

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 930103-TA
certificate to provide alternate) ORDER NO. PSC-93-0546-FOF-TA
access vendor services by TIME) ISSUED: 04/12/93
WARNER AXS OF FLORIDA, L.P.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
JULIA L. JOHNSON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING APPLICATION FOR
ALTERNATE ACCESS VENDOR CERTIFICATE

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On January 25, 1993, Time Warner AXS of Florida, L.P., a Delaware Limited Partnership filed an application to provide AAV services in Florida. The company initially plans to offer the service in the Kissimmee, Melbourne and Winter Park area. The Company's application satisfies our certification requirements.

However, because of published materials outlining extensive service options which the company hopes to offer in the future---some of which would appear to require changes in existing law---consideration of the matter was deferred at our March 30, 1993, Agenda Conference. Since that time, we have been assured that the company intends to comply with all current statutes, rules and orders. With this understanding, we shall grant the company an AAV certificate.

Therefore, it is

ORDERED that Time Warner AXS of Florida, L.P. is hereby granted a certificate to provide Alternative Access Vendor services within the State of Florida as set forth in the body of this Order. It is further

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ORDERED that this Docket shall be closed at the conclusion of the Proposed Agency Action protest period, assuming no timely protest is received.

By ORDER of the Florida Public Service Commission this 12th day of April, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CWM

by: Kay DeLeon
Chief, Bureau of Records

Commissioner Lauredo concurs as follows:

I concur with this vote with reservations. I am concerned that this item is being recommended and considered for approval within the narrow legal consideration that it "satisfies our certification requirements," ignoring the fact that it is an element of a broader technological development by Time Warner to build the "First Full Service Network," or the "Electronic Superhighway into the Home."

As regulators of a telecommunications industry whose developments are racing past our existing regulatory infrastructure, and in fact redefine and merge existing industries, we have a special duty to examine the broad picture and its implications to the citizens and consumers of Florida. Time Warner, Inc. has scheduled a presentation to the Commission on May 3, 1993 on its overall plans, and I believe it would have been more prudent to have considered this application after that date.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 3, 1993.

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