

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Approval of the Interconnection)
Agreement Negotiated by BellSouth) Docket No. 960719-TP
Telecommunications, Inc. ("BellSouth"))
and Time Warner AxS of Florida, L.P.)
d/b/a Time Warner Communications &)
Digital Media Partners ("Time Warner")) Filed: July 10, 1996
pursuant to Sections 251 and 252 of)
the Telecommunications Act of 1996.)
_____)

The Florida Interexchange Carriers Association's Motion
to Approve BellSouth/Time Warner Agreement and to
Simultaneously Modify BellSouth Access Tariff

The Florida Interexchange Carriers Association (FIXCA), pursuant to rule 25-22.037, Florida Administrative Code, files this motion asking the Commission to approve the Interconnection Agreement between BellSouth and Time Warner and to simultaneously modify BellSouth's access tariff.¹ As grounds therefor, FIXCA states:

1. On June 7, 1996, BellSouth Telecommunications, Inc. (BellSouth) and Time Warner AxS of Florida, L.P. d/b/a Time Warner Communications & Digital Media Partners (Time Warner) filed a Master Interconnection Agreement (Agreement) with this Commission. They ask this Commission to approve the Agreement pursuant to § 252(e) of the Telecommunications Act of 1996 (the Act).

2. The Agreement sets out the rates and terms and conditions governing interconnection between BellSouth and Time Warner. In the Agreement, the parties have reached a negotiated arrangement regarding the provision of and prices for certain services,

¹ FIXCA has simultaneously filed a Petition to Intervene in this docket.

including interconnection pursuant to § 251 of the Act. While the Act gives BellSouth the flexibility to negotiate with other carriers regarding interconnection services, it also carries with it a corresponding responsibility which requires BellSouth to make the negotiated terms and conditions available to all carriers on a nondiscriminatory basis.

3. Specifically, section 5.02 of the Agreement governs compensation between BellSouth and Time Warner for traffic delivery. Subsection e. governs the delivery of intrastate toll traffic between BellSouth and Time Warner. Within that subsection, the Agreement includes the following provision for the rating of tandem-switched transport:

-Variable -" per minute per mile of use; provided, however, that an average mileage of 5 miles shall apply to all intralATA toll traffic regardless of the actual mileage between the access tandem and the BellSouth end office.

§5.02(e), p. 13, emphasis added. This provision, which utilizes a 5-mile average, differs markedly from BellSouth's current access tariff from which FIXCA members must purchase the same elements for call termination which BellSouth will provide to Time Warner under the Agreement.

4. In contrast to the negotiated access provision quoted above, the BellSouth access tariff provides two optional methods for measuring the tandem-switched transport mileage, neither of which includes the option of a set 5 miles. See § E.6.7.19, Mileage Measurements, BellSouth Switched Access Service Tariff, pp. 53-53.1.

5. Section 252(e) of the Act, under which BellSouth and Time Warner seek approval of the Agreement, requires this Commission to reject an interconnection agreement negotiated under the Act if

the agreement (or portion thereof)
discriminates against a telecommunications
carrier not a party to the agreement

6. Despite the fact that FIXCA members and Time Warner must purchase the same elements from BellSouth for call termination, the Agreement which BellSouth and Time Warner ask the Commission to approve would permit BellSouth to charge Time Warner a price different from that found in BellSouth's access tariff, from which all other carriers must purchase the same elements. The offering of different prices for the same service is discriminatory, illegal and impermissible under the Act.

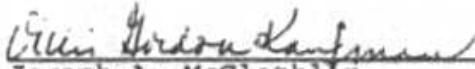
7. It is undisputed that BellSouth, via this Agreement, will provide Time Warner with a rate for access which differs from the rate currently available under its tariff. Therefore, if BellSouth is not required to offer the option offered to Time Warner to all carriers, the Agreement will, by its inconsistent terms, discriminate against those providers who must purchase access from BellSouth but who are not parties to the BellSouth/Time Warner Agreement. Such preferential treatment is the antithesis of the federal mandate to foster competition in all telecommunications markets.

8. For the Agreement to be nondiscriminatory and meet the requirements of § 252(e), the 5-mile option must be made available to all carriers. The most expedient and administratively efficient

way to do this is to include the 5-mile option in BellSouth's access tariff.

9. It should be noted that FIXCA does not ask this Commission to reject the BellSouth/Time Warner Agreement, though the Commission has the authority to do so under the standards of the Act. Rather, in order to cure the Agreement's discriminatory deficiency, the Commission must, at the same time it approves the Agreement, require BellSouth to revise its access tariff so that the same 5-mile average provision which BellSouth will provide to Time Warner is available as an option to all carriers who purchase access from BellSouth.

WHEREFORE, FIXCA asks the Commission to approve the BellSouth/Time Warner Agreement and to simultaneously direct BellSouth to revise its access tariff to make the 5-mile option available to all carriers.



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CERTIFICATE OF SERVICE

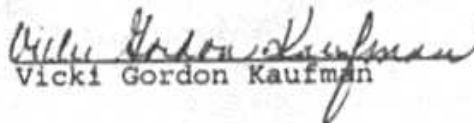
I HEREBY CERTIFY that a true and correct copy of FIXCA's Motion to Approve BellSouth/Time Warner Agreement and Simultaneously Modify BellSouth Access Tariff was provided by hand delivery* or by U.S. Mail this 10th day of July, 1996 to the following parties:

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July 10, 1996

HAND DELIVERED

ORIGINAL
FILE COPY

Blanca S. Bayo, Director
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Florida Public Service Commission
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Re: Docket No. 960719-TP, In re: Approval of the
Interconnection Agreement Negotiated by BellSouth
Telecommunications, Inc. ("BellSouth") and Time
Warner AxS of Florida, L.P. d/b/a Time Warner
Communications & Digital Media Partners ("Time
Warner") pursuant to Sections 251 and 252 of the
Telecommunications Act of 1996

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and
sixteen copies of the Florida Interexchange Carriers Association's
Petition to Intervene and the original and sixteen copies of the
Florida Interexchange Carriers Association's Motion to Approve
BellSouth/Time Warner Agreement and to Simultaneously Modify
BellSouth Access Tariff, in the above docket.

Please acknowledge receipt of the above on the extra copies
enclosed herein and return them to me. Thank you for your
assistance.

Sincerely,

Vicki Gordon Kaufman
Vicki Gordon Kaufman

VGK ✓
AFA _____
APP _____
CAF _____
CMU *Chase*
CTR _____
EAG _____
LEG 1
LIN 5
OFC _____
RCH _____
SEC 1
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