

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for partial  
waiver of Rule 25-4.113(4),  
F.A.C., by Time Warner Connect.

DOCKET NO. 970646-TP  
ORDER NO. PSC-97-1088-FOF-TP  
ISSUED: September 18, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
DIANE K. KIESLING  
JOE GARCIA

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING RULE WAIVER

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

On May 29, 1997, Time Warner Connect (Time Warner), a certificated interexchange company (IXC), filed a petition for partial waiver of Rule 25-4.113(4)(e), Florida Administrative Code, Refusal or Discontinuance of Service by Company. Time Warner seeks a partial waiver of this rule in order to allow it to offer a combined billing option for its long distance customers who also subscribe to non-regulated services, such as voice mail, paging, and cable services. A Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly on June 11, 1997. No comments were submitted during the comment period, which ended July 3, 1997.

DOCUMENT NUMBER-DATE

09495 SEP 18 97

FPSC-RECORDS/REPORTING

RULE WAIVER

Time Warner seeks the rule waiver in order to disconnect land-line long distance, paging, voice mail, cable services or any other services provided by Time Warner to customers who elect combined billing and fail to pay the entire combined single balance.

Rule 25-4.113, Florida Administrative Code, specifies both conditions under which local exchange companies may and may not discontinue service to their customers. This rule is made applicable to IXCs by Rule 25-24.490, Florida Administrative Code, which expressly incorporates Rule 25-4.113, Florida Administrative Code, and thus controls an IXC's ability to discontinue service to its customers. Rule 25-4.113(4)(e), Florida Administrative Code, provides that:

(4) The following shall not constitute sufficient cause for refusal or discontinuance of service to an applicant or customer:

\* \* \*

(e) Failure to pay for a service rendered by the company which is not regulated by the Commission.

As a competitive offering, Time Warner wishes to provide a simplified billing option to its local exchange and long distance customers who also subscribe to other, non-regulated services from the company. Customers who select the combined billing option will receive one monthly statement, which will include separately itemized charges for each of the various services provided, both regulated and non-regulated. This will eliminate the necessity of paying two or more separate bills. The company will provide the combined billing option for the convenience of its customers at no extra charge. In order to provide this option, Time Warner will bill and collect for all services it provides, both regulated and non-regulated.

Time Warner will apply customer payments received under the combined billing option to the total amount owed as shown on the combined statement. Failure to pay all of the amount billed will result in disconnection of all combined-billed services, even if the amount of the partial payment is sufficient to cover either the charges for regulated or non-regulated services. In other words,

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once billing is combined at the customer's request, charges for both regulated and non-regulated services will be treated as a single balance that must be paid in full, or the account will be considered delinquent by the providers of the separate services. If delinquent, all services may be discontinued. Time Warner states that a customer who wants to return to separate billing will be permitted to do so at no additional charge.

We find that customers who subscribe to multiple regulated and non-regulated services from Time Warner should benefit from the simplicity of one bill for all services rendered by the company. Combined billing should reduce the company's operating costs and lead to reductions of account delinquencies. The option available to customers to return to separate billing upon election is reasonable because it affords customers dissatisfied with combined billing relief without charge.

We find that a waiver of Rule 25-4.113(4)(e), Florida Administrative Code, is appropriate in this case because its effect is to enhance telecommunications competition, consumer choice, and consumer convenience. We note that we granted a similar waiver to AT&T Telecommunications of the Southern States, Inc., in Docket No. 970075-TI, by Order No. PSC-97-0477-FOF-TI, issued April 25, 1997. For these reasons, we grant Time Warner's request for waiver of Rule 25-4.113(4)(e), Florida Administrative Code. We shall require Time Warner to notify customers prior to their election of combined billing that their election of combined billing is an option to separate billing and that they may return to separate billing at any time without charge. We shall also require Time Warner to advise customers at that time that their total service may be discontinued if their accounts become even partly delinquent.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the request of Time Warner Connect for waiver of Rule 25-4.113(4)(e), Florida Administrative Code, is hereby granted. It is further

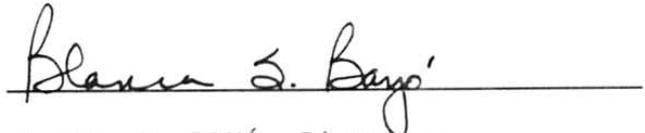
ORDERED that Time Warner Connect shall notify its customers prior to their election of combined billing that their election of combined billing is an option to separate billing and that they may return to separate billing at any time without charge. Time Warner shall also advise customers at that time that their total service may be discontinued if their accounts become even partly delinquent. It is further

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ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 18th day of September, 1997.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

CJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 9, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The

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notice of appeal must be in the form specified in Rule 9.900(a),  
Florida Rules of Appellate Procedure.