

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on July 16, 1997

COMMISSIONERS PRESENT:

John F. O'Mara, Chairman
Eugene W. Zeltmann
Thomas J. Dunleavy
Maureen O. Helmer

CASE 97-V-0664 - Application of Time Warner Entertainment-
Advance/Newhouse Partnership, for approval of a
renewal by option of its cable television
franchise for the Town of LeRay (Jefferson
County) Initial Case No. 11386.

ORDER APPROVING RENEWAL

(Issued and Effective September 16, 1997)

BY THE COMMISSION:

The above-captioned application was submitted by Time Warner Entertainment-Advance/Newhouse Partnership, on April 1, 1997. A copy of the same was served on the Town and all local notice requirements have been 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, the regulations of this Commission, or the public interest. Section 222(4) of the Public Service Law provides that we may approve the renewal contingent upon compliance with standards or conditions consistent with the public interest. Having reviewed this application in the context of all 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 by option of a franchise agreement executed by the Town and the Company on April 9, 1987. The company has properly exercised its

option. The renewal term is for a period of five years. A few matters require comment.

First, the agreement shall be deemed to include a provision in accordance with Section 595.1(s) of our rules which requires essentially that the company file requests for any and all necessary operating authorizations with the Federal Communications Commission and this Commission within sixty days of the need therefor. Second, we note that since this franchise was first approved in 1987, there has been a number of changes in the Commission's rules and regulations including, particularly, changes in the Commission's minimum franchise standards in the Section 595.1 as well as new rules relative to public, educational and governmental (PEG) access and customer service and consumer protection. With respect to the former, any inconsistencies between individual provisions of the agreement and the Commission's current franchise standards are resolved by Section 15 of the agreement which incorporates all changes in the commission's franchise standards. With respect to the Commission's rules concerning PEG access and customer service, compliance with Section 595.4 and pertinent provisions of Parts 590 and 596, respectively, shall be a condition of this order as well.

Finally, the franchise agreement contains provisions not required by Part 595 of the Commission's rules. Our approval of these provisions is 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 of the agreement, the agreement shall be construed in a 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 a

renewal by option of its cable television franchise for the Town of LeRay (Jefferson County) is hereby approved, subject to the terms and conditions set forth herein. The term of the renewal shall expire on April 9, 2002.

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)

JOHN C. CRARY
Secretary