

BEFORE THE
DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS
OF THE STATE OF HAWAII

In the Matter of the Application)
of)
)
)
)
)
TIME WARNER ENTERTAINMENT)
COMPANY, L.P. dba Sun Cablevision)
)
(Franchise Amendment))
_____)

DECISION AND ORDER NO. 244

By Decision and Order No. 173, the State approved the transfer of the cable franchise held by American Cable TV Investors 4, Ltd. ("Act 4") for the Sun and Kamehameha Cablevision systems to Time Warner Entertainment Company, L.P. ("TWE").

By Decision and Order No. 241 issued concurrently herewith, the State approved TWE's application for transfer and amendment of the cable franchise held by TCI of Hawaii. With the acquisition of the Ka'u system and franchise area, TWE will hold cable franchises covering the entire island of Hawaii.

Because of the geographical reach of TWE on the island of Hawaii, it is in the public interest to extend the State's INET and provide additional capital funds for PEG access facilities and equipment. TWE agreed to provide additional capital funds for PEG access facilities and equipment for the years 1999 through 2001, and interconnect to its cable systems ten (10) additional INET sites within the franchise area all at no cost of charge to the State or subscribers. At the request of TWE, the franchise term for both the Kona and Kohala systems will be extended for one additional year to December 31, 2011, upon satisfactory completion of the systems' upgrades as described in Decision and Order No. 173.

NOW, THEREFORE, it is hereby ordered that Decision and Order No. 173, regarding the cable franchise issued to Time Warner Entertainment Company, L.P. for the West Hawaii areas of the island of Hawaii, shall be amended as follows:

(1) Section 2.1 of Terms and Conditions of Order No. 173, relating to franchise term for the Kona system, is amended by amending paragraph (b) thereof in its entirety, which shall read as follows:

(b) The term of the franchise shall be extended for an additional six (6) years upon completion of the 750 Mhz system upgrade described in Section 3.1 hereof for the Kona System. In this case, the term of the franchise shall expire on December 31, 2011, unless terminated as provided hereunder or by applicable law. In the event the 750 Mhz system upgrade is not satisfactorily completed by July 1, 2000, all interest paid or accrued on the amount deposited by TWE into the Development Fund as provided in section 3.5 hereof shall belong to the State. The Director, in addition to all other rights and remedies the Director may have as provided by law or as provided in this Decision and Order No. 173, shall have the right to impose any term or condition deemed necessary or appropriate to serve or protect the public interest.

(2) Section 2.2 of Terms and Conditions of Order No. 173, relating to franchise term for the Kohala system, is amended by amending paragraph (b) thereof in its entirety, which shall read as follows:

(b) The term of the franchise shall be extended for an additional six (6) years upon completion of the 750 Mhz system upgrade described in Section 3.2 hereof for the Kohala System. In this case, the term of the franchise shall expire on December 31, 2011, unless terminated as provided hereunder or by applicable law. In the event the 750 Mhz system upgrade is not satisfactorily completed by July 1, 2001, all interest paid or accrued on the amount deposited by TWE into the Development Fund as provided in section 3.5 hereof shall belong to the State. The Director, in addition to all other rights and remedies the Director may have as provided by law or as provided in this Decision and Order No. 173, shall have the right to impose any term or condition deemed necessary or appropriate to serve or protect the public interest.

(3) With respect to the systems' upgrades described in section 3.1 and 3.2 of Decision and Order No. 173, TWE may configure the upgrades using fiber or microwave or both, provided that all present and future services that TWE may make available including advanced services such as high speed Internet cable access and other new services be offered and made available to all subscribers throughout the Kona and Kohala franchise and service areas. There should be no disparity among Kona and Kohala subscribers, regardless of the area in which they reside, in their ability

to receive such advanced services regardless of the means by which the services are transmitted, e.g., fiber or microwave. For example, subscribers throughout the Kona and Kohala franchise and service areas will have the same technical capabilities with respect to the number of channels and the types of services they are capable of receiving that TWE may make available now and in the future.

In addition, TWE has indicated that its long-range plan is to install a two-way fiber trunkline or link from the Kona system's headend to Waimea, and that TWE will use its best efforts to accomplish that plan. Accordingly, TWE shall submit to the Director for review its long range plan by September 1, 1999, and shall submit reports as may be requested by the Director which shall at a minimum describe TWE's efforts in accomplishing said plan as well as circumstances that affect or may affect TWE's efforts.

(4) Section 4.3 of Terms and Conditions of Decision and Order No. 173, relating to access channels, is amended by amending paragraph (b) thereof in its entirety, and shall read as follows:

(b) At the direction of the Director, TWE shall designate and reserve for activation to the Director or the Director's designee, at least two (2) additional full-time Access Channels one each for educational and governmental access or as otherwise designated by the Director, as the respective systems' 750 Mhz upgrades progress. In other words, as additional channels become available on a node-by-node basis in connection with the systems' upgrades, TWE shall reserve two of the newly available channels for PEG purposes for activation at the request of the Director. The Director, at any time, may require TWE and the designated access entity or organization to prepare a plan which shall include an assessment of the need for the additional Access Channels, how such additional Channels will be made available, and any other information the Director may require.

(5) Section 4.5 of Terms and Conditions of Decision and Order No. 173, relating to facilities and equipment is amended by amending paragraphs (a) and (b) thereof in their entirety and shall read as follows:

(a) For the years ending June 30, 1996 through June 30, 2001, TWE shall provide to the Director or Director's designee capital funds for public, educational, and governmental access facilities and equipment in accordance with the following schedule:

<u>Due Date</u>	<u>Amount</u>
July 1, 1996	\$40,000.00
July 1, 1997	\$30,000.00

July 1, 1998	\$30,000.00
July 1, 1999	\$75,000.00
July 1, 2000	\$75,000.00
July 1, 2001	\$75,000.00

(b) By April 30, 2000, TWE in consultation with the designated access entity or organization shall submit to the Director a schedule for the payment of capital for public, educational, and governmental access facilities and equipment for each year from January 1, 2002 through the remaining years of the franchise term. The Director may, in the Director's sole discretion, approve, deny, or modify the payment schedule.

(6) Section 4.10 of Terms and Conditions of Decision and Order No. 173, is amended in its entirety and redesignated as section 4.9, and shall read as follows:

4.9 Reopening of Access Requirements.

Notwithstanding any provision to the contrary, at any time during the term of the franchise, the Director may commence informal or formal proceedings for the purpose of addressing future public, educational, and governmental access, and cable-related community needs and interests, and the Director may take any action the Director deems necessary or appropriate.

(7) Section 4.11 of Terms and Conditions of Decision and Order No. 173 is redesignated as 4.10.


(8) In addition to sites identified and obligations set forth in section 5.1 of Decision and Order No. 173, TWE, within six months of a request by the Director, shall interconnect the UH Educational Outreach site in Waimea at no charge or cost to the State or subscribers, and shall interconnect all schools and libraries within the service area to its cable systems and provide a cable drop and basic service to such schools and libraries all at no cost or charge to the State or subscribers.

TWE, at the request of the Director, shall install fiber optic lines, materials, and electronics for two-way broadband video, voice, and data capabilities, interconnecting network sites between its cable systems and ten (10) additional sites to be determined by the Director all at no cost or charge to the State or subscribers over the term of the franchise.

TWE shall maintain and repair the fiber optic lines up to the termination points of each site at no charge or cost, and shall replace any such fiber optic lines at TWE's actual cost of labor and materials which cost shall be borne solely by the connected agency, school or library.

Except as amended herein, the provisions of Decision and Order No. 173 and terms and conditions attached thereto and incorporated therein are hereby ratified and shall remain in full force and effect, and the terms and provisions set forth herein shall be effective as of the date hereof.

DATED: Honolulu, Hawaii, May 10, 1999.



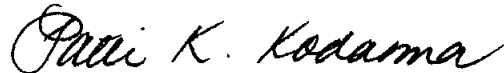
KATHRYN S. MATAYOSHI
Director of Commerce and Consumer
Affairs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DECISION AND ORDER NO. 244 was served upon the following parties at the address shown below by mailing the same, postage prepaid, on this 10th day of May 1999.

JOHN T. KOMEIJI, ESQ.
BETH K. FUJIMOTO, ESQ.
Watanabe, Ing & Kawashima
First Hawaiian Center, 23rd Floor
999 Bishop Street
Honolulu, Hawaii 96813

FOR TIME WARNER ENTERTAINMENT COMPANY, L.P. dba
Sun and Kamehameha Cablevision



Patti K. Kodama
Patti K. Kodama
Secretary