

LAW OFFICES
BRYANT, MILLER AND OLIVE, P.A.
201 South Monroe Street
Suite 500
Tallahassee, Florida 32301
(904) 222-8611

FAX: (904) 224-1544
(904) 224-0044

ORIGINAL
FILE COPY

Barnett Plaza
Suite 1265
101 East Kennedy Boulevard
Tampa, Florida 33602
(813) 273-6677

FAX: (813) 223-2705

5825 Glenridge Drive
Building 3
Suite 101
Atlanta, Georgia 30328
(404) 705-8433

FAX: (404) 705-8437

April 26, 1996

BY HAND DELIVERY

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

Re: Resolution of Petition to Establish Non-Discriminatory Rates,
Terms and Conditions for Interconnection Involving Local
Exchange Companies and Alternative Local Exchange Companies
Pursuant to Section 364.162, Florida Statutes; Docket No.
950985-TP

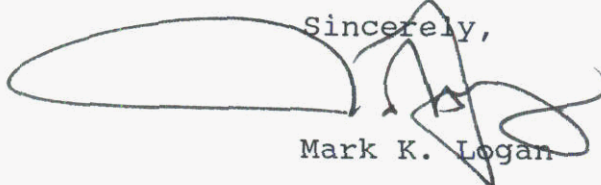
Dear Ms. Bayo:

Enclosed for filing in the above-styled docket are the
original and fifteen (15) copies of the Response of AT&T
Communications of the Southern States, Inc. to Time Warner and
FCTA's Motions for Reconsideration. Please also find enclosed a
3.5" diskette formatted for WordPerfect 5.1 containing another copy
of the Response.

Please acknowledge receipt and filing of the above by stamping
the duplicate copy of this letter and returning the same to this
writer.

Thank you for your assistance in this matter.

Sincerely,



Mark K. Logan

- ACK
- AFA
- APP
- CAF
- CMU Chase
- CTR
- EAG
- LEG 1 MKL/ma
- LIN 5 Enclosures
- OPC cc: Michael Tye, Esquire
Robin Dunson, Esquire
- RCH
- SEC 1
- WAS
- OTH

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

04796 APR 26 8

FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE

DOCKET NO. 950985-TP

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by next day express mail, U. S. Mail or hand-delivery to the following parties of record this 26th day of April, 1996.

Robert V. Elias, Esq.
Florida Public Service Comm.
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Floyd R. Self, Esq.
Messer Vickers et al
215 S. Monroe St., Ste 701
Tallahassee, FL 32301

Lee Willis, Esq.
Jeffry Wahlen, Esq.
MacFarlane Ausley et al.
227 S. Calhoun St.
Tallahassee, FL 32301

Anthony P. Gillman, Esq.
Kimberly Caswell, Esq.
GTE Florida, Inc.
201 N. Franklin St.
Tampa, FL 33601

Phillip Carver
c/o Nancy H. Sims
BellSouth Telecommunications
150 S. Monroe St., Ste 400
Tallahassee, FL 32301

Donna L. Canzano, Esq.
Florida Public Service Comm.
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Richard D. Melson, Esq.
Hopping Green Sams & Smith
123 S. Calhoun Street
Tallahassee, FL 32301

Patrick Wiggins, Esq.
Marsha Rule, Esq.
Wiggins & Villacorta, P.A.
501 E. Tennessee St., Ste B
Tallahassee, FL 32301

Jodie Donovan-May, Esq.
Teleport Communications
1133 21st St., NW, #400
Washington, DC 20036

Michael J. Henry, Esq.
MCI Telecommunications
780 Johnson Ferry Road #700
Atlanta, GA 30342

Donald Crosby, Esq.
Continental Cablevision
7800 Belfort Parkway #270
Jacksonville, FL 32256-6925

Kenneth Hoffman, Esq.
Rutledge Ecenia et al
215 S. Monroe St., Suite 420
Tallahassee, FL 32301

Charles Beck, Esq.
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison St., Rm 812
Tallahassee, FL 32399-1400

Peter M. Dunbar, Esq.
Robert S. Cohen, Esq.
Pennington, Culpepper et al
215 S. Monroe St., 2nd Floor
Tallahassee, FL 32302

Patricia Kurlin, Esq.
Intermedia Communications
3625 Queen Palm Drive
Tampa, FL 33619

Timothy Devine
MFS Communications Co., Inc.
Six Concourse Pkwy., Ste 2100
Atlanta, GA 30328

Benjamin Fincher, Esq.
Sprint Communications Co.
3065 Cumberland Cr.
Atlanta, GA 30339

C. Everett Boyd, Jr., Esq.
Ervin Varn Jacobs & Odom
305 S. Gadsden St.
Tallahassee, FL 32301

James C. Falvey, Esq.
Richard M. Rindler, Esq.
Swidler & Berlin
3000 K. St., NW, Ste 300
Washington, D.C. 20007

David B. Erwin, Esq.
Young, VanAssenderp, Varnadoe
225 S. Adams St., Ste 200
Tallahassee, FL 32301

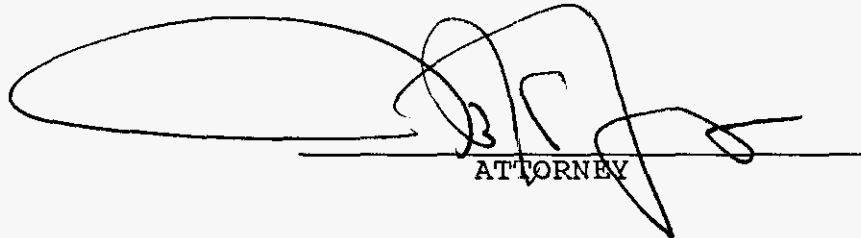
Laura Wilson, Esq.
Florida Cable
310 N. Monroe Street
Tallahassee, FL 32301

Jill Butler
2773 Red Maple Ridge
Tallahassee, FL 32301

Lynn B. Hall
Vista-United
3100 Bonnett Creek Parkway
Lake Buena Vista, FL 32830

Angela Green, Esq.
FPTA
125 S. Gadsden St., Ste 200
Tallahassee, FL 32301

Sue E. Weiske, Esq.
Time Warner Communications
160 Inverness Drive West
Englewood, Colorado 80112



ATTORNEY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of Petition to) DOCKET NO. 950985-TP
Establish Non-Discriminatory Rates,)
Terms, and Conditions for)
Interconnection Involving Local)
Exchange Companies and Alternative)
Local Exchange Companies Pursuant)
to Section 364.162, Florida Statutes) Filed: April 26, 1996
_____)

RESPONSE OF AT&T COMMUNICATIONS OF THE
SOUTHERN STATES, INC. TO TIME WARNER AND FCTA'S
MOTIONS FOR RECONSIDERATION

AT&T Communications of the Southern States, Inc. ("AT&T"), pursuant to Rule 25-22.060(1)(b), Fla. Admin. Code, files its response to the Motions for Reconsideration filed by Time Warner AxS of Florida, L.P and Digital Media Partners ("Time Warner") and the Florida Cable Telecommunications Association ("FCTA") and states:

1. The Motions for Reconsideration filed by Time Warner and FCTA argue essentially the same points. Therefore, in the interest of economy, AT&T will address both Motions in this response.

2. The purpose of a motion to reconsider is to bring to the attention of the Commission some material and relevant point of fact or law which was overlooked, or which it failed to consider when it rendered the order in the first instance. In Re: Intermedia Communications of Florida, Inc., Florida Public Service Commission Order No. PSC-95-1188-FOF-TP (September 21, 1995)(citing Diamond Cab Co. v. King 146 So. 2d 889 (Fla. 1962)). Thus, the burden is upon Time Warner and FCTA to demonstrate that the Commission has overlooked a particular point of fact or law that requires reconsideration. In Re: Investigation into Florida Public Service

Commission Jurisdiction Over Southern States Utilities, Inc. in Florida, Florida Public Service Commission Order No. PSC-94-1040-FOF-WS (August 24, 1995). A review of the record suggests that the issues raised by Time Warner and FCTA do not meet this standard and, therefore, the Motions for Reconsideration should be denied.

3. The essence of the Motions is the disparate treatment given different ALECs in two Commission orders. The first order approved a stipulation between BellSouth and several ALECs pursuant to Section 364.162(2), Florida Statutes (1995). Order Approving Agreement, Florida Public Service Commission Order No. PSC-96-0082-AS-TP (January 17, 1996) ("Stipulation"). The second order set rates, terms and conditions of interconnection between BellSouth and other ALECs not a party to the Stipulation. Final Order Establishing Nondiscriminatory Rates, Terms and Conditions for Local Interconnection Between BellSouth Telecommunications, Inc. and MCI Metro Access Transmission Services, Inc., Florida Public Service Commission Order No. PSC-96-0445-FOF-TP (March 29, 1996) ("Final Order"). Time Warner and FCTA contend that because the Stipulation and Final Order impose different requirements on petitioning ALECs the Final Order is discriminatory in violation of Section 364.162, Florida Statutes (1995). Time Warner and FCTA are correct in stating that the Stipulation and Final Order impose different conditions for interconnection on those ALECs signing the Stipulation than those that went to hearing. However, those different conditions do not result in discriminatory treatment of any particular ALEC. Therefore the Motions for Reconsideration

should be denied. As BellSouth and the parties to the Stipulation pointed out the Stipulation is a comprehensive "all or nothing" type agreement covering not only interconnection but universal service, local number portability and unbundling/resale. Merely because the interconnection terms adopted by the Commission differ from those contained in the Stipulation does not mean that the parties to the Stipulation have been discriminated against. Indeed, the rate proposed by BellSouth in this proceeding, albiet a higher rate, was different from the rate provided for in the Stipulation. The parties cannot have it both ways.

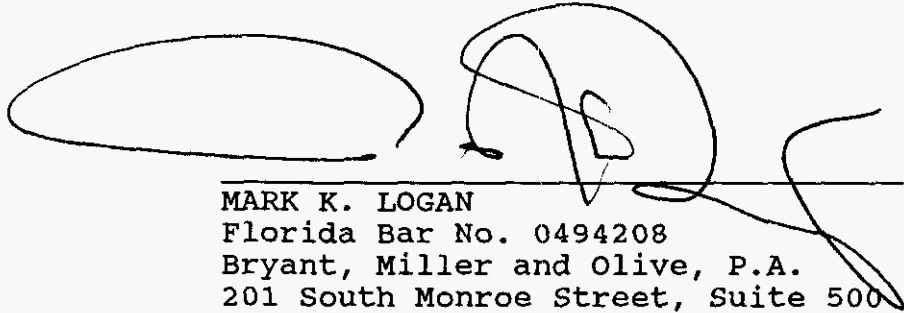
4. Section 364.162, Florida Statutes contemplates negotiated agreements between a LEC and an ALEC concerning the rates, terms and conditions of interconnection. That is exactly what BellSouth and Time Warner (plus other ALECs) did in entering the Stipulation. Other parties, failing to reach agreement on some or all of the issues, sought the Commission's arbitration to establish the terms of interconnection. Section 364.162(2), Florida Statutes. Time Warner cannot now complain that it doesn't like the Stipulation it voluntarily entered into because the Final Order appears more favorable, or vice versa. That choice was made when Time Warner elected to sign the Stipulation.

5. Adopting Time Warner and FCTA's construction of Section 364.162 would render an absurd result. The first times rates, terms and conditions of interconnection are set by the Commission, either via approval of a negotiated agreement or by arbitration, would then govern any subsequent agreement or arbitration

proceedings. However, there would be no additional proceedings because there could be no variance from the first order. Had the Legislature intended that there be just one meaningful hearing to set rates, terms and conditions of interconnection then it would have said so. Instead the plain language of the statute contemplates several individual sets of negotiations or arbitration hearings between specific parties. The Commission is correctly implementing the legislative mandate of the statute and should not alter that course as Time Warner and FCTA request.

6. The only way Time Warner and, presumably, FCTA can actually suffer injury from the differing content of the terms, rates and conditions of interconnection contained in the Stipulation and the Final Order is if they cannot avail themselves of either set of terms, rates and conditions. Such is not the case. The Commission has determined in both instances that Bell South shall file tariffs consistent with the Stipulation and Final Order. Any party can avail itself of a tariff filed and approved by the Commission. Thus there can be no discriminatory impact merely because of the existence of a disparate Stipulation and Final Order.

Respectfully submitted,

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

MARK K. LOGAN
Florida Bar No. 0494208
Bryant, Miller and Olive, P.A.
201 South Monroe Street, Suite 500
Tallahassee, Florida 32301
(904) 222-8611

MICHAEL W. TYE
101 North Monroe Street, Ste. 700
Tallahassee, Florida 32301
(904) 425-6360

ROBIN D. DUNSON
1200 Peachtree St., NE
Promenade I, Room 4038
Atlanta, Georgia 30309
(404) 810-8689