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

May 15, 1998

Re: Docket No. 980253-TX
Petition to Initiate Rulemaking Pursuant to Section 120.54(7), F.S., to
Incorporate "Fresh Look" Requirements to all Incumbent Local Exchange
Company Contracts by Time Warner AxS of Florida, Inc.

Dear Ms. Bayo:

These are GTE Florida Incorporated's (GTE) comments in response to the April 22,
1998 workshop in this matter.

As GTE stated in that workshop, GTE supports the Staff's initial conclusion that there is
no need to pursue a "fresh look" policy at this time. (Staff Rec. in this Docket, dated
Feb. 26, 1998). There are numerous legal and policy reasons to reject the fresh look
mechanism Time Warner and the Florida Competitive Carriers Association (FCCA)
advocate.

For instance, the ALECs ignore a decisive advantage they already have in the CSA
area. In the arbitration proceedings under the federal Act, this Commission ruled that
ILECs must resell their CSAs and discount them in the amount of the avoided cost
discount for each ILEC. This means that the ALEC can literally take away the ILEC's
customer and give that customer the same contract, potentially at a lower price, as long
as they pay any applicable termination charges. This resale requirement is, in effect, a

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fresh look mechanism. There is no reason why the Commission would need to adopt a policy allowing customers to opt out of ILEC agreements when the ALEC can simply take the customer away anyway.

A Florida fresh look policy would, moreover, deprive the ILECs of their constitutional rights. The Contract Clause of the U.S. Constitution provides that "No State shall...pass any...Law impairing the Obligation of Contracts...." U.S. Const. art. I, sec. 10, cl.1. Fresh look contravenes this plain language; indeed, it is deliberately intended to impair ILEC contracts with their customers.

This concern about abrogation of existing contracts (particularly when those contracts involve unregulated services) was one reason the Michigan Public Service Commission rejected a fresh look request. It also found fresh look to be undesirable from a policy standpoint because: 1) fresh look would cause chaos every time a new local exchange company entered the market; and 2) customers should be aware of the risks of entering into long-term contracts in an environment of increasing competition. Application of City Signal, Inc. for an Order Establishing and Approving Interconnection Arrangements with Ameritech Michigan, Case No. U-10647 at 79-80 (Feb. 23, 1995).


As GTE stated, there is no need for a fresh look policy. Certainly, there is no plausible rationale for the extreme proposals the ALECs have made. These draft rules go far beyond any fresh look mechanism that has ever been instituted at the FCC or in any state. The ALECs propose, for instance, that: fresh look should apply to all of the ILECs' local services, including tariffed services and unregulated services if they are part of a contract; fresh look would apply to contracts as short as 180 days; the fresh look window would remain open for four years; ILECs must send a fresh look notification to all customers every time fresh look is applied to a market; and, as noted, that fresh look should apply on a county-by-county or NXX-by-NXX basis, despite the fact that ALEC certification is statewide. These kinds of suggestions are self-evidently ridiculous; they deserve no serious consideration or comment.

Even at this early point in this process, it is abundantly clear that no fresh look policy is necessary in Florida, let alone the kind of extreme measures the ALECs propose. GTE

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urges the Commission not to waste its time and resources pursuing this rulemaking any further.

Sincerely,


for Kimberly Caswell

KC:tas

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