

ORIGINAL

PENNINGTON, MOORE, WILKINSON, BELL & DUNBAR, P.A.
ATTORNEYS AT LAW

SAMUEL P. BELL, III
DOUGLAS S. BELL
KAREN M. CAMECHIS
KEVIN X. CROWLEY
MARK K. DELEGAL
MARC W. DUNBAR
PETER M. DUNBAR
MARTHA J. EDENFIELD
ROGELIO J. FONTELA
WILLIAM H. HUGHES, III
A. KENNETH LEVINE

JOHN J. MATTHEWS
EDGAR M. MOORE
E. MURRAY MOORE, JR.
BRIAN A. NEWMAN
JULIUS F. PARKER III
JOHN C. PELHAM
CARL R. PENNINGTON, JR., P.A.
C. EDWIN RUDE, JR.
GARY A. SHIPMAN
CYNTHIA S. TUNNICLIFF

WILLIAM E. WHITNEY
BEN H. WILKINSON
CATHI C. WILKINSON

OF COUNSEL
ROBERT CINTRON, JR.
R. STUART HUFF, P.A.
Coral Gables, Florida
CHRISTOPHER W. KANAGA
(Admitted in Massachusetts & Colorado Only)
BARBARA J. STAROS

215 SOUTH MONROE STREET
SECOND FLOOR
TALLAHASSEE, FLORIDA 32301

(850) 222-3533
FAX (850) 222-2126
E-Mail: karen@penningtonlawfirm.com

REPLY TO:
P.O. BOX 10095
TALLAHASSEE, FL 32302-2095

January 5, 2000

Ms. Blanco Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
Betty Easley Conference Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

via Hand Delivery

RECEIVED--FPSC
00 JAN -5 PM 3:37
RECORDS AND REPORTING

980253-TX

Re: Petition to Initiate Rulemaking Pursuant to Section 120.54(7), Florida Statutes to Incorporate "Fresh Look" Requirements to all Incumbent Local Exchange Company Contracts

Dear Ms. Bayo:

Enclosed for filing please find an original and fifteen copies of Time Warner Telecom of Florida, L.P.'s Petition to Initiate Rulemaking and Request for Withdrawal of Proposed Rules. Please assign this Petition a docket number. You will also find a copy of this letter enclosed. Please date-stamp this copy 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.

Respectfully,

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

Peter M. Dunbar
Peter M. Dunbar

AFB
APP Bran
CAF
CMU 3
CTR
EAG
LEG
MAS 5
OPC
RRR
SEC 1 PMD/tmz
WAW Enclosures
OTH

RECEIVED & FILED
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
00157 JAN-58
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Initiate Rulemaking)
Pursuant to Section 120.54(7), Florida)
Statutes to Incorporate "Fresh Look")
Requirements to all Incumbent)
Local Exchange Company Contracts)
_____)

Docket No.:
Filed: January 5, 2000

**PETITION TO INITIATE RULEMAKING AND
REQUEST FOR WITHDRAWAL OF PROPOSED RULES**

Time Warner Telecom of Florida, L.P. ("Time Warner"), pursuant to §120.54(7), Florida Statutes, by and through its undersigned counsel, does hereby file its Petition to Initiate Rulemaking, and pursuant to §120.54(3)(d)2, Florida Statutes, does hereby file its Request for Withdrawal of Proposed Rules 25-4.300, 301, and 302, Florida Administrative Code. In support thereof, Time Warner states as follows:

1. Time Warner was granted a certificate to provide services as an ALEC in Docket 950906. Time Warner is presently providing exchange access and local exchange telecommunications services in Florida. Time Warner's address is as follows: 233 Bramerton Court, Franklin, Tennessee 37069.

2. The names and addresses of the persons to whom copies of all correspondence, notices, orders and other documents in this proceeding should be sent are as follows:

Peter M. Dunbar, Esq.
Karen M. Camechis, Esq.
Pennington, Moore, Wilkinson, Bell
& Dunbar, P.A.
Post Office Box 10095
Tallahassee, Florida 32302
(850) 222-3533
(850) 222-2126 (facsimile)

Carolyn Marek
Vice President of Regulatory Affairs
Southeast Region
Time Warner Telecom of Florida, L.P.
233 Bramerton Court
Franklin, Tennessee 37069
(615) 376-6404
(615) 376-6405 (facsimile)

3. On November 16, 1999, the Florida Public Service Commission ("Commission") held a hearing to consider the following proposed rules concerning "fresh look" requirements: Rule 25-4.300, F.A.C., Scope and Definitions; Rule 25-4.301, F.A.C.; Applicability of Fresh Look; and Rule 25-4.302, F.A.C., Termination of LEC Contracts. After approving substantial changes to the proposed rules, the Commission adopted the "fresh look" rules as amended. However, the changes adopted by the Commission specifying that only contracts entered into prior to June 30, 1999, would be eligible for a "fresh look" essentially ensured that *no* contracts would be eligible if the proposed rule, as amended, was administratively challenged.

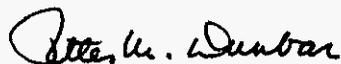
4. On December 23, 1999, BellSouth Telecommunications, Inc. ("BellSouth") timely filed a Petition for Administrative Determination of the Invalidity of Proposed "Fresh Look" Rules ("Petition") with the Division of Administrative Hearings in Case No. 99-5369-RP.

5. As a result of the changes to the proposed rules adopted by the Commission, and the subsequent administrative challenge filed by BellSouth, customers of Incumbent Local Exchange Companies ("ILECs") will be unable to avail themselves of competitive advantages provided by the "fresh look" rules even if the Commission *prevails* in the administrative proceeding. Thus, the "fresh look" rules are meaningless as currently drafted and any effort or resources expended by the Commission or Time Warner in opposition to the Petition would be futile.

WHEREFORE, Time Warner respectfully requests the Commission to:

1. Withdraw the following proposed rules pursuant to §120.54(3)(d)2, F.S.:
 - a. Rule 25-4.300, F.A.C., Scope and Definitions;
 - b. Rule 25-4.301, F.A.C.; Applicability of Fresh Look;
 - c. Rule 25-4.302, F.A.C., Termination of LEC Contracts;
2. Develop and adopt a new rule to include the "fresh look" requirements set forth in the Commission Staff's Recommendation dated November 8, 1999 and issued in Docket 980253-TP, which stated that contracts entered into prior to the effective date of the rule would be eligible for a "fresh look";
3. Hold an evidentiary hearing if the Commission deems a hearing appropriate and necessary to reconsider the "fresh look" rules; and
4. Grant other such relief as the Commission deems just and proper.

RESPECTFULLY SUBMITTED this 5th day of January, 2000.



PETER M. DUNBAR, ESQ.

Fla. Bar No. 146594

KAREN M. CAMECHIS, ESQ.

Fla. Bar No. 0898104

Pennington, Moore, Wilkinson,

Bell & Dunbar, P.A.

Post Office Box 10095 (32302)

215 South Monroe Street, 2nd Floor

Tallahassee, Florida 32301

(850) 222-3533

(850) 222-2126 (fax)

Counsel for Time Warner Telecom of Florida, L.P.

G:\USERS\Karen\timewarner\fresh look\pettoinirule.wpd