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# **Confidential Release**

**Case Number: 94-1695-TP-ACE**

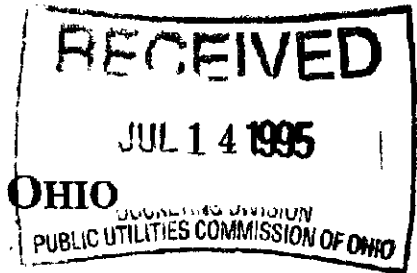
**Date of Confidential Document:  
July 14, 1995**

**Today's Date:  
August 20, 2009**

**Reply brief of Time Warner Communications of  
Ohio L P and Time Warner AXS , filed under  
seal.**

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**BEFORE**  
**THE PUBLIC UTILITIES COMMISSION OF OHIO**



In the Matter of the Application of )  
Time Warner Communications of Ohio, L.P. )  
and Time Warner AxS for a Certificate )  
of Public Convenience and Necessity to ) Case No. 94-1695-TP-ACE  
Provide Direct and Resold Exchange Services, )  
Including Local Exchange and Dialtone Services. )

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**CONFIDENTIAL SECTION**  
**OF REPLY BRIEF OF APPLICANTS**  
**TIME WARNER COMMUNICATIONS OF OHIO, L.P.**  
**AND TIME WARNER AXS**

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Samuel C. Randazzo  
Denise C. Clayton  
Richard P. Rosenberry  
EMENS, KEGLER, BROWN, HILL & RITTER  
65 East State Street, Suite 1800  
Columbus, OH 43215-4294  
Telephone: (614) 462-5400  
Telecopier: (614) 464-2634

July 14, 1995

Attorneys for Time Warner Communications  
of Ohio, Inc. and Time Warner AxS

**CONFIDENTIAL PORTION OF TIME WARNER'S REPLY BRIEF**  
**PUCO Case No. 94-1695-TP-ACE**

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**CBT EXHIBITS K, L AND M**

In its Brief, CBT noted that the status of development of the NIU was described in greater detail in CBT's Exs. L and M, filed under seal. CBT Brief at 28. The record also demonstrates several facts explained by Mr. Engleman which are worth noting. First, Time Warner has had no problems in the development of the NIU with respect to internal powering of the NIU or how power is introduced into the NIU. Tr. IV at 27 (confidential portion).

Second, although one of the documents (CBT Ex. K) noted the failure of a power supply at one node, there have been no subsequent power failures of the unit used for the test and it is not anticipated that the unit used to supply power will even be of the type used in the Time Warner network when it is fully deployed. *Id.* at 33, 36. Moreover, the power supplies that will be used for actual network deployment will be subjected to more stringent requirements, including redundancy requirements. *Id.* at 33 (confidential portion).

Finally, two of the documents discussed delays in certain aspects of development of the SFR NIU. CBT Exs. L and M. However, as noted by Mr. Engleman, delays in development of new technologies are not unusual. Tr. IV at 34. In addition, Mr. Engleman testified that he did not expect the delays to have any impact on Time Warner's ability to deploy its technology. *Id.*

CBT's efforts to discredit the technology being developed by Time Warner have been unavailing. If anything, the examination which occurred during the confidential portion of this

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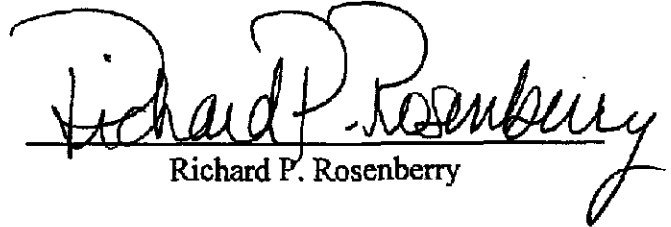
hearing enhances both Time Warner's technical and managerial capabilities, by reflecting positively upon Time Warner's ability to respond to matters arising during development of its technology and overcome any difficulty associated with those matters.

**CBT EXHIBIT N**

CBT Exhibit N is a compilation of letters received from various persons which were produced in response to CBT Interrogatory No. 29 and Request to Produce No. 1, First Set. Tr. IV at 59. In its Brief, CBT used this Exhibit, improperly as noted in Time Warner's Reply Brief at 24-27, to argue that the letters demonstrate that the Applicants do not have the requisite technical and managerial qualifications to be issued a certificate. However, to the extent that the letters discuss anything of a technical or managerial nature, two things should be noted. First, any discussion in the letters of cable quality, for example, cannot reflect the upgrades that will, but have not yet occurred, to the entire Warner Cable network. Thus, for all practical purposes such "complaints" have little practical relevance for the issue which CBT attempts to create. Second, while the "complaints" may discuss service-related issues (CBT Ex. N), any such issues will not be allowed to continue (assuming for the purpose of argument that they did exist as related in the letters), and indeed cannot, under the Commission's MTSS. Thus, once again the "complaint" letters bear little relevance to either the technical or managerial ability of Time Warner to offer its proposed services if granted a certificate by this Commission.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Confidential Section of the Reply Brief of Time Warner Communications of Ohio, Inc. and Time Warner AxS was served upon the following parties of record this 14th day of July, 1995, via electronic transmission, hand-delivery or ordinary U.S. mail, postage prepaid.

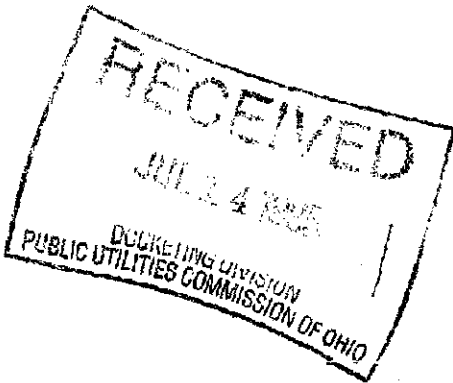


Richard P. Rosenberry

Thomas E. Taylor, Esq.  
**Cincinnati Bell Telephone Co.**  
Frost & Jacobs  
2500 PNC Center  
201 East Fifth Street  
Cincinnati, OH 45202

Joan Veri  
Attorney Examiner  
**Public Utilities Comm. of Ohio**  
180 East Broad Street, 7th Floor  
Columbus, OH 43266-0573

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