

MACFARLANE AUSLEY FERGUSON & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(904) 224-9115 FAX (904) 222-7560

111 MADISON STREET, SUITE 2300
P.O. BOX 1531 (ZIP 33601)
TAMPA, FLORIDA 33602
(813) 273-4200 FAX (813) 273-4396

400 CLEVELAND STREET
P. O. BOX 1669 (ZIP 34617)
CLEARWATER, FLORIDA 34615
(813) 441-8966 FAX (813) 442-8470

March 8, 1996

IN REPLY REFER TO:
Tallahassee

BY HAND DELIVERY

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

**ORIGINAL
FILE COPY**

Re: Resolution of Petition to Establish Non
Discriminatory Rates, Terms, and Conditions
for Interconnection Involving Local Exchange
Companies and Alternative Local Exchange
Companies pursuant to Section 364.162,
Florida Statutes - Docket No. 950985-TP

Dear Ms. Bayo:

Enclosed for filing in the above-styled docket are the original and fifteen (15) copies United Telephone Company of Florida and Central Telephone Company of Florida's Motion to Quash Subpoena Duces Tecum.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Thank you for your assistance in this matter.

Sincerely,

J. Jeffrey Wahlen

- ACK _____
- AFA _____
- APP _____
- CCF _____
- CCF Chase _____
- CCF _____
- EP _____
- JJW/csu _____
- Enclosures _____
- cc: All parties of record _____
- utd\950985.byo _____
- RCM _____
- SEC 1 _____
- WAS _____
- OTM _____

DOCUMENT NUMBER-DATE

02909 MAR-8 1996

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of Petition to) DOCKET NO. 950985-TP
Establish Non Discriminatory Rates,) Filed: 3/8/96
Terms, and Conditions for Inter-)
connection Involving Local Exchange))
Companies and Alternative Local)
Exchange Companies pursuant to)
Section 364.162, Florida Statutes)
_____)

MOTION TO QUASH SUBPOENA DUCES TECUM

Central Telephone Company of Florida and United Telephone Company of Florida (hereinafter referred to as "Sprint-United/Centel") move the Commission, pursuant to Rule 25-22.045(3), Florida Administrative Code, to quash the Subpoena Duces Tecum issued at the request of the Florida Cable Telecommunications Association (hereinafter referred to as "FCTA"), stating as follows:

1. On March 5, 1996, Laura L. Wilson, the attorney for FCTA, had a Subpoena Duces Tecum issued by Blanca S. Bayo, Director, Records and Reporting, Florida Public Service Commission, directed to Sprint-United/Centel commanding Sprint-United/Centel to "designate one or more officers, directors or managing agents or other persons who consent to testify on behalf of Sprint-United/Centel to appear before the Florida Public Service Commission in Room 148 of the Betty Easley Conference Center, 4075 Esplande Way, Tallahassee, Florida on March 11, 1996, at 9:30 a.m. to testify in this action."

DOCUMENT NUMBER-DATE

02909-MAR-8 2064

FPSC-RECORDS/REPORTING

2. The Subpoena Duces Tecum issued at the request of FCTA is not authorized by Rule 25-22.045, Florida Administrative Code. Rule 25-22.045 requires that a subpoena requiring a witness to appear for the purpose of taking the testimony of the witness or inspection of documents must identify the name and address of the witness. The Subpoena Duces Tecum issued at the request of FCTA identifies neither the witness nor the address of the witness.

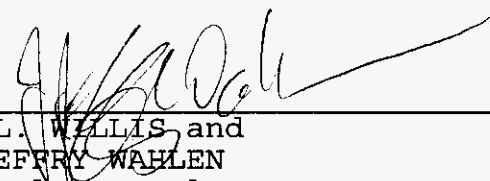
3. The Subpoena Duces Tecum issued at the request of FCTA does not comply with Rule 25-22.046(3), Florida Administrative Code, which requires that "witness fees shall be paid by any party at whose instance the witness is summoned;" and that "witness fees shall be tendered at the time of service of a subpoena." No witness fees were tendered by FCTA at the time the Subpoena Duces Tecum was served on Sprint-United/Centel, nor were witness fees deposited by FCTA with the Commission.

4. The Subpoena Duces Tecum issued at the request of FCTA is not authorized by the Florida Rules of Civil Procedure. Although Rule 1.310 of the Florida Rules of Civil Procedure does authorize a Subpoena Duces Tecum which requires a "public or private corporation" named as a "deponent" to designate one or more officers, etc. who consent to do so, to testify on its behalf, the Subpoena Duces Tecum issued at the request of FCTA is for testimony at the hearing scheduled for March 11, 1996, not a deposition as contemplated by Rule 1.310, Florida Rules of Civil Procedure. Nowhere in the Florida Rules of Civil Procedure is a Subpoena Duces Tecum authorized which requires the corporate party to designate

the name of the witness who will testify at trial. By the time of the trial, the individual witness should be known if each party has prepared adequately for trial. See Rule 1.410, Florida Rules of Civil Procedure.

WHEREFORE, having demonstrated that the Subpoena Duces Tecum issued at the request of FCTA is unauthorized and defective, the Commission should grant Sprint-United/Centel's Motion to Quash the Subpoena Duces Tecum.

DATED this 8th day of March, 1996.



LEE L. WILLIS and
J. JEFFRY WAHLEN
Macfarlane Ausley Ferguson
& McMullen
P. O. Box 391
Tallahassee, Florida 32302
(904) 224-9115

ATTORNEYS FOR UNITED TELEPHONE
COMPANY OF FLORIDA AND CENTRAL
TELEPHONE COMPANY OF FLORIDA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail or hand delivery (*) this 8th day of March, 1996, to the following:

Robert V. Elias *
Division of Legal Services
Florida Public Service Comm.
2540 Shumard Oak Blvd., Rm 370
Tallahassee, FL 32399-0850

Donald L. Crosby
Continental Cablevision, Inc.
Southeastern Region
7800 Belfort Parkway, Suite 270
Jacksonville, FL 32256-6925

Anthony P. Gillman
Kimberly Caswell
GTE Florida Incorporated
Post Office Box 110, FLTC0007
Tampa, FL 31601-0110

Steven D. Shannon
MCI Metro Access Transmission
Svcs., Inc.
2250 Lakeside Blvd.
Richardson, TX 75082

Leslie Carter
Digital Media Partners
1 Prestige Place, Suite 255
2600 McCormack Drive
Clearwater, FL 34619-1098

James C. Falvey
Swidler & Berlin, Chartered
3000 K Street, N.W., Suite 300
Washington, DC 20007

David Erwin
Young Van Assenderp et al.
Post Office Box 1833
Tallahassee, FL 32302-1833

Richard A. Gerstemeier
Time Warner AxS of FL, L.P.
2251 Lucien Way, Suite 320
Maitland, FL 32751-7023

Leo I. George
Lonestar Wireless of FL, Inc.
1146 19th Street, NW, Suite 200
Washington, DC 20036

Robert S. Cohen
Pennington Law Firm
Post Office Box 10095
Tallahassee, FL 32302

Patrick K. Wiggins
Wiggins & Villacorta, P.A.
Post Office Drawer 1657
Tallahassee, FL 32302

Andrew D. Lipman
Metropolitan Fiber Systems of
FL, Inc.
One Tower Lane, Suite 1600
Oakbrook Terrace, IL 60181-
4630

Richard D. Melson
Hopping Boyd Green et al.
Post Office Box 6526
Tallahassee, FL 32314

J. Phillip Carver
c/o Nancy H. Sims
BellSouth Telecommunications
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301

John Murray
Payphone Consultants, Inc.
3431 NW 55th Street
Ft. Lauderdale, FL 33309-6308

Patricia Kurlin
Intermedia Communications of FL
9280 Bay Plaza Blvd., Suite 720
Tampa, FL 33619-4453

Gary T. Lawrence
City of Lakeland
501 East Lemon Street
Lakeland, FL 33801-5079

Jill Butler
Digital Media Partners/
Time Warner Communications
2773 Red Maple Ridge
Tallahassee, FL 32301

Graham A. Taylor
TCG South Florida
1001 W. Cypress Creek Rd.,
Suite 209
Ft. Lauderdale, FL 33309-1949

Clay Phillips
Utilities & Telecommunications
Room 410
House Office Building
Tallahassee, FL 32399

Greg Krasovsky
Commerce & Economic
Opportunities
Room 4265
Senate Office Building
Tallahassee, FL 32399

Charles Beck
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Nels Roseland
Executive Office of the
Governor
Office of Planning & Budget
The Capitol, Room 1502
Tallahassee, FL 32399

Paul Kouroupas
Director, Regulatory Affairs
Teleport Communications Group
Two Teleport Drive, Suite 300
Staten Island, NY 10311

Floyd R. Self
Messer, Caparello, et al.
Post Office Box 1876
Tallahassee, FL 32302

Michael W. Tye
AT&T
101 N. Monroe Street
Suite 700
Tallahassee, FL 32301

Robin D. Dunson
1200 Peachtree Street, NE
Promenade I, Room 4038
Atlanta, GA 30309

Sue E. Weiske
Time Warner Communications
160 Inverness Drive West
Englewood, CO 80112

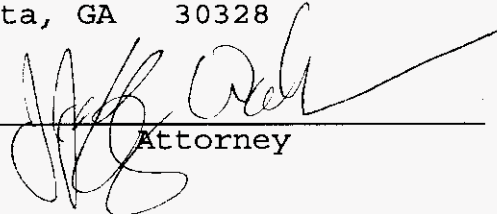
Laura L. Wilson *
FCTA
310 North Monroe Street
Tallahassee, FL 32301

Ken Hoffman
Rutledge, Ecenia, et. al
215 S. Monroe Street, Suite 420
Tallahassee, FL 32301-1841

Jodie Donovan-May
Eastern Region Counsel
Teleport Communications Group
1133 21st Street, NW, Suite 400
Washington, DC 20036

Mark K. Logan
Bryant, Miller and Olive
201 S. Monroe Street, Suite 500
Tallahassee, FL 32301

Timothy Devine
Metropolitan Fiber Systems
6 Concourse Pkwy., Suite 2100
Atlanta, GA 30328



Attorney