

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on September 16, 1999

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss
Neal N. Galvin

CASE 99-V-0931 - Petition of Time Warner Entertainment Company,
L.P. for Approval of a Transfer of Control of
Certain Cable Television Franchises,
Certificates of Confirmation and Cable
Television Facilities Held by TWFanch-one Co.

ORDER APPROVING TRANSFER

(Issued and Effective October 1, 1999)

BY THE COMMISSION:

The above-referenced petition was filed on July 12, 1999. Copies of the petitions were served on the affected municipalities.^{1/} No comments or objections were received.

By petition dated July 9, 1999, Time Warner Entertainment Company, L.P. (TWE) requested approval of the transfer of control of cable television franchises, certificates of confirmation, and facilities held by TWFanch-one Co. (TWFanch-one) to TWE pursuant to Section 222 of the Public Service Law. TWFanch-one is a general partnership, the partners of which are TWE (49%), Time Warner Cable Holdings, Inc. (TWH) (.5%), Fanch Cablevision of Indiana, L.P. (FCILP) (49.58%), and Hornell Television Service, Inc. (Hornell) (.92%). TWH is a wholly-owned subsidiary of TWE, and Hornell

^{1/} The municipalities affected by this petition are the Cities of Cortland, Gloversville, Hornell and Johnstown, the Towns of Cortlandville, Homer, Virgil, Johnstown, Mayfield, Mohawk, Hornellsville, Hartsville, Dansville, Canisteo, and Fremont, and the Villages of Homer, McGraw, Mayfield, North Hornell, Canisteo, and Arkport.

Cable is a wholly-owned subsidiary of FCILP. When the transaction is completed, TWFanch-one will be owned 99% by TWE and 1% by TWH. In total, franchises serving approximately 28,000 subscribers are affected by the transfer.

In a separate transaction, (See Case 99-V-0881) TWFanch-one and Charter Communications VI, LLC (Charter) have entered into an agreement to transfer control of five cable television franchises held by TWFanch-one to Charter. That transaction was approved simultaneously with the instant petition.

This petition is governed by Section 222 of the Public Service Law, which provides at subdivision 3 that the Commission shall approve the application unless it finds that approval would be in violation of law, any regulation or standard promulgated by the Commission or the public interest.

Section 222(4) provides that the Commission may approve the application contingent upon compliance with standards, terms or conditions consistent with the public interest. Having reviewed the application in the context of applicable law and regulations, we have determined to approve the application subject to the conditions as hereinafter set forth.

We note that TWE is making a substantial financial and technical commitment to the Johnstown/Gloversville system.

Following the completion of the above-referenced transaction, TWE will upgrade the Johnstown/Gloversville system to 750 megahertz in the year 2000, which will accommodate the introduction of internet and digital services.

We shall approve the petition subject to the following conditions. First, there shall be no material change in the terms of the transfer, including the financial consideration without our prior approval. The transfer must be completed within 180 days of Commission approval, and petitioners are required to file notice of closing to the Acting Secretary within thirty (30) days thereof. We reserve the right to rescind our approval if the transfer is not

completed within 180 days. All required municipal approvals must be filed with the Acting Secretary within thirty (30) days of receipt, or within thirty (30) days of closing, whichever is earlier.

One additional matter requires comment. As noted in a recent order^{2/} approving the transfer of ownership and control of systems owned by Harron Communications Corporation to Adelphia, we are aware of the rising costs of cable television system transfers as companies attempt to consolidate their systems into strategic clusters. Cable television companies hope that such transactions will make it possible to pursue a strategy of providing traditional cable television (video) services, as well as cable modem service and local telephone service as a package. We fully support the entry of cable television companies into other lines of business where such entry will provide competition, increasing choice, while reducing price. We will, however, continue to monitor such transactions to ensure that the increased cost of purchasing cable television systems does not lead to substantial cable rate increases or other outcomes that may not be in the public interest.

The Commission orders:

1. The petition of Time Warner Entertainment Company, L.P. for approval of a transfer of control of certain cable television franchises, certificates of confirmation and cable television facilities held by TWFanch-one Co. is hereby approved subject to the conditions set forth herein.

2. There shall be no material deviation in the terms of the transfer, including the financial consideration without the prior approval of the Commission.

3. The transfer shall be completed within 180 days

^{2/} Case 99-V-0545, Order Approving Transfer (issued August 4, 1999).

of the date of this order. If the transfer is not completed within 180 days, we reserve the right to rescind the approval granted herein.

4. Petitioners shall file notice of closing within thirty (30) days thereof.

5. All required municipal consents shall be filed with the Acting Secretary within thirty (30) days of receipt or within thirty (30) days of closing, whichever is earlier.

6. This proceeding is continued.

By the Commission,

(SIGNED)

DEBRA RENNER
Acting Secretary