



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

OK MCB 1/6/00

OK JEB
Chairman
1/6/00

DATE: January 6, 2000

TO: Mary Bane, Deputy Executive Director/Tech.

FROM: Martha Carter Brown, Division of Appeals *MCB*
Anne Marsh, Division of Communications *am*

RE: Docket No. 980253-TX - Fresh look Rules - Request for permission to file staff recommendation on new rulemaking petition on Tuesday, January 11, 2000, for the 18th Agenda

At its November 16, 1999, Agenda, the Commission voted to adopt Fresh Look Rules, which permit customers holding long-term telecommunications contracts with ILECs to terminate the contracts without risk of substantial termination liability charges. At the Agenda the Commission changed the time frame for contracts eligible for Fresh Look from all contracts executed before the effective date of the rule to all contracts executed before June 30, 1999. Thus, any further delay in implementation of the rule reduces the number of contracts eligible for fresh look.

GTEFL and BellSouth filed a challenge to the validity of the rule with DOAH on December 23rd. While the rule challenge may be completed fairly quickly (perhaps within 4 months), the decision may be appealed to the 1st DCA, which could take at least a year to decide the case. By the time administrative remedies are exhausted and an appeal is final, the rule would have little meaning, if any.

Yesterday afternoon, Time Warner, the original petitioner in the case, filed a new Petition to Initiate Rulemaking in the docket. In the Petition, Time Warner asks the Commission to withdraw the present proposed rule and propose a new fresh look rule without the date limitation.

The APA requires a response to a petition for rulemaking in 30 days, and therefore we need to place this on the January 18th Agenda. We need time to frame and address the unique issues that the rule challenge and the new petition for rulemaking raise. We ask permission to file this recommendation by 2:00 PM on Tuesday, January 11.

Please call us if you have any questions about all of this.

cc: Jorge Cruz-Bustillo
Catherine Bedell
David Smith
David Dowds

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