

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on April 18, 2007

COMMISSIONERS PRESENT:

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

CASE 06-V-0354 - Petition of Time Warner Entertainment Co., L.P.
for an Order of Entry Pursuant to Section 898.4
of Title 16 of the NYCRR to Install Cable
Television Equipment and Facilities Pursuant to
Section 228 of the PSL at 10 East 78th Street,
New York, New York.

ORDER OF ENTRY

(Issued and Effective April 20, 2007)

BY THE COMMISSION:

BACKGROUND

On March 21, 2006, Time Warner Entertainment Co., L.P.
(Time Warner) filed a Verified Petition for Order of Entry
(petition) seeking access to 10 East 78th Street, New York, New
York (the premises) to install cable television and related
equipment. The petition was filed under PSL § 228 and 16 NYCRR
§898.4.

THE PLEADINGS

In its petition, Time Warner details its attempts to
gain access to the premises including: serving a Notice of
Intent to install, providing a description of the proposed work;
agreeing to indemnify the Owner for damages to the premises; and

making multiple attempted telephone calls and contacts by mail to the building representative. Because the Owner has not allowed the installation, Time Warner seeks an Order of Entry.

On April 12, 2006, the Owner answered the petition. The Owner claims that Time Warner's work will result in a safety hazard for the occupants of the building by illegally reducing the width of egress in the stairwell in case of an emergency. Moreover, the Owner alleges that the proposed upgrade will jeopardize the structural integrity of the metal pan stair assembly. In sum, the owner states that the proposed work violates PSL § 224 which states that cable companies "... shall provide safe, adequate and reliable service in accordance with applicable laws, regulations and franchise requirements" and § 228 which states that "... cable television facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises."

On June 8, 2006, Time Warner responded to the Owner's answer. Time Warner argues that the work it seeks to perform will in no way jeopardize the structural integrity of the premises or the safety of its tenants. In support of its arguments, Time Warner filed an affidavit from its Manager of the survey and Design Department who states that the Owners claim are without merit, unsupported in light of previous upgrades in similar buildings and lacking any proof that the proposed work improperly reduces the width of egress.

DISCUSSION

PSL § 228 provides that no landlord shall interfere with the installation of cable television on his property except that a landlord may require that the installation conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises. 16 NYCRR § 898.4 allows the Commission to grant an Order of Entry, a ruling

that the petitioning company has complied with the requirements of PSL §228 and Part 898.4.

Time Warner has proposed a reasonable plan for its cable installation. It will bear the cost of the installation and has agreed to indemnify the landlord for any damage caused by the installation. Time Warner has met the requirements of PSL § 228 and 16 NYCRR § 898.4. It has provided proof of service of its Notice on the landlord, a description of the proposed installation, proof of insurance, and a summary of efforts to effect entry.

The Owner has not provided any evidence, other than his own conclusory opinions, that the proposed work will either jeopardize the structural integrity of the premises or the safety of its tenants. Without such evidence, we are inclined to grant the petition.

CONCLUSION

Petitioner has met all the requirements of PSL §228 and 16 NYCRR §898.4. An Order of Entry to 10 East 78th Street, New York, New York for installation and upgrade of cable television facilities is hereby granted in the public interest.

The Commission Orders:

1. The petition of Time Warner Cable Entertainment Co., L.P. for an Order of Entry to enter the premises at 10 East 78th Street, New York, New York 10021 for installation and upgrading of cable television and related facilities is granted.
2. This proceeding is closed.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary