DA 95-1468

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

In the Matter of	)	
	)	
Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation	)))	CC Docket No. 92-256

MEMORANDUM OPINION AND ORDER

Adopted: June 28, 1995 Released: June 29, 1995

By the Chief, Common Carrier Bureau

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I. INTRODUCTION

1. On April 4, 1994, the Commission extended to GTE Corporation (GTE) the regulatory framework of Open Network Architecture (ONA) and nondiscrimination safeguards that apply to

the Bell Operating Companies (BOCs).[1] Pursuant to the GTE ONA Order, GTE filed an ONA Plan on January 4, 1995.[2] We have reviewed GTE's ONA Plan, and find that, while it comports with the Commission's ONA requirements in most respects, the plan is deficient in certain areas. We therefore approve GTE's ONA Plan in substantial part, but identify areas that must be amended.

2. For the reasons stated below, we find that, by June 30, 1995, GTE must amend its Cost Allocation Manual to state that GTE and its affiliates will take tariffed services at tariffed rates.

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[1] Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, 9 FCC Rcd 4922 (1994) (GTE ONA Order). The Commission required GTE to comply with all ONA requirements imposed on the BOCs, except insofar as the Commission authorized exceptions in that Order. Id. at 4937, para. 25 n.70.

[2] Application of Open Architecture and Nondiscrimination Safeguards to GTE Corporation, CC Docket No. 92-256, GTE's Open Network Architecture Plan, filed by GTE on January 4, 1995 (GTE January 4, 1995 Filing); letter and attachment from Edwin Shimizu, Director, Regulatory Matters, GTE, to William F. Caton, Acting Secretary, FCC, filed March 6, 1995 (GTE March 6, 1995 Ex Parte Filing); letter and attachment from F. Gordon Maxson, Director, Regulatory Affairs, GTE, to William F. Caton, filed March 13, 1995 (GTE March 13, 1995 Ex Parte Filing); letter and attachment from F. Gordon Maxson to William F. Caton, filed March 15, 1995 (GTE March 15, 1995 Ex Parte Filing); letter from F. Gordon Maxson (for Edwin Shimizu) to William F. Caton, filed April 3, 1995 (GTE April 3, 1995 Ex Parte Filing); letter and attachments from Edwin Shimizu to William F. Caton, filed April 14, 1995 (GTE April 14, 1995 Ex Parte Filing); letter and attachments from F. Gordon Maxson to William F. Caton, filed May 10, 1995 (GTE May 10, 1995 Ex Parte Filing); letter and attachment from F. Gordon Maxson to William F. Caton, filed May 12, 1995 (GTE May 12, 1995 Ex Parte Filing); letter and attachments from F. Gordon Maxson to William F. Caton, filed May 30, 1995 (GTE May 30, 1995 Ex Parte Filing); letter and attachment from F. Gordon Maxson to William F. Caton, filed June 2, 1995 (GTE June 2, 1995 Ex Parte Filing); letter and attachment from F. Gordon Maxson to William F. Caton, filed June 7, 1995 (GTE June 7, 1995 Ex Parte Filing); letter from F. Gordon Maxson to William F. Caton, filed June 13, 1995 (GTE June 13, 1995 Ex Parte Filing); letter from F. Gordon Maxson to William F. Caton, filed June 19, 1995 (GTE June 19, 1995 Ex Parte Filing); letter from F. Gordon Maxson to William F. Caton, filed June 23, 1995 (GTE June 23, 1995 Ex Parte Filing). Collectively, these documents represent the GTE ONA Plan and are referred to as the "ONA Plan."

GTE has represented that it will do so.[3] GTE also has not demonstrated that it will file federal tariffs for all of the ONA services for which the Commission requires federal tariffs. GTE has said that it will file any necessary petitions for waiver of its requirement to file federal tariffs for certain ONA services.[4] By July 7, 1995, GTE must file a petition for waiver of its requirement to file federal tariffs for all of its proposed ONA services for which it has not said that it will file the requisite federal tariffs. Pursuant to the GTE ONA Order, GTE must implement its ONA requirements and nondiscrimination safeguards by July 4, 1995, except that it will not offer new ONA services until after it has filed state and federal tariffs pursuant to the GTE Waiver Order.[5] We also find that GTE has shown good cause for extending the deadline for filing its ONA Services User Guide until March 30, 1996, and for extending the deadline for reporting its installation and maintenance activities for all of the categories delineated by the Commission until the end of October 1996.

II. BACKGROUND

3. In the Computer III and ONA proceedings, the Commission established a comprehensive regulatory framework of nonstructural safeguards, including ONA requirements and nondiscrimination safeguards, to govern the BOCs' participation in the enhanced services marketplace.[6] In order to provide network-based

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[3] GTE June 23, 1995 Ex Parte Filing.

[4] GTE June 23, 1995 Ex Parte Filing; GTE June 19, 1995 Ex Parte Filing.

[5] GTE ONA Order, 9 FCC Rcd at 4923, para. 1. Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, CC Docket No. 92-256, DA 95-718 at para. 1 (Com. Car. Bur. released April 3, 1995) (GTE Waiver Order). GTE states that it is already offering, on an unbundled basis, the majority of the services described in its ONA Plan. GTE March 6, 1995 Ex Parte Filing.

[6] Amendment of Section 64.702 of the Commission's Rules and Regulations, Phase I, 104 FCC 2d 958 (1986) (Phase I Order), recon., 2 FCC Rcd 3035 (1987) (Phase I Recon. Order), further recon., 3 FCC Rcd 1135 (1988) (Phase I Further Recon. Order), second further recon., 4 FCC Rcd 5927 (1989) (Phase I Second Further Recon. Order), Phase I Order and Phase I Recon. Order vacated, California v. FCC, 905 F.2d 1217 (9th Cir. 1990); Phase II, 2 FCC Rcd 3072 (1987) (Phase II Order), recon., 3 FCC Rcd 1150 (1988) (Phase II Recon. Order), further recon., 4 FCC Rcd 5927 (1988) (Phase II Further Recon. Order), Phase II Order vacated, California v. FCC, 905 F.2d 1217 (9th Cir. 1990); Computer III

opportunities for competing Enhanced Service Providers (ESPs), the Commission imposed on BOCs Comparably Efficient Interconnection (CEI) and ONA requirements to govern their provision of enhanced services on an integrated basis. In the GTE ONA Order, the Commission, applied these same requirements to GTE. The Commission found that application of ONA requirements to GTE would further the public interest goal of fostering a fully and fairly competitive environment for the provision of enhanced services.[7]

4. The GTE ONA Order, among other things, required GTE to submit an ONA plan on January 4, 1995; to file federal and state ONA tariffs on April 4, 1995; and to implement ONA requirements and nondiscrimination safeguards by July 4, 1995, except where the Commission specified another date in that Order.[8] The Commission did not require GTE to detail in its ONA plan the measures it would take to comply with the ONA and Computer III requirements, as long as GTE's ONA plan followed specific procedures approved for the BOCs, and was consistent with the requirements set forth in the ONA orders.[9] If GTE proposed to meet the requirement in a different way, however, it was required to justify the method in its ONA plan.

Remand Proceedings, 5 FCC Rcd 7719 (1990) (ONA Remand Order), recon., 7 FCC Rcd 909 (1992), pets. for review denied, California v. FCC, 4 F.3d 1505 (9th Cir. 1993); Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, 6 FCC Rcd 7571 (1991) (BOC Safeguards Order), vacated in part and remanded, California v. FCC, 39 F.3d 919 (1994) (California III); Filing and Review of Open Network Architecture Plans, 4 FCC Rcd 1 (1988) (BOC ONA Order), recon., 5 FCC Rcd 3084 (1990) (BOC ONA Recon. Order), Filing and Review of Open Network Architecture Plans, 5 FCC Rcd 3103 (1990) (BOC ONA Amendment Order), Erratum, 5 FCC Rcd 4045, aff'd sub nom. California v. FCC, 4 F.3d 1505 (9th Cir. 1993), recon., 8 FCC Rcd 97 (1993) (BOC ONA Amendment Recon. Order); Filing and Review of Open Network Architecture Plans, 6 FCC Rcd 7646 (1991) (BOC ONA Further Amendment Order); Filing and Review of Open Network Architecture Plans, 8 FCC Rcd 2606 (1993) (BOC Second Further Amendment Order), aff'd sub nom. California v. FCC, 4 F.3d 1505 (9th Cir. 1993).

[7] GTE ONA Order, 9 FCC Rcd at 4936, para. 24.

[8] GTE ONA Order at 4923, para. 1 and 4954, paras. 71-73.

[9] GTE ONA Order at 4937, para. 26. GTE must state in its plan when it is complying with ONA requirements in a manner already approved for the BOCs.

5. On January 4, 1995, GTE filed with the Commission its proposed ONA plan. It subsequently amended its filing in response to discussions with Commission staff.[10] In its ONA Plan, GTE set forth its initial ONA service offerings and described how it proposed to deploy these services. GTE also explained how it proposed to comply with the Commission's CEI requirements and to implement the nondiscrimination safeguards. At the time it initially submitted its ONA Plan, GTE also petitioned the Commission to waive the requirement to file state ONA tariffs on April 4, 1995, concurrently with federal tariffs.[11]

6. The Commission, by public notice, invited interested parties to submit comments on GTE's ONA Plan and its State Tariff Waiver Petition.[12] No comments were received during the comment period. The State of Hawaii, however, filed an ex parte statement opposing GTE's waiver petition as it pertained to GTE Hawaiian Telephone Company.[13]

7. On March 2, 1995, GTE requested a waiver of its obligation to file federal ONA tariffs by April 4, 1995.[14] In its State and Federal Tariff Waiver Petitions, GTE asked the Commission (1) to defer the federal ONA tariff deadline until 30 days after the effective date of the 1995 Annual Access filings, and (2) to extend the due date for filing the state ONA tariffs until 30 days after the effective date of the federal ONA tariffs. GTE also requested an extension until March 30, 1996, to file its semi-annual tariff report. On April 3, 1995, the Common Carrier Bureau granted all three requests, subject to the condition that GTE file

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[10] GTE ONA Plan, supra n.2.

[11] Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, CC Docket No. 92-256, GTE Petition for Waiver of the Requirement to File Intrastate ONA Tariffs Concurrently with Federal ONA Tariff Filings, filed January 4, 1995 (GTE State Tariff Waiver Petition).

[12] Public Notice, "Pleading Cycle Established for Comments on GTE's Open Network Architecture Plan and Waiver to File Intrastate ONA Tariffs Concurrently With Federal ONA Tariffs, DA 95-48 (Jan. 17, 1995).

[13] Letter from Herbert E. Marks and Marc Berejka, Counsel, State of Hawaii, to William F. Caton, filed March 10, 1995 (Hawaii Ex Parte Filing).

[14] Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, CC Docket No. 92-256, GTE Petition for Waiver of Certain ONA Filing Requirements, filed March 2, 1995 (GTE Federal Tariff Waiver Petition).

illustrative tariffs by April 30, 1995.[15] On April 14, 1995, GTE filed illustrative tariffs.[16]

8. We have reviewed GTE's ONA Plan to determine whether it satisfies the Commission's ONA requirements. We consider herein whether GTE's ONA Plan will comply with our requirements with respect to the following: GTE's proposed initial service offerings; GTE's current and future deployment of the proposed ONA services; GTE's procedure for responding to new service requests; GTE's statements that it will comply with ongoing filing requirements; GTE's compliance with CEI requirements; GTE's safeguards for ensuring that it will not discriminate against unaffiliated ESPs; GTE's procedures for protecting Customer Proprietary Network Information and ESPs' proprietary information; and GTE's plans for offering ONA support services. As discussed below, we find that GTE's ONA Plan complies with the ONA requirements, with two exceptions. GTE has not stated that it will file federal tariffs for all ONA services for which the Commission requires federal tariffing. GTE has said, however, that it will seek a waiver of its requirement to file federal tariffs for certain ONA services. GTE also asserts that it needs an extension of the deadlines for filing its ONA User Services Guide, and for complying with the Commission's installation and maintenance reporting requirements. As discussed herein, we find that GTE has shown good cause for extending those deadlines as requested.

III. GTE'S PROPOSED INITIAL SERVICE OFFERINGS

A. GTE's Proposed Initial Services

9. GTE's proposed initial service offerings consist of 13 Basic Service Arrangements (BSAs), 29 Basic Service Elements (BSEs), 42 Complementary Network Services (CNSs), and one Ancillary Network Service (ANS).[17] GTE states that it developed its initial

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[15] GTE Waiver Order at para. 1. The Commission responded to the Hawaii Ex Parte Filing in that Order.

[16] GTE April 14, 1995 Ex Parte Filing, Attachment E.

[17] GTE's initial ONA offerings are listed in its January 4, 1995 Filing, Appendix A. GTE also stated that it is assessing the feasibility of two additional ONA service offerings that have been requested by ESPs: (1) Local Calling Area Abbreviated Dialing Access to Information and Enhanced Services, and (2) Call Transfer of ESP Lines with Called Number Identification. GTE January 4, 1995 Filing at 4. GTE subsequently explained that Abbreviated Dialing would only be offered in Tampa, Florida on an interim basis, due to current technical limitations. GTE April 3, 1995 Ex Parte Filing at 2. GTE also described the benefits and limitations

ONA services by: reviewing the BOC-ONA plans, assessing survey information, participating in the Information Industry Liaison Committee ("IILC"), considering ONA service usage reports filed by the BOCs, and conducting informal interviews with the BOCs.[18] GTE asserts that it actively participates in the IILC, and will continue to participate in the future.[19]

10. Subject to the conditions set forth below, we approve in substantial part the initial ONA services set forth in GTE's ONA Plan. One of the Commission's ONA objectives is to maximize uniformity among ONA services offered throughout the country in order to satisfy the needs of nationwide and multi-regional ESPs. In the Computer III Phase I Order, the Commission urged the BOCs to meet with competing ESPs, in industry standards organizations or in other forums, to establish an initial set of ONA services before the ONA plans were filed.[20] In addition, the Commission in the BOC ONA Order required each BOC to examine all of the ONA offerings proposed by other BOCs, and to participate in certain long-term IILC uniformity initiatives.[21] The Commission specifically declined, however, to require all carriers to offer a specific set

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of that service. Id. According to the most recent information provided by GTE, the projected effective date for that service is September 1, 1995. GTE June 13, 1995 Ex Parte Filing. The targeted exchange tariff effective dates for Call Transfer Service are: August 1, 1995 (California), October 1, 1995 (Florida), November 13, 1995 (Hawaii), December 15, 1995 (Illinois and Texas). Id.

[18] GTE January 4, 1995 Filing at 3-4. GTE adopts the common ONA model set forth in the BOCs' plans. This model consists of four parts: (1) BSAs, which are the fundamental tariffed switching and transport services that permit ESPs to communicate to their customers through the exchange carrier's network; (2) BSEs, which are optional unbundled features that an ESP may require or find useful in configuring its enhanced service; (3) CNSs, which are optional unbundled services that an end user (as opposed to an ESP) may obtain from a carrier in order to access or receive an enhanced service; and (4) ANSs, which are optional, competitive services that are not subject to Title II regulation, but which support or complement the ESPs' service offerings.

[19] GTE April 14, 1995 Ex Parte Filing at 1.

[20] Phase I Order, 104 FCC 2d at 1066, para. 217.

[21] BOC ONA Order, 4 FCC Rcd at 13-14, para. 8, and at 105-06, paras. 205-07.

of ONA services.[22] While GTE's proposed initial service offerings are not identical to those of any other carrier, we find that GTE's use of the common ONA model, its examination of the BOCs ONA offerings in developing its proposed initial ONA service offerings, and its participation in the IILC show that it has taken into account our uniformity objective in developing its proposed initial ONA services.

11. In the GTE ONA Order, the Commission reviewed the services in GTE's voluntary ONA program and preliminarily concluded that they were comparable to the ONA services currently provided by the BOCs.[23] Based upon our review of GTE's ONA Plan, we confirm the Commission's conclusion that GTE's proposed initial service offerings are comparable to those offered by the BOCs and previously approved by the Commission.[24] In addition, as shown by the following chart, the quantity of initial BSAs, BSEs, and CNSs is within the range of services offered by the BOCs, although the number of BSAs and BSEs proposed by GTE is at the low end of that range.[25]

Company	BSAs	BSEs	CNSs
Ameritech	21	45	26
Bell Atlantic	22	43	28
BellSouth	20	52	60
NYNEX	18	50	48
Pacific Bell	19	34	26
Southwest Bell Telephone Co.	13	29	23
U S West	18	57	42
GTE	13	29	42

12. While GTE proposes to offer only one ANS, "detailed billing service,"[26] we do not require GTE to offer additional ANSs. ANSs are competitive, deregulated services that are not subject to

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[22] Id. at 107, para. 209. The Commission stated that "it is neither realistic nor desirable, given existing differences in technology and market conditions among the BOCs, to mandate absolute uniformity." Id. at 105, para. 203.

[23] GTE ONA Order, 9 FCC Rcd at 4939, para. 30.

[24] See GTE January 4, 1995 Filing at 10 & App. A (GTE/BOC ONA Services Comparison).

[25] This chart is contained in the GTE January 4, 1995 Filing at 10.

[26] Id. at 9.

regulation under Title II.[27] ESPs can obtain ANSs from sources other than the local exchange carriers. Thus, while the Commission has ancillary authority under Title I to require the provision of a particular ANS, there is no reason for us to exercise that authority here. We did not receive any comments or objections regarding GTE's proposed services. We find that the number and range of GTE's proposed initial service offerings is adequate.

13. GTE states that, because it is already offering the majority of the services described in its ONA Plan on an unbundled basis under tariff, it will need to tariff only 11 new or non-chargeable services (3 BSAs and 8 BSEs).[28] GTE will not offer those 11 services until after its applicable state and federal tariffs have become effective.

B. Tariffing Requirements

14. Commission requirements mandate the "full federal tariffing" of BSAs and BSEs.[29] For example, in the BOC ONA Order, the Commission specifically required the BOCs to offer under federal tariff all BSEs that are technically compatible with interstate access arrangements.[30]

15. GTE, however, asserts that it plans to exclude one BSA -- Type I Dedicated Alert Transport -- and 3 BSEs from its federal access tariffs.[31] Under our rules, all BSAs and BSEs that are technically compatible with interstate access arrangements must be offered under federal tariff, absent a waiver. GTE states that it will file a petition for waiver for the 3 BSEs and, if necessary, the BSA for which it does not propose to file federal tariffs.[32] We require GTE to file a waiver of the federal tariffing requirement for those 3 BSEs and the BSA by July 7, 1995. We will review GTE's submission before the August 31, 1995 deadline by which GTE must file its federal tariffs.

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[27] See BOC ONA Order, 4 FCC Rcd at 57-59, paras. 105-09.

[28] GTE March 6, 1995 Ex Parte Filing.

[29] BOC ONA Recon. Order, 5 FCC Rcd at 3088, para. 36.

[30] BOC ONA Order, 4 FCC Rcd at 116, para. 226.

[31] GTE March 13, 1995 Ex Parte Filing, Attachment A; GTE June 19, 1995 Ex Parte Filing. GTE first said that it would not file federal tariffs for 11 of its proposed BSEs, but subsequently said that it would file federal tariffs for all but 3 BSEs.

[32] GTE June 19, 1995 Ex Parte Filing; GTE June 23, 1995 Ex Parte Filing.

16. The Commission also must review state ONA tariffing proposals "to ensure only that they do not undermine fundamental ONA objectives...."[33] The Commission has required the BOCs to include in their ONA plans a description of proposed state tariff structures and sample state tariffs.[34] The GTE Waiver Order required GTE to file illustrative state and federal tariffs by April 30, 1995.[35] On April 14, 1995, GTE submitted illustrative state and federal tariffs.[36] GTE asserts that it will offer state-tariffed ONA services pursuant to the pricing methodology prescribed in each of its jurisdictions.[37] ONA will not result in any changes to existing tariff structures, according to GTE. When existing features are unbundled to comply with ONA, those features also will continue to be offered on an unbundled basis, as presently tariffed. As new BSEs are introduced in interstate tariffs, they will also be added to GTE's intrastate tariffs. GTE says that it does not plan to impose use restrictions on any new ONA services, but notes that many of the initial services are existing services that are subject to terms and conditions imposed by state regulators.[38] GTE's description of its proposed state tariff structures is comparable to a description provided by Bell Atlantic, which the Commission previously approved.[39] We find that GTE has provided adequate information about its state ONA tariffing proposals. We also find that GTE satisfied the requirements of the GTE Waiver Order concerning the submission of illustrative state and federal tariffs. Accordingly, we approve these aspects of GTE's ONA Plan.

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[33] BOC ONA Order, 4 FCC Rcd at 148, para. 283. The Commission noted that its jurisdiction over intrastate tariffed services is limited.

[34] BOC ONA Amendment Order, 5 FCC Rcd at 3112-13, paras. 79-88; see BOC ONA Order, 4 FCC Rcd at 171-173, paras. 326-330.

[35] GTE Waiver Order at paras. 1, 25.

[36] GTE April 14, 1995 Ex Parte Filing, Attachment E.

[37] GTE June 13, 1995 Ex Parte Filing at 2.

[38] Id. We note that, when GTE files its tariffs for ONA services, the services may not be subject to terms and conditions that are inconsistent with ONA requirements.

[39] BOC ONA Amendment Order, 5 FCC Rcd at 3113, paras. 86 and 88.

C. Resale Restrictions

17. The Commission has found that resale restrictions on ESPs that are different from or in addition to those generally applicable to other subscribers may be improper. Nonetheless, it has found that resale restrictions in interstate tariffs that do not apply only to ESPs pose little anticompetitive danger to the enhanced services marketplace.[40] The Commission accordingly has concluded that resale restrictions that apply only to Interexchange Carriers (IXCs) comply with ONA requirements.[41]

18. GTE asserts that its tariff will not impose any resale restrictions on ESPs that are in addition to or different from those generally applicable to other subscribers.[42] It intends to continue its current practice of restricting IXCs from purchasing certain BSAs for use in interexchange service. GTE contends, however, that it will allow an IXC, when acting as an ESP, to purchase those BSAs.[43] We find that GTE's resale restrictions are consistent with Commission requirements. Accordingly, we approve this aspect of GTE's ONA Plan.

D. ONA Services Through New Technologies

19. In the BOC ONA Order, the Commission required the BOCs to explain the manner in which they will offer advanced ONA services through new technologies such as Signalling System 7 (SS7), Integrated Services Digital Network (ISDN) and Intelligent Network (IN).[44] The Commission directed the BOCs to incorporate input from the ESPs on these issues into their network planning processes, and to provide geographic deployment schedules, where feasible, for advanced ONA services.[45]

20. GTE states that it plans to provide SS7, ISDN and IN services.[46] GTE has provided initial 3-year Deployment Reports for

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[40] BOC ONA Amendment Order, 5 FCC Rcd at 3113, para. 91.

[41] Id.

[42] GTE June 7, 1995 Ex Parte Filing at 5.

[43] Id.

[44] BOC ONA Order, 4 FCC Rcd at 14, para. 11.

[45] Id.

[46] GTE May 10, 1995 Ex Parte Filing at 2. GTE says that three IN services are being tested in selected markets. The three services are InContact, Custom Routing Service, and Multilocation

these advanced services, and filed narrative descriptions of its proposed advanced ONA services.[47] We find that GTE has provided adequate information about its proposed advanced ONA services. Accordingly, we approve this aspect of GTE's ONA Plan.

E. BSEs Used By GTE

21. In the ONA proceedings, the Commission ordered each BOC to list all the BSEs that it uses for its own enhanced service operations.[48]

22. GTE provided a list of BSEs that the company uses for the provision of its enhanced services.[49] We find that this complies with the Commission's requirements. Accordingly, we approve this aspect of GTE's ONA Plan.

F. Authorization For ESP Purchases of CNSs for End Users

23. In the BOC ONA Order, the Commission required carriers to explain whether they would impose "authorization" requirements before permitting ESPs to order CNSs for their customers and if so, whether the carrier's affiliates would be exempted from such authorization requirements.[50] The Commission subsequently concluded that requiring a blanket letter of agency is discriminatory and impermissible, if a LEC only imposes the requirement on unaffiliated ESPs.[51] The Commission found, however, that a LEC may

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Centranet. Id.

[47] GTE April 14, 1995 Ex Parte Filing, Attachment A; GTE May 10, 1995 Ex Parte Filing at 1-3.

[48] BOC ONA Amendment Order, 5 FCC Rcd at 3125, n.25; BOC Further Amendment Order, 6 FCC Rcd at 7674, para. 12.

[49] GTE April 14, 1995 Ex Parte Filing at 2. The BSEs that GTE currently uses are Message Desk (SMDI), Message Waiting Indicator-Activation (Audible), Multiline Hunt Group-Uniform Call Distribution Line Hunting, Multiline Hunt Group-UCD with Queuing, Three Way Call Transfer, Uniform 7 Digit Access Number-Remote Call Forwarding, and Message Waiting Indicator-Activation (Audible Ring Burst).

[50] BOC ONA Order, 4 FCC Rcd at 50, para. 88.

[51] Id. at 3106, para. 23.

require an ESP to obtain a blanket letter of agency if it imposes the requirement on both affiliated and unaffiliated ESPs.[52]

24. GTE states that it "will not require a Letter of Agency for ESPs to order CNSs on behalf of their clients. The ESP, GTE-affiliated or non-affiliated, will be responsible for payment of all rates and charges associated with the services ordered."[53] GTE further asserts that in the event that an ESP's customer claims that the ESP was not authorized to order a CNS, the ESP, whether GTE-affiliated or not, will be held responsible for payment. Our primary concern is whether a carrier applies different authorization requirements upon affiliated and unaffiliated ESPs. GTE represents that it will treat affiliated and unaffiliated ESPs in the same manner regarding purchases of CNSs on behalf of customers. Accordingly, we approve this aspect of GTE's ONA Plan.

G. Application of Computer III Rules to BSAs and BSEs

25. The Commission requires carriers to state explicitly in their ONA plans that they will offer their BSAs and BSEs in compliance with the Computer III nondiscrimination and equal access safeguards.[54]

26. We note that GTE is obligated to offer its BSAs and BSEs in compliance with our Computer III rules. GTE states expressly that it will offer its BSAs and BSEs in compliance with the Commission's Computer III nondiscrimination and equal access safeguard rules, as outlined in its ONA Plan.[55] Accordingly, we approve this aspect of GTE's ONA Plan.

IV. DEPLOYMENT

27. Carriers are required to provide specific dates for the deployment of initial ONA services throughout the geographic area served.[56] They must also provide projections, for the upcoming three years, of the percent of lines that will be capable of supporting each initial ONA service, both on a system-wide basis, and for each geographic market area in which it is deploying ONA

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[52] BOC ONA Further Amendment Order, 6 FCC Rcd at 7672-73, para. 57.

[53] GTE June 13, 1995 Ex Parte Filing at 1.

[54] BOC ONA Amendment Order, 5 FCC Rcd at 3109, para. 47.

[55] GTE June 7, 1995 Ex Parte Filing, Att. A at 33.

[56] BOC ONA Order, 4 FCC Rcd at 179, para. 342.

services.[57] In the GTE ONA Order, the Commission specifically required GTE to file deployment figures for "each of the three future years for each ONA service, showing the percentage of access lines served in GTE's entire territory and by market area for all proposed interstate and intrastate ONA services, including BSAs, BSEs, CNSs, and ANSs."[58]

28. GTE states that it will deploy its initial ONA services "in all market areas where regulatory approvals, market and economic conditions, capacity limitations, and switching feature package availabilities allow."[59] GTE asserts further that its ONA services will be available for use by ESPs in all of GTE's market areas.[60] GTE attached an initial three year Deployment Report, setting forth annual deployment schedules for its ONA services on a market area basis for the end-year 1994, 1995, 1996 and 1997.[61] GTE subsequently stated that the data for 1995-97 were incorrect due to a programming error and filed a revised deployment report.[62] GTE also compared its initial deployment projections with those of the BOCs.[63]

ONA Service Deployment Figures

LEC	# ONA Services Offered	80% Of Lines Or Greater	90% of Lines Or Greater
GTE	84	71%	21%
Ameritech	67	55%	39%
BellSouth	94	60%	57%
NYNEX	115	51%	50%
Pactel	61	66%	46%
Southwest Bell	93	73%	49%
U S West	107	50%	46%

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[57] Id. at 190, para. 363.

[58] GTE ONA Order, 9 FCC Rcd at 4940, para. 32.

[59] GTE January 4, 1995 Filing at 27.

[60] Id.

[61] Id. at Att. Q.

[62] GTE May 30, 1995 Ex Parte Filing, Attachment B.

[63] This chart is contained in GTE's March 13, 1995 Ex Parte Filing, Att. B. The data for the BOCs represent 1991 deployment projections for the year beginning July 1, 1994. BOC ONA Further Amendment Order, 6 FCC Rcd at 7651, para. 5. The GTE data is based on information submitted in GTE's January 4, 1994 Filing for year-end 1994.

29. We find the deployment figures contained in GTE's ONA Plan for year end 1994 to be reasonable. As shown in the above chart, 71 percent of GTE's ONA services are available to at least 80 percent of GTE's total access lines, and that percentage is comparable to the initial deployment figures of the BOCs. We note that, by the end of 1994, only 21 percent of GTE's ONA services were available to 90 percent or more of its access lines -- a figure lower than the comparable deployment figures of the BOCs. GTE attributes its lower deployment rate to the fact that a higher portion of its access lines (28 percent), as compared to the BOCs, are in rural areas that "do not currently have the network capabilities to support many of the ONA services."[64] Information that GTE provided shows that, by the end of 1994, 51 percent of its ONA service were available to 87 percent or more access lines in MSAs.[65] We find that this deployment rate is comparable to the BOCs. We also note that no party has objected to GTE's proposed deployment.[66] GTE also provided deployment projections for 1995 to 1997.[67] We find that this information complies with the Commission's requirements. Accordingly, we approve this aspect of GTE's ONA Plan.

V. NEW SERVICE REQUESTS

30. In the Phase I Order, the Commission required the BOCs to specify procedures by which ESPs could request and receive new ONA services in an expeditious manner.[68] The Commission subsequently required BOCs to specify that within 120 days after receiving a completed, written request for a new ONA capability, it would provide a response indicating whether it will provide that capability and, if so, when it will make the requested capability available, approximately how much it will charge for the service if actual demand meets estimates provided by the requesting ESP, and what, if any, technical problems it anticipates.[69] The BOC must respond definitively to specific requests for new ONA services, and

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[64] GTE March 13 Ex Parte Filing at 2.

[65] Id., Attachment B.

[66] One of the reasons the Commission required GTE to file deployment figures was to supply the ESPs with information on the availability of specific ONA services and to give the ESPs the opportunity to seek needed changes. GTE ONA Order, 9 FCC Rcd at 4939, para. 31.

[67] GTE May 30, 1995 Ex Parte Filing, Attachment B.

[68] Phase I Order, 104 FCC 2d at 1066, para. 217.

[69] BOC ONA Order, 4 FCC Rcd at 208, para. 397.

base its decision about whether to provide the service on four factors: "market demand, utility as perceived by the ESPs, costing, and technical feasibility."[70] In addition, the Commission required the BOCs to describe the criteria for determining what constitutes a complete request for a new ONA service.[71]

31. GTE states that in assessing all new service requests, it will utilize the four criteria that the Commission has determined are critical in deciding whether a new service is viable. The four criteria are: market demand; cost feasibility; technical feasibility; and utility as perceived by ESPs.[72] GTE asserts that it will respond within 120 days to each complete, written ESP request for new ONA capability.[73] GTE's response to a new service request will indicate whether it will provide the requested capability, and if so, when it will make the requested capability available, the approximate charge for such capability, based upon demand estimates provided by the requesting ESP, and any technical difficulties anticipated.[74] GTE has developed a standard form for new service requests, and has filed a copy of that form.[75] GTE also described its process for evaluating and responding to requests for new services.[76] GTE states that internally-generated requests from GTE's enhanced services personnel will be subject to the same procedures and evaluation process as requests received from unaffiliated ESPs.[77] We find that this satisfies Commission requirements. Accordingly, we approve this aspect of GTE's ONA Plan.

VI. ONGOING FILING REQUIREMENTS

32. Pursuant to the Commission's ONA requirements, carriers are obligated to file certain annual and semi-annual reports regarding their ONA service offerings. Those ongoing filing requirements are set forth in the BOC ONA Further Amendment Recon.

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[70] Id., para. 396.

[71] Id., para. 397.

[72] GTE June 7, 1995 Ex Parte Filing, Att. A at 31 (citing BOC ONA Order, 4 FCC Rcd at 207, para. 396).

[73] GTE June 7, 1995 Ex Parte Filing, Att. A at 31.

[74] Id.

[75] GTE June 2, 1995 Ex Parte Filing.

[76] GTE June 7, 1995 Ex Parte Filing, Att. A at 31-33.

[77] Id. at 31.

Order, Appendix B.[78] The GTE ONA Order made clear that GTE is subject to all those reporting requirements.[79]

33. GTE states that, in compliance with the GTE ONA Order, it will begin to file the following reports annually, with the first filing by July 31, 1996:[80]

> Annual deployment projections for each ONA service, for the current year and each of the three future years, showing the percentage of access lines served in GTE's entire territory, and by market area for all proposed interstate and intrastate ONA services.
>
> New ONA service requests from ESPs and ONA service requests that were previously deemed technically infeasible.
>
> Information on SS7, ISDN and IN projected deployment.
>
> New ONA services available through SS7, ISDN and IN.
>
> Progress reports on the implementation of service-specific and long-term uniformity issues.
>
> Billing information.
>
> Operations Support Systems (OSS) Services.
>
> A list of BSEs that GTE uses in its provision of enhanced services.

GTE also represents that it will file an annual affidavit stating that it does not discriminate in providing ONA services to competing ESPs and their customers.[81]

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[78] BOC ONA Further Amendment Order, 6 FCC Rcd at 7677-7679, Appendix B.

[79] GTE ONA Order at 4941, para. 35. The Commission required GTE's first semi-annual filing to be submitted by September 30, 1995, and its first annual filing to be submitted by July 31, 1996.

[80] GTE January 4, 1995 Filing at 28-29.

[81] Id. at 27.

34. GTE states that, in compliance with the GTE ONA Order, it will begin to file the following reports semi-annually, with the first filing by September 30, 1995:[82]

> A matrix of GTE ONA services and state and federal tariffs.
>
> An ONA Services User Guide.
>
> Updates on ESP service requests, GTE's responses to such requests, and information on services offered in response to such requests.

In a subsequent Ex Parte filing, GTE states that its ONA Services User Guide is under development and not currently available.[83] GTE represents that the first publication of the ONA Services User Guide "is now planned for January 31, 1996." GTE explains that information contained in the ONA Services User Guide will be based upon state and federal ONA services tariffs that become effective prior to that date. The filing and effective dates of the tariffs have been delayed as a result of the GTE Waiver Order. GTE notes that the filing date for state ONA tariffs is January 2, 1996, and that those tariffs are unlikely to be in effect when the ONA Services User Guide is first published. As a result, the first edition of the Guide will list federal tariffs, and will identify state services as "Not Tariffed." The next publication will provide updated information. GTE states that a copy of its ONA Services User Guide will be filed with the first semi-annual tariff report, which is due by March 30, 1996.[84]

35. GTE states in its January 4, 1995 filing, that, in compliance with the GTE ONA Order, it will begin to file the following reports quarterly, with the first filing by January 30, 1996:[85]

> A demonstration that procedures and systems for providing services preclude discrimination in installation, maintenance, and quality of ONA services.

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[82] Id. at 29.

[83] GTE April 14, 1995 Ex Parte Filing at 3.

[84] The Commission granted GTE an extension until March 30, 1996 to file its first semi-annual tariff report. GTE Waiver Order, para. 25.

[85] GTE January 4, 1995 Filing at 29.

A comparison of the timing of GTE's installation and maintenance of basic services used to provide its own enhanced services operations with the timing of installation and maintenance of such services for all customers.

GTE subsequently asked the Commission to remove the requirement that it file quarterly reports showing that its procedures are designed to preclude it from discriminating on the basis of quality, as it had for the BOCs.[86] In the BOC ONA Order, the Commission replaced the quarterly quality reporting obligation with an annual quality reporting obligation for BOCs that had demonstrated that their procedures and systems were designed to preclude quality-based discrimination.[87] We find that GTE has shown that its systems and procedures are designed to preclude quality-based discrimination. We therefore permit GTE to file an annual report, in lieu of quarterly reports, demonstrating that its procedures and systems are designed to preclude quality-based discrimination.

36. GTE also agreed to file quarterly installation and maintenance reports using the categories and format set forth by the Commission in the BOC ONA Recon. Order.[88] GTE subsequently asserted, however, that it currently cannot report installation and maintenance activity in the level of detail required by the Commission.[89] GTE stated that, until the end of 1997, it could not report installation and maintenance information for each of the 49 reporting categories established by the Commission.[90] GTE revised that representation, however, and now asserts that it will be able to file its first quarterly report, based on the Commission's 49 categories, by the end of October 1996.[91] GTE alleged that it will

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[86] GTE June 13, 1995 Ex Parte Filing at 2 (citing BOC ONA Order, 4 FCC Rcd at 248, para. 481).

[87] BOC ONA Order, 4 FCC Rcd at 248, para. 481.

[88] GTE January 4, 1995 Filing at 27 (citing BOC ONA Recon. Order, 5 FCC Rcd at 3096-3097, App. B). In the BOC ONA Recon. Order, the Commission held that BOCs must file reports of installation and maintenance activities for 49 separate categories.

[89] GTE May 10, 1995 Ex Parte Filing at 4-5. GTE listed the categories of installation and maintenance that it can provide at present, and identified how its reporting categories correspond to the Commission's 49 categories.

[90] Id.

[91] GTE June 23, 1995 Ex Parte Filing.

have to make "extensive revisions" to its system in order to track information for the 49 categories delineated by the Commission, and that it cannot complete such revisions before the second quarter of 1996, and report information for those 49 categories before the third quarter of 1996.[92]

37. GTE represents that it will file annual, semi-annual and quarterly reports in compliance with the GTE ONA Order.[93] We find that GTE has demonstrated that it will comply with its ongoing filing requirements, with two exceptions. First, GTE does not intend to file its ONA Services User Guide within the time period established by the GTE ONA Order. Second, GTE claims that it cannot report until the end of October 1996 installation and maintenance activities for all of the categories delineated by the Commission.

38. GTE represents that it will not be able to file its ONA Services User Guide until March 30, 1996, which is later than the deadline imposed by Commission requirements. GTE has explained, however, that the Guide will be based upon effective state and federal ONA Services tariffs. GTE has obtained an extension for filing state and federal tariffs, and is not required to file its first semi-annual tariff report until March 30, 1996. Under the initial schedule, prior to obtaining these extensions, GTE would not have been required to file its ONA Services User Guide until approximately six months after the filing of its state and federal ONA tariffs. Under GTE's newly proposed schedule, it would file its ONA Services User Guide seven months after the deadline for filing its federal tariffs and three months after the deadline for filing its state tariffs.

39. The Commission may, on its own motion, waive any provision of its rules or orders if good cause is shown.[94] A showing of good cause requires the petitioner to demonstrate special circumstances that warrant deviation from the rules or orders, and to show how such deviation would serve the public interest.[95] We believe that GTE has established good cause for extending the deadline for filing its ONA Services User Guide. GTE has received extensions of the dates for filing its state and federal ONA tariffs. Because the ONA Services User Guide will be

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[92] Id.

[93] It therefore has agreed to file the reports in the format and with the detail required by the Commission.

[94] 47 C.F.R. § 1.3.

[95] Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

based on information contained in the state and federal tariffs, and under the original schedule established by the Commission, GTE would have had several months after filing tariffs to file its ONA Services User Guide, we find that GTE has made a persuasive showing to extend the deadline for filing its ONA Services User Guide until March 30, 1996.

40. GTE represents that it will not be able to report immediately on installation and maintenance activities for all of the categories delineated by the Commission. GTE seeks approximately 16 months to comply with our reporting requirements. GTE alleges that it will have to make extensive revisions to its tracking system in order to comply with the reporting requirements. We have recognized that carriers may need to adjust their procedures in order to comply with our reporting requirements. When the Commission first established the 49 reporting categories, it gave BOCs from the date of the order until the BOCs' first quarterly report was due (a period of more than a year) to make the changes necessary to report on installation and maintenance pursuant to the 49 categories.[96] Moreover, the 49 categories were developed to reflect the reporting categories used by the BOCs.[97] GTE likely will need to make greater revisions to its tracking systems than did the BOCs in order to satisfy our reporting requirements. We therefore find that GTE has shown good cause for not reporting until October 31, 1996 its installation and maintenance activities pursuant to the 49 categories established by the Commission. Until that time, GTE must report its installation and maintenance activities pursuant to its current system for tracking such activities.

VII. COMPLIANCE WITH CEI REQUIREMENTS

41. In the Phase I Order, the Commission established, nine CEI parameters that are designed to ensure that the basic services a BOC uses in its own enhanced service operations are available to other ESPs in an equally efficient manner.[98] The Commission made clear that the CEI parameters could be satisfied in a flexible manner, consistent with the particular services at issue.[99] The

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[96] BOC ONA Recon. Order, 5 FCC Rcd at 3096, Appendix B.

[97] Id. at 3093, para. 76.

[98] Phase I Order, 104 FCC 2d at 1039-1043, paras. 154-167. The nine CEI parameters are: interface functionality; unbundling; resale; technical characteristics; installation, maintenance and repair; end-user access; CEI availability; minimization of transport costs; and recipients of CEI.

[99] Id. at 1039, para. 154.

Commission "did not require absolute technical equality, but rather sought to provide fairness and efficiency for all competing enhanced service providers."[100] Factors in evaluating whether this standard has been met include the absence of systematic differences between the basic services given to the carrier and to others, end-user perception of quality, and utility to other ESPs.[101]

A. Interface Functionality

42. The Commission requires exchange carriers subject to CEI requirements to "make available standardized hardware and software interfaces that are able to support transmission, switching, and signaling functions identical to those utilized" by the carrier's own enhanced services.[102]

43. GTE states that there will be "no systematic differences between basic services used by GTE's enhanced services and those used by other ESPs."[103] GTE also asserts that technical characteristics at the interface will be equal from the end users' perspective in every instance. GTE states that "there may be technically measurable differences in specific interface performance characteristics," but that there will be "no material differences between GTE basic services used to supply its own enhanced services and GTE basic services used by unaffiliated ESPs to supply their enhanced services."[104] It further states that variations in the CEI parameters of the basic services offered to competing ESPs will be no greater than variations in the basic services used by GTE in conjunction with its enhanced services.[105] GTE also states that its methods for tracking service quality generally will ensure that GTE is not favoring its own enhanced offerings in providing basic services. We have previously concluded that interface functionality plans similar to that

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[100] BOC ONA Order, 4 FCC Rcd at 72, para. 136.

[101] Id. (citing Phase I Recon. Order, 2 FCC Rcd at 3048, para. 92).

[102] Phase I Order, 104 FCC 2d at 1039, para. 157.

[103] GTE June 7, 1995 Ex Parte Filing, Att. A at 1. GTE also notes that the Commission has held that GTE is not required to split its Packet Assembler/Network Interface in order to satisfy this CEI parameter. Id. at 2. In support, GTE cites the Phase II Order, 2 FCC Rcd 3072, 3079, para. 53. See GTE June 13, 1995 Ex Parte Filing at 2.

[104] Id. at 2.

[105] Id. at 2-3.

proposed by GTE satisfy the Commission's requirements.[106] We find that GTE has proposed to provide interface functionality in compliance with Commission requirements. Accordingly, we approve this aspect of GTE's ONA Plan.

B. Unbundling

44. The Commission requires the basic service functions that underlie a carrier's enhanced services to "be unbundled from other basic service offerings and associated with a specific rate element in the CEI tariff."[107] Nonproprietary information used by the carrier in providing the unbundled basic services must be made available as part of CEI. In addition, any options available to a carrier in the provision of such basic services or functions must be included in the unbundled offerings.[108]

45. In its January filing, GTE states that "[a]ll underlying network functionality utilized by GTE's enhanced services have been unbundled and tariffed and are available to all ESPs on the same terms and conditions."[109] GTE says that it has in the past and will continue in the future to unbundle BSEs requested by ESPs from other rate elements where technically and economically feasible.[110] GTE notes that such unbundled BSEs must be purchased with a BSA, due to technical requirements of the network.[111] The Commission previously has found that requiring ESPs to purchase a BSA with BSEs is permissible where technically necessary for basic transmission.[112] We find that GTE has proposed to provide service in compliance with the unbundling requirement established by the Commission. Accordingly, we approve this aspect of GTE's ONA Plan.

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[106] See BOC ONA Order, 4 FCC Rcd at 73-75, paras. 140 and 143 (approving same interface functionality standard proposed by Southwestern Bell Telephone).

[107] Phase I Order, 104 FCC 2d at 1040, para. 158.

[108] Id.

[109] GTE January 4, 1995 Filing at 12.

[110] GTE June 7, 1995 Ex Parte Filing, Att. A at 3.

[111] Id. GTE also notes that it may offer bundled service where specifically requested.

[112] BOC ONA Recon. Order, 5 FCC Rcd at 3086, paras. 19-22.

C. Resale

46. Under CEI principles, a carrier subject to CEI requirements must take basic services used in its enhanced service offerings at their unbundled tariffed rates, in order to prevent improper cost-shifting to regulated markets and anticompetitive pricing in unregulated markets.[113]

47. GTE states that, to the extent it offers any enhanced service, it will take the underlying basic services at their unbundled tariffed rates.[114] GTE contends that it already complies with this obligation by adhering to the Joint Cost Order provisions in its Cost Allocation Manual. Under the Joint Cost Order provisions, GTE is required to charge tariffed rates to itself and its affiliates for services that have been tariffed. It is unclear from GTE's CAM, however, whether GTE is charging itself and its affiliates tariffed rates for tariffed basic services. We require GTE to amend its CAM by June 30, 1995 to show that GTE and its affiliates take tariffed services at tariffed rates. GTE has represented that it will do so.[115] We find that GTE has proposed to provide service in compliance with the resale requirement established by the Commission. Accordingly, we approve this aspect of GTE's ONA Plan.

D. Technical Characteristics

48. The Commission requires a carrier subject to the CEI requirements to provide to ESPs "basic services with technical characteristics that are equal to those of the basic services it utilizes for its own enhanced services."[116]

49. GTE asserts that GTE technicians will install and maintain BSAs and deliver BSEs according to accepted standard procedures.[117] GTE also states that it will evaluate on the basis of uniform principles the quality of BSA and BSE technical characteristics for all ESPs.[118] We find that GTE has proposed to provide service in compliance with the technical characteristics

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[113] Phase I Order, 104 FCC 2d at 1040, para. 159.

[114] GTE June 7, 1995 Ex Parte Filing, Att. A at 3.

[115] GTE June 23, 1995 Ex Parte Filing.

[116] Phase I Order, 104 FCC 2d at 1041, para. 160.

[117] GTE June 7, 1995 Ex Parte Filing, Att. A at 4.

[118] Id.

requirement established by the Commission. Accordingly, we approve this aspect of GTE's ONA Plan.

E. Installation, Maintenance and Repair

50. This parameter requires that the time periods for installation, maintenance and repair of the basic services and facilities included in a CEI offering must be the same as those that the carrier provides to its own enhanced service operations.[119] Carriers subject to this CEI requirement must satisfy reporting and other requirements showing that they have met this requirement. GTE's proposal regarding installation, maintenance, and repair is discussed infra, Section VIII.

F. End User Access

51. This CEI parameter requires a carrier to provide to all end users the same capability to use abbreviated dialing or signalling to activate or access enhanced services that utilize the carrier's facilities.[120] A carrier also must provide end users the same capability to access basic facilities through derived channels, whether the end users subscribe to the enhanced service offerings of the carrier or a competing provider.[121]

52. GTE states that currently all service features and options available under tariff to GTE's enhanced services are available to all other users on the same terms and conditions.[122] End-user access, GTE claims, is therefore identical for GTE's enhanced services customers and for customers of competing ESPs. We find that GTE has proposed to provide service in compliance with the end-user access requirement established by the Commission. Accordingly, we approve this aspect of GTE's ONA Plan.

G. CEI Availability

53. This parameter requires a carrier's CEI offerings to be available and fully operational on the date that the carrier offers its enhanced service to the public.[123] The Commission also requires the carrier to specify a reasonable time before that date when

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119 Phase I Order, 104 FCC 2d at 1041, para. 161.

120 Phase I Order, 104 FCC Rcd at 1041, para. 162.

121 Id.

122 GTE June 7, 1995 Ex Parte Filing, Att. A at 13.

123 Phase I Order, 104 FCC Rcd at 1041, para. 163.

prospective users of the CEI offering can use those facilities and services for testing their enhanced service offerings.[124]

54. GTE states that CEI has been and will be operational on the same date that GTE offers its enhanced service.[125] GTE further alleges that the requirement to provide a reasonable testing period is satisfied because all underlying BSAs are available today, and that any new BSAs that will be used by GTE's enhanced services will be available for 90 days, to provide affiliates and nonaffiliates an opportunity to test the service before the service is offered to the public.[126] GTE asserts that affiliated ESPs will not obtain the service before it is available to unaffiliated ESPs under tariff. We find that GTE has proposed to make CEI offerings available in compliance with Commission requirements. Accordingly, we approve this aspect of GTE's ONA Plan.

H. Minimization of Transport Costs

55. This parameter requires carriers subject to CEI requirements to provide competitors with interconnection facilities that minimize transport costs.[127]

56. GTE asserts that while it does not permit ESPs to collocate their equipment physically in the GTE central office, it minimizes transport costs by offering price parity.[128] GTE asserts that where access line rates are distance sensitive, GTE will charge its affiliated ESP the same tariffed rate that other ESPs would pay if located two miles from the central office. Where access line rates are not distance sensitive, GTE will charge its ESP the same tariffed rates that other ESPs would pay if located within that service area.[129] GTE states that its proposal ensures absolute price parity will be maintained, regardless of whether a GTE-affiliated enhanced service operation is physically collocated.[130] GTE also states that its existing tariffs offer multiplexing services that may be used by competing ESPs to minimize their transportation costs.

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124 Id.

125 GTE June 7, 1995 Ex Parte Filing, Att. A at 14.

126 Id.

127 Phase I Order, 104 FCC 2d at 1042, para. 164.

128 GTE June 7, 1995 Ex Parte Filing, Att. A at 16-17.

129 Id. at 16.

130 Id.

57. The Commission does not require LECs to provide physical collocation for ONA.[131] The Commission has upheld the use of price parity by the BOCs to satisfy their obligation to minimize transmission costs, and specifically has found two miles to be a reasonable minimum distance for price parity associated with a distance-sensitive banded tariff.[132] We find that GTE has proposed to minimize transport costs in compliance with Commission requirements. Accordingly, we approve this aspect of GTE's ONA Plan.

I. Recipients of CEI

58. This parameter prohibits carriers subject to CEI requirements from restricting the availability of CEI offerings to any particular class of customer or enhanced service competitor.[133]

59. GTE maintains that it will not restrict to any class of customer the availability of BSEs listed in Section III.b.2 of its January 4, 1995 Filing.[134] BSEs and their corresponding BSAs will therefore be available to any customer for any use, subject to applicable tariff terms and conditions. We find GTE has proposed to provide service to CEI recipients in compliance with the Commission requirements. Accordingly, we approve this aspect of GTE's Plan.

VIII. OTHER NONDISCRIMINATION SAFEGUARDS

A. Nondiscrimination in Installation and Maintenance

60. As noted above, ONA and CEI requirements prohibit BOCs from discriminating between affiliated and unaffiliated ESPs. This restriction, among other things, bans a BOC from discriminating in

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[131] Phase I Order, 104 FCC 2d at 1037, para. 151. In another context, the Court of Appeals for the District of Columbia has held that the Commission lacks authority to require physical collocation. Bell Atlantic Telephone Companies v. FCC, 24 F.3d 1441 (D.C. Cir. 1994). But see Expanded Interconnection With Local Telephone Company Facilities, 9 FCC Rcd 5154 (1994) (requiring LECs to provide expanded interconnection through virtual collocation, except where they voluntarily choose to offer physical collocation under Title II regulation).

[132] BOC ONA Order, 4 FCC Rcd at 86-98, paras. 166-72. See also BOC ONA Amendment Order, 5 FCC Rcd at 3110, paras. 60-66.

[133] Phase I Order, 102 FCC 2d at 1042, para. 165.

[134] GTE June 7, 1995 Ex Parte Filing, Att. A at 18.

the provision of installation, maintenance and repair services.[135] The Commission required BOCs to describe in detail in their ONA plans the procedures they would employ to ensure that they would not discriminate in their provision of ONA services to unaffiliated ESPs and their customers.[136]. In addition, the Commission requires BOCs to file (1) an annual affidavit stating that they do not engage in such discrimination, and (2) quarterly installation and maintenance reports.[137] The Commission has delineated 49 service categories for which BOCs should report installation and maintenance activities.[138]

61. GTE states that it assigns available circuits on a "first come-first served basis" through mechanized procedures that are not affected by whether a particular customer is an affiliated or unaffiliated ESP. GTE asserts that its circuit assignment systems do not contain information about a customer's identity. GTE further pledges to "make no effort during the actual facilities and equipment assignment process to determine whether a particular ordering customer is an ESP."[139] GTE states that its systems do not consider the way in which its customers will use the facilities and equipment, and that its testing procedures "are not set up to provide, and generally do not contain, any information related to the relative quality of available facilities and equipment."[140]

62. GTE states that ESPs use the same channels and centers as all other customers in ordering service. It claims that the manner in which it processes orders is identical for all similarly situated customers, without regard to business affiliation.[141] GTE represents that BSAs, BSEs, and CNSs will be made available to all prospective customers in an nondiscriminatory manner. GTE states that it uses the customer's name and address only to facilitate necessary maintenance and billing functions. GTE claims that it does not ask ESPs to identify themselves as such during the ordering process, and that no special identification will be added

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135 Phase I Order, 104 FCC 2d at 1041, para. 161.

136 Phase II Order, 2 FCC Rcd at 3084, paras. 88-89. See GTE ONA Plan, at 4949, paras. 54-55.

137 GTE ONA Order, 9 FCC Rcd at 4950, para. 59.

138 BOC ONA Recon. Order, 5 FCC Rcd at 3096, Appendix B.

139 GTE June 7, 1995 Ex Parte Filing, Att. A at 5, 30.

140 Id.

141 Id. at 5-6.

to their records if they choose to indicate their line of business.[142]

63. GTE states that all "requests for service are handled on a 'first come-first served' basis" and that due date intervals are the same for all customers requesting similar types and quantities of service.[143] GTE acknowledges, however, that when service requests "exceed defined interval parameters," for example, because the request is complex, GTE negotiates a due date directly with the customer.[144]

64. GTE explains that orders for designed, or specialized, services are forwarded to a Special Service Control Center ("SSCC"), where the circuit layout is designed and equipment and circuit assignments are made. The work operations in the SSCC are supported by a mechanized system that schedules service installation tasks based on service order due dates, and performs inventory assignment functions and circuit design functions. GTE states that equipment and facility databases do not contain data on the identity of the customer.[145]

65. GTE explains that service orders are sent to a Facility Assignment Center or similar organization, supported by the Mechanized Assignment Record Keeping system. GTE states that "[a]ny attempt to discriminate in the engineering of a circuit would require extraordinary manual effort -- among numerous individual employees in diverse locations -- and would result in costly disruption of the provisioning processes because of the bypassing of existing mechanized systems and procedures for circuit design and provisioning."[146] Work priorities are established by due dates. According to GTE, its administrative support systems are designed to prevent individual employees from altering service orders, due dates or circuit-related technical specifications.[147]

66. When physical work is required at the customer's premises, the Automated Work Administration System automatically dispatches a field technician to install the service to a network interface. The technician tests the service for operational functionality after the work is completed to ensure that the

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142 Id. at 5.

143 Id. at 4, 30.

144 Id. at 6.

145 Id. at 7-8.

146 Id. at 23.

147 Id. at 9.

tariffed specifications are met. GTE states that the testing parameters are based only on the type of service ordered, and are not associated with the customer's business affiliation.[148]

67. All GTE customers report service trouble to the Customer CARE Center. A Customer CARE service attendant first tries to resolve the problem through the use of mechanized systems while speaking with the customer. If those efforts are unsuccessful, GTE states the service attendant will ask the customer for its name, but that the restoration intervals "depend strictly on the circuit type and the outage condition."[149] In the case of nondesigned, or standard, services, the customer is given a standard commitment interval that is based upon the type of trouble reported and the facilities and equipment involved.[150] GTE notes that the trouble record does not distinguish unaffiliated ESPs from any other customer.[151] Trouble reports for nondesigned services are placed in a mechanized trouble report tracking system.

68. Trouble records involving designed services are forwarded to the SSCC that is assigned maintenance responsibility for the service. After the trouble is identified, the responsible work groups restore service. According to GTE, priority is given to trouble reports based on Commission-determined restoration requirements. For example, military installations, and known critical services such as hospitals and policy departments have priority; all other trouble records are handled on a 'first-in, first-out' basis.[152]

69. GTE states that both manual and mechanized trouble records for designed and nondesigned services contain the trouble disposition and clearance time. GTE notes the "trouble record serves as the audit trail for documentation of maintenance service quality and performance."[153]

70. GTE states that the employees engaged in network installation and maintenance will receive training on the ONA requirements relating to nondiscriminatory provision of services.

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[148] Id.

[149] Id. at 10.

[150] Id. GTE states that it gives priority treatment to customers with complete service outages.

[151] Id.

[152] Id. at 10-11.

[153] Id. at 11.

GTE notes that it "currently advises -- and will continue to advise -- employees involved in the provision of network services or the assignment of circuits that discrimination based upon the origin of a service request, or a customer's business affiliation, is forbidden."[154] GTE states that it will discipline employees who violate that policy. In addition, performance measures that determine employee compensation provide incentives to give all customers quality service.[155] GTE also represents that it will comply with all nondiscrimination reporting requirements applicable to the BOCs.[156] GTE's ONA Plan with respect to these reporting requirements is discussed in Section VI, supra.

71. We find that GTE has shown that its installation procedures largely preclude it from discriminating on the basis of the identity of the ordering customer. GTE states that it handles requests on a 'first come-first served' basis, and that due date intervals are the same for all customers requesting similar service. GTE uses mechanized systems to track the actual installation process, which are programmed in a neutral manner. While the individual negotiation of due dates for complex services interjects a measure of discretion in GTE's installation process, we find that its procedures are sufficiently automated so that discrimination in the timing of installation is unlikely. We note that the Commission-approved BOC ONA Plans also contained individually negotiated installation due dates for specially designed services.[157] We also find that GTE has demonstrated that its maintenance procedures make discrimination highly unlikely. GTE has shown that it assigns repair dates based upon nondiscriminatory criteria, and that it attempts to resolve problems through standardized procedures. While the procedures may vary depending upon the type of service involved, (e.g., designed or nondesigned service), the service intervals are based upon nondiscriminatory criteria.

72. We also find that GTE's provisioning procedures and systems are designed to preclude quality-based discrimination. GTE has demonstrated that it uses mechanized systems to assign equipment and facilities on a "first come-first served' basis that does not take into account the identity of the customer ordering service. Moreover, GTE has shown that its circuit assignment systems do not contain data on the customer's identity. In such circumstances, we find it unlikely that GTE will engage in quality-

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[154] Id. at 12-13.

[155] Id. at 9-10.

[156] Id. at 13.

[157] BOC ONA Order, 4 FCC Rcd at 242-43, paras. 467-68.

based discrimination. We also find that GTE's proposal complies with Commission nondiscrimination reporting requirements. Accordingly, we approve this aspect of GTE's ONA Plan, except that we require GTE to provide supplemental information about its installation and maintenance reports, as specified in Section VI, supra.

B. Customer Proprietary Network Information

1. Individual CPNI

73. The Commission's Customer Proprietary Network Information (CPNI) rules restrict a BOC's use of individual CPNI.[158] BOCs are required to describe the types of information they will treat as CPNI, and to explain their procedures for determining which customers have the right to restrict access to particular CPNI.[159] First, for customers with 20 or fewer lines, the BOC must limit access to a customer's CPNI by its marketing personnel that sell enhanced services, if the customer so requests. Second, the BOC must release that CPNI at the customer's request to any ESP designated by the customer, and make that information available on the same terms and conditions as it is made available to its own enhanced service operations. Third, the BOC's enhanced services marketing personnel may not obtain access to the CPNI of any customer with more than 20 access lines without that customer's prior permission. Fourth, the BOC must notify all of its multiline business customers annually of their CPNI options, and include response forms "which fully and fairly inform[] customers of their CPNI rights."[160] Fifth, the BOC is required to accommodate requests for "partial or temporary restriction of CPNI."[161] In the GTE ONA Order, the Commission extended to GTE the BOC ONA requirements relating to CPNI.[162] The Commission specifically required GTE to describe in its ONA Plan how it intends to meet the CPNI requirements and to include the CPNI notification letter that it proposes to send to its multiline business customers.[163]

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[158] See, e.g., BOC ONA Order, 4 FCC Rcd at 209-34, para. 398-450.

[159] Id.

[160] Id. at 229, para. 440.

[161] Id. at 209, para. 399.

[162] GTE ONA Order, 8 FCC Rcd at 4945, para. 45.

[163] Id.

74. GTE proposes to treat as CPNI "the type of information typically associated with a customer's billing and payment history."[164] This includes information regarding: (1) the type and quantity of regulated services purchased; (2) repair information; (3) traffic studies; (4) usage data; (5) customer calling patterns; and (6) station message detail recording information.[165] GTE will not treat as CPNI information found in telephone directory white pages.

75. GTE asserts that it will instruct employees who are involved in marketing enhanced services that they may not obtain access to CPNI by any means, when the customer has chosen to restrict such information.[166] GTE's employee training will also explain that employees may not assist other employees in obtaining improper access to CPNI, and that employees who violate CPNI restriction procedures are subject to penalties. GTE's employee training will include instruction on all requirements of the GTE ONA Order regarding CPNI.[167] In addition, GTE claims that it will honor customer requests regarding release of CPNI until the customer expressly rescinds the request, and will honor requests to restrict CPNI access that were received before CPNI notices were distributed.[168] GTE also represents that it will honor requests regarding partial or temporary CPNI restrictions from selected accounts of multiple account customers.

76. GTE states that it will release a customer's CPNI to any unaffiliated ESP that the customer has authorized, in writing, to receive the information.[169] GTE asserts that it will make the information available to unaffiliated vendors on the same terms and conditions that it applies to affiliated ESPs.

77. GTE states that, before July 4, 1995, it will train account representatives regarding the different treatment required for business customers with 2 to 20 access lines, and business

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[164] GTE June 7, 1995 Ex Parte Filing, Att. A at 19.

[165] Id. at 21.

[166] Id. at 20, 22-23. GTE claims that, at a minimum, it will provide training for all marketing employees and all employees with immediate access to customer records.

[167] Id. at 22.

[168] Id. at 23.

[169] Id. at 22.

customers with more than 20 access lines.[170] After July 4, 1995, GTE states, account representatives that are not involved in marketing enhanced services will handle accounts of customers that have restricted their CPNI.

78. GTE has provided copies of the annual CPNI notification letters that it proposes to send to multiline business customers.[171] The notice GTE proposes to send to business customers with more than 20 access lines states that those customers must give written permission before GTE can use their CPNI to market enhanced services. The notice GTE proposes to send to business customers with 2 to 20 lines states that, absent a response to the contrary, CPNI generally will be available for GTE to use in marketing its enhanced services. Both notices include a customer response form. The notices identify the customers' rights with respect to CPNI, and the response forms indicate that a customer may request partial restriction of CPNI.[172]

79. The GTE response forms enable a customer to release specific data fields of account information to non-GTE ESPs. GTE explains that its current record-keeping system does not allow it to restrict information for a particular telephone number on a field-by-field basis for a customer who restricts access to CPNI by

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[170] June 7, 1995 Ex Parte Filing at 2. In its June 7 letter, GTE states that its account representatives will be informed that (1) business customers with 2 to 20 lines have the right to restrict access to CPNI by GTE personnel who can market enhanced services, and (2) business customers with more than 20 lines must give prior authorization before their CPNI can be used in the marketing of enhanced services. The Commission has made clear, and has required BOCs to acknowledge explicitly, that the right to restrict access to CPNI applies to all customers, including single line and residential customers. BOC ONA Amendment Order, 5 FCC Rcd at 3119, para. 140. GTE subsequently stated that it "will permit CPNI restriction, from GTE's sales personnel that can market enhanced services, by residential and single line customers upon written request." GTE June 13, 1995 Ex Parte Filing at 2. This is consistent with Commission requirements.

[171] June 2, 1995 Ex Parte Filing, Appendix 1.

[172] The initial notices already have been prepared. GTE explains that the next version of its annual notification letters and response forms will be revised, in accordance with a request by Commission staff, to reflect more clearly that customers may request partial disclosure to GTE's enhanced services vendors. GTE June 7, 1995 Ex Parte Filing at 2.

GTE's enhanced services marketing personnel.[173] For example, GTE's system does not allow an account representative to identify a customer's service options while restricting access to that customer's usage data. Under GTE's existing system, however, a customer with more than one telephone number can restrict access to CPNI for some telephone numbers while permitting access to CPNI for other telephone numbers.[174] GTE alleges that it will need to make "major changes to its current system to allow partial restriction of CPNI information by 'blanking' certain fields of data on the account." GTE plans to provide the capability to access only certain portions of a customer's account (rather than the entire account) by December 1996.[175]

80. We find that GTE's ONA Plan satisfies Commission requirements regarding CPNI. The Commission has held that, with minor exceptions, all information about customers' network services and customers' use of those services is CPNI.[176] GTE has defined CPNI in a manner consistent with this broad interpretation. GTE has stated that it will restrict access to CPNI by GTE-affiliated enhanced services marketing representatives and to provide access to CPNI by unaffiliated ESPs in a manner consistent with Commission requirements. GTE also has agreed to accommodate requests for temporary restriction of CPNI. GTE presently has some ability to restrict CPNI partially, and proposes to modify its record-keeping system to enable additional, field-by-field restriction of CPNI by December 1996. Accordingly, we approve this aspect of GTE's ONA Plan.

2. Aggregate CPNI

81. The Commission requires that, if a BOC makes nonproprietary, aggregate CPNI available to its own enhanced service personnel, it must make such information available to competing ESPs on the same terms and conditions.[177] The BOC must

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[173] Id.

[174] Id. In the case of customer records with call-forwarding/forward-to numbers associated with particular ESPs, GTE cannot blank that field, at present. GTE says that, in such cases, it will release such records to GTE-affiliated ESPs in a format (such as paper or magnetic tape) so that the forward-to number can be deleted before distributing the records. Id., Attachment A at 23.

[175] Id. at 2-3.

[176] BOC ONA Amendment Order, 5 FCC Rcd at 3117, para. 125.

[177] BOC ONA Order, 4 FCC Rcd at 209, para. 398.

explain how it will notify ESPs that aggregate CPNI is available.[178] The Commission extended these requirements to GTE.[179]

82. GTE asserts that any aggregate nonproprietary CPNI it makes available to affiliated ESPs will be available on the same terms and conditions to unaffiliated ESPs.[180] GTE states that it will use appropriate means, such as newsletters, seminars, and individual contacts, to advise ESPs about any such information that is available. GTE proposes to make available to all ESPs basic network information, through a report that will be updated semi-annually.[181] Notice of the report will be included in company newsletters. GTE does not plan to release other nonproprietary aggregate information, but states that, if it does, it will notify ESPs of available aggregated CPNI through company newsletters. We find that GTE's proposal regarding aggregate CPNI is consistent with Commission requirements. Accordingly, we approve this aspect of GTE's ONA Plan.

3. Password Identification System Requirements

83. The Commission has stated that a password/identification (password ID) system is the preferred method for restricting CPNI access for enhanced services, and should be used absent a specific showing that it would be unduly burdensome to do so.[182] The BOC must implement password ID systems for "all primary databases that are routinely accessed by [the BOC's] enhanced services marketing personnel and contain comprehensive restricted CPNI."[183] The Commission does not require BOCs to implement password ID systems for auxiliary databases that contain fragmented CPNI and that are

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178 Id. at 234, para. 450.

179 GTE ONA Order at 4945, para. 45.

180 GTE June 7, 1995 Ex Parte Filing, Att. A at 24.

181 Id.

182 BOC ONA Order, 4 FCC Rcd at 223, para. 428. The Commission does permit a BOC "to implement an alternative system to the extent that it demonstrates that a password/ID system is not feasible in particular end offices or for particular data bases." Id. at 223-24, para. 430. For example, the Commission has suggested that, at least as an interim approach before a password ID system is operational, one alternative would be to deny enhanced services personnel access to files containing CPNI, but to provide such personnel with unrestricted CPNI through another method, such as hard copy or magnetic tape. Id. at 224, para. 430 n. 1045.

183 BOC ONA Amendment Order, 5 FCC Rcd at 3119, para. 137.

not routinely accessed by enhanced services marketing personnel.[184] The Commission, however, requires the BOC to state, for each database that contains CPNI and that does not have password ID protection, the following: (a) database name; (b) database purpose; (c) accessibility and frequency of use by enhanced services marketing personnel; (d) types and amount of CPNI; (e) method of access restriction; and (f) justification for not imposing password ID restrictions.[185] In the GTE ONA Order, the Commission required GTE to implement password ID systems by April 4, 1996.[186]

84. GTE alleges that by April 4, 1996, it will implement a password ID system that will limit access to records that customers have chosen to restrict from GTE-affiliated ESPs. Under the password ID system, those records will only be accessible to GTE service representatives who possess the appropriate password ID clearance and are designated to handle the basic service needs of such customers.[187] GTE asserts that it will implement password protection "to ensure that GTE's primary data bases do not permit disclosure of customer restricted CPNI to GTE personnel engaged in the sale of enhanced services."[188]

85. GTE asserts that numerous other databases and OSSs contain CPNI, but are not accessible to enhanced services marketing and sales personnel. GTE asserts that these will not be protected by a password ID system. GTE asserts that these systems are not designed for marketing and sales support, would be cumbersome to use, and contain only fragmented CPNI. In addition, according to GTE, all marketing and sales personnel will be informed of the

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[184] Id. at para. 136.

[185] Id. at para. 137.

[186] GTE ONA Order, 9 FCC Rcd at 4945, para. 45 n.97.

[187] GTE June 7, 1995 Ex Parte Filing, Att. A at 22.

[188] Id. at 25. GTE identifies the "primary databases" as the Service Order Records Computer Entry System (SORCES), Service Order Load And Retrieval (SOLAR), and Customer Marketing and Service System (CMSS). Those three databases are used for account management and sales support. GTE says that other databases that contain CPNI are not utilized by sales representatives, but rather "are used primarily for market analysis and to support on time sales campaigns." GTE says that it has no plans to implement a password ID system for these databases. Id. at 25-26. GTE claims that, instead, depending on the database, it will either deny access to enhanced services marketing and sales organizations, or it will remove all CPNI from the database.

Commission's CPNI rules and GTE's system restrictions, and will be advised that noncompliance may result in penalties. GTE states that selected business and customer service/sales representatives do have access to certain OSSs that contain fragmented CPNI. These services, however, were designed for specific, non-sales purposes. For example, service representatives may use these systems to detect fraud or to verify customer address information. GTE asserts that these systems have "limited utility" for account management or sales purposes.[189] GTE lists the databases that contain CPNI but for which it does not propose to apply password ID protection.[190] It also provides a chart showing the data base, its purpose, the type of CPNI it contains, and the method of restricting access.[191]

86. GTE represents that it will implement password ID protection for three databases that are regularly accessed by enhanced services marketing personnel for marketing, billing and service order processing purposes. GTE also lists numerous other databases for which it does not propose to apply password ID protection. For those databases, GTE provides the name and a brief explanation of the basis for its determination that such protection is not required under the Commission's rules, the purpose of the database, and the type and amount of CPNI the databases contain. For each such database, GTE explains that password ID protection is not required by the Commission, because the database (1) is not regularly accessed by sales or marketing personnel; (2) contains only fragmented CPNI and is not easily used for marketing purposes; or (3) is used in provisioning and maintaining the network.[192] We find that GTE has demonstrated that it will comply with Commission requirements regarding password ID protection of its files and databases containing CPNI. GTE represents that it will implement its password ID system by April 6, 1996, as required by the GTE ONA Order. Accordingly, we approve this aspect of GTE's ONA Plan.

C. Network Information Disclosure

87. Under the network disclosure rules, a carrier must disclose the relevant network information (1) to a ESP at the "make/buy point," subject to and within 30 days of the ESP's

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189 Id. at 27.

190 GTE June 7, 1995 Ex Parte Filing at 4-5.

191 GTE May 30, 1995 Ex Parte Filing, Attachment A.

192 BOC Second Further Amendment Order, 8 FCC Rcd at 2611.

execution of a nondisclosure agreement,[193] and (2) to the public twelve months before the new or modified network service is introduced.[194]

88. GTE asserts that it will comply with these two requirements.[195] According to GTE, it will advise its employees of the Commission's requirements, and will establish internal processes to ensure compliance. In addition, GTE asserts that it will disclose network information through company newsletters, which will be issued to comply with network disclosure timing requirements, and be targeted to industry participants that have expressed an interest in obtaining such information.[196] We find that GTE has provided adequate assurances that it will comply with network disclosure requirements. Accordingly, we approve this aspect of GTE's ONA Plan.

IX. PROTECTION OF ESPS' PROPRIETARY INFORMATION

89. BOCs are required to report on their progress in developing, through the IILC, procedures for safeguarding an ESP's proprietary marketing and technological information while the BOC is evaluating an ESP request for a new service.[197]

90. GTE states that its standard non-disclosure agreement, along with internal business policies designed to protect proprietary information, will adequately protect an ESP's proprietary information.[198] GTE says that its procedures will comply with the consensus reached by the IILC on October 17, 1990,

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[193] The make/buy point occurs when the carrier decides to make or to procure from an unaffiliated entity a product whose design affects or relies on the network interface.

[194] Phase II Order, 2 FCC Rcd at 3087-88, paras. 107-112. If a carrier is able to introduce the service within twelve months of the make/buy point, it may make public disclosure at the make/buy point, but may not introduce the service less than six months after the public disclosure. Id. at 3092, para. 136. See GTE ONA Order, 9 FCC Rcd at 4947, para. 50.

[195] GTE June 7, 1995 Ex Parte Filing, Att. A at 29.

[196] Id.

[197] BOC ONA Amendment Recon. Order, 6 FCC Rcd at 7672, para. 55.

[198] GTE May 10, 1995 Ex Parte Filing at 5. GTE attached a copy of its standard non-disclosure agreement. Id., Attachment E.

regarding Proprietary Demand Information Protection.[199] We find that these nondisclosure agreement procedures are reasonable. Accordingly, we approve this aspect of GTE's ONA Plan.

X. ONA SUPPORT SERVICES

A. Provision of Billing Information

91. In the BOC ONA Order, the Commission stated that it would not require BOCs to offer billing and collection services to ESPs, because those services are incidental to communications and need not be tariffed.[200] The Commission nevertheless required BOCs to describe any services they plan to offer that would provide ESPs with information that is useful for "bill preparation such as the calling number, billing address or duration of a call."[201] GTE also must comply with these requirements.[202]

92. GTE says that it will provide six ONA services that may be useful to ESPs in billing customers.[203] We find that GTE has provided adequate information about its billing services. Accordingly, we approve this aspect of GTE's ONA Plan.

B. Operations Support Systems

93. The Commission requires BOCs to specify the Operations Support Systems (OSS) they are able to offer ESPs now or in the near term, and to discuss their ability to offer such services in the future.[204] In the BOC ONA Recon. Order, the Commission determined that continuing development of OSS services is important to the kinds of services ESPs can provide, and defined certain OSS

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[199] The Proprietary Demand Information Protection determination is described in IILC Issue 013, and is included in GTE's May 10, 1995 Ex Parte Filing at Attachment E.

[200] BOC ONA Order, 4 FCC Rcd at 59, para. 109.

[201] Id.

[202] GTE ONA Order, 9 FCC Rcd at 4937, para. 25 n.70.

[203] GTE April 14, 1995 Ex Parte Filing at 2. The six services are: (1) Called Directory Number Billing via DID; (2) Calling Billing Number Delivery - FG B Protocol; (3) Calling Billing Number Delivery - FG D Protocol; (4) Calling Directory Number Delivery via ICLID; (5) Message Desk ("SMDI"); and (6) Call Detail Recording Reports - Packet.

[204] BOC ONA Order, 4 FCC Rcd at 59, para. 110.

services as ONA services.[205] The Commission recognized that permitting ESPs only indirect access to OSS functions, while allowing affiliates direct access, could result in an uneven playing field.[206] To ensure comparably efficient access, the Commission required a BOC to provide the same access to OSS services to its affiliated enhanced service operations that the BOC provides to unaffiliated ESPs. The Commission expressly extended this requirement to GTE.[207]

94. GTE states that it currently provides the same form of access to its OSS for its enhanced services group as it does for unaffiliated ESPs.[208] GTE states that it receives and process requests for OSS service related to BSAs and BSEs in compliance with the Commission's requirements. GTE notes that it "has yet to see any market demand for 'direct' access to OSS."[209] It represents, however, that if it decides to provide direct access to OSS for its affiliated ESPs, or if requests for direct access from unaffiliated ESPs meet the Commission's four criteria for ONA services, GTE will develop and tariff such access in accordance with CEI principles.[210] We find that GTE has satisfied the ONA requirements relating to OSS. Accordingly, we approve this aspect of GTE's ONA Plan.

XI. CONCLUSION

95. GTE is required to implement its ONA Plan by July 4, 1995. Although we approve GTE's ONA Plan in substantial part, certain aspects of the Plan require amendment. By June 30, 1995, GTE must amend its Cost Allocation Manual to state that GTE and its affiliates will take tariffed services at tariffed rates. By July

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[205] BOC ONA Recon. Order, 5 FCC Rcd at 3087, para. 26. The Commission classified as ONA services: (1) service order entry and status; (2) trouble reporting and status; (3) diagnostics, monitoring, testing, and network reconfiguration; and (4) traffic data collection.

[206] BOC ONA Amendment Order, 5 FCC Rcd at 3108, para. 43. The Commission clarified that orders for OSS services related to BSAs and BSEs must be received and processed in the same way for the BOC's enhanced services and for other ESPs. BOC ONA Amendment Recon. Order, 8 FCC Rcd at 98, para. 6.

[207] GTE ONA Order at 4946-4947, para. 49.

[208] GTE January 4, 1995 Filing at 18.

[209] Id.

[210] Id. at 19-20 (citing BOC ONA Order, 4 FCC Rcd at 207, para. 397).

7, 1995, GTE is required to file petitions for waiver of its requirement to file federal tariffs for all of its proposed ONA services for which it has not stated that it will file the requisite federal tariffs. We also grant GTE an extension until March 30, 1996 for filing its ONA Services User Guide. We further grant GTE an extension until October 31, 1996 for reporting its installation and maintenance activities for all of the categories delineated by the Commission. Until that time, GTE must report its installation and maintenance activities pursuant to its current system for tracking such activities.

XII. ORDERING CLAUSES

96. IT IS HEREBY ORDERED, that pursuant to Sections 1, 4(i), and (j), 201, 202, 203, 205, and 218, of the Communications Act of 1934, as amended 47 U.S.C. §§ 151, 154(i), 154(j), 202, 203, 205, and 218, GTE's ONA Plan IS APPROVED IN PART AND REJECTED IN PART, subject to the conditions set forth herein.

97. IT IS FURTHER ORDERED that, by June 30, 1995, GTE must amend its Cost Allocation Manual to state that GTE and its affiliates will take tariffed services at tariffed rates

98. IT IS FURTHER ORDERED that, by July 7, 1995, GTE must file a petition for waiver of its requirement to file federal tariffs for all of its proposed ONA services for which it has not said that it will file the requisite federal tariffs.

99. IT IS FURTHER ORDERED that GTE must file its ONA User Services Guide by March 30, 1996.

100. IT IS FURTHER ORDERED that GTE must report its installation and maintenance activities for all of the categories delineated by the Commission by October 31, 1996. Until that time, GTE must report its installation and maintenance activities pursuant to its current system for tracking such activities.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen M.H. Wallman
Chief, Common Carrier Bureau