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March 4, 2002

Ms. Blanca S. Bayo, Director  
Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center, Room 110  
Tallahassee, Florida 32399-0850

HAND DELIVERY

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COMMISSION  
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Re: Docket No. 020119-TP

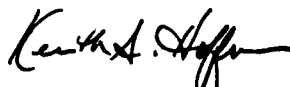
Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of US LEC of Florida Inc., XO Florida, Inc. and Time Warner Telecom of Florida, LP are the original and fifteen copies of their Petition to Intervene.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

Sincerely,

  
Kenneth A. Hoffman

KAH/rl  
AUS \_\_\_\_\_  
CAF Enclosures  
CMP cc: Parties of Record  
COM \_\_\_\_\_  
CTR \_\_\_\_\_  
ECR \_\_\_\_\_  
GCL \_\_\_\_\_  
OPC \_\_\_\_\_  
MMS \_\_\_\_\_  
SEC \_\_\_\_\_  
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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Petition of Florida Digital Network, )  
Inc., for Expedited Review and Cancellation )  
of BellSouth's Telecommunications, Inc.'s )  
Key Customer Promotional Tariffs )  
and For an Investigation of BellSouth )  
Telecommunications, Inc.'s Promotional )  
Pricing and Marketing Practices. )  
\_\_\_\_\_ )

Docket No. 020119-TP

Filed: March 4, 2002

**US LEC OF FLORIDA INC., XO FLORIDA, INC. AND TIME  
WARNER TELECOM OF FLORIDA, LP'S PETITION TO INTERVENE**

Come now US LEC of Florida Inc. ("US LEC"), XO Florida, Inc. ("XO Florida") and Time Warner Telecom of Florida, LP ("Time Warner") and pursuant to Rules 28-106.201 and 28-106.205, Florida Administrative Code ("F.A.C.") and Rule 25-22.039, F.A.C., petition the Florida Public Service Commission ("Commission") for leave to intervene in the above-styled docket and request that they be designated as parties of record and afforded all applicable rights under Florida law and Commission rules. In support of this petition, US LEC, XO Florida and Time Warner allege as follows:

1. The names and addresses of the Petitioners are:

US LEC of Florida Inc.  
Morrocroft III  
6801 Morrison Boulevard  
Charlotte, NC 28211

Time Warner Telecom of Florida, LP  
c/o Carolyn Marek  
233 Bramerton Court  
Franklin, TN 37069

XO Florida, Inc.  
c/o Dana Shaffer  
105 Molly Street, Suite 300  
Nashville, TN 37201

DOCUMENT NUMBER DATE

02491 MAR-4 8

FPSC-COMMISSION CLERK

2. US LEC, XO Florida and Time Warner (collectively “petitioners”) are alternative local exchange carriers certificated in Florida pursuant to Section 364.337, Florida Statutes. The petitioners are competitors of BellSouth Telecommunications, Inc. (“BellSouth”) and as such the substantial interests of the petitioners are subject to determination or will be affected through this proceeding.

3. All pleadings, correspondence, notices, orders or other documents filed, served or issued in this docket should be served on the following on behalf of petitioners:

Kenneth A. Hoffman, Esq.  
Martin P. McDonnell, Esq.  
Marsha Rule, Esq.  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, FL 32302-0551  
(850) 681-6788 (telephone)  
(850) 681-6515 (fax)

For US LEC of Florida Inc.

Dana Shaffer  
105 Molly Street, Suite 300  
Nashville, TN 37201  
(615) 777-7700 (telephone)  
(615) 345-1564 (fax)

For XO Florida, Inc.

Karen Camechis, Esq.  
Pennington Law Firm  
P. O. Box 10095  
Tallahassee, FL 32302-2095  
(850) 222-3533 (telephone)  
(850) 222-2126 (fax)

For Time Warner Telecom of Florida,  
LP

4. Disputed issues of material fact in this proceeding include, but are not limited to:

a. Whether BellSouth is engaging in anticompetitive practices and behaviors in Florida through its promotional pricing and marketing practices outlined in the petition filed by Florida Digital Network, Inc. (“FDN”) in this docket, incorporated herein by reference; and,

b. What actions should be taken by the Commission and what remedy should be afforded for anticompetitive practices and behaviors committed by BellSouth.

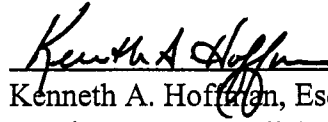
5. Petitioners adopt and incorporate by reference the ultimate facts supporting relief alleged by FDN in FDN's Petition for Expedited Review and Cancellation of BellSouth's Key Customer Promotional Tariffs and For an Investigation of BellSouth's Promotional Pricing and Marketing Practices filed February 14, 2002, subject to further development through discovery and testimony in this proceeding.

6. The petitioners are entitled to relief pursuant to, but not limited to, the following: Sections 364.01(a),(c) and (g), 364.051(5), 364.08, 364.09 and 364.10, Florida Statutes.

7. Anticompetitive behavior and practices by BellSouth significantly impair the petitioners' ability to provide competitive telecommunications services to consumers. Any determinations and actions taken in this docket regarding anticompetitive behavior and practices in the Florida telecommunications market will affect the petitioners' substantial interests as ALECs in Florida. Accordingly, petitioners have standing under Chapter 120, Florida Statutes and applicable rules to participate as a party in this proceeding.

WHEREFORE, US LEC, XO Florida and Time Warner respectfully request that the Commission grant them leave to intervene as full parties in this proceeding.

Respectfully submitted,

  
\_\_\_\_\_

Kenneth A. Hoffman, Esq.  
Martin P. McDonnell, Esq.  
Marsha Rule, Esq.  
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Carolyn Marek  
233 Bramerton Court  
Franklin, TN 37069

Counsel for Time Warner Telecom of Florida, LP

Dana Shaffer  
105 Molly Street, Suite 300  
Nashville, TN 37201

Counsel for XO Florida, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Petition to Intervene was furnished by U. S. Mail to the following this 4<sup>th</sup> day of March, 2002:

Matthew J. Feil, Esq.  
Florida Digital Network  
390 North Orange Avenue  
Suite 2000  
Orlando, FL 32801

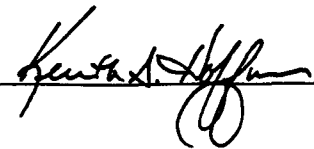
Karen Camechis, Esq.  
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Carolyn Marek  
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Franklin, TN 37069

Dana Shaffer  
105 Molly Street, Suite 300  
Nashville, TN 37201

Ms. Nancy White  
c/o Nancy Sims  
BellSouth Telecommunications, Inc.  
150 S. Monroe Street  
Suite 400  
Tallahassee, FL 32301

Ms. Beth Keating  
Ms. Beth Salak  
Florida Public Service Commission  
Room 370  
2540 Shumard Oak Boulevard  
Tallahassee, FL 3299-0850

  
\_\_\_\_\_