

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on April 18, 2000

COMMISSIONERS PRESENT:

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

CASE 99-V-0163 - Application of Time Warner Entertainment-
Advance/Newhouse Partnership for Approval of
the Renewal of its Cable Television Franchise
for the Village of Afton (Chenango County).

ORDER APPROVING RENEWAL

(Issued and Effective July 13, 2000)

BY THE COMMISSION:

The above-captioned application was submitted by
Time Warner Entertainment-Advance/Newhouse Partnership on
November 24, 1999. A copy of the same was served on the Town and
all local notice requirements were met. No comments or
objections have been received.

This application is governed by Section 222 of the
Public Service Law, which requires our approval unless we find
specific violations of law, Commission regulations or the public
interest. Section 222(4) of the statute provides that we may
approve the renewal contingent upon compliance with standards or
conditions consistent with the public interest. Having reviewed
the application in the context of applicable statutory and
regulatory standards, we have determined to approve the renewal
subject to conditions as hereinafter set forth.

The application seeks our approval of a renewal
franchise authorized by the Village of Afton by resolution of the
Village Board dated October 10, 1999 after a duly noticed public

hearing held on May 27, 1999. The term of the renewal is ten years measured from December 11, 1999 and expiring on December 10, 2009.

The renewal agreement substantially complies with Section 595.1 of the Commission's rules at 9 NYCRR, except as noted below.

First, Section 595.1(g) limits the availability of a five year option to only the initial franchise. Since this is not the initial franchise for the municipality, the term of the agreement will be ten years from the date of Commission approval, and there will be no renewal option to be exercised by the franchisee.

Second, Section 8 of the agreement indicates that the company may abandon a portion of its system, with the Village's approval, if such abandonment does not limit the company's ability to provide service to all customers. Section 595.1(h) of our rules prohibits abandonment by the company "of any service or portion thereof without the written consent of the franchising municipality." In accord with Public Service Law Section 226, our approval will also be required prior to the company's abandonment of any service or portion thereof. Therefore, our approval will be expressly conditioned upon striking from the agreement the phrase "in such a way as would limit its ability to provide cable service to all subscribers."

Third, the agreement does not fully comply with Section 595.1(i) which would require the franchisee to indemnify the municipality and hold it harmless from all liability, damage, cost or expense as a result of conduct undertaken pursuant to the franchise. The limitation in Section 9(a) to "reasonable" cost and expense is inconsistent with this provision. In this regard, our approval will be expressly condition upon striking the quoted language from the agreement.

This order will be granted upon condition that the franchisee comply with minimum consumer protection and customer service standards set forth in Parts 590 and 596 of the Commission's rules, the minimum standards for public, educational and governmental (PEG) access contained in Section 595.4 thereof, and line extension standards contained in Section 595.5 of our rules.

Finally, the franchise agreement contains additional provisions not required by Part 595 of the Commission's rules. Our approval of these provisions will be granted to the extent that they pertain to the provision of cable service and are, and remain, consistent with Article 11, our regulations, policies, and orders and applicable federal statutes and regulations. In the event of an ambiguity in any such provision, or among separate provisions, the provision will be construed in the manner most favorable to the franchisor.

The Commission orders:

1. Pursuant to Section 222 of the Public Service Law and the rules and regulations of this Commission, the application of Time Warner Entertainment-Advance/Newhouse Partnership for renewal of its cable television franchise for the Village of Afton (Chenango County) is hereby approved, subject to the conditions set forth herein. The term of the renewal shall expire December 10, 2009.

2. This order does not in any way confer rights or privileges other than those granted in the underlying franchise and the certificate holder remains subject to the obligations imposed by Article 11 of the Public Service Law, the underlying franchise and all applicable rules, regulations and orders of this Commission.

3. This proceeding is closed.

By the Commission,

(SIGNED)

DEBRA RENNER
Acting Secretary