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ORIGINAL FILE COPY

January 29, 1996

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

via Hand Delivery

Re: Resolution of Petition(s) to Establish Nondiscriminatory Rates, Terms, and Conditions for Resale Involving Local Exchange Companies and Alternative Local Exchange Companies Pursuant to Section 364.161, Florida Statutes; Docket No. 950984-TP

Dear Ms. Bayo:

Enclosed for filing please find an original and fifteen copies of Time Warner AxS of Florida, L.P.'s and Digital Media Partners' Posthearing Brief. You will also find a copy of this letter and a diskette in Word Perfect 5.1 format enclosed. Please date-stamp the copy of this letter to indicate that the original was filed and return to me.

If you have any questions regarding this matter, please feel free to contact me.

Respectfully,

Sue E. Weiske gwb

Sue E. Weiske

SEW/tmz
Enclosures

cc: All Parties of Record (w/ enclosure)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Resolution of Petition(s) to Establish Nondiscriminatory Rates, Terms, and Conditions for Resale Involving Local Exchange Companies and Alternative Local Exchange Companies Pursuant to Section 364.161, Florida Statutes	Docket No. 950984-TP Filed: January 29, 1996

POSTHEARING BRIEF BY TIME WARNER AxS OF FLORIDA, L.P. AND DIGITAL MEDIA PARTNERS

COMES NOW, Time Warner AxS of Florida, L.P. and Digital Media Partners (collectively "Time Warner"), and pursuant to Rule 25-22.038, Florida Administrative Code, and the Order Establishing Procedure, respectfully submits its Posthearing Statement in the above-captioned docket to the Florida Public Service Commission ("Commission" or "FPSC").

I. TIME WARNER'S BASIC POSITION

Time Warner believes that for local competition to develop and be sustained, there must be facilities-based alternatives to the incumbent local exchange companies. Chapter 364.161, Florida Statutes, requires local exchange companies, upon request, to unbundle all of their network features, functions, and capabilities, including access to signaling data bases, systems and routing processes, and offer these features to any other telecommunications provider requesting them for resale. Thus, Time Warner supports links, ports, loop transport and loop concentration being unbundled and tariffed. Other elements that need to be unbundled should be done by request.

However, Time Warner believes that facilities-based providers should not be required to price their retail services at a discount for use by resellers. Therefore, Time Warner opposes the recommendation of MCImetro Access Transmission Services, Inc. ("MCImetro"), Metropolitan Fiber Systems of Florida, Inc. ("MFS") and AT&T Communications of the Southern States, Inc. ("AT&T") to price the unbundled loop at Total Service Long Run Incremental Cost ("TSLRIC"). A public policy that adopts such pricing for simple resale or rebranding of local exchange service elements will operate to deter the development of facilities-based competition.

Time Warner disagrees with the imputation methodology recommended by BellSouth and supports MCImetro's approach regarding imputation. Time Warner believes that MCImetro's approach is the only appropriate way to avoid a price squeeze for new entrants. Time Warner supports MCImetro witness Cornell's recommendation that all essential inputs be imputed into BellSouth's local exchange rates at the tariffed rates, plus other non-essential functions should be added in at cost or TSLRIC. In the alternative, (given that local exchange rates are capped), Time Warner supports a reduction in the tariffed rates of essential inputs to avoid a price squeeze. Such an imputation test, however, does <u>not</u> require that unbundled loops, for example, be priced at cost.

Time Warner also supports the testimony of both MCImetro, AT&T and MFS that BellSouth should provide ordering, repair and testing and any other administrative systems needed on an automated basis, where possible.

II. TIME WARNER'S SPECIFIC POSITIONS

ISSUE 1: WHAT ELEMENTS SHOULD BE MADE AVAILABLE BY BELLSOUTH TO MCImetro AND MFS-FL ON AN UNBUNDLED BASIS (E.G., LINK ELEMENTS, PORT ELEMENTS, LOOP CONCENTRATION, LOOP TRANSPORT)?

Time Warner is aware that some new entrants like MCImetro and MFS desire unbundled loops, ports, loop concentration and loop transport. Time Warner does not oppose these elements being automatically unbundled in this proceeding as long as the Commission believes these features and functions are essential to the provision of local exchange service. As such, this level of unbundling will provide consumers with alternatives that will result in innovative technology and lower prices. So, to order this level of unbundling will promote competition and benefit consumers.

ISSUE 2: WHAT ARE THE APPROPRIATE TECHNICAL ARGUMENTS FOR THE PROVISION OF SUCH UNBUNDLED ELEMENTS?

Unbundled elements should be made available as interconnection points between the BellSouth and the ALEC network. This availability of unbundled functions will promote competition and benefit consumers.

ISSUE 3: WHAT ARE THE APPROPRIATE FINANCIAL ARRANGEMENTS FOR EACH SUCH UNBUNDLED ELEMENT?

Time Warner notes that Chapter 364.161, Florida Statutes, requires incumbent LECS, including BellSouth, to unbundle the functions and features of their networks. Time Warner believes these facilities-based providers should not be required to price their retail services at a discount for use by resellers.

To require the incumbent LECs to offer unbundled loops, for example, at cost or TSLRIC, discourages facilities-based alternatives to the LECs. An aggressive resale policy to promote simple resale or rebranding of local exchange service elements will operate to deter the development of facilities based competition.

Dr. Cornell and others have advocated pricing at TSLRIC for essential, unbundled components. This price proposal will disrupt complex, interrelated rate designs for rates including local exchange rates. For example, to price an unbundled local loop at cost will eliminate the contribution normally received by the incumbent LECS for such a feature. If such contribution is eliminated from the price of loops, then other services will, by definition, have to absorb the missing contribution. This will result in increased contribution for other rates of BellSouth. This increase in rates seems both inequitable and unfair to enable only wholesale new entrants to receive "special pricing treatment."

In addition, the proposal of MCImetro, MFS and AT&T to deaverage loops according to diversity and length will also be complicated and time-consuming to implement. Such deaveraging also has implications for rate design and universal service funding. Therefore, to deaverage loops at this time is premature. To offer loops at TSLRIC, without such deaveraging, unfairly disadvantages facilities-based new entrants.

If AT&T, for example, can resell unbundled loops at a slight percentage above cost, there is little incentive for facilities-based new entrants to build out their network. In fact, it likely will also call into question the return on such an investment, and make such capital development more difficult for such a new entrant. Despite AT&T claims that it cannot make money in Rochester with only a 5% discount off of bundled tariff rates for a service, it managed to acquire a large customer base with such a slight discount.

In addition, as MCImetro witness Cornell noted in cross examination, other users of an unbundled loop, like a large business user, could not purchase the other piece parts required to use an unbundled loop, without paying the retail rates that include contribution. This is different than for the new entrants who she recommends receive these functions at cost. (TR 175-177). Thus, Dr. Cornell advocates different rates between end-users and providers so that end users contribute a greater amount of contribution. It would be far better public policy to price such unbundled loops and other essential components without providing substantial resale discounts.

It is also significant public policy to require BellSouth to avoid price squeeze by applying Dr. Cornell's approach to imputation. This requires essential inputs at retail tariffed rates and other components added at cost into the price floor of BellSouth's local exchange rates. In the alternative, the Commission should reduce the rates charged for the unbundled components. (TR 183). However, such an avoidance of price squeeze does not require that these elements be priced at TSLRIC.

<u>ISSUE 4:</u> WHAT ARRANGEMENTS IF ANY, ARE NECESSARY TO ADDRESS OTHER OPERATIONAL ISSUES?

BellSouth should provide ordering, repair, and testing and only other administrative systems needed on an automated basis, where possible.

CONCLUSION

Time Warner believes that for local competition to develop and be sustained, there must be facilities-based alternatives to the incumbent local exchange companies. However, Time Warner believes that facilities-based providers should not be required to price their retail services at a discount for use by resellers. An aggressive resale policy to promote simple resale or rebranding of local exchange service elements will operate to deter the development of facilities-based competition.

Time Warner further recognizes that existing LEC services such as special access provide a contribution toward the preservation of universal services and carrier of last resort obligations, and that until the conclusion of rate and universal service reform, it may not be appropriate for the LECs to lose this contribution. However, the price for unbundled elements provided by the LECs must pass an imputation test, as recommended by MCImetro witness

Cornell, to ensure that new entrants are not caught in a price squeeze.

RESPECTFULLY SUBMITTED this 29th day of January, 1996.

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CERTIFICATE OF SERVICE
DOCKET NO. 950984-TP

I HEREBY CERTIFY that a true and correct copy of Time Warner AxS of Florida, L.P.'s and Digital Media Partners' Posthearing Brief has been served by U.S. Mail, Hand Delivery or Federal Express this 29th day of January, 1996, to the following parties of record:

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