

1030



Continental Cablevision - Southeastern Region

DONALD L. CROSBY
Regulatory Counsel

April 19, 1996

ORIGINAL
FILE COPY

Ms. Blanca S. Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: DOCKET NO. 950985-TP

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket is the original and fifteen copies of Continental Cablevision, Inc.'s Response to Motions for Reconsideration in the above-referenced proceeding. Copies have been served on the parties of record pursuant to the attached certificate of service.

Please acknowledge receipt and filing of these documents by date stamping the enclosed duplicate of this letter and returning it to me.

Thank you for your assistance with this filing.

Sincerely,

Donald L. Crosby
Donald L. Crosby

RECEIVED & FILED
MAR
FPSC-BUREAU OF RECORDS

- ACK
- AFA
- APP
- CAF
- CMU Chase
- CTR
- EAG
- LEG 1
- LIN 5
- OPC
- RCH
- SEC 1
- WTS

Enclosures

cc: All Parties of Record

DOCUMENT NUMBER-DAT
04639 APR 23 96
FPSC-RECORDS/REPORTIN

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Resolution of petition(s) to)
establish nondiscriminatory)
rates, terms and conditions)
for interconnection involving)
local exchange companies and)
alternative local exchange)
companies pursuant to Section)
364.162, Florida Statutes)
_____)

DOCKET NO. 950985-TP

SERVED: APRIL 19, 1996

CONTINENTAL'S RESPONSE TO MOTIONS FOR RECONSIDERATION

Pursuant to Rule 25-22.060, Florida Administrative Code, Continental Cablevision, Inc., on behalf of its affiliates, Continental Fiber Technologies, Inc. d/b/a AlterNet and Continental Florida Telecommunications, Inc. (collectively "Continental"), respectfully submits the following Response to Motions for Reconsideration filed in the above-captioned docket by BellSouth Telecommunications, Inc. ("BellSouth"), the Florida Cable Telecommunications Association, Inc. ("FCTA"), and Time Warner AXS of Florida, L.P. and Digital Media Partners ("Time Warner").

Unlike BellSouth, FCTA and Time Warner, Continental is not seeking reconsideration of Order No. PSC-96-0445-FOF-TP, issued March 29, 1996 ("the Order"). Continental does not necessarily

DOCUMENT NUMBER-DATE
04639 APR 23 1996
FPSC-RECORDS/REPORTING 2623

believe that the Commission should reconsider the Order. Rather, Continental is filing this Response solely for the purpose of seeking the Commission's clarification of the Order.

Continental is sympathetic to the views expressed in the motions for reconsideration filed by FCTA and Time Warner with regard to apparent discrimination in interconnection rates, terms and conditions. If FCTA and Time Warner's interpretation of the Commission's intent with respect to the tariff that BellSouth has been ordered to file is accurate, then reconsideration is the proper remedy. However, Continental believes that, if its interpretation is correct, mere clarification by the Commission will resolve the concerns of Continental and may be sufficient to also resolve the issues raised by FCTA and Time Warner.

At Page 16 of the Order, the Commission discusses its decision regarding Issue No. 2 which deals with whether BellSouth should tariff the interconnection rates, terms and conditions established by the Commission in resolving petitions filed by Metropolitan Fiber Systems of Florida, Inc. ("MFS") and MCI Metro Access Transmission Services, Inc. ("MCI"). The Order notes agreement between the parties that BellSouth should file such a tariff and, at Page 40, orders BellSouth to take such action.

The Commission finds "that these interconnection rates and other arrangements shall be available to all similarly situated ALECs on a non-discriminatory basis." Order at 16. Then the Commission states:

Tariffing the interconnection rates makes these rates generally available. If a company believes that its situation is different from the other ALECs' in this proceeding, it may negotiate its own rates, terms, and conditions with BellSouth.

Id. In Continental's view, the above-quoted language, without further explanation, appears to have opened the door to different interpretations by the parties of their rights and obligations under the tariff that BellSouth will file.

FCTA and Time Warner appear to interpret this language as disqualifying those parties who are signatories to the Stipulation and Agreement¹ with BellSouth from electing to order interconnection arrangements under the forth-coming tariff. If this is a correct interpretation, FCTA and Time Warner are right in asserting that the Commission has violated the statutory proscription on setting discriminatory rates, terms and conditions found in Chapter 364, Florida Statutes.

¹ The Stipulation and Agreement was approved by the Commission through Order No. PSC-96-0082-AS-TP, issued January 17, 1996.


Such discrimination would arise by the Commission's approval of a minute-of-use rate with a cap for parties entering into the Stipulation and Agreement and later establishment of mutual traffic exchange for parties who did not enter into the Stipulation and Agreement. If FCTA and Time Warner's interpretation of the Commission's tariffing requirement imposed on BellSouth is correct, then Continental agrees that the Commission's action is discriminatory and reconsideration is necessary to bring the Commission's decision into compliance with Chapter 364, Florida Statutes.

Continental's interpretation is that the Commission intends for all ALECs, notwithstanding whether they have entered into the Stipulation and Agreement, to have the right to order interconnection arrangements under the forth-coming tariff at the rates, terms and conditions established in resolution of MFS and MCI's petitions. If Continental's interpretation is an accurate reading of the Commission's intent, then mere clarification on this point will resolve Continental's concerns and may also resolve the issues raised in FCTA and Time Warner's motions for reconsideration.

Continental urges the Commission to clarify the Order by ordering that the tariff governing interconnection arrangements

to be filed by BellSouth shall be available to all ALECs, including those who have entered into the Stipulation and Agreement with BellSouth.

RESPECTFULLY SUBMITTED this 19th day of April, 1996.



Donald L. Crosby, Esq.
Regulatory Counsel
CONTINENTAL CABLEVISION, INC.
Southeastern Region
7800 Belfort Parkway, Suite 270
Jacksonville, FL 32256-6925
Phone: (904) 419-4920

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of Continental's Response to Motions for Reconsideration were furnished by U. S. mail delivery on the 19th day of April, 1996, to the following:

Lee L. Willis, Esq.
J. Jeffrey Wahlen, Esq.
McFarlane, Ausley, et al.
227 South Calhoun Street
Tallahassee, FL 32301

Anthony P. Gillman, Esq.
Kimberly Caswell, Esq.
GTE Florida Incorporated, FLTC0007
201 N. Franklin St.
Tampa, FL 33602

Steven D. Shannon
MCI Metro Access Transmission Svcs., Inc.
2250 Lakeside Blvd.
Richardson, TX 75082

Leslie Carter
Digital Media Partners
1 Prestige Place, Suite 255
2600 McCormack Drive
Clearwater, FL 34619-1098

F. Ben Poag
Sprint/United-Florida
Sprint/Centel-Florida
555 Lake Border Drive
Apopka, FL 32703

James C. Falvey, Esq.
Swidler & Berlin, Chartered
3000 K Street, N. W., Suite 300
Washington, DC 20007

David Erwin, Esq.
Young, VanAssendrp, et al.
225 South Adams St., Suite 200
Tallahassee, FL 32301

Richard A. Gerstemeier
Time Warner AxS of Florida, L.P.
2251 Lucien Way, Suite 320
Maitland, FL 32751-7023

Patricia Kurlin, Esq.
Intermedia Communications of Florida, Inc.
3625 Queen Palm Drive
Tampa, FL 33619-4453

Leo I. George
Lonestar Wireless of Florida, Inc.
1146 19th Street, N.W., Suite 200
Washington, DC 20036

Peter M. Dunbar, Esq.
Pennington, Culpepper, et al.
215 South Monroe St., 2nd Floor
Tallahassee, FL 32302

Patrick K. Wiggins, Esq.
Wiggins & Villacorta, P. A.
501 E. Tennessee
Tallahassee, FL 32302

Andrew D. Lipman, Esq.
Metropolitan Fiber Systems of Florida, Inc.
One Tower Lane, Suite 1600
Oakbrook Terrace, IL 60181-4630

Richard D. Melson, Esq.
Hopping, Green, et al.
123 South Calhoun Street
Tallahassee, FL 32314

J. Phillip Carver, Esq.
c/o Nancy H. Sims
BellSouth
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301

John Murray
Payphone Consultants, Inc.
3431 N.W. 55th Street
Fort Lauderdale, FL 33309-6308

C. Everett Boyd, Jr., Esq.
Ervin, Varn, et al.
Post Office Drawer 1170
Tallahassee, FL 32302

Donna Canzano, Esq.
Division of Legal Services
2540 Shumard Oak Boulevard, Room 370
Tallahassee, FL 32399-0850

Gary T. Lawrence
City of Lakeland
501 East Lemon Street
Lakeland, FL 33801-5079

Jill Butler
Time-Warner
2773 Red Maple Ridge
Tallahassee, FL 32301

Graham A. Taylor
TCG South Florida
1001 W. Cypress Creek Road, Suite 209
Ft. Lauderdale, FL 33309-1949

William Tabor, Esq.
Utilities & Telecommunications
Room 410
House Office Building
Tallahassee, FL 32399

Greg Krasovsky, Esq.
Commerce & Economic Opportunities
Room 4265
Senate Office Building
Tallahassee, FL 32399

Charles Beck, Esq.
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Nels Roseland
Executive Office of the Governor
Office of Planning & Budget
The Capitol, Room 1502
Tallahassee, FL 32399

Paul Kouroupas
Director, Regulatory Affairs
Teleport Communications Group, Inc.
Two Teleport Drive, Suite 300
Staten Island, NY 10311

Floyd R. Self, Esq.
Messer, Caparello, et al.
215 South Monroe Street, Suite 701
Tallahassee, FL 32301

Michael W. Tye, Esq.
A T & T
101 North Monroe Street, Suite 700
Tallahassee, FL 32301

Robin D. Dunson, Esq.
1200 Peachtree Street, N. E.
Promenade I, Room 4038
Atlanta, GA 30309


Sue E. Weiske, Esq.
Senior Counsel
Time Warner Communications
160 Inverness Drive West
Englewood, CO 80112

Laura L. Wilson, Esq.
F C T A
310 North Monroe Street
Tallahassee, FL 32301

Ken Hoffman, Esq.
Rutledge, Ecenia, et al.
215 S. Monroe Street, Suite 420
Tallahassee, FL 32301

Jodie Donovan-May, Esq.
Eastern Region Counsel
Teleport Communications Group, Inc.
1133 21st Street, N.W., Suite 400
Washington, DC 20036

Benjamin Fincher, Esq.
Sprint Communications Company
Limited Partnership
3065 Cumberland Circle
Atlanta, GA 30339

By: 
DONALD L. CROSBY