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**REPLY TO:
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October 22, 1993

Mr. Steve Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

via Hand Delivery

**Re: Petition for Expanded Interconnection for Alternate
Access Vendors within Local Exchange Company
Central Offices by Intermedia Communications of
Florida, Inc.; Docket No. 921074-TP**

Dear Mr. Tribble:

Enclosed for filing please find an original and fifteen copies
of Time Warner's AxS of Florida, L.P.'s Posthearing Brief for the
above-referenced docket and a diskette containing the same
information. You will also find a copy of this letter enclosed.
Please date-stamp this copy 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. Thank you for your assistance in processing
this filing.

Respectfully,

PENNINGTON, HABEN, WILKINSON,
CULPEPPER, DUNLAP, DUNBAR,
RICHMOND & FRENCH, P.A.

Peter M. Dunbar
Peter M. Dunbar

PMD/tmz
Enclosures

cc: All parties of record (w/ enclosures)

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[Signature]
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DOCUMENT NUMBER-DATE

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RECORDS/REGISTRATION

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Expanded)
Interconnection for Alternate)
Access Vendors within Local)
Exchange Company Central)
Offices by Intermedia)
Communications of Florida, Inc.)

Docket No.: 921074-TP
Filed: October 22, 1993

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POSTHEARING BRIEF OF TIME WARNER AXS OF FLORIDA, L.P.

Time Warner AxS of Florida, L.P. ("Time Warner"), pursuant to Florida Administrative Code Rule 25-22.056, respectfully submits the following Posthearing Brief in the above-captioned docket to the Florida Public Service Commission ("FPSC" or "Commission").

I. SUMMARY

Expanded interconnection is in the public interest, and should be available to all telecommunications services providers who do not provide monopoly services. Expanded interconnection offers the consumers of the State the advantage of union between end-users and the most advanced telecommunications technology. This union will facilitate the growth of competitive telecommunications networks which will provide consumers throughout the State with the assurances of uninterrupted telecommunications service.

Under the current structure of Chapter 364 of the Florida Statutes, the Commission does have the authority to enact a statewide expanded interconnection policy. The policy adopted by the Commission should require all Tier 1, local exchange companies within the State to allow competitive telecommunications services providers an equal opportunity to interconnect with their networks. To facilitate competition among providers and to assure consistency

DOCUMENT NUMBER-DATE

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and quality of service, the Commission should adopt a collocation policy that is consistent with the FCC's collocation policy.

II. ISSUES

Time Warner recognizes and acknowledges that twenty-one (21) specific issues of law and policy, some with subparts, have been identified and will be addressed by the Commission in this Docket. Each is incorporated in this Posthearing Brief by reference, and is believed by Time Warner to be relevant to the Commission's final decision in this Docket.

ISSUE 1:

Is expanded interconnection for special access and/or private line in the Public Interest?

* POSITION SUMMARY:

Yes.

ANALYSIS AND ARGUMENT:

The demand of customers in the State to have access to new technologies in telecommunications services facilitates increases in the need for providers that offer these types of services. (Canis Tr. 626-627). Even the LECs agree that this type of expanded interconnection can bring about innovative services to the marketplace and lower costs to the customers. (Poag Tr. 566; Kouroupas Tr. 268). Each of the Tier 1 LECs participating in this proceeding further acknowledge that they are in favor of expanded interconnection. (Poag Tr. 566; Denton Tr. 402; Beauvais Tr. 303 and 334).

Under an expanded interconnection policy an AAV would be able to offer new and enhanced services to a broader range of customers. (Canis Tr. 91). History shows that competition does not pose a threat to universal service but, rather, enhances consumer's ability to afford service thereby increasing universal service. (Kouroupas Tr. 437; and Guedel Tr. 196-197, 198 and 209).

ISSUE 2:

How does the FCC's order on expanded interconnection impact the Commission's ability to impose forms and conditions of expanded interconnection that are different from those imposed by the FCC's order?

*** POSITION SUMMARY:**

The FCC's Order on Expanded Interconnection does not restrict the FPSC's ability to impose forms and conditions of expanded interconnection that are different from those imposed by the FCC's order. Expanded interconnection for intrastate special access/private line falls under the FPSC's jurisdiction and the Commission is not bound by any interstate policy.

ANALYSIS AND ARGUMENT:

Stipulated.

ISSUE 3:

Under what circumstances should the Commission impose different forms and conditions of expanded interconnection?

*** POSITION SUMMARY:**

By agreement of the parties, Issue 3 is deleted from further consideration in this proceeding.

ANALYSIS AND ARGUMENT:

Stipulated.

ISSUE 4:

Does Chapter 364 Florida Statutes allow the Commission to require expanded interconnection?

*** POSITION SUMMARY:**

Yes.

ANALYSIS AND ARGUMENT:

Section 364.01 of the Florida Statutes, grants the Commission the "exclusive jurisdiction" over all telecommunications matters in Florida. It further directs the Commission to promote and encourage cost-effective innovation and competition in the telecommunications industry when doing so would will benefit the public by making modern and adequate telecommunications services available at reasonable prices. (Kouroupas Tr. 250). By allowing expanded interconnection, the Commission would be in accord with the purposes of Chapter 364 by promoting competition and decreasing prices to the consumers served by the telecommunications industry. (Kouroupas Tr. 250; Denton Tr. 391 and 392).

Section 364.16 authorizes the Commission to require connections between two or more telecommunications companies where connections can reasonably be made, efficient service obtained and such connections are necessary. (Kouroupas Tr. 251). Reading sections 364.16 and 364.01 with other subsections of Chapter 364, the Commission would be well within its authority to grant expanded interconnection in furtherance of competition and to increase the services available to the consumers from the telecommunications industry. (Kouroupas Tr. 251-252).

The Commission should encourage innovation and new technology in the telecommunications area for the benefit of the citizens of the State of Florida. The Commission does not need any other authority other than that found in Chapter 364 to authorize expanded interconnection. (Kouroupas Tr. 250; Denton Tr. 392).

ISSUE 5:

Does a physical collocation mandate raise federal and/or state constitutional questions about the taking or confiscation of LEC property?

*** POSITION SUMMARY:**

No.

ANALYSIS AND ARGUMENT:

The local exchange companies argue that a physical collocation mandate does raise a constitutional question of taking or confiscation of LEC property. (Beauvais Tr. 333-334; Denton Tr. 418). This argument is without merit and should not be adopted by the Commission. (Canis Tr. 606).

In analyzing whether there is a taking of property by a physical collocation mandate, the issues should be evaluated through an ad hoc, factual inquiry:

1. The economic impact of the regulation;
2. The extent to which it interferes with investment-backed expectations; and
3. The character of the governmental action.

Loretta v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 102 S.Ct. 3164, 73 L.ED. 2d 868 (1982). Physical collocation, as mandated by the FCC and as tentatively proposed by the parties in FPSC Docket 921074-TP, survives these three elements and does not give rise to an unconstitutional physical taking of LEC property. (Canis Tr. 605-606).

First, a physical collocation arrangement does not cause significant economic impact which gives rise to an unconstitutional physical taking. Physical collocation, as set forth by the FCC and as currently being considered by the FPSC, allows LECs to recover from interconnectors the costs of providing expanded interconnection services plus reasonable overhead loadings. (Kouroupas Tr. 252). In addition, expanded interconnection allows increased pricing flexibility for LECs to compete for any customers and/or services which may be served or offered by interconnectors. LECs also enjoy a guaranteed cost recovery and profit margin in their tariffs which have been approved by the FPSC. As a result, no rationale argument can be made that expanded interconnection will cause significant economic impact on LECs which would give

rise to a total loss of their investment or the value of their property which is used under an expanded interconnection arrangement.

In addition to being unable to meet the requisite economic impact test, LECs are unable to assert that expanded interconnection interferes with their reasonable investment-backed expectations as a common carrier. Section 364.03 (3), Florida Statutes, states that:

Every telecommunications company shall upon reasonable notice, furnish to all persons who may apply therefore and be reasonably entitled thereto suitable and proper telecommunications facilities and connections for telecommunications services and furnish telecommunications service as demanded upon the terms to be approved by the Commission.

Section 364.03, Florida Statutes (1991). As a result of this legislative mandate, LECs and other telecommunications companies within the State of Florida must incorporate into their investment-backed expectations the potential of interconnections and interconnection arrangements which may be ordered by the FPSC.

In addition, Section 364.16, Florida Statutes, states that:

Whenever the Commission finds that connections between any two or more telecommunications companies, whose lines form a continuous line of communication or could be made to do so by the construction or maintenance of suitable connections at common points, can reasonably be made and efficient service obtained, and that such connections are necessary, the Commission may require such connections be made, may require that telecommunications services be transferred, and may prescribe through lines and joint rates and charges to be made, used, observed, and enforce in the future and fix the rates and charges by order to be served upon the company or company's affected.

Section 364.16, Florida Statutes (1992). This section further clarifies that the reasonable investment-backed expectations of all telecommunications companies operating within the State of Florida must include the potential of interconnection arrangements which could link the networks of two separate telecommunications companies. This interconnection and linking of networks between telecommunications companies is precisely what is being considered in the expanded interconnection docket. The existence of these laws advise all prudent businessmen of the possibility of interconnection arrangements. Therefore, within the State of Florida, LECs may not reasonably assert that the interconnection implemented by the FCC and under consideration by the FPSC interferes with reasonable investment-backed expectations as envisioned by the *Loretto* court.

Finally, LECs in the instant case are unable to assert that the character of the governmental action gives rise to an unconstitutional taking as envisioned by the *Loretto* court. The *Loretto* court agrees that the rapid development and maximum penetration of a communication network which has important educational and community aspects serves legitimate public interests. *Loretto*, 458 U.S. at 426, 102 S.Ct. at 3170. In considering the question of whether a government action rises to the level of an unconstitutional physical taking, the *Loretto* court stated as follows:

The court has often upheld substantial regulation of an owner's use of his property where deemed necessary to promote the public interest. At the same time, we have long considered a physical

intrusion by a government to be a property restriction of an unusually serious character for the purposes of the takings clause. Our case is further established that when the physical intrusion reaches the extreme form of a permanent physical occupation, a taking has occurred. In such a case, the character of the government action not only is an important factor in resolving whether the action works a taking, but also is determined.

Loretto, 458 U.S. at 427, 102 S.Ct. at 3171. (Emphasis supplied.)

Despite the Court's harshness, it clarified its statement by stating that:

A taking may more readily be found when the interference with property can be characterized as a physical invasion by government than when interference arises from some public benefit adjusting the benefits and burdens of economic life to promote the common good.

Id. (Emphasis supplied), citing to *Penn Central Transportation v. New York City*, 438 U.S. 104, 124, 98 S.Ct. 2646, 2659, 57, L.Ed. 2d 631 (1978).

Within the context of the instance case, expanded interconnection is posed to adjust the benefits and burdens of economic life to promote the common good by removing the monopoly control of local telecommunications. The benefits of competition in the telecommunications marketplace are clearly evident since the divestiture of AT&T. (Kouroupas Tr. 437). The prevalence of affordable customer premises equipment and long-distance service are two of the many benefits stemming from telecommunications competition. The adjusting of benefits and burdens of economic

life to promote the common good are also echoed in Chapter 364 of the Florida Statutes, which states that:

The chief responsibility of the Florida Public Service Commission is to encourage cost-effective technological innovation and competition in the telecommunications industry if doing so will benefit the public by making modern and adequate telecommunications services available at reasonable prices.

Section 364.01, Florida Statutes (1991).

The expanded interconnection docket is merely an implementation of the legislative mandates to promote competition and facilitate inexpensive and advanced telecommunications services to citizens of the State of Florida. These legislative directives combined with the *Loretto* court's interpretation of the physical takings issue equate that expanded interconnection does not give rise to an unconstitutional taking or confiscation of LEC property.

While the *Loretto* analysis does not apply to the instant case, if such takings claims prove meritorious, they must still fail as expanded interconnection is a legitimate use of police power to which the LECs are receiving just compensation. It is unquestionable that the FPSC through Chapter 364 may require interconnections or even require physical occupation to implement the public good. (*Kouroupas Tr. 250*). The FCC has determined that giving interconnectors a right to physical collocation is necessary to ensure prompt achievement of the full benefits of expanded interconnection for special access. *In re expanded interconnection with LEC facilities*, 7 FCC 7482 (1992). The FCC has further stated that the purpose of physical collocation is to bring the overall

benefits of enhanced competition in the interstate special access market to the United States economy.

This intent is carried into Florida with the FPSC implementation of an expanded interconnection policy. The policy is posed to provide the overall benefits of enhanced competition to the intrastate special access market for the benefit of the telecommunications consumers in this State. In addition, the FPSC has and presumably will continue to structure an expanded interconnection policy which will ensure recovery by the LECs for the use of their property. This compensation meets the Fifth Amendment requirement of just compensation following a governmental taking.

As a result of the public interest which is served by expanded interconnection as well as the cost recovery guarantee to LECs, physical collocation does not give rise to the unconstitutional physical taking of property as protected by the state and federal constitutions. The expanded interconnection arrangement proposed by the FCC and the FPSC provides for substantial control and compensation for the use of LEC property. In addition, expanded interconnection does not give rise to the economic impact or investment interference which facilitate a claim of an unconstitutional physical taking. Finally, expanded interconnection is not the aggregation of governmental power which courts have equated with an unconstitutional physical taking. For these reasons, the expanded interconnection policies of the FCC currently being considered by the FPSC do not give rise to federal

or state constitutional questions about taking or confiscation of LEC property. (Canis Tr. 605-606; Kouroupas Tr. 252).

ISSUE 6:

Should the Commission require physical and/or virtual collocation?

*** POSITION SUMMARY:**

The Commission should require physical collocation consistent with the FCC's order on expanded interconnection.

ANALYSIS AND ARGUMENT:

The Commission should mandate physical collocation to ensure that interconnection arrangements are negotiated fairly for both parties. (Canis Tr. 609-610). Even the LECs are not opposed to physical collocation. (Poag Tr. 506-507). The LECs, however, own and control all of the bottleneck facilities and will have an enormous amount of leverage over the interconnectors in the event that the Commission does not equalize the bargaining position of the parties by requiring physical collocation. (Canis Tr. 159; Kouroupas Tr. 256-257; Guedel Tr. 209). The Commission should properly mandate physical collocation to correct this disproportionate amount of bargaining power in the LECs' favor. (Canis Tr. 624-625; Kouroupas Tr. 257).

ISSUE 7:

What LECs, if any, should be required to provide expanded interconnection?

*** POSITION SUMMARY:**

Only Tier 1 LECs should be required to provide expanded interconnection.

ANALYSIS AND ARGUMENT:

The Commission should adopt the FCC's ruling that expanded interconnection should apply only to Tier 1 LECs. (Canis Tr. 51; Carroll Tr. 662-663; Eudy Tr. 679). Tier 1 LECs have the revenues and space to accommodate collocation with interconnectors. (Carroll Tr. 662; Eudy Tr. 676). In contrast, Tier 2 LECs being much smaller companies than Tier 1 LECs may not have the capacity, nor be in a position to provide collocation space to interconnectors. (Canis Tr. 118; Beauvais Tr. 336, 370-371). The Commission should follow the requirements that the FCC has established in Docket 91-141 by mandating expanded interconnection only for Tier 1 LECs. (Rock Tr. 446; Eudy Tr. 677; Guedel Tr. 198).

ISSUE 8:

Where should expanded interconnection be offered?

*** POSITION SUMMARY:**

Expanded interconnection should only be tariffed for those central offices where it is likely to occur. If additional locations are requested, they can be added. For consistency, the

intrastate serving wire centers should match those approved for interstate expanded interconnection.

ANALYSIS AND ARGUMENT:

As determined in FCC Docket 91-141, collocators should be allowed to interconnect in central offices in areas most likely to experience competitive entry. (Rock Tr. 447). The Tier 1 LECs control the large monopoly bottlenecks which are in the large metropolitan cities. (Canis Tr. 617). The interconnectors should be allowed access to these large central offices in order to afford the customers in those areas the advantage of the expanded interconnection and enhanced services. (Rock Tr. 447).

Service providers should be allowed access to LEC networks in areas in which they desire interconnection for the benefit of their customers' demand. (Canis Tr. 629). If there is tremendous demand by collocators in areas that are not part of the FCC's grouping, the collocator should additionally be allowed to interconnect in those areas. (Guedel Tr. 208).

ISSUE 9:

Who should be allowed to interconnect?

*** POSITION SUMMARY:**

All certificated telecommunications providers should be allowed to interconnect. Any party should be allowed to interconnect on an intrastate basis their own basic transmission facilities associated with terminating equipment and multiplexers. These parties will include IXCs, AAVs, cable companies, and end users.

ANALYSIS AND ARGUMENT:

Stipulated.

ISSUE 10:

Should the same terms and conditions of expanded interconnection apply to AT&T as apply to other interconnectors?

*** POSITION SUMMARY:**

AT&T should be allowed to interconnect intrastate Special Access Arrangements to the same extent as other parties, subject to the requirements adopted by the FCC in CC Docket 91-141 regarding preexisting collocated facilities.

ANALYSIS AND ARGUMENT:

Stipulated.

ISSUE 11:

Should the Commission require standards for physical and/or virtual collocation? If so, what should they be?

*** POSITION SUMMARY:**

Yes. The Commission should require a standard that would allow interconnection in a manner which is technically, operationally, and economically comparable to the way the LEC connects its own facilities.

ANALYSIS AND ARGUMENT:

The Commission should require that the LECs provide interconnection to collocators on a first-come, first-served basis where space is available. (Canis Tr. 119 and 127; Guedel Tr. 218 and 220; Poag Tr. 580). The collocators should be able to

interconnect with the central office of a LEC in the same manner as the LEC interconnects with that central office. (Kouroupas Tr. 253 and 260).

In a virtual collocation arrangement, the interconnectors should be able to install, repair, upgrade, and maintain their own equipment. (Kouroupas Tr. 255 and 260). Unless the Commission's policy permits the interconnector to define the service standards for virtual collocation, the policy will not facilitate true competition. (Kouroupas Tr. 261). The collocators should be allotted sufficient latitude to reasonably remain in control of their own equipment to ensure the highest degree of effective competition among the LECs and collocators. (Kouroupas Tr. 261).

ISSUE 12:

Should collocators be required to allow LECs and other parties to interconnect with their network?

*** POSITION SUMMARY:**

No.

ANALYSIS AND ARGUMENT:

Collocators should not be required to allow LECs and other parties to interconnect with their networks. Collocators are not dominant carriers and do not own or control any of the monopoly bottleneck facilities, thus should not be required to provide reciprocity to interconnect to the LECs. The Commission should follow the FCC's ruling in Docket 91-141 which states that the providers should be willing to provide service to LECs on a voluntary basis. The FCC saw no reason to mandate such a

requirement on the interconnectors since they do not control bottleneck facilities.

The purpose of interconnection is to promote competition in a monopoly area that is controlled by the LECs. To allow LECs reciprocal interconnection to collocators networks would not facilitate competition because the collocators do not control any bottleneck facilities. (Guedel Tr. 200, 209; Canis Tr. 144-115).

Time Warner further adopts the position of FCTA concerning any reciprocal interconnection requirements. Time Warner believes that the federal scheme of regulation for cable television systems preclude the FPSC from establishing the terms and conditions upon which cable operators open their networks to third parties. Such terms and conditions are, by congressional mandate, administered by the FCC, and this Commission should not seek to impose inconsistent standards or create unnecessary conflicts in jurisdictional authority.

ISSUE 13:

What standards should be established for the LECs to allocate space for collocators?

*** POSITION SUMMARY:**

The Commission should establish standards for the following: space allocation; point of interconnection; points of entry into the central offices; equipment placed in central offices by or for interconnectors; interconnection of non-fiber technologies; and LEC offices at which interconnection is available.

ANALYSIS AND ARGUMENT:

The Commission should require that collocators be allowed physical collocation from the LECs until there is not adequate space in the central office for physical collocation. (Kouroupas Tr. 263). The mandate of physical collocation should mirror FCC Docket 91-141 and have the same exceptions established by the FCC. (Kouroupas Tr. 262). When there is no longer adequate space in central office to accommodate physical collocation, upon an independent analysis by the Commission of the lack of space for physical collocation, the LECs should offer virtual collocation to the collocators. (Rock Tr. 448; Kouroupas Tr. 262). When a LEC maintains that there is no longer any space in the central office for virtual collocation, the Commission should determine that the assertion by the LEC is correct and that particular central office will no longer be accessible for collocation. (Canis Tr. 119-121).

It is appropriate for the Commission to adopt the FCC standards for allocation of space in the LEC central offices. (Canis Tr. 119-121; Guedel Tr. 198). The FCC has established standards that mandate physical collocation in all central office except in two instances: One is where a voluntary, negotiated arrangement for virtual collocation has been reached between a collocator and the LEC; and the other is where the LECs demonstrate to the FCC's satisfaction that a central office lacks adequate space to provide physical collocation. (Canis Tr. 138).

A physical collocation standard should allocate a ten-by-ten space for the collocator to install, access, and maintain its own

equipment. (Kouroupas Tr. 260). This would allow the interconnectors to access, repair, and upgrade their equipment with trained technicians of their own choosing without the necessity of relying on the LECs to perform such tasks. (Canis Tr. 135; Kouroupas Tr. 255). In the case of virtual collocation, the point of interconnection should be placed in a public right-of-way that is accessible to all potential interconnectors as close to the LEC central office as possible. (Rock Tr. 448).

LECs should be required to offer interconnectors multiple entry locations to LEC central offices. (Rock Tr. 448). In the event that at least two entry locations are not available, LECs should be required to create additional points of entry upon request. Additionally, LECs should be required to allow collocation of equipment necessary to terminate basic transmission facilities, including optical terminating equipment and multiplexers. (Rock Tr. 448).

ISSUE 14:

Should the Commission allow expanded interconnection for non-fiber optic technology?

*** POSITION SUMMARY:**

Yes. LECs should be required to make expanded interconnection available to fiber technologies as well as non-fiber technologies such as microwave facilities. In the case of microwave technologies, LECs should be required to make expanded interconnection available via rooftop antennas.

ANALYSIS AND ARGUMENT:

Expanded interconnection should be offered to non-fiber technology on the same space ability basis as fiber technologies. (Guedel Tr. 215). The LECs' main argument against the broadening of an interconnection policy to non-fiber technology is that the central offices lack adequate space to accommodate fiber and non-fiber technologies. (Denton Tr. 421; Beauvais Tr. 316).

The allocation of space to the non-fiber technology companies would be handled on a first-come, first-served basis and require no additional space in the LEC's central office. When the central office has reached capacity, the LEC would then allocate space to the fiber and non-fiber collocators on a virtual collocation basis. Allocation of space to fiber as well as non-fiber technologies would not impose any additional requirements of the LECs. The LECs would simply be allocating the same amount of space that they would have allocated if there were only fiber technologies requested collocated space. (Kouroupas Tr. 263).

With respect to microwave technologies, the LECs would simply have to have an antenna mounted on the rooftop of the central office. A cable would run from the antenna and interconnect with the LEC central office. This type of interconnection would not require any additional space allocation, so the LEC would not lack any space in the central office from the imposition of interconnection with microwave technologies.

ISSUE 15:

If the Commission permits expanded interconnection, what pricing flexibility should the LECs be granted for special access and private line services?

*** POSITION SUMMARY:**

LECs currently enjoy substantial pricing flexibility under current imposed price restrictions. Until additional competition for both switched and special access develops, no further pricing flexibility is appropriate.

ANALYSIS AND ARGUMENT:

At this time, no new pricing flexibility is needed by the LECs. They already have a extraordinary amount of pricing flexibility, such as contract serving arrangements and individual case basis pricing, that enable the LECs to meet any competitive offering. (Canis Tr. 53, 156, 614; Kouroupas Tr. 264). The Commission can more appropriately determine whether or not the LECs should be given additional price flexibility by an analysis performed after an elapsed period of time following the implementation of an expanded interconnection policy. Such an analysis would allow the Commission to determine if the LECs realistically needed such additional pricing flexibility. (Kouroupas Tr. 264-265). It would also reveal whether pricing flexibility should be based on the number of circuits activated by competitive providers or upon other criteria. (Kouroupas Tr. 288).

ISSUE 16:

If the Commission permits collocation, what rates, terms, and conditions should be tariffed by the LEC?

*** POSITION SUMMARY:**

LECs should tariff the following non-recurring rate elements: Cage Construction, Power Cabling, and Racking, and the Cable Pull. LECs should tariff the following recurring rate elements: cable space, cross-connect, floor space, and electric power.

ANALYSIS AND ARGUMENT:

The Commission should adopt the tariff structure of rates, terms, and conditions implemented by the FCC. (Rock Tr. 452; Canis Tr. 610). This mirroring of FCC policy would ensure the nondiscriminatory availability of space with respect to the elements of collocation being tariffed. (Guedel Tr. 224). It is crucial that these rates, terms and conditions be nondiscriminatory such that there is no difference in the charges to the customer whether the circuits remain as the LEC's circuits or are transferred from a LEC to an interconnector or from an interconnector to a LEC. (Kouroupas Tr. 266).

The interconnectors should be free to install and maintain the equipment of their choosing. (Kouroupas Tr. 255). Further, there should be no restrictions placed on interconnectors by LECs regarding the types of equipment that can be installed as long as it can be used to terminate basic transmission facilities. (Kouroupas Tr. 267).

ISSUE 17:

Should all special access and private line providers be required to file tariffs?

*** POSITION SUMMARY:**

No. The Commission should exempt providers from tariff filing requirements as it did in Order 24877.

ANALYSIS AND ARGUMENT:

Collocating providers should not be require to file tariffs because their services are priced according to the market. Providers do not enjoy the privilege of captive customers to generate monopoly revenues as do LECs. (Canis Tr. 53). LECs on the other hand have the advantage of the monopoly profits and a mandate of tariffing is needed to ensure that the competitive market is promoted.

In Order No. 24877, the Commission acknowledged the fact that a customer is aware that a provider is in direct competition with LECs and the customer has the option of switching back to the LEC if they choose to do so. (Kouroupas Tr. 268). Thus, the Commission determined that the imposition of tariffs on the competitive providers would be superfluous. (Kouroupas Tr. 267-268).

ISSUE 18:

What separations impact will expanded interconnection have on the LECs?

*** POSITION SUMMARY:**

No position.

ANALYSIS AND ARGUMENT:

Time Warner has taken no position on this issue and offers no analysis or argument thereon.

ISSUE 19:

Should expanded interconnection be subject to a "net revenue test" requirement in order to avoid possible cross-subsidy concerns?

*** POSITION SUMMARY:**

Yes.

ANALYSIS AND ARGUMENT:

Yes. A "net revenue test" would ensure that the LECs do not subsidize their venture capital investments with monopoly generated funds. The premise of expanded interconnection is to promote competition, and if the LECs are able to cross-subsidize, they would be at a competitive advantage over the providers. The "net revenue test" would ensure fair competition for all competitors. (Rock Tr. 454).

ISSUE 20:

How would ratepayers be financially affected by expanded interconnection?

*** POSITION SUMMARY:**

By agreement of the parties, Issue 19 is deleted from further consideration in this proceeding.

ANALYSIS AND ARGUMENT:

Stipulated.

ISSUE 21:

Should the Commission grant ICI's petition?

*** POSITION SUMMARY:**

Under expanded interconnection, ratepayers will be able to obtain lower prices and a higher quality of telecommunications service.

ANALYSIS AND ARGUMENT:

Yes. The Commission should allow ICI to interconnect under the terms and conditions for expanded interconnection as developed in this proceeding. (Rock Tr. 455). By allowing expanded interconnection, the Commission would facilitate customer choice of providers and the development and the production of new and innovative services designed to meet particular customer needs. (Guedel Tr. 194; Canis Tr. 55). The granting of ICI's petition will also facilitate a decrease in providers' prices to the further benefit the citizens of the State. (Kouroupas Tr. 268; Guedel Tr. 194; Rock Tr. 442).

III. CONCLUSION

The Commission has the authority under Ch. 364 of the Florida Statutes, to authorize expanded interconnection, and it is in the public interest to do so. Expanded interconnection will provide the citizens of the State with innovative new services and a decrease in prices for such services. This will facilitate the growth of competitive telecommunications networks which will

provide consumers throughout the State with the assurances of uninterrupted telecommunications service.

RESPECTFULLY SUBMITTED this 22nd day of October, 1993.

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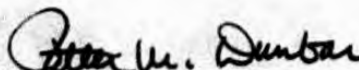
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