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May 18, 1998

BY HAND DELIVERY

ORIGINAL

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

Re: **FPSC Docket No. 980253-TX, Petition to Initiate  
Rulemaking to Incorporate "Fresh Look" Requirements to  
all ILEC Contracts**

Dear Ms. Bayo:

Enclosed for filing are an original and five copies of Cox Florida Telcom, L.P.'s comments on the "Fresh Look" rule proposals of Time Warner AxS of Florida, Inc. and the Florida Competitive Carriers Association. Please confirm receipt of this filing by stamping the additional enclosed filing copy and returning same to me via our runner

As always, thanks to you and your Staff for your considerate and professional assistance.

If you have any questions, please give me a call.

Cordially yours,

*Robert Scheffel Wright*  
Robert Scheffel Wright

ACK

APA

APP  Caldwell

CAF

CMU  Enclosures

CTR  Copies:

EAG

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Service List (attached to Cox's comments)

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*Wright*  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

05523 MAY 18 98

FPSC-RECORDS/REPORTING

Comments of Cox Florida Telcom, L.P. on "Fresh Look" Rule Proposals,  
FPSC Docket No. 980253-TX

Cox Florida Telcom, Inc. ("Cox") offers the following comments on the "fresh look" proposals made by Time Warner AxS of Florida, Inc. ("Time Warner") and by the Florida Competitive Carriers Association ("FCCA").

The basic premise behind a fresh look policy is that it allows competitive options for consumers in situations where, absent the fresh look policy, such competition would not be likely. A fresh look policy gives customers an opportunity to purchase services from new providers which were not previously able to compete in the market, *without the customers' incurring a penalty for discontinuing service with the formerly monopoly provider.* With a fresh look policy, *customers who entered into a long term contract with the incumbent local exchange company ("ILEC") (to get a better price), at a time when they did not have an alternative provider of service, can terminate those long term ILEC contracts without incurring the normal early termination penalty.* If customers did have to pay those termination penalties, they would be unlikely to change providers. The basic goal of a fresh look policy is to allow customers who did not previously have choices to *not be stymied from exercising an option to take advantage of newly existing choices.*

The approaches taken by Time Warner, and by the FCCA vary largely because the FCCA approach takes one shot at the issue, with no geographic definition, while the Time Warner approach is geographically targeted. *Most of the other differences are fall-outs from these fundamental differences.* The major issue for new entrants, and especially for a facilities-based carrier, such as Cox, is that entry into new markets does not happen overnight, and for a fresh look policy to be effective, the fresh look option must be available whenever the company does come into the market. Since the Commission does not control the pace at which new entrants begin operations in any market, it is difficult to plan and maximize the benefits of any fresh look policy. Cox will comment on various considerations to be taken into account for any fresh look policy, along with how the two proposals address those considerations.

- What relief should be granted to customers eligible to exercise the fresh look policy?

Customers eligible for fresh look should be allowed to recalculate the charges in their *term contract for the period they have actually held the contract, and pay the difference between what they really have paid for the portion of the term contract they have utilized and the lowest rate which would have applied for the period they have actually used the contract.* Unrecovered nonrecurring costs may also be charged to the customer; however the ILEC must bear the burden of proving the actual costs. *This will not cause the incumbent to treat like customers differentially, in that the ILEC is not required to offer a different price to a customer exercising the fresh look option now than it did to a customer purchasing a shorter term option at the time the exercising fresh look customers entered into his term agreement.*

- What services should be eligible for fresh look?

Considering that the goal of a fresh look policy is to give customers options where they had none previously, the Commission should allow a fresh look for all contracts for local exchange service (including R-1, B-1, PBX, ISDN, Centrex, etc.). If the contract contains other services, and the local exchange service cannot be separated from those other services, the entire contract should be subject to a fresh look.

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- How long should the fresh look period last?

If a geographic approach is taken (e.g. the exchange approach proposed by Time Warner), the fresh look period should last one year from the time the customers are first notified that they have the opportunity to try another provider without penalty. This will give sufficient time for new entrants to act and for customers to respond. The upside of this approach is that the "risk" time period for ILEC contracts is limited and the geographic area of risk is also limited. The downside is that a new entrant coming into an area which has already gone through a "fresh look review" will not have the opportunity to attract new customers without penalty (the termination liability). Also, the geographic approach is more complicated administratively. If there is no definition of area, such as the approach proposed by the FCCA, the time period needs to be longer, to accommodate the growth of competitive carriers into new markets. The four years proposed by the FCCA is reasonable.

- What contracts should be eligible for fresh look?

All contracts and tariffed services lasting longer than 6 months (180 days) which contain liability for early termination should be eligible. This is consistent in both the Time Warner and the FCCA approaches.

- What should trigger a fresh look period?

If the FCCA approach (no geographic definition) is taken, the Commission should approve language for a bill insert to all ILEC local exchange business customers, announcing the fresh look period. While this may seem contrary to good sense for the ILECs, it is the best way of getting information to customers. In addition, the Division of Consumer Affairs should prepare a posting to the Commission website during the entire period, and also provide such information in a brochure available to customers.

If the Time Warner approach (area by area activation) is taken, the actions to trigger the fresh look should be a written request to a specified person in each ILEC (this information should be disseminated to all CLECs by the Commission), in each specific exchange in which the ILEC wishes to open the fresh look window. Another approach may be to have the request on a wire center basis, since the new entrant may not serve the entire exchange. However, by interconnecting at the tandem, the ALEC can provide service throughout the exchange, so the exchange is a small enough unit. Fresh look requests should be based on telephone boundaries, rather than other jurisdictional boundaries, since customer records are easier to track on telephone boundaries. The Time Warner approach contains requirements for an ALEC to request fresh look (certification, approved interconnection agreement, first commercial call). These are reasonable requirements, and will act to deter any ALEC which may request a fresh look window without being ready to act on it, and effectively preventing any later ALEC from taking advantage of it.

Although the Time Warner proposal discusses a Commission Order (requiring Commissioner action) to initiate a fresh look period, there is no reason this cannot be handled administratively by the staff, since it is simply the fulfillment of a series of steps laid out in the rule. The public notice required by the Time Warner approach, while it will provide information to ALECs, will probably not hit many customers. If the customer list provided by the ILEC is made available to all requesting ALECs, and it contains address and phone number information, the ALECs can use this to notify customers. Otherwise, it is probably best that the ILEC provide a Commission-approved bill insert.

- **What must customers do to be eligible for fresh look?**

**Customers or their designated agents should notify the ILEC in writing, and the ILEC should provide the customer with the calculation of what the charges will be to exercise the fresh look, within 5 working days of receipt of the request.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded via U.S. Mail, to the following on this 18th day of May, 1998:

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