THEREFORE, GTE and Jato respectfully submit this Adoption of an Interconnection

Agreement on this 3 day of April, 2000.

GTE NORTH INCORPORATED
GTE SOUTH INCORPORATED

By: 

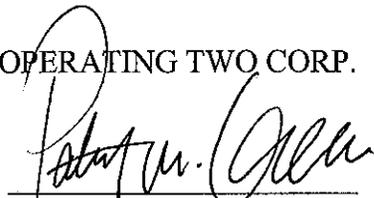
Tracy D. Pagliara
GTE Service Corporation
600 Hidden Ridge
HQE03J36
Irving, TX 75038

Tel. No. (972) 718-6362
Fax No. (972) 718-1250

Douglas Dziak
HUNTON & WILLIAMS
1900 K Street, N.W.
Suite 1200
Washington, D.C. 20006
Tel. No.: (202) 955-1880
Fax No.: (202) 778-2201

ATTORNEYS FOR GTE NORTH
INCORPORATED AND GTE SOUTH
INCORPORATED

JATO OPERATING TWO CORP.

By: 

Mr. Patrick M. Green
Jato Operating Two Corp.
1099 18th Street, Suite 2200
Denver, CO 80202

Tel. No. (303) 226-8397
Fax No. (303) 226-5628

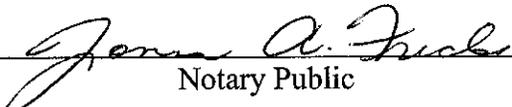
JATO OPERATING TWO CORP.

STATE OF ILLINOIS)
)
COUNTY OF _____) ss VERIFICATION

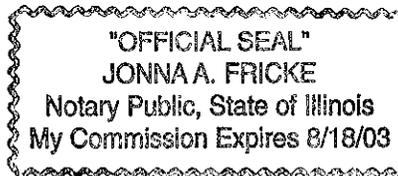
James R. Hargrave, being first duly sworn, deposes and states that he is the Assistant Vice President-Regulatory & Governmental Affairs for GTE North Incorporated, and as such; that he is authorized by GTE North Incorporated and GTE South Incorporated to make this verification; that he has read the above and foregoing Statement in Support of an Adoption of an Interconnection Agreement Among GTE North Incorporated, GTE South Incorporated, and Jato Operating Two Corp. and knows the contents thereof; and that said contents are true to the best of his knowledge, information and belief.


Assistant Vice President-Regulatory & Governmental
Affairs

Subscribed and sworn to before me, a notary public for the State of Illinois this 3 day
of April, 2000.


Notary Public

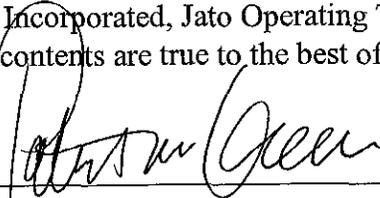
My Commission Expires:



STATE OF Colorado)
)
COUNTY OF Denver)

ss VERIFICATION

PATRICK M. GREEN, being first duly sworn, deposes and states that he is the VICE PRESIDENT - CARRIER RELATIONS for Jato Operating Two Corp.; that he/she is authorized by Jato Operating Two Corp. to make this verification; that he/she has read the above and foregoing Joint Petition Regarding Adoption of an Interconnection Agreement Among GTE North Incorporated, GTE South Incorporated, Jato Operating Two Corp. and knows the contents thereof; and that said contents are true to the best of his/her knowledge, information and belief.



Subscribed and sworn to before me, a notary public for the State of Colorado this 22
day ~~Nov~~ of March, 2000.



Notary Public

My Commission Expires: Jan 06, 2002





Connie Nicholas
Assistant Vice President
Wholesale Markets-Interconnection

GTE Network
Services

HQE03B28
600 Hidden Ridge
P.O. Box 152092
Irving, TX 75038
972/718-4586
FAX 972/719-1523

February 28, 2000

Mr. Patrick M. Green
Vice President – Carrier Relations
Jato Operating Two Corp.
1099 18th Street, Suite 2200
Denver, CO 80202

Dear Mr. Green:

GTE has received your letter stating that, under Section 252(i) of the Telecommunications Act of 1996 (the "Act"), Jato Operating Two Corp. ("Jato") wishes to adopt the terms of the arbitrated Interconnection Agreement between AT&T Communications of Illinois, Inc. ("AT&T") and GTE that was approved by the Commission as an effective agreement in the State of Illinois in Docket No. 99AA-001 (the "Terms")¹. I understand you have a copy of the Terms. Please note the following with respect to your adoption of the Terms.

1. By your countersignature on this letter, you hereby represent and commit to the following three points:
 - (A) Jato adopts the Terms of the AT&T arbitrated agreement for interconnection with GTE and in applying the Terms, agrees that Jato shall be substituted in place of AT&T in the Terms wherever appropriate.
 - (B) Jato requests that notice to Jato as may be required under the Terms shall be provided as follows:

To : Jato Operating Two Corp.
Attention: Mr. Patrick M. Green
1099 18th Street, Suite 2200
Denver, CO 80202
Telephone number: 303/226-8397
FAX number: 303/226-5628
E-Mail Address: pgreen@jato.net

¹ These "agreements" are not agreements in the generally accepted understanding of that term. GTE was required to accept these agreements, which were required to reflect then-effective FCC rules and other applicable law.

- (C) Jato represents and warrants that it is a certified provider of local telecommunications service in the State of Illinois, and that its adoption of the Terms will cover services in the State of Illinois only.
2. Jato's adoption of the AT&T arbitrated Terms shall become effective upon GTE's filing of this letter with the Illinois Commerce Commission and remain in effect no longer than the date the AT&T arbitrated Terms are terminated. The AT&T arbitrated agreement is currently scheduled to expire on June 28, 2002.
 3. As the Terms are being adopted by you pursuant to your statutory rights under section 252(i), GTE does not provide the Terms to you as either a voluntary or negotiated agreement. The filing and performance by GTE of the Terms does not in any way constitute a waiver by GTE of its position as to the illegality or unreasonableness of the Terms or a portion thereof, nor does it constitute a waiver by GTE of all rights and remedies it may have to seek review of the Terms, or to petition the Commission, other administrative body, or court for reconsideration or reversal of any determination made by the Commission pursuant to arbitration in Docket No. 99AA-001, or to seek review in any way of any provisions included in these Terms as a result of Jato's 252(i) election.
 4. On January 25, 1999, the Supreme Court of the United States ("Court") issued its decision on the appeals of the Eighth Circuit's decision in *Iowa Utilities Board*. Specifically, the Supreme Court modified several of the FCC's and the Eighth Circuit's rulings regarding unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, No. 97-826, 1999 U.S. LEXIS 903 (1999). Certain provisions of the Terms may be void or unenforceable as a result of the Court's decision of January 25, 1999 and the remand of the pricing rules to the United States Eighth Circuit Court of Appeals. Moreover, nothing herein shall be construed as or is intended to be a concession or admission by either GTE or Jato that any contractual provision required by the Commission in Docket No. 99AA-001 (the AT&T arbitration) or any provision in the Terms complies with the rights and duties imposed by the Act, the decision of the FCC and the Commissions, the decisions of the courts, or other law, and both GTE and Jato expressly reserve their full right to assert and pursue claims arising from or related to the Terms.
 5. GTE reserves the right to deny Jato's adoption and/or application of the Terms, in whole or in part, at any time:
 - (a) when the costs of providing the Terms to Jato are greater than the costs of providing it to the AT&T;
 - (b) if the provision of the Terms to Jato is not technically feasible; and/or

- (c) to the extent Jato already has an existing interconnection agreement (or existing 252(i) adoption) with GTE and the Terms were approved before the date of approval of the existing interconnection agreement (or the effective date of the existing 252(i) adoption).
6. The provisions of the Terms that might be interpreted to characterize traffic destined for Internet as local traffic or requiring the payment of reciprocal compensation are not available for adoption. As noted above, pursuant to Rule 809, the FCC gave ILECs the ability to deny 252(i) adoptions in those instances where the cost of providing the service to the requesting carrier is higher than that incurred to serve the initial carrier or there is a technical incompatibility issue. The issue of reciprocal compensation for traffic destined for the Internet falls within this exception. GTE never intended for Internet traffic passing through a telecommunications carrier to be included within the definition of local traffic and subject to the corresponding obligation of reciprocal compensation. Despite the foregoing, some forums have required reciprocal compensation to be paid. This produces the situation where the cost of providing the service is not cost based.
7. Should Jato attempt to apply the Terms in a manner that conflicts with paragraphs 3-6 above, GTE reserves its rights to seek appropriate legal and/or equitable relief.

Please sign this letter on the space provided below and return it to the undersigned.

Sincerely,

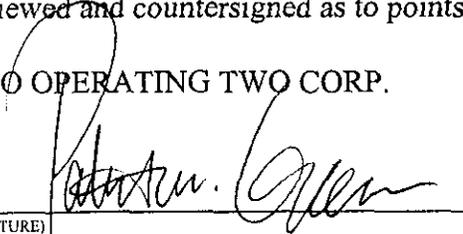
GTE NORTH INCORPORATED
GTE SOUTH INCORPORATED



Connie Nicholas
Assistant Vice President
Wholesale Markets-Interconnection

Reviewed and countersigned as to points A, B, and C of paragraph 1:

JATO OPERATING TWO CORP.



(SIGNATURE)

PATRICK M. GREEN
(PRINT NAME)

c: R. Ragsdale - GTE

BEFORE THE
ILLINOIS COMMERCE COMMISSION

GTE NORTH INCORPORATED,)
 GTE SOUTH INCORPORATED, AND)
 JATO OPERATING TWO CORP.)
)
)
)
 Joint Petition of GTE North Incorporated,)
 GTE South Incorporated, and)
 Jato Operating Two Corp.)
 For Adoption)
 Pursuant To 47 U.S.C. § 252 (i))
 Regarding Adoption)
 of an Interconnection Agreement)

STATEMENT IN SUPPORT OF
ADOPTION OF AN INTERCONNECTION AGREEMENT
AMONG GTE NORTH INCORPORATED,
GTE SOUTH INCORPORATED, AND JATO OPERATING TWO CORP.

GTE North Incorporated and GTE South Incorporated, Joint Petitioners herein, make the following verified Statement in Support of Adoption of an Interconnection Agreement Among GTE North Incorporated, GTE South Incorporated, and Jato Operating Two Corp.

1. Pursuant to Section 252(i) of the Telecommunications Act of 1996 (the "Federal Act"), Jato Operating Two Corp. ("Jato") notified GTE North Incorporated and GTE South Incorporated (collectively, "GTE") that it desired to adopt the terms of the Interconnection Agreement ("Agreement") between GTE and AT&T Communications of Illinois, Inc. approved by the Illinois Commerce Commission in Docket No. 99-AA-001. Subsequent to this, GTE and Jato signed an adoption letter relating to Jato's adoption of the terms of the Agreement.
2. GTE will continue to make the arrangements set forth in the Agreement available on the same terms and conditions to any duly authorized telecommunications carrier operating

within the State of Illinois to the extent required and permitted under Section 252(i) of the Federal Act. Thus, this filing is not discriminatory.

GTE North Incorporated and GTE South Incorporated respectfully submit the Adoption of an Interconnection Agreement Among GTE North Incorporated, GTE South Incorporated, and Jato Operating Two Corp.

Respectfully submitted this 3 day of April.



JAMES R. HARGRAVE
Assistant Vice President-Regulatory
& Governmental Affairs