

# **EXHIBIT A**

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE  
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: <http://www.dps.state.ny.us>

PUBLIC SERVICE COMMISSION

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*Secretary*

October 3, 2005

Brian B. Wirth,  
Vice President, Government and Public Affairs  
Time Warner Cable  
71 Mt. Hope Avenue  
Rochester, NY 14620-1090

Re: City of Rochester / Time Warner Cable Franchise Fee Audit

Dear Mr. Wirth,

This letter responds to your request of October 3, 2005 for me to provide a copy of my letter of February 18, 2005 to you in the captioned matter. A copy of that letter is attached, with its exhibits, for your reference. In addition, the City of Rochester has requested the Department to perform an additional franchise fee review for the years 1999-2000 and 2003-2004 on an expedited basis.

I obtained copies of Time Warner's quarterly franchise fee reports for the time periods noted above. Using the completed desk audit results for the calendar years 2001 and 2002, I estimated the amounts of total additional, assessable revenues that were excluded from the franchise fee calculation for the years 1999, 2000, 2003 and 2004. I estimate that Time Warner excluded a total amount of \$21,767,814 of assessable revenues from the required franchise fee calculation for the years 1999, 2000, 2001, 2002, 2003, and 2004 (see attached Exhibit D). I estimate that Time Warner owes the City of Rochester an additional franchise fee payment of \$1,062,407 for this six year period (see attached Exhibit E), under the terms of the operative franchise agreement as approved by the former Commission on Cable Television.

For your reference, I have provided below a brief description of each of the new attached Exhibits A, B, C, D, and E that now incorporate estimated results for 1999, 2000, 2003, and 2004, as well as the desk audit results for 2001 and 2002:

- . Exhibit A - This schedule provides detail of additional, assessable revenues for the base years 2001 and 2002, as reported in my letter of February 18, 2005.

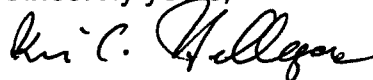
- . Exhibit B – This schedule shows my calculation of excluded assessable revenue, which is expressed as a percentage of total reported (assessed) revenue for the base years 2001 and 2002.
- . Exhibit C – This schedule shows my estimate of additional assessable revenues, expressed as a percentage of reported, assessed revenues by class.
- . Exhibit D – This schedule shows my calculation of estimated additional assessable revenues, which Time Warner has not yet included in its calculation of franchise fee payments made to the City.
- . Exhibit E – This schedule shows my calculation of the amount of estimated additional franchise fees, which is payable to the City of Rochester for the six year period 1999 through 2004 under the terms of the franchise agreement.

The findings expressed in this letter are based upon my review of the information that was submitted by the City of Rochester and by Time Warner during the course of these reviews. The Department reserves its right to revisit its findings, should new or material facts or issues arise. Final resolution of amounts of additional franchise fee payments that may be owed is a matter of discussion between the City and Time Warner due to the contractual basis of the obligation.

Please call me at (518) 473-5253 if you have any questions with respect to the issues or amounts in this letter.

Please respond in writing by October 31, 2005 to the issues and amounts in my letter of September 16, 2005 and this letter. After I review Time Warner's response, I will provide a report to the City, along with Time Warner's comments in these matters. Thank you for your cooperation.

Sincerely yours,



Kevin C. Hillegas,  
Public Utilities Auditor 2

Enc Copy of Letter of February 18, 2005  
Exhibits A, B, C, D and E, as described.

Cc Chad Hume, DPS  
Franchise Fee Audit File

Exhibit A – Franchise Fee Audit Results for 2001 and 2002

TW - City of Rochester

Analysis of Differences Expressed in Dollars

Periods Jan 2001 through Dec 2002

Calendar Quarter	Gross Revenues per TW	Total Difference Under (Over) Reported	Type of Deviation						Total Difference Under (Over) Reported
			Annual Public Access Grant	Franchise Fees Collected	Collection & Late Charge Fees	Returned Item Handling Fees	Digital Converter & Remote Charges	FCC Regulatory Fees Collected	
Jan-Mar 01	7,471,699	918,726	271,482	383,723	180,608	82,913			918,726
Apr-Jun 01	8,255,046	685,801		409,537	186,699	89,565			685,801
Jul-Sep 01	7,888,717	670,162		392,041	190,643	87,478			670,162
Oct-Dec 01	8,993,750	775,410		447,160	208,210	120,040			775,410
Jan-Mar 02	7,754,319	979,476	285,057	399,037	180,743	114,639			979,476
Apr-Jun 02	8,204,634	1,298,369	30,083	436,419	221,743	115,136	489,694	5,294	1,298,369
Jul-Sep 02	8,326,853	1,233,587		427,771	250,033	151,639	404,142		1,233,585
Oct-Dec 02	7,469,585	872,594		370,499	246,399	137,069	118,628		872,594
<b>Totals</b>	<b>64,364,602</b>	<b>7,434,125</b>	<b>586,622</b>	<b>3,266,188</b>	<b>1,665,078</b>	<b>898,479</b>	<b>1,012,464</b>	<b>5,294</b>	<b>7,434,123</b>

Exhibit B – Establishment of Percentages of Excluded Revenues

TW - City of Rochester

Analysis of Differences Expressed as a Percent of Reported Revenues

Periods Jan 2001 through Dec 2002

Calendar Quarter	Gross Revenues per TW	Total Difference Under (Over) Reported	Type of Deviation						Total Difference Under (Over) Reported
			Annual Public Access Grant	Franchise Fees Collected	Collection & Late Charge Fees	Returned Item Handling Fees	Digital Converter & Remote Charges	FCC Regulatory Fees Collected	
Jan-Mar 01	100.000%	12.296%	3.633%	5.136%	2.417%	1.110%	0.000%	0.000%	12.296
Apr-Jun 01	100.000%	8.308%	0.000%	4.961%	2.262%	1.085%	0.000%	0.000%	8.308
Jul-Sep 01	100.000%	8.495%	0.000%	4.970%	2.417%	1.109%	0.000%	0.000%	8.495
Oct-Dec 01	100.000%	8.622%	0.000%	4.972%	2.315%	1.335%	0.000%	0.000%	8.622
Jan-Mar 02	100.000%	12.631%	3.676%	5.146%	2.331%	1.478%	0.000%	0.000%	12.631
Apr-Jun 02	100.000%	15.825%	0.367%	5.319%	2.703%	1.403%	5.969%	0.065%	15.825
Jul-Sep 02	100.000%	14.815%	0.000%	5.137%	3.003%	1.821%	4.853%	0.000%	14.815
Oct-Dec 02	100.000%	11.682%	0.000%	4.960%	3.299%	1.835%	1.588%	0.000%	11.682
<b>Totals</b>	<b>100.000%</b>	<b>11.550%</b>	<b>0.911%</b>	<b>5.075%</b>	<b>2.587%</b>	<b>1.396%</b>	<b>1.573%</b>	<b>0.008%</b>	<b>11.550</b>

## Exhibit C – Summary of Percentages Applied in Estimated Years

TW - City of Rochester

Estimate of Unreported Assessable Revenues in Percentage Terms  
Calendar Years 1999, 2000, 2003, and 2004

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Calendar Year	Gross Revenues per TW	Total Difference Under (Over) Reported	Type of Deviation							Total Difference Under (Over) Reported
			Annual Public Access Grant	Franchise Fees Collected	Collection & Late Charge Fees	Returned Item Handling Fees	Digital Converter & Remote Charges	FCC Regulatory Fees Collected		
1999	100.000%	11.550%	0.911%	5.075%	2.587%	1.396%	1.573%	0.008%	11.550%	
2000	100.000%	11.550%	0.911%	5.075%	2.587%	1.396%	1.573%	0.008%	11.550%	
2003	100.000%	11.550%	0.911%	5.075%	2.587%	1.396%	1.573%	0.008%	11.550%	
2004	100.000%	11.550%	0.911%	5.075%	2.587%	1.396%	1.573%	0.008%	11.550%	

## Exhibit D – Calculation of Estimated Additional Assessable Revenues

TW - City of Rochester

Estimate of Unreported Assessable Revenues in Expressed in Dollars  
Calendar Years 1999, 2000, 2003, and 2004 - Estimated  
Calendar Years 2001 and 2002 per Desk Audit

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Calendar Year	Gross Revenues per TW	Total Difference Under (Over) Reported	Type of Deviation							Total Difference Under (Over) Reported
			Annual Public Access Grant	Franchise Fees Collected	Collection & Late Charge Fees	Returned Item Handling Fees	Digital Converter & Remote Charges	FCC Regulatory Fees Collected		
1999	28,471,356	3,288,448	259,489	1,444,782	736,539	397,438	447,858	2,342	3,288,447	
2000	30,014,922	3,466,730	273,557	1,523,110	776,470	418,985	472,139	2,469	3,466,729	
2003	33,645,709	3,886,087	306,648	1,707,355	870,396	469,668	529,251	2,767	3,886,086	
2004	31,969,033	3,692,430	291,367	1,622,272	827,022	446,262	502,877	2,629	3,692,429	
<b>Sub-Total</b>	<b>124,101,020</b>	<b>14,333,694</b>	<b>1,131,062</b>	<b>6,297,518</b>	<b>3,210,426</b>	<b>1,732,352</b>	<b>1,952,125</b>	<b>10,207</b>	<b>14,333,691</b>	
<b>Add: 2001 and 2002</b>										
2001	32,609,211	3,050,100	271,482	1,632,462	766,160	379,996	-	-	3,050,100	
2002	31,755,390	4,384,025	315,140	1,633,726	898,918	518,483	1,012,464	5,294	4,384,024	
<b>Sub-Total</b>	<b>64,364,602</b>	<b>7,434,125</b>	<b>586,622</b>	<b>3,266,188</b>	<b>1,665,078</b>	<b>898,479</b>	<b>1,012,464</b>	<b>5,294</b>	<b>7,434,123</b>	
<b>Total All Years</b>	<b>188,465,622</b>	<b>21,767,819</b>	<b>1,717,683</b>	<b>9,563,706</b>	<b>4,875,504</b>	<b>2,630,831</b>	<b>2,964,589</b>	<b>15,501</b>	<b>21,767,814</b>	

Exhibit E – Calculation of Estimated Additional Franchise Fee Payments Due to the City of Rochester for the Years 1999, 2000, 2001, 2002, 2003, and 2004

TW - City of Rochester  
 Estimate of Additional Franchise Fees Payable to the City  
 Calendar Years 1999, 2000, 2003, and 2004  
 Calendar Years 2001 and 2002 per Desk Audit

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 9/30/05

Calendar Year	Total Franchise Fees Paid	Total Difference Under (Over) Paid	Type of Deviation						Total Difference Under (Over) Paid
			Annual Public Access Grant	Franchise Fees Collected	Collection & Late Charge Fees	Returned Item Handling Fees	Digital Converter & Remote Charges	FCC Regulatory Fees Collected	
1999 4.844%	1,379,152	159,292	12,570	69,985	35,678	19,252	21,694	113	159,292
2000 4.868%	1,461,126	168,760	13,317	74,145	37,799	20,396	22,984	120	168,760
2003 4.895%	1,647,117	190,242	15,012	83,583	42,610	22,992	25,909	135	190,242
2004 4.898%	1,565,843	180,855	14,271	79,459	40,508	21,858	24,631	129	180,855
<b>Sub-Total</b>	<b>6,053,239</b>	<b>699,150</b>	<b>55,169</b>	<b>307,172</b>	<b>156,594</b>	<b>84,498</b>	<b>95,218</b>	<b>498</b>	<b>699,150</b>
<b>Add: 2001 and 2002</b>									
2001	1,591,003	148,830	13,247	79,656	37,385	18,542	-	-	148,830
2002	1,550,242	214,427	15,414	79,907	43,967	25,360	49,521	259	214,427
<b>Sub-Total</b>	<b>3,141,245</b>	<b>363,257</b>	<b>28,661</b>	<b>159,563</b>	<b>81,352</b>	<b>43,901</b>	<b>49,521</b>	<b>259</b>	<b>363,257</b>
<b>Total All Years</b>	<b>9,194,484</b>	<b>1,062,407</b>	<b>83,830</b>	<b>466,735</b>	<b>237,946</b>	<b>128,400</b>	<b>144,739</b>	<b>757</b>	<b>1,062,407</b>

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gary.matz@nvcable.com

Gary R. Matz  
Vice President and Chief Counsel, Regulatory



October 26, 2005

Via Facsimile: 518.473.6173  
and Certified Mail

Mr. Kevin C. Hillegas  
Public Utilities Auditor 2  
3 Empire State Plaza  
Albany, NY 12223-1350

Re: City of Rochester/ Time Warner Cable Franchise Fee Audit Report

Dear Mr. Hillegas:

I am writing in response to your letter dated October 3, 2005 wherein you assert that Time Warner Cable owes the City of Rochester an additional franchise fee payment of \$1,062,407 for the six year period from 1999 to 2004. We must respectfully disagree.

As you may recall, on January 23, 2005 we responded with a letter regarding the Franchise Fee Audit that you conducted for the City. In that letter we explained fully why those areas of dispute are in fact not revenue and, therefore, cannot be included as "gross revenues" when calculating the franchise fees. To the best of my knowledge, we did not hear back from either the City or your office.

Finally, we note that your October 3, 2005 letter and associated claims are based entirely on extrapolations rather than on an actual audit report. The amount you claim we owe to the City is not only premised upon incorrect assumptions it is further complicated by your apparent reliance upon estimates and extrapolations.

Should you have any questions or if I can be of further assistance, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gary R. Matz".

Gary R. Matz

cc: Rick Bennett  
Chad Hume  
Brian Wirth

ACCOUNTING & FINANCE

OCT 31 2005

RECEIVED