

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on March 21, 2007

COMMISSIONERS PRESENT:

Patricia L. Acampora, Chairwoman  
Maureen F. Harris  
Robert E. Curry, Jr.

CASE 05-V-0530 - Application of Time Warner Entertainment-Advance Newhouse Partnership (Binghamton Division) for Approval of the Renewal of its Cable Television Franchise for the Village of Morris (Otsego County).

ORDER APPROVING RENEWAL

(Issued and Effective April 6, 2007)

BY THE COMMISSION:

The above-captioned application was submitted by Time Warner Entertainment-Advance Newhouse Partnership (Binghamton Division) on May 15, 2006. A copy of the same was served on the Village of Morris 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 franchise renewal by the Village of Morris by Resolution of the Village Board dated April 4, 2006 after a duly noticed public hearing held on February 14, 2006. The term of the renewal is for ten years measured from March 7, 2006.

The renewal agreement substantially complies with Section 895.1 of the Commission's rules, except as noted below.

First, Section 895.1(d) of our rules requires that access to a cable system may not be denied to any group of potential residential subscribers based on income. It is a condition of our approval that Section 895.1(d) be deemed a part of the franchise agreement as if specifically set forth therein.

Second, Section 17(d) of the agreement, which pertains to rates, is not consistent with Section 895.1(e) of our rules, which requires that any rates and charges be subject to regulation in accordance with federal law. It will be a condition of this order that Section 895.1(e) be deemed a part of the renewal agreement as if specifically set forth therein.

Third, this order will be granted upon condition that the franchisee comply with the minimum standards for public, educational and governmental (PEG) access contained in Section 895.1(f) and 895.4 of our rules.

Fourth, we wish to remind the parties that Section 895.1(q) of our rules requires a provision stating that the terms of the franchise are subject to the Commission's approval. It will be a condition of this order that Section 895.1(q) be deemed a part of the renewal agreement as if specifically set forth therein.

Fifth, Section 2(e) of the agreement attempts to mirror Section 895.3 of our rules regarding level playing field. We will construe the provision in a manner consistent with Section 895.3.

Sixth, Section 19(b) of the agreement states in part: "The parties hereby acknowledge and agree that any provisions of this Franchise or any existing or future State or local laws or rules that are inconsistent with or contrary to any applicable federal

law, including the Cable Act, as the same may be amended, are and shall be prohibited, preempted and/or superceded to the extent of any inconsistency or conflict with any applicable federal laws." This provision may interfere with the roles of State and local governments in maintaining jurisdictional consistency and in resolving inconsistencies and disagreements in this area. The provision is void and our approval of the franchise is conditioned upon striking the quoted language from the agreement.

Seventh, Section 895.1(t) of the Commission's rules requires a provision in the franchise that any valid reporting requirements in the franchise may be satisfied with system-wide statistics except those related to franchise fees and customer complaints. It is a condition of our approval that Section 895.1(t) be deemed a part of the agreement as if specifically set forth therein.

Finally, Section 17(e) of the agreement designates as Administrator of the franchise Supervisor of the Village of Morris. The Village has a Mayor, rather than a Supervisor. The agreement will be approved with the Mayor as the Administrator.

The franchise agreement contains additional provisions not required by Part 895 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 (Binghamton Division) for renewal of its cable television franchise for the Village of Morris (Otsego County) is hereby approved, subject to the conditions set forth herein. The term of the renewal is ten years and shall expire on March 7, 2016.

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)

JACLYN A. BRILLING  
Secretary