



PUBLIC NOTICE

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FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET, S.W.
WASHINGTON, D.C. 20554

DA 01-1937

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CABLE SERVICES BUREAU ACTION

August 15, 2001

TEXAS NETWORKING, INC. SUBMITS INTERNET ACCESS COMPLAINT AND PETITION REGARDING AOL TIME WARNER, INC.

CS DOCKET NO. 00-30

In a *Memorandum Opinion and Order* released January 22, 2001,¹ the Commission approved the merger of America Online, Inc. and Time Warner, Inc., subject to certain conditions. The Commission's merger conditions included requirements regarding access by unaffiliated Internet Service Providers ("ISPs") to the merged company's cable system, and procedures by which a complaint may be filed regarding AOL Time Warner Inc.'s ("AOL Time Warner") compliance with these requirements.² On August 9, 2001, Texas Networking, Inc. ("Texas.Net"), an ISP, filed a complaint and petition for declaratory ruling regarding AOL Time Warner's compliance with the Internet access requirements.

Interested parties may file comments regarding Texas.Net's submission no later than 20 days after the release date of this public notice.³ Within 10 days of the close of the comment period, Texas.Net may file a reply.⁴ All pleadings are to reference **CS Docket No. 00-30**. An original and 4 copies of all pleadings, in accordance with section 1.51(c) of the Commission's Rules,⁵ must be filed with the Commission's Secretary, Magalie Roman Salas, 445 12th Street, S.W., TW- B204, Washington, D.C. 20554. One copy of each pleading also must be filed with other offices, as follows: (1) Any pleading submitted before August 28, 2001, should be filed with the International Transcription Service, Inc., at 445 12th Street, S.W., Room CY-B400, Washington, D.C. 20554, telephone (202) 314-3070, TTY (202) 293-8810, facsimile (202) 314-3076, Internet: <http://www.itsdocs.com>; effective August 28, 2001, copies should be submitted to Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554; (2) Royce Sherlock, Cable Services Bureau, 445 12th Street, S.W., 3-A729, Washington, D.C. 20554. In addition, nine copies of each pleading must be filed with Linda Senecal, Cable Services Bureau, 445 12th Street, S.W., 3-A734, Washington, D.C. 20554.

¹ *In the Matter of Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations by Time Warner, Inc. and America Online, Inc. Transferees, to AOL Time Warner, Inc., Transferee*, 16 FCC Rcd 6547.

² See *Memorandum Opinion and Order* ¶¶ 126-127.

³ *Id.* ¶ 126.

⁴ *Id.*

⁵ 47 C.F.R. § 1.51(c).

In lieu of filing paper pleadings, parties may also file pleadings using the Commission's Electronic Comment Filing System (ECFS).⁶ Pleadings filed through the ECFS can be sent as an electronic file via the Internet to < <http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. Electronic filers should include their full name, Postal Service mailing address, and the applicable docket number. Parties also may submit an electronic comment by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

This proceeding is "restricted" for purposes of the Commission's *ex parte* rules.⁷ Presentations will be governed by the procedures set forth in section 1.1208 of the Commission's rules applicable to restricted proceedings.⁸ Interested parties shall file an original and one copy of any written presentation with the Commission's Secretary, Magalie Roman Salas, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554. Parties shall also serve one copy of each such filing on (1) all other parties to this proceeding, (2) for any such filing submitted before August 28, 2001, the International Transcription Service, Inc., 445 12th Street, S.W., Room CY-B400 Washington, D.C. 20554, telephone (202) 314-3070, TTY (202) 293-8810, facsimile (202) 314-3076, Internet: [http:// www.itsdocs.com](http://www.itsdocs.com), and for any such filing submitted on or after August 28, 2001, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554 (3) Royce Sherlock, Cable Services Bureau, 445 12th Street, S.W., 3-A729, Washington, D.C. 20554, and (4) Linda Senecal, Cable Services Bureau, 445 12th Street, S.W., 3-A734, Washington, D.C. 20554.

Copies of Texas.Net's filing and other documents filed in this matter may be obtained, before August 28, 2001, from the International Transcription Service, Inc., 445 12th Street, S.W., Room CY-B400, Washington, D.C. 20554, telephone (202) 314-3070, TTY (202) 293-8810, facsimile (202) 314-3076, Internet: <http://www.itsdocs.com>. On or after August 28, 2001, copies may be obtained from Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com. Copies also will be available through the Commission's Electronic Comment Filing System and will be available for public inspection and copying during normal reference room hours at the Commission's Reference Center, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554, telephone (202) 418-0270.

Media Contact: Michelle Russo (202) 418-2358.

Cable Services Bureau Contact: Linda Senecal (202) 418-7044, or Nancy Stevenson (202) 418-7039. TTY: (202) 418-7172 or (888) 835-5322.

⁶ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998).

⁷ An *ex parte* presentation is any communication (spoken or written) directed to the merits or outcome of a proceeding made to a Commissioner, a Commissioner's assistant, or other decision-making staff member, that, if written, is not served on other parties to the proceeding or, if oral, is made without an opportunity for all parties to be present. 47 C.F.R. § 1.1201. In restricted proceedings, *ex parte* presentations to or by Commission decision-makers are prohibited.

⁸ 47 C.F.R. § 1.1208.