

PENDING PETITION MEMO

Date: 10/1/2007

TO :       Office of Telecommunications  
          Office of General Counsel  
          Office of Electricity and Environment

FROM:       CENTRAL OPERATIONS

UTILITY:   TIME WARNER ENTERTAINMENT-ADVANCE/NEWHOUSE

SUBJECT:   07-V-1170

Petition of Time Warner Entertainment-Advance/Newhouse for a  
Certificate of Confirmation for its Franchise with the Town of Eagle,  
Wyoming county.



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OFFICE  
EXECUTIVE  
CLERK

2007 OCT -1 PM 2:05

September 28, 2007

Ms. Jaclyn Brilling, Secretary  
NYS Public Service Commission  
Agency Building Three  
Empire State Plaza, 19<sup>th</sup> Floor  
Albany, NY 12223-1350

RE: Certificate of Confirmation  
for the Town of Eagle

Dear Secretary Brilling:

Time Warner Entertainment-Advance/Newhouse Partnership herewith submits its application for a Certificate of Confirmation for a new franchise with the Town of Eagle. As required by the Rules and Regulations of the New York State Public Service Commission, enclosed please find the following:

- 1) A fully executed Franchise Agreement between the Company and the Municipality.
- 2) A copy of the Municipal resolution.
- 3) A copy of the Municipal legal notice and Affidavit of Publication.
- 4) An original copy of a completed SEQR report.

As always, should you or your staff have any questions regarding the foregoing, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris L. Mueller'.

Chris L. Mueller  
Manager, Government Affairs

cc: Terence Rafferty – Division President w/o enclosure

TOWN OF EAGLE

A FRANCHISE GRANTING TO TIME WARNER ENTERTAINMENT-  
ADVANCE/NEWHOUSE PARTNERSHIP, PERMISSION TO CONSTRUCT,  
OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM  
THROUGHOUT THE  
TOWN OF EAGLE.

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## **FRANCHISE AGREEMENT**

A Franchise granting to TIME WARNER ENTERTAINMENT-ADVANCE/NEWHOUSE PARTNERSHIP, (hereinafter "Franchisee") permission to construct, operate and maintain a Cable Television system throughout the TOWN of EAGLE (hereinafter "Town") and setting terms and conditions herein.

WHEREAS, Franchisees' technical ability, financial condition and character were considered in a full public proceeding of the Town Board (hereinafter Board) affording due process and culminating in a public hearing on July 12, 1988, and

WHEREAS, following a full public proceeding affording due process, the plans of the Franchisee for constructing, maintaining and operating its Cable Television System have been considered by the Board and found adequate and feasible, and

WHEREAS, this Franchise is subject to and complies with all applicable Federal and State Law and Regulations, including without limitation, the rules of the New York State Public Service Commission concerning Franchise standards, and

WHEREAS, the Franchisee desires to obtain a non-exclusive franchise with the Town for a term of fifteen (15) years, and

NOW THEREFORE, BE IT RESOLVED THAT the Board hereby grants to the Franchisee, its successors and assigns, a Franchise to construct, own, operate and maintain a Cable Television System pursuant to the terms and conditions set forth herein.

### **SECTION ONE: DEFINITIONS**

**1.1** For the purpose of this Franchise, the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and words used in the singular include the plural number. The word "shall" is always mandatory and not merely directory. Such meaning or definition of terms found in this agreement shall be interpreted consistent with the definitions of The Cable Communications Policy Act of 1984 as amended, the Federal Communications Commission, FCC Rules and Regulations, 47 CFR Subsection 76.1 et seq., Article 11 of the NYS Public Service Law as amended and 16 NYCRR 889 et seq., as amended and shall in no way be construed to broaden, alter or conflict with the Federal or State definitions.

**1.2** "Cable Service" means (a) the one-way transmission to subscribers of video programming or other programming service; and (b) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

**1.3** "Cable System," "Cable Television System," or "System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves subscribers without using any public right-of-way; or (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, except that such facility shall be considered a cable system (other than for purposes of Section 621 (c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or (d) any facilities of any electric utility used solely for operating its electric utility systems.

**1.4** "Channel" means a designated frequency band in the electromagnetic spectrum which is capable of carrying video, audio, digital, or other electronic signals, or some combination thereof.

**1.5** "FCC" means the Federal Communications Commission.

**1.6** "Franchise" or "Franchise Agreement" or "Agreement" means this Franchise Agreement as approved by the Town Board.

**1.7** "Franchisee" means Time Warner Entertainment-Advance/Newhouse Partnership, and its lawful successors, transferees, or assigns.

**1.8** "Franchise Fee" means the consideration paid to the Town by the Franchisee for the right and privilege of the Franchisee to use the streets, roads, alleys, bridges, public ways, and public places now laid out or dedicated pursuant to the terms of this Agreement.

**1.9** "Franchised Area" means the area within the legal boundaries of the Town, including any area annexed thereto.

**1.10** "Gross Subscriber Revenues" means all service fees, installation charges, franchise fees, and all other fees or charges collected by the Franchisee from the provision of Cable Service to subscribers in the Town. Gross Subscriber Revenues shall not include (1) excise taxes; or (2) sales taxes; or (3) bad debt; or any other taxes or fees, which are imposed on the Grantee or any subscriber by any governmental unit and collected by the Grantee for such governmental unit.

**1.11** "Public Service Commission" means the State of New York Public Service Commission.

**1.12** "Person" means any individual, trustee, partnership, association, corporation or other legal entity.

**1.13** "Section" means any section, sub-section, line, or provision of this Franchise.

**1.14** "Subscriber" means any person(s), firm, corporation, or other legal entity who, or which, elects to receive, for any purpose, a service provided by the Franchisee in connection with the Cable System.

**1.15** "Town" means all the territory within the present and future boundaries of the Town of Eagle.

## **SECTION TWO: GRANT OF AUTHORITY**

**2.1** There is hereby granted by the Town to the Franchisee the non-exclusive right and privilege to construct, erect, operate, and maintain in, on, upon, along, across, above, over and under streets, roads, alleys, bridges, public ways, and public places now laid out or dedicated, and all extension thereof, and additions thereto, poles, wires, cables, underground conduits, manholes, and other cable television conductors and fixtures necessary for the maintenance and operation of a Cable Television System in the Town, in order to provide Cable Service to its Subscribers within the Town. In consideration for such right and privilege, the Franchisee shall pay to the Town a Franchise Fee pursuant to Section 15 herein.

**2.2** The Town agrees that it shall not move, damage, penetrate, replace or interrupt any portion of the Cable Television System of the Franchisee without the prior written consent of the Franchisee. The Town shall indemnify the Franchisee against any damages or expenses incurred by the Franchisee as a result of any such removal, damage, penetration, replacement or interruption of the services of the Franchisee caused by the Town.

**2.3** Any grant of a subsequent franchise by the Town shall be on terms and conditions which are not more favorable or less burdensome than those imposed on Franchisee hereunder and shall be granted in keeping with the rules of the PSC.

**2.4** The rights and privileges of this Franchise shall continue for a period of fifteen (15) years from the approval by the Town, acceptance by the Franchisee, and formal approval by the New York State Public Service Commission.

## **SECTION THREE: COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES**

**3.1** This Franchise conforms to all applicable laws, rules and regulations of the United States and the State of New York in the construction and operation of the Cable Television System.

**3.2** In the event any change to local, state or federal law occurring during the term of this Franchise eliminates the requirement for any persons desiring to construct, operate or maintain a cable system in the Town to obtain a franchise from the Town for the construction, operation or maintenance of a cable system, then, at Grantee's sole option, Grantee shall have the right immediately to terminate this Franchise. If Grantee chooses to terminate this Franchise pursuant to this provision, this Franchise shall be deemed to have expired by its terms on the effective date of any such change in law, whether or not such law allows existing franchise agreements to continue until the date of expiration provided in any existing franchise.

Furthermore, in the event any change to local, state or federal law occurring during the term of this Franchise materially alters the regime of cable franchising applicable to any persons desiring to construct, operate or maintain a cable system in the City in a way that reduces the regulatory or economic burdens for such persons, then, at Grantee's sole option, Grantee shall have the right immediately to amend this Franchise to take advantage of such regime change to similarly reduce the regulatory or economic burdens on Grantee.

It is the intent of this section that, at Grantee's election, Grantee shall be subject to no more burdensome regulation under this Franchise than any other persons that might construct, operate or maintain a cable system in the Town.

**3.3** The terms and conditions of this Franchise are subject to the approval of the Public Service Commission. Any amendments hereto by and/or adoption of any local ordinance which affects the terms and conditions hereunder are subject to the mutual agreement of the parties and the approval of the Public Service Commission and such amendments and ordinances are ineffective until Public Service Commission approval is obtained. This Franchise Agreement shall not be amended except by a written instrument duly executed by each of the parties hereto.

**3.4** Acceptance of the terms and conditions of this Franchise shall not be construed as a waiver by the Franchisee of any existing or future right to challenge the legality of any provision of this Franchise. Nothing herein, nor the Franchisee's acceptance hereof, shall be construed to deny Franchisee the right to administrative and/or judicial review of any action or threatened action by the Town under, or arising out of, this Franchise.

**3.5** The Franchisee shall not refuse to hire or employ nor bar nor discharge from employment nor discriminate against any person in compensation or terms, conditions or privileges of employment because of age, race, creed, color, national origin, disability or gender.

#### **SECTION FOUR: TERRITORIAL AREA OF FRANCHISE**

This Franchise is granted to Franchisee to serve all of the territory within the present boundaries of the Town, as shown on the map attached hereto as Appendix A. The "Primary Service Area", as such term is defined by 16 NYC RR Section 895.5 of the Regulations of the Public Service Commission, as identified on said Appendix A. Areas outside the Primary Service Area will be served in accordance with Section 16 of this Franchise.



## **SECTION FIVE: LIABILITY AND INDEMNIFICATION**

**5.1** Franchisee shall indemnify, defend and hold harmless the Town for all damages and penalties, at all times during the term of this Franchise, as a result of or due to Franchisee's construction or operation of the System.

**5.2** In order for the Town to assert its rights to be indemnified and held harmless, the Town must:

- a) Promptly notify Franchisee of any claim or legal proceeding which gives rise to such right;
- b) Afford Franchisee the opportunity to participate in and fully control any compromise, settlement, resolution or disposition of such claim or proceeding; and
- c) Fully cooperate in the defense of such claim and make available to Franchisee all such information under its control relating thereto.

**5.3** Franchisee shall not be required to hold harmless and indemnify the Town for any claims arising out of the negligence of the Town, its officers, boards, commissions, councils, elected officials, agents or employees.

**5.4** By its acceptance of the Franchise, the Franchisee specifically agrees that it will maintain, through the term of this Franchise, and any renewals thereof, liability insurance protecting the Franchisee and the Town as an additional insured with regard to all damages and/or penalties mentioned in Sub-section 5.1 in the following minimum amounts:

- (a) One Million Dollars (\$1,000,000.00) for bodily injury or death to any one person within the limit, however, of Two Million Dollars (\$2,000,000.00) for bodily injury or death resulting from any one (1) accident or occurrence.
- (b) Five Hundred Thousand Dollars (\$500,000.00) for property damage resulting from any one (1) accident, and One Million Dollars (\$1,000,000.00) for property damage in the aggregate.

**5.5** Franchisee shall maintain and by its acceptance of this Franchise specifically agrees that it will maintain, throughout the term of this Franchise, Worker's Compensation and Employer's Liability Insurance, in the minimum amount of:

- (a) Statutory limit for Worker's Compensation.
- (b) One Hundred Thousand Dollars (\$100,000.00) for Employer's Liability

**5.6** A certificate evidencing the insurance coverage herein provided shall be filed by the Franchisee with the Town Clerk as soon as practicable, but in no event more than thirty (30) days after the date of execution of this Franchise Agreement, and annually thereafter, together with written evidence that all such policies contain a thirty-day notice of cancellation provision requiring notice to the Town of the intention to cancel at least thirty (30) days prior to such cancellation.

#### **SECTION SIX: RIGHTS RESERVED BY THE TOWN**

**6.1** The right is hereby reserved by the Town to adopt additional general regulations in the exercise of its police power as it shall find necessary, provided that such regulations shall be reasonable and not in conflict with this Franchise Agreement, nor which shall impose any additional material or unreasonable economic or technical burden on Franchisee. A copy of any applicable additional regulation(s) shall be provided to Franchisee prior to adoption. Should such additional regulation(s) amend this Franchise Agreement, such additional regulation(s) shall not be effective unless approved by the Franchisee and the Public Service Commission.

**6.2** The Town, upon reasonable notice and during normal business hours, shall have the right to inspect all books, records, maps, plans, financial statements and other like materials of the Franchisee which are pertinent to Franchisee's compliance with the terms and conditions of this Franchise.

**6.3.1** The Town and the Franchisee agree that Franchisee's obligations hereunder are subject to any applicable law, including laws regarding the privacy of information regarding subscribers.

**6.3.2** The Town will maintain the confidentiality of any information obtained from Franchisee to the extent permitted by law, provided the Franchisee has advised the Town of the confidential nature of the information. In the event that the Town receives a request for the disclosure of such information with which it, in good faith, believes it must under law comply, then the Town will give Franchisee notice of such request as soon as possible prior to disclosure in order to allow the Franchisee to take such steps as it may deem appropriate to seek judicial or other remedies to protect the confidentiality of such information.

**6.4** The Town, or its officially designated representatives or agents, upon reasonable written notice, shall have the right to observe and review all construction or installation work performed subject to the provisions of this Franchise, and to make such inspections as it may find necessary to insure compliance with the terms of the Franchise; provided however the Franchisee shall be given reasonable notice and afforded an opportunity to have a representative present during any inspection.

**6.5** None of the Town officers, employees, executives, elected officials, agents nor any other person shall have any right to inspect or review "personally identifiable information" of, or concerning, any Subscriber, as that term is now or hereafter defined pursuant to Section 631 of the Communications Act. In the event of the improper collection or disclosure of personally identifiable information under either the Communications Act or other applicable laws by the Town or any of its employees or agents, and notwithstanding any other provision to the contrary in the Franchise, the Town shall be fully liable for any and all damages, costs, and expenses arising out of such improper collection or disclosure and shall reimburse, indemnify and hold harmless the Franchisee therefrom.

**6.6** Continuing administration of the provisions of this Franchise shall be the responsibility of the Town through its supervisor or duly appointed designee.

**6.7** If any section, sub-section, sentence, clause, or phrase of this Franchise is held to be unconstitutional or invalid by a court or a regulatory agency of competent jurisdiction, then the remaining portions of the Franchise shall remain in full force and effect.

#### **SECTION SEVEN: FILING AND COMMUNICATIONS WITH REGULATORY AGENCIES**

Franchisee shall file requests for all necessary operating authorizations with the Public Service Commission and the Federal Communications Commission, as required, within sixty (60) days from the date this Franchise is approved by the Town Board.

#### **SECTION EIGHT: TERMINATION OF FRANCHISE**

Subject to applicable law, this Franchise shall terminate only at the expiration of the term including any renewal term and/or extension thereof as set forth in Section 2.4 herein or prior thereto if the Public Service Commission orders its termination pursuant to Section 227 of the Public Service Law.

#### **SECTION NINE: FRANCHISE RENEWAL**

**9.1** Upon the expiration of the term hereof, this Franchise shall be renewed pursuant to the procedures established by the applicable Federal and State Law and applicable Regulations.

## **SECTION TEN: RATES**

**10.1** The Franchisee may establish the rates and charges for Cable Television Service, installations, and equipment as it deems appropriate in the area served. These rates and charges shall be subject to the approval of the Town and the Public Service Commission to the extent consistent with applicable State and Federal Law.

**10.2** The initial schedule of rates utilized by the Franchisee is attached hereto for informational purposes only, and shall be referred to as Appendix B.

**10.3** Changes in subscriber service rates or charges shall be announced by the Franchisee by any reasonable written means at least thirty (30) days prior to the effective date of the change in keeping with the requirements of the Cable Communications Policy Act of 1996.

**10.4** The Franchisee may require subscribers to pay for each month of service in advance at the beginning of the subscriber's assigned cycle billing period.

**10.5** In the event a subscriber terminates service in advance of any period for which a prepayment has been made, the Franchisee shall refund all of the unused prepayment.

**10.6** Nothing contained in this Franchise shall be deemed to restrict or prohibit the Franchisee from pursuing such legal remedies to collect past due debts owed to it by subscribers, including the reasonable costs and expenses incurred in pursuing such remedies, such as collection fees, attorneys' fees, and trip charges.

**10.7** The Franchisee shall not, as to rates, charges, services, service facilities, rules, regulations, or in any respect, make or grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage on the basis of race, creed, national origin, religion, color, gender, age or disability. Nothing in this Section shall be construed to prohibit the reduction or waiving of charges for the purpose of attracting or retaining subscribers.

## **SECTION ELEVEN: SYSTEM REQUIREMENTS**

**11.1** The Franchisee shall construct the Cable Television System using materials of good and durable quality and all work involved in construction, installation, maintenance, and repair of the Cable Television System shall be performed in a safe, thorough, and reliable manner.

**11.2** The Franchisee shall provide, without charge, one standard aerial installation of the initial service drop, one outlet, and Standard service to municipal buildings and State accredited public or private elementary and secondary schools located within the Primary Service Area and which are within one hundred and fifty feet (150') of the Franchisee's feeder lines. The Franchisee shall provide, without charge, one high-speed data connection to State accredited public or private elementary and secondary schools and the public library located within the Primary Service Area and which are within one hundred and fifty feet (150') of the Franchisee's feeder lines. Any costs associated with the reconstruction, relocation or removal of a service drop or any other service lines provided to any such school or library shall be borne by the Town.

**11.2.1** In the event that Time Warner Cable, Rochester, Division agrees in a subsequent franchise to provide high-speed data service to another municipality without charge, then, at the request of the Town of Eagle, Time Warner Cable will provide one connection of high-speed data service to the Town Hall on a complimentary basis.

**11.2.2** No more than one (1) drop shall be provided without charge to any one (1) location. Additional cable distribution at these locations shall be at cost plus 15% and the responsibility of the requesting Person. There shall be no commercial use of the drops.

**11.2.3** There shall be no charge incurred by any school or municipal building should such school or municipal building be relocated within the Franchisee's service area and such site is within one hundred fifty feet (150') of the Franchisee's existing Cable Television System. Should a municipal building or school that previously received cable service at no charge move to a new location that is not within one hundred fifty feet (150') of the Franchisee's existing Cable Television System, then and only then shall the Town or school be responsible for the cost of installing service at the new location.

**11.3** Franchisee shall designate channel capacity for public, educational and governmental access in accordance with the standards for Public, Educational and Governmental (PEG) Access as set forth in 16 NYC RR Section 895.4 of the Regulations of the Public Service Commission. The Franchisee shall provide access channel(s) designated for non-commercial, educational and governmental use by the public on a first come, first served, non-discriminatory basis. Such access channels may be shared by other municipalities. All such PEG programming that is caused to be transmitted on any PEG channel by the municipality shall be produced locally and at no time shall the municipality cause any commercial radio station on any other commercial programming, including any programming that is not produced locally to be transmitted on any PEG channel.

## **SECTION TWELVE: PHYSICAL FACILITIES**

The Cable Television System shall meet the FCC and the Public Service Commission minimum standards. Additionally, the System shall be designed to provide a capacity of 750 Mhz.

### **SECTION THIRTEEN: CONSTRUCTION STANDARDS**

**13.1** The Franchisee shall provide written notification to the Town of all major construction, reconstruction or relocation of any part of the Cable Television System within the Town, including placement of any poles.

**13.2** Any poles erected by the Franchisee are to be slightly in appearance and so placed as to not obstruct travel upon the public streets of the Town. The Town shall not be held liable for any disturbances of Franchisee's installations resulting from the altering, repairing, or installation of streets, roads, alleys, sewers, water lines, fire alarm systems, burglar alarm systems, sidewalks, driveways, bridges, or any other municipal installations, unless caused by the negligence of the Town, its officers, agents or employees.

**13.2.1** The Franchisee shall, at its own expense, move or relocate any of its installations, at the request of the Town, whenever or wherever the installation is found to materially interfere with the Town's streets, roads, street grade, sewer or water installations, or other public conveniences, or any proposed changes thereof or extensions thereto, unless the Town's request is initiated as part of a project funded in whole or in part by grants from county, state or federal governments or agencies, in which case Franchisee shall be entitled to such reimbursement as afforded other users of the rights-of-way.

**13.2.2** All of the Franchisee's facilities shall be installed in compliance with the requirements of the National Electrical Safety Code (NESC), the National Electric Code (NEC), OSHA, and all other construction codes imposed under Federal and State Law that was in effect at the time of such installation. In addition any maintenance thereto shall also be in compliance with such codes and/or regulations.

**13.2.3** It is the intention of the parties that this Section 13.2 covers fully the Franchisee's obligations related to compliance with safety standards.

**13.3** The Franchisee will repair all damage to Town property caused by the installation and operation of the Cable Television System and replace and/or restore said property to as good condition as existed prior to such damage occurring. Repairs and/or restoration shall be completed within a reasonable time.

**13.4** The Franchisee shall, upon written request of any private party holding a valid permit from the appropriate Town authority, temporarily raise or lower the System to permit moving of any building or other large structure, providing that the party making the request pays the expense of such raising or lowering of the System and renders such payment at least 24 hours in advance of the requested action.

**13.5** In the event that the Franchisee determines the necessity of making emergency repairs to insure uninterrupted service to all or part of the System, it shall not be required to obtain any permit or prior approval from the Town, for such repairs.

**13.6** The Franchisee shall have the authority to trim trees overhanging upon the streets, alleys, sidewalks and public places of the Town so as to prevent the branches of such trees from coming in contact with the Cable System.

#### **SECTION FOURTEEN: OPERATION AND SYSTEM MAINTENANCE**

**14.1** The Franchisee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest reasonably possible time. Such interruptions, insofar as possible, shall be preceded by notice to affected subscribers, and shall occur, insofar as possible, during periods of minimum system use.

**14.2** The Franchisee shall give credit for every service outage in accordance with 16 NYC RR Section 890.65 of the Regulations of the Public Service Commission.

**14.3** The Franchisee shall comply with all Federal and State Laws and Regulations that regulate the Franchisee's consumer protection, customer service standards or the technological standards to be met by the Cable Television System.

**14.4** Investigative action shall be initiated on the same day a service call is received at the Franchisee's office, if possible, but in no case later than the following business day. At a minimum, the Franchisee shall provide customer service weekdays between the hours of 9:00 a.m. and 5:00 p.m. and standby emergency service on Saturdays, Sundays and legal holidays.

**14.5** The Franchisee shall annually inform all subscribers, of its procedures for the reporting and resolving of subscriber complaints in keeping with State regulations.

**14.6** The Franchisee shall keep local telephones available twenty-four (24) hours a day, seven (7) days a week, for repair calls and complaints. During some of this time, the telephone may be manned by an automatic answering device.

#### **SECTION FIFTEEN: FRANCHISE FEE**

**15.1** As a Franchise fee herewith, the Franchisee shall pay, annually on or before March 31st of each year hereof, five percent (5%) of Gross Subscriber Revenues received by the Franchisee in the preceding calendar year. Any and all such fees may be passed through to subscribers by the Franchisee as permitted by law and shall be reduced by any fees paid to the New York State Public Service Commission if applicable.

**15.2** Each payment shall be accompanied by a schedule of revenues and shall be signed by an officer of the Franchisee.

**15.3** The Franchisee shall have the right to apply franchise fees paid as a credit against special franchise assessments pursuant to Sec 626 of the New York State Real Property Tax Law.

### **SECTION SIXTEEN: LINE EXTENSIONS**

**16.1** With respect to those parts of the Town which are not presently served as part of the Primary Service Area, service shall be extended in accordance with the rules of the Public Service Commission on line extension policy as set forth herein.

**16.2** Primary Service Area shall include each of the following within the Franchised Area:

(a) Those areas where cable television plant has been built without a contribution in aid of construction by subscribers;

(b) Those areas, if any, where the Franchisee is obligated by the terms of its Franchise to provide cable television service without a contribution in aid of construction by subscribers;

(c) Any area adjoining an area described in Sub-section (a) or (b) of this Section 16.2 and which contains dwelling units at a minimum of 35 dwelling units per linear mile of aerial cable;

(d) Any area adjoining an area described in Sub-sections (a) and (b) of this Section 16.2 and which contains at least the same number of dwelling units per linear mile of aerial cable as is the average number of dwelling units per linear mile of cable in areas described in Sub-sections (a) and (b) of this Section 16.2. The average is to be determined by dividing the number of dwelling units in areas described in Sub-sections (a) and (b) of this Section 16.2 by the number of linear miles of cable in the same areas.

**16.3** Line extension area shall be any area within the Franchised Area which is not the Primary Service Area.

**16.4** Within five (5) years after the receipt of all necessary operating authorizations, Cable Service will be offered throughout the Franchise area to all subscribers requesting service in any Primary Service Area.

(a) Service will not be denied to potential subscribers located in line extension areas who are willing to contribute to the cost of construction in accordance with the following formula:

$$\frac{C}{LE} - \frac{CA}{P} = SC$$



C equals the cost of construction of new plant; CA equals the average cost of construction per mile in the Primary Service Area; P equals the minimum number of dwelling units per mile which would require the Franchisee to provide service in the Primary Service Area; LE equals the number of dwelling units requesting service in the line extension area; SC equals subscriber contribution in aid of construction in the line extension area.

(i) Whenever a potential subscriber located in a line extension area requests a service, the Franchisee will, within thirty (30) days of the request, conduct a survey to determine the number of potential subscribers located in the line extension area and shall inform each of the potential subscribers of the contribution in aid of construction that may be charged. The Franchisee may require pre-payment of the contribution in aid of construction. The Franchisee will provide line extensions within ninety (90) days after all necessary agreements, easements, and pole licenses have been issued, subject to special circumstances justifying a waiver by the Public Service Commission.

(ii) The contribution in aid of construction shall be in addition to the installation rate set forth in this Franchise Agreement.

(iii) During the five-year period commencing at the completion of a particular line extension, a pro-rata refund shall be paid to previous subscribers as new subscribers are added to the particular line extension; the amount of the refund, if any, shall be determined by application of the formula annually. The refunds shall be paid annually to subscribers, or former subscribers, entitled to receive them. The Franchisee shall not be required to provide refunds to any previous subscriber otherwise entitled to a refund, who is no longer at either the address where service was provided, or the billing address, and who has not informed the Franchisee of the subscriber's address.

(b) Service will be provided to any Person who demands service and who is located within 150 feet of aerial feeder cable, and the charge for the installation for any subscriber so situated will not be in excess of the installation charge specified in the Franchise.

### **SECTION SEVENTEEN: NEW SUBDIVISIONS**

In all new subdivisions constructed within the Town, the Franchisee shall, whenever possible, construct the System in common trenches with utilities, including any construction necessary to serve said subscribers. At such time as a section of the subdivision meets the minimum density required as described in Section 16 above, the system shall be energized so as to provide service to those who request it. If common trenching is not feasible at the time of development of the subdivision, the Franchisee shall construct and energize the Cable System in keeping with the above line extension policy.

### **SECTION EIGHTEEN: ABANDONMENT**

Franchisee shall continue to provide Service to all subscribers who meet their obligations to the Franchisee with respect to such service. Franchisee shall not, without the written consent of the Town abandon its Cable Television System or any portion thereof in such a way as would limit its ability to continue to provide cable service to all subscribers.

### **SECTION NINETEEN: FORCE MAJEURE**

Notwithstanding any other provisions of this Franchise, the Company shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Franchise due to strike, unavailability of materials, or equipment, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, civil disturbance, sabotage or vandalism, customer tampering or interference, act of public enemy, accident, fire, flood, or other events, to the extent that such causes or other event are beyond the control of the Company.

### **SECTION TWENTY: EFFECTIVE DATE**

This Franchise shall be binding on the parties immediately following approval by the Town Board, execution by the appropriate authorities of the Town and the Franchisee, and approval by the New York State Public Service Commission.

Signed this 12<sup>th</sup> day of July, 2007.

TOWN OF EAGLE

By: Joseph R. Kushner  
Joseph R. Kushner, Supervisor

TIME WARNER ENTERTAINMENT  
ADVANCE/NEWHOUSE PARTNERSHIP

By: Terence Rafferty  
Terence Rafferty, Division President

**Appendix B  
Town of Eagle  
April, 2007**

**Prices and Packages**

**Cable Service Monthly Rates**

Basic Service	\$11.67
Standard Service	\$46.38

**Digital Programming**

\$5.50 1<sup>st</sup> outlet, 50 cents each additional outlet

**Optional Services**

HBO	\$12.95
Any other movie Channel	\$7.95 each

**Channel Selector(s) & Equipment**

Addressable Terminal	\$ 7.64 ea.
Non-addressable selector	.55
Remote Control	.31

**Other Charges**

Service Protection Plan	\$ 1.00 per mn.
Wallfish (per outlet)	\$65.00
Transfer	\$19.95
Returned item charge	\$20.00
Late charge	\$ 5.00
Lost, stolen, damaged equipment depending on model.	\$62.80 - \$500.00
remote, depending on model	
Lost, stolen, damaged	\$ 8.20 - \$42.47
Vacation disconnect	\$ 5.00 per mn

Encore Movie Pack	\$ 3.00
-------------------	---------

**Pay-Per-View**

Movies	\$3.95 ea.
Adult Programming	\$10.95
Special Events	per event

**Primary Trip**

Primary Installation (unwired)	\$37.95
Prewired Home	\$24.95
Additional Outlet (unwired)	\$15.95 ea
Additional Outlet (prewired)	\$ 9.95 ea

**Special Trip**

Installation of Each Outlet	\$24.95
-----------------------------	---------

Service call/caused by customer and not covered by SPP	\$25.00
--	---------

Eligible once during a 12 month period for a minimum of 30 days and a maximum of 6 months.  
10% Discount on Std. Service:  
Must qualify for HEAP or  
Must receive both Medicaid  
and food stamps.

**High-Speed Online Service**

Road Runner w/Basic cable only or w/o cable	\$44.95	EarthLink or LocalNet	\$44.95
Road Runner w/Std cable	\$39.95	Road Runner Wireless	\$49.95
Additional RR IP addresses (2) \$5.95 ea. per month		w/Basic cable only or w/o cable	
RR Tutorial	\$34.95	Road Runner Wireless	\$44.95
Standard Installation	\$24.95	w/Standard cable	
		Service call	\$50.00

**Digital Phone**

Digital Phone w/Basic cable only or w/o cable	\$44.95
Digital Phone w/Standard cable	\$39.95

Residential rates. Rates, offerings and packages subject to change. Franchise fees, FCC regulatory fees and sales tax not included in rates. Franchise fees vary by community. Other charges, restrictions or requirements may apply. Basic Service is required to receive Standard Service. Basic & Standard and a Digital Terminal are required to receive Digital Cable Service.

Company is not responsible for errors and regularly published rates and/or service levels.

BA/FL-Rates effective 4/2007

Town of Eagle  
Regular Meeting  
July 12, 2007

A Regular Meeting and Public Hearing for Time Warner Communication of the Town Board of the Town of Eagle, County of Wyoming and the State of New York was held at the Town Hall, Main Street, Bliss New York on the 12<sup>th</sup> day of July, 2007.

Present: Joseph Kushner	Supervisor
Kevin Keem	Councilman
Lori Roche	Councilwoman
James Weichmann	Councilman
Diane Henry	Councilwoman
Randy Williams	Highway Supt
Michelle Reding	Town Clerk

Supervisor Kushner called the meeting to order at 7:45 PM with the pledge to the flag.

**Resolution 59-07**

On a **motion** by Councilwoman Roche, seconded by Councilwoman Henry the following resolution was

Adopted        Ayes 5  
                     Nays 0 Carried

Resolved that the Regular Session minutes be approved as submitted by the Clerk with the amended change of the snow index should be 20% more not 80% more as corrected by Supervisor Kushner.

**Public Hearing- Time Warner Communication**

Chris Mueller of Time Warner Communication gave a background to Board members and community members regarding a franchise agreement with the Town of Eagle. Speakers included Roger Weiss, Rusty Roberts and Ryan Almeter. Questions were asked by Roger Weiss on senior discounts – No senior discounts are given but a discount is determined by financial status. Mr. Weiss also asked about area of service. Mr. Mueller responded that a map will be placed at the Town Clerks office. Rusty Roberts questioned if he could choose one service or if he had to have all three. Mr. Mueller responded one service two or all three up to home owner. Mr. Roberts asked if it could expand in the future. Yes it could expand if enough homes were built in the area. How long will it take and estimated guess if all goes well Sept –Oct. Ryan Almeter asked if Town gets high speed, no Town does not get high speed, but library does. Will salesmen come door to door or will phone calls be made/ Salesmen will go door to door. Will they offer buy backs to customers with dishes. Not sure if they offer buy backs, but they do offer discounts.

Public Hearing closed at 8:00PM.

**Franchise Agreement with Time Warner**  
**Resolution 60-07**

On a **motion** by Councilman Keem, seconded by Councilwoman Roche the following resolution was

Adopted      Ayes 5  
                 Nays 0 Carried

Resolved that the Franchise agreement be signed and approved as written and approved by the Town Attorney and Town Board of the Town of Eagle.

*Michelle Hedding - Town of Eagle Clerk 7-17-07*

#### **Correspondence**

A letter was received from Lorraine Wagner. She would like assistance with tree trimming and removal, removal of excess dirt, sign, repairing and replacing the building, regarding one of the two driveways, purchase of new trees, repairing damaged stones with new bases. Research has found that only if a cemetery is considered abandon by an association the town must take it over. If the Town ops to give the Eagle Cemetery Association any money or a line in the budget it would be considered a gift. Supervisor Kushner asked her to attend the next meeting and he could see if he can have an answer to her.

#### **Supervisors Report**

##### **Financials**

Financials were reviewed.

#### **Resolution 61-07**

On a **motion** by Councilwoman Henry, seconded by Councilwoman Roche the following resolution was

Adopted      Ayes 5  
                 Nays 0 Carried

Resolved that the appropriations be made as presented.

##### **General Fund Appropriations (Budget Entries)**

#1		DR	CR
To: A3310.4	Traffic Control / Contr. Exp.	\$4,459.50	
w/ A2401	Interest Income		\$4,459.50
	<b>Reason:</b> To pay for needed street signs		

#2		\$	
To: A5010.4	Highway / Contr. Exp.	64.94	
w/ A2401	Interest Income		64.94
	<b>Reason:</b> To cover expenses incurred by Superintendent of Highways		

#3			
To: A9089.1	Other Employee Benefits	\$4,500.00	
w/ A3005	Mortgage Tax		\$4,500.00
	<b>Reason:</b> To cover yearly cost of Insurance Repudiation		

#### **Resolution 62-07**

**PUBLIC NOTICE  
TOWN OF EAGLE**

The Town of Eagle Town Board will hold a Public Hearing on July 12, 2007 at 7:45 p.m. at the Town Hall, East Main Street, Bliss, NY for the purpose of a franchise agreement with Time Warner Communications.  
#49

CAROLE JONES of the Town of Arcade, Wyoming County, being duly sworn, says she is the Managing Editor of the Arcade Herald, a public newspaper published in the Town of Arcade, County of Wyoming, and that the notice of which the annexed is a printed copy, has been regularly published in said Arcade Herald, once each week for . . . successive weeks, such publication being made on Thursday of each week, and ending on the day

July 5 . . . , 2007 . . .

Sworn to before me this

5 day of July . . . , 2007

*Carolea Jones*  
MANAGING EDITOR

*Karen E. Titus*

NOTARY PUBLIC, STATE OF NEW YORK

**KAREN E. TITUS**  
Notary Public, State of New York  
Qualified in Cattaraugus County  
My Commission Expires 02/07/2010

## PART 1--PROJECT INFORMATION

### Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Award of Cable Television Franchise to Time Warner Cable Entertainment-Advance/Newhouse Partnership

Location of Action (include Street Address, Municipality and County)

All present and future boundaries of the Town of Eagle, County of Wyoming, New York

Name of Applicant/Sponsor Television Franchise to Time Warner Cable Entertainment-Advance/Newhouse Partnership (TWC)

Address 71 Mt. Hope Avenue, c/o Chris Mueller

City / PO Rochester State NY Zip Code 14620

Business Telephone (585) 756-1326

Name of Owner (if different) N/A

Address \_\_\_\_\_

City / PO \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Business Telephone \_\_\_\_\_

Description of Action:

Activities undertaken by Time Warner Cable pursuant to the Franchise Agreement - Town of Eagle - A Franchise granting to Time Warner Entertainment-Advance/Newhouse Partnership, permission to construct, operate and maintain a Cable Television System throughout the Town of Eagle.

Please Complete Each Question--Indicate N.A. if not applicable

## A. SITE DESCRIPTION

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use: ☐ Urban ☐ Industrial ☐ Commercial ☒ Residential (suburban) ☐ Rural (non-farm)  
☐ Forest ☒ Agriculture ☒ Other Recreational

2. Total acreage of project area: \_\_\_\_\_ acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (Indicate type) _____	_____ acres	_____ acres

3. What is predominant soil type(s) on project site? N/A

- a. Soil drainage: ☐ Well drained \_\_\_\_\_% of site ☐ Moderately well drained \_\_\_\_\_% of site.  
☐ Poorly drained \_\_\_\_\_% of site

- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? \_\_\_\_\_ acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site? ☐ Yes ☐ No N/A

- a. What is depth to bedrock \_\_\_\_\_ (in feet)

5. Approximate percentage of proposed project site with slopes: N/A  
☐ 0-10% \_\_\_\_\_% ☐ 10- 15% \_\_\_\_\_% ☐ 15% or greater \_\_\_\_\_%

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places? ☒ Yes ☐ No see attached

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? ☐ Yes ☒ No

8. What is the depth of the water table? \_\_\_\_\_ (in feet) N/A

9. Is site located over a primary, principal, or sole source aquifer? ☐ Yes ☐ No N/A

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? ☐ Yes ☐ No N/A



11. Does project site contain any species of plant or animal life that is identified as threatened or endangered? ☐ Yes ☐ No

According to:

N/A

Identify each species:

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

☐ Yes ☐ No

N/A

Describe:

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

☐ Yes ☐ No

N/A

If yes, explain:

14. Does the present site include scenic views known to be important to the community?

☐ Yes ☐ No

N/A

15. Streams within or contiguous to project area:

N/A

a. Name of Stream and name of River to which it is tributary

16. Lakes, ponds, wetland areas within or contiguous to project area:

N/A

b. Size (in acres):

17. Is the site served by existing public utilities? ☒ Yes ☐ No
- a. If YES, does sufficient capacity exist to allow connection? ☒ Yes ☐ No
- b. If YES, will improvements be necessary to allow connection? ☐ Yes ☒ No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☐ No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 6177 ☐ Yes ☒ No
20. Has the site ever been used for the disposal of solid or hazardous wastes? ☐ Yes ☐ No N/A

## B. Project Description

### 1. Physical dimensions and scale of project (fill in dimensions as appropriate).

- a. Total contiguous acreage owned or controlled by project sponsor: N/A acres.
- b. Project acreage to be developed: N/A acres initially; N/A acres ultimately.
- c. Project acreage to remain undeveloped: N/A acres.
- d. Length of project, in miles: N/A (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. N/A %
- f. Number of off-street parking spaces existing N/A; proposed N/A
- g. Maximum vehicular trips generated per hour: N/A (upon completion of project)?
- h. If residential: Number and type of housing units: N/A

	One Family	Two Family	Multiple Family	Condominium
Initially	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
Ultimately	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

- i. Dimensions (in feet) of largest proposed structure: N/A height; N/A width; N/A length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is?                      ft.

### 2. How much natural material (i.e. rock, earth, etc.) will be removed from the site?                      tons/cubic yards.

### 3. Will disturbed areas be reclaimed ☐ Yes ☐ No ☒ N/A

- a. If yes, for what intended purpose is the site being reclaimed?

- b. Will topsoil be stockpiled for reclamation? ☐ Yes ☐ No
- c. Will upper subsoil be stockpiled for reclamation? ☐ Yes ☐ No

### 4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? N/A acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

☐ Yes ☒ No

6. If single phase project: Anticipated period of construction: \_\_\_\_\_ months, (including demolition)

see attached

7. If multi-phased: N/A

a. Total number of phases anticipated \_\_\_\_\_ (number)

b. Anticipated date of commencement phase 1: \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition)

c. Approximate completion date of final phase: \_\_\_\_\_ month \_\_\_\_\_ year.

d. Is phase 1 functionally dependent on subsequent phases? ☐ Yes ☒ No

8. Will blasting occur during construction? ☐ Yes ☒ No

9. Number of jobs generated: during construction N/A ; after project is complete N/A

10. Number of jobs eliminated by this project N/A .

11. Will project require relocation of any projects or facilities? ☐ Yes ☒ No

If yes, explain:

12. Is surface liquid waste disposal involved? ☐ Yes ☒ No

a. If yes, indicate type of waste (sewage, industrial, etc) and amount \_\_\_\_\_

b. Name of water body into which effluent will be discharged \_\_\_\_\_

13. Is subsurface liquid waste disposal involved? ☐ Yes ☒ No Type \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal? ☐ Yes ☒ No

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain? ☐ Yes ☒ No

16. Will the project generate solid waste? ☐ Yes ☒ No

a. If yes, what is the amount per month? \_\_\_\_\_ tons

b. If yes, will an existing solid waste facility be used? ☐ Yes ☒ No

c. If yes, give name \_\_\_\_\_ ; location \_\_\_\_\_

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? ☐ Yes ☒ No

e. If yes, explain:

17. Will the project involve the disposal of solid waste? ☐ Yes ☒ No

a. If yes, what is the anticipated rate of disposal? \_\_\_\_\_ tons/month.

b. If yes, what is the anticipated site life? \_\_\_\_\_ years.

18. Will project use herbicides or pesticides? ☐ Yes ☒ No

19. Will project routinely produce odors (more than one hour per day)? ☐ Yes ☒ No

20. Will project produce operating noise exceeding the local ambient noise levels? ☐ Yes ☒ No

21. Will project result in an increase in energy use? ☐ Yes ☒ No

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.

23. Total anticipated water usage per day N/A gallons/day.

24. Does project involve Local, State or Federal funding? ☐ Yes ☒ No

If yes, explain:

**25. Approvals Required:**

		Type	Submittal Date
City, Town, Village Board	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Town of Eagle	already
		Award of Franchise	approved
City, Town, Village Planning Board	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
City, Town Zoning Board	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
City, County Health Department	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Other Local Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Other Regional Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
State Agencies	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	PSC	
Federal Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

**C. Zoning and Planning Information**

1. Does proposed action involve a planning or zoning decision? ☐ Yes ☒ No

If Yes, indicate decision required:

<input type="checkbox"/> Zoning amendment	<input type="checkbox"/> Zoning variance	<input type="checkbox"/> New/revision of master plan	<input type="checkbox"/> Subdivision
<input type="checkbox"/> Site plan	<input type="checkbox"/> Special use permit	<input type="checkbox"/> Resource management plan	<input type="checkbox"/> Other

2. What is the zoning classification(s) of the site?

N/A

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

N/A

4. What is the proposed zoning of the site?

N/A

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

N/A

6. Is the proposed action consistent with the recommended uses in adopted local land use plans? ☐ Yes ☐ No

N/A

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

N/A

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile? ☐ Yes ☐ No N/A

9. If the proposed action is the subdivision of land, how many lots are proposed? N/A

a. What is the minimum lot size proposed? \_\_\_\_\_

10. Will proposed action require any authorization(s) for the formation of sewer or water districts? ☐ Yes ☒ No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?

☐ Yes ☒ No

a. If yes, is existing capacity sufficient to handle projected demand? ☐ Yes ☒ No

12. Will the proposed action result in the generation of traffic significantly above present levels? ☐ Yes ☒ No

a. If yes, is the existing road network adequate to handle the additional traffic. ☐ Yes ☒ No

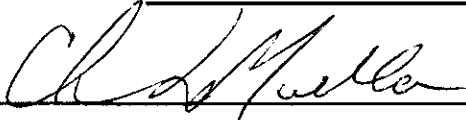
**D. Informational Details**

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

**E. Verification**

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Time Warner Cable Entertainment-Advance/Newhouse Partnership Date 9/26/07

Signature 

Title Manager, Government AFFAIRS - TIME WARNER CABLE

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

**Page 3 of 21**

**2. Time Warner Cable's facilities to be constructed within the Town limits of the Town of Eagle within the right of ways totaling approximately 10.5 miles.**

**6. Parts of Time Warner Cable's installation pass historic sites. See Addendum.**

**Page 5 of 21**

**18. Unknown. See Addendum.**

**Page 6 of 21**

**6. Time Warner Cable expects to complete its buildout as required by the Franchise Agreement.**



**EXPLANATORY NOTES TO EAF  
TWC/TOWN OF EAGLE FRANCHISE AGREEMENT**

1. This Attachment is to the: (a) a Department of Environmental Conservation "Full Environmental Assessment Form ("EAF") for TWC's offering of cable service in the Town of Eagle, Wyoming County, New York, with Part 1 filled in; (b) an EAF Addendum providing certain additional background information; and (c) exhibits to the Addendum, including maps showing the franchise area and a list of sites included in the SPHINX database of historic sites, as described below.
2. The Attachment is submitted without prejudice to TWC's positions that: (a) the activities for which it seeks approval in this proceeding are not "actions" under the State Environmental Quality Review Act ("SEQRA"), and that therefore no EAF is required; and (b) if an EAF is required in this case, a short-form EAF will suffice.
3. The EAF and the EAF Addendum are based on information in TWC's possession or available to us through research in readily available sources. Beyond such sources, we have not undertaken any "new studies, research or investigation."
4. Historic site information was derived from the SPHINX database of the New York State Historic Preservation Office (*see* <http://www.nysparks.state.ny.us/shpo/resources/index.htm>). The Time Warner Cable facilities will not pass through any wetlands, flood plain, critical Environmental Areas or National Natural Landmarks.

5. In response to several questions in Part 1, TWC has indicated that the question is "Not Applicable" ("N/A") to the confirmation that is the subject of the Petition. The activities to be undertaken pursuant to the franchise for which confirmation is sought involve the delivery of cable programming, high speed internet and digital phone, and thus do not have a definite location or "area". To the extent any construction including line extensions, placement of drop wires, extensions, and repairs takes place after the franchise becomes effective, all of the locations within the franchise area at which such activity will occur will not be known in advance.

The information provided for contiguity to historic sites, etc., has been provided with respect to TWC's facilities in the franchise area, even though it is TWC's position that such facilities have been constructed pursuant to independent permissions and authorities.

**ADDENDUM TO ENVIRONMENTAL ASSESSMENT FORM RELATING TO  
CONFIRMATION OF A CABLE TELEVISION FRANCHISE FOR THE TOWN OF EAGLE  
(WYOMING COUNTY), NEW YORK**

*Location*

The Town of Eagle is located in Wyoming County.

The Town is not in or substantially contiguous to a Critical Environmental Area. A list of parcels currently known classified as agricultural by the Town of attached hereto. A list of sites included in the SPHINX database of historic sites is attached hereto. It is TWC's policy to conform to all applicable laws and regulations in placing its facilities, including any special requirements that may be applicable to historic sites, districts, or landmarks.

*Description of Proposed Construction Activities*

TWC is going to run about 10.5 miles of cable for approximately 214 passing's utilizing overhead lines with pole attachments within the rights of way within the Town of Eagle on the following roads: Route 39, East Main Street, Route 362, Exchange Street, McCall Road, Cadwell Road, Eagle Road, Pearl Street, Main Street, School Street, Railroad Street and Old Route 39. See map of area showing the buildout which is attached hereto. The Town of Eagle will receive its cable signal from the TWC headend located in the Town of Perry, NY. TWC will offer to provide cable TV, Roadrunner High Speed Internet access and Digital phone to its customers.

TWC's subscribers will receive service by way of connection from over head poles via coax service wire to the subscriber's building or home.

## **Agricultural Lands**

**Ag District #2 Town of Eagle**

<u>Parcel Number</u>	<u>Name</u>	<u>Address</u>	<u>Town/State/Zip</u>	<u>Acres</u>	
155.-2-8	AG002	Anderson, James Jr	6483 Hillside Rd	Bliss, NY 14024	159.01
156.-1-4	AG002	McCormick Farms Inc	4189 Rt 78	Bliss, NY 14024	61.65
158.-1-5.1	AG002	Sheering Lands LLC	5648 Hardys Rd	Gainesville, NY 14066	27.8
156.-1-5.2	AG002	Hill, Edwina	4341 Hillside Rd	Bliss, NY 14024	18.77
156.-1-6.1	AG002	Holmes, Douglas	6205 Sheppard Rd	Bliss, NY 14024	4.4
165.-2-16.1	AG002	Anderson, Dennis J	6463 Hillside Rd	Bliss, NY 14024	139.3
166.-1-1	AG002	Anderson, James Jr	6463 Hillside Rd	Bliss, NY 14024	94.7
167.-1-16	AG002	Anderson, James	6463 Hillside Rd	Bliss, NY 14024	113.66
176.-1-3.3	AG002	Tobin, Ella	2928 Telegraph Rd	Bliss, NY 14024	1
176.-1-3.22	AG002	Keicher, Robert	948 French Rd	Cheektowaga, NY 14227	91.39
176.-1-3.211	AG002	McCormick Farms Inc	4189 Rt 78	Bliss, NY 14024	110.41
176.-1-6.1	AG002	McCormick Farms Inc	4189 Rt 78	Bliss, NY 14024	42.27
176.-1-6.2	AG002	Herrick, William J	3022 Rt 39	Bliss, NY 14024	51.88

## **SPHINX List**

## USN List Report

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**Map of Franchise Area**