

Pennington
Moore
Wilkinson
Bell &
Dunbar P.A.
ATTORNEYS AT LAW
www.penningtonlaw.com

ORIGINAL

Howard E. "Gene" Adams
Attorney at Law

(850) 222-3533
gene@penningtonlaw.com

January 27, 2006

Mrs. Blanca S. Bayo
Director, Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: In re: Petition by BellSouth Telecommunications, Inc. for Waiver of
Rules 25-4.066 and 25-4.067, Florida Administrative Code and
Petition to Initiate Rulemaking
Docket No. 050922-TL

Dear Ms. Bayo:

Enclosed is an original and seven copies of comments by Time Warner Telecom on the
Petition for Waiver of Rules 25-4.066 and 25-4.067, Florida Administrative Code and Petition to
Initiate Rulemaking, which we ask that you file in the above captioned docket.

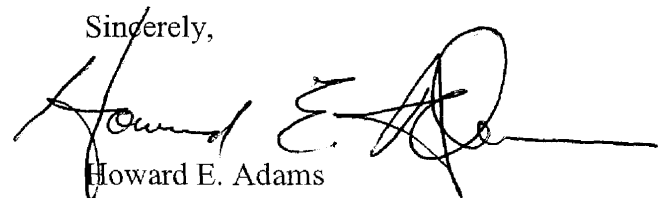
Copies have been served to the parties shown on the attached Certificate of Service.

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Sincerely,



Howard E. Adams

DOCUMENT NUMBER - DATE

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BEFORE THE PUBLIC SERVICE COMMISSION

In Re: Petition by BellSouth
Telecommunications, Inc for waiver of Rules
25-4.066 and 25-4.067, FAC and Petition to
Initiate Rulemaking

DOCKET NO. 050922-TL

TIME WARNER TELECOM, L.P.
COMMENTS ON PETITION FOR WAIVER OF RULES
25-4.066 AND 25-4.067 FLORIDA ADMINISTRATIVE CODE AND
PETITION TO INITIATE RULEMAKING

Comes now Time Warner Telecom, L.P., (Time Warner Telecom or TWTC) pursuant to section 120.54(7), Florida Statutes, and hereby submits the following comments to the Florida Public Service Commission:

1. Time Warner Telecom is a competitive local exchange telecommunications company doing business in the State of Florida.
2. Time Warner Telecom's principle place of business is: 233 Bramerton Court, Franklin, TN. 37069-4002 and pleadings and process may be served upon Howard E. Adams, Pennington, Moore, Wilkinson, Bell & Dunbar, P.A., 215 South Monroe Street, Tallahassee, Florida 32301, Telephone 850-222-3533, Fax 850-222-2126.
3. Petitioner, BellSouth Telecommunications, Inc. (BellSouth) as an incumbent local exchange telephone company, is experiencing problems regarding multi-tenant environments and may have suffered physical lock out or economic lock out as it has defined those terms in its petition.

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FPSC-COMMISSION CLERK

4. Time Warner Telecom asserts that the Commission must continue to require BellSouth and other ILECs to serve carrier of last resort obligations as provided by statute until that statute is changed or the commission through change in statute and policy relieves the incumbent local exchange companies of this obligation. This obligation requires the company to serve all customers within their certified territory and any rule should require the ILEC to make explicit any findings justifying any deviation from the statutory presumption of universally available telephone service.

5. Historically, in exchange for assuming carrier of last resort obligation, incumbent local exchange companies receive universal service benefits to the extent the costs of providing service generally exceed the revenue from providing that service. This burden as a carrier of last resort and corresponding benefit from the universal service fund has not been altered as the competitive nature of the market developed and incumbent local exchange companies have entered into price regulatory plans. Even where returns are not guaranteed, the incumbent local exchange companies have been willing to continue to operate under the carrier of last resort obligation when there was an ability to recover these costs through the universal service fund and market pricing.

6. The relief sought in this waiver or rulemaking proceeding is unprecedented and is of uncertain scope. BellSouth seeks a "permanent" waiver by seeking a waiver of Rules 25-4.066 and Rule 25-4.067, Florida Administrative Code with regard to specific property involved in specific circumstances. However, this permanent waiver does not serve the

competitive interests of the Florida market place as such a permanent waiver could thereafter limit the availability of customers to other providers. The petition does not specify potentially how many customers throughout the State could be affected by this waiver. The petition for waiver does not specify how customers with a change of circumstance who later are entitled to life line benefits would obtain access to those programs without a universal service provider or carrier of last resort as the incumbent local exchange provider. BellSouth has not set forth in its petition how provision of these life line services and other circumstances that might give rise to the individual customer request for service would be justified under this waiver from the carrier of last resort responsibility.

7. The petition also does not state whether or not the incumbent local exchange companies would still be allowed to receive universal service phone benefits if they do not provide that universal service to all who might wish to receive it. The Public Service Commission at a minimum must study as a part of the waiver petition and in this rulemaking proceeding the impact that such relief from the carrier of last resort obligations would have on the universal service fund collection and funding distribution mechanisms.
8. While BellSouth has asserted that it may have economic difficulties with an economic or physical lock out and that it may incur costs in preparing to serve; only later to be informed of a physical or economic lock out; the incumbent local exchange company is not required to provide high cost nor high capacity service to individual customers. The

only obligation is to provide standard dial tone service to an individual customer as the carrier of last resort. They do not have the obligation to provide fiber-based services which may include digital, internet, other high speed or services which are beyond the carrier of last resort obligation. Any multi-tenant environment community which might be subject to a PPC which then has a dissatisfied customer or customer who wishes alternative service from the PPC would find this customer no different than a remote or rural customer. Other than the potential hurdles necessary to obtain permission from the premises owner to serve the customer, the carrier of last resort would have the opportunity to serve that customer. This leaves BellSouth in the same position it has historically been with respect to providing service as a carrier of last resort to end users who are located in residential and commercial developments that are remote or in rural areas and hard to serve.

9. Should the Commission decide to open the carrier of last resort rule and review rules regarding a waiver for carrier of last resort obligations in preferred provider situations, Time Warner Telecom is interested in having the Commission review multi-tenant environment access and access to serve requirements in those multi-tenant environments. Time Warner Telecom has experienced both economic and physical lock out as a competitive provider or has received requests for excessive fees in order to serve. Often this fee is only charged to a competitive carrier where incumbent local exchange companies have been offered the opportunity to serve without payment obligation or franchise fee.

10. Time Warner Telecom believes that any Rule development or waiver, if the Petition is granted, should place all parties, including competitive local exchange companies and incumbent exchange companies on a “neutral playing field” to access customers in multi-tenant environments including access to the residential or commercial environment.

WHEREFORE, Time Warner Telecom asserts that should waiver or rulemaking be granted, the Commission grant the following relief:

- A. Provide for a waiver on a case by case basis where physical or economic lock out may occur and that such rulemaking if granted should be limited to waivers on a case by case basis and not a “permanent” waiver of the carrier of last resort obligation.
- B. Should the Commission determine that a waiver is appropriate, then Time Warner Telecom asserts the funding mechanism for Universal Service and Life Line Service must also be adjusted appropriately so that the carrier of last resort does not receive any economic windfall or benefit from being released from its obligation to serve.
- C. Time Warner Telecom also asserts, that the customer must make a knowing waiver that the customer may be unable to receive universal or life line service or other competitive services should the multi-tenant community opt for the preferred provider or economic lock out as defined by BellSouth in its petition.

- D. Time Warner Telecom also asserts that any Rule broadly exempting private residential or commercial developments would be premature and that ILEC's should be required to petition on a case by case basis for appropriate relief should stranded costs or economic hardships occur from preferred provider or contractual relations in multi-tenant environments.
- E. Time Warner further asserts that should any waiver or rulemaking occur, the P.S.C. should review access to multi-tenant environments on a neutral carrier basis to foster competition and to allow competitive entry by all carriers into multi-tenant environments.
- F. Time Warner requests a public hearing on any waiver or rulemaking granted in this docket.

Respectfully submitted this 27th day of January, 2006.



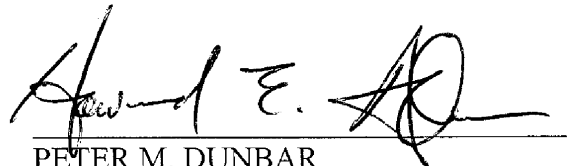
PETER M. DUNBAR
Florida Bar Number 146594
HOWARD E. ADAMS
Florida Bar Number 0322210
PENNINGTON, MOORE,
WILKINSON, BELL & DUNBAR, P.A.
Post Office Box 10095
Tallahassee, Florida 32302-2095
Telephone: (850) 222-3533
Facsimile: (850) 222-2126

Attorneys for Time Warner Telecom, LP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copy of the foregoing was served by U.S. Mail this 27th day of January 2006 on:

BellSouth Telecommunications, Inc.
Nancy B. White
Manuel A. Gurdian
Sharon R. Liebman
c/o Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, FL 32301
850-347-5558



PETER M. DUNBAR
Florida Bar Number 146594
HOWARD E. ADAMS
Florida Bar Number 0322210
PENNINGTON, MOORE,
WILKINSON, BELL & DUNBAR, P.A.
Post Office Box 10095
Tallahassee, Florida 32302-2095
Telephone: (850) 222-3533
Facsimile: (850) 222-2126