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REPLY TO:
 P.O. BOX 10095
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May 6, 1999

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

via Hand Delivery

RECEIVED-PPSC
 99 MAY 36 PM 4:33
 RECORDS AND REPORTING

Re: Proposed Rules 25-4.300, F.A.C., Scope and Definitions; 25-4.301, F.A.C., Applicability of Fresh Look; and 25-4.302, F.A.C., Termination of LEC Contracts; Docket No. 980253-TX

Dear Ms. Bayo:

Enclosed for filing please find an original and fifteen copies of the Rebuttal Testimony of Carolyn M. Marek on behalf of Time Warner Telecom of Florida, L.P. for the above-referenced docket.

You will also find enclosed a copy of this letter. Please date-stamp the copy of the letter to indicate that the original was filed and return a copy to me.

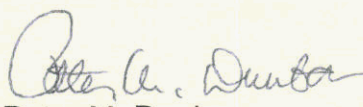
If you have any questions regarding this matter, please feel free to contact me. Thank you for your assistance in processing this filing.

RECEIVED & FILED

 FPSC-BUREAU OF RECORDS

Respectfully,

PENNINGTON, MOORE, WILKINSON,
 BELL & DUNBAR, P.A.


 Peter M. Dunbar

- AFA _____
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PMD/tmz
 Enclosure

DOCUMENT NUMBER-DATE

05797 MAY-6 99

FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE
Docket No. 980253-TX

ORIGINAL

I **HEREBY CERTIFY** that a true and correct copy of the Rebuttal Testimony of Carolyn M. Marek on behalf of Time Warner Telecom of Florida, L.P. has been served by U.S. Mail on this 6th day of May, 1999, to the following parties of record:

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PETER M. DUNBAR, ESQ.

ORIGINAL

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
2 **DOCKET NO. 980253-TX**
3 **REBUTTAL TESTIMONY OF**
4 **CAROLYN M. MAREK**
5 **ON BEHALF OF**
6 **TIME WARNER TELECOM OF FLORIDA, L.P.**

7
8 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND**
9 **POSITION.**

10 A. My name is Carolyn M. Marek and my business address is 233
11 Bramerton Court, Franklin, Tennessee, 37069. I am employed by
12 Time Warner Telecom as the Vice-President of Regulatory Affairs for
13 the Southeast Region.

14
15 **Q. ARE YOU THE SAME CAROLYN MAREK THAT FILED DIRECT**
16 **TESTIMONY IN THIS DOCKET?**

17 A. Yes.

18

19 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

20 A: The purpose of my testimony is to respond to specific issues in the
21 testimony and responsive testimony offered by parties opposing the
22 proposed "Fresh Look" rules.

DOCUMENT NUMBER-DATE

05797 MAY-6 88

FPSC-RECORDS/REPORTING

1 **Q: ARE YOU AWARE THAT ON FEBRUARY 26, 1998, STAFF**
2 **RECOMMENDED TO THE COMMISSION TO DENY TIME**
3 **WARNER'S PETITION AS POINTED OUT BY GTE'S WITNESS**
4 **DAVID ROBINSON?**

5 A: Yes. The staff stated that while "Fresh Look' may make sense in
6 some limited cases", the petitioner (Time Warner) had not made a
7 compelling showing of need. "Further," the staff stated, "the petitioner
8 is, to the best of staff's knowledge, only offering local switched
9 services on a very limited basis at this time." Indeed this was true
10 since Time Warner (and most other ALECs) had only been operating
11 for a year or less. However, Time Warner filed the petition last
12 February because it knew that the adoption of Fresh Look rules would
13 foster competition and that the adoption of rules would require some
14 time. In fact, the staff and the Commission have worked diligently to
15 move this rulemaking forward, holding workshops and requesting
16 comments which ultimately resulted in the rules proposed by this
17 Commission in their order dated March 29, 1999.

18
19 **Q: DID THE STAFF MAKE ANY OTHER RECOMMENDATIONS TO**
20 **THE COMMISSION CONCERNING "FRESH LOOK" FOLLOWING**
21 **THE RECOMMENDATION MADE ON FEBRUARY 26, 1998?**

1 A: Yes, after considering the information provided in the workshops and
2 industry comments, the Staff made recommendations to the
3 Commission on November 11, 1998 and March 4, 1999. On March
4 4, 1999, Staff recommended that the Commission propose a fresh
5 look rule stating:

6 The purpose of the "fresh look" rule is to enable ALECs
7 to compete for existing LEC customer contracts
8 covering local telecommunications services offered over
9 the public switched network, which were entered into
10 prior to switched-based substitutes for local exchange
11 telecommunications services. *Promotion of competition*
12 *in this area is in the public interest.* (Emphasis
13 added)."
14
15

16 **Q: BELLSOUTH'S WITNESS, NED JOHNSTON, STATES IN HIS**
17 **RESPONSIVE TESTIMONY THAT THERE HAS BEEN**
18 **COMPETITION FOR VARIOUS SERVICES SUCH AS CENTREX,**
19 **ESSX AND PRIVATE LINES SINCE THE 1970'S AND EARLY**
20 **1980'S. IS THIS COMPETITION RELEVANT TO THIS DOCKET?**

21 A: No. This docket is considering fresh look rules for *local*
22 *telecommunication services*. As we are all aware, it was unlawful to
23 provide competitive local exchange telecommunications services
24 before the revisions to Chapter 364, Florida Statutes, in 1995. After
25 the law was changed, facilities-based ALECs had to negotiate
26 interconnection agreements with the ILECs, deploy switches and build

1 facilities before they could turn up local telecommunications services
2 to the first customer.

3

4 **Q. MR. JOHNSTON STATED IN HIS DIRECT TESTIMONY THAT THE**
5 **FRESH LOOK EFFECTIVE DATE SHOULD BE JULY 1, 1995**
6 **SINCE "BELLSOUTH HAS BEEN COMPETING AGAINST ALECs**
7 **SINCE THAT TIME." ARE YOU AWARE OF ANY ALECs THAT**
8 **WERE OPERATIONAL ON JULY 1, 1995?**

9 A. Certainly not. Just because the law was changed on that date does
10 not mean that ALECs, particularly facilities-based ALECs, were
11 magically operational overnight.

12

13 **Q. MR. JOHNSTON ALSO STATES THAT TIME WARNER**
14 **INSTALLED A WORKING CENTRAL OFFICE SWITCH IN**
15 **ADVANCE OF THE ENACTMENT OF THE LEGISLATION. IS THIS**
16 **TRUE?**

17 A. Time Warner did not install a working central office switch prior to the
18 enactment of the legislation. Time Warner installed a 5ESS to
19 replace and upgrade its PBX. Time Warner did so knowing that the
20 investment in this switch could serve dual purposes -- immediately, as
21 a PBX, and as a central office switch if local competition was

1 authorized. Time Warner did not actually begin providing local
2 telecommunications services using the 5ESS in the Orlando area until
3 February, 1997.

4

5 **Q. MR. JOHNSTON POINTS OUT THAT THE COMMISSION**
6 **REQUIRES ILECS TO RESELL THEIR CSAs TO COMPETITORS**
7 **AT THE AVOIDED COST DISCOUNT. DOES THIS HELP TIME**
8 **WARNER SELL CSAS?**

9 A. No. Time Warner is a facilities-based ALEC and does not resell local
10 telecommunications services. Just as the resale requirement was
11 meant to stimulate competition through resale, the adoption of fresh
12 look rules will foster facilities-based competition -- real competition.
13 The timing of this rule is significant as facilities-based ALECs are just
14 starting to get a foothold in the marketplace.

15

16 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

17 A. With fresh look, ILECS only lose their existing CSA-customers and the
18 associated revenues if they are not competitive in the marketplace.
19 Time Warner maintains that customers cannot take advantage of
20 competitive alternatives because of the burden of termination
21 liabilities, and that these fresh look rules are justified to bring the

1 benefits of competition to consumers. The "Fresh Look" rules
2 proposed by this Commission will foster facilities-based competition
3 and bring the benefits of competition to consumers as quickly as
4 possible. The fresh look rules will allow consumers the ability to make
5 choices that were not available to them when they entered into long-
6 term contracts thus promoting competition and the public interest.

7

8 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

9 **A: Yes.**

AFFIDAVIT

STATE OF TENNESSEE)

COUNTY OF FRANKLIN)

BEFORE ME, the undersigned authority, personally appeared **CAROLYN M. MAREK** who is Vice President of Regulatory Affairs, Southeast Region, Time Warner Telecom of Florida, L.P., who deposed and stated that she provided the answers to the Rebuttal Testimony in Docket No. 980253 on behalf of Time Warner Telecom of Florida, L.P. on May 6, 1999, and that the responses are true and correct to the best of her information and belief.

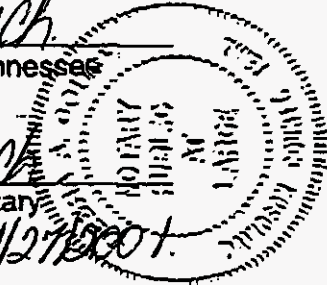
DATED at Franklin, Tennessee, this 10th day of May, 1999.

Carolyn Marek
CAROLYN M. MAREK
Vice President of Regulatory Affairs
Southeast Region
Time Warner Telecom of Florida, L.P.

SWORN TO AND SUBSCRIBED before me this 10th day of May, 1999.

Debra A. Couch
Notary Public - State of Tennessee

Debra A. Couch
Typed/Written Name of Notary
My Commission Expires: 11/27/2001



Commission #:

Personally known X OR Produced Identification _____
Type of Identification Produced _____