

CABLE TELEVISION DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the Application)
of)
TIME WARNER ENTERTAINMENT)
COMPANY, L.P.)
For the Extension of its Cable)
Television Franchise for the Island of)
Kauai.)
_____)

**NOTICE OF FINDINGS OF FACT
AND INTENT TO ISSUE A
DECISION AND ORDER**

CATV-04-1

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I. FINDINGS OF FACT

A. On or about July 12, 2002, the State of Hawaii ("**State**") Department of Commerce and Consumer Affairs ("**Department**") issued Decision and Order No. 291 ("**D&O 291**") to Time Warner Entertainment Company, L.P. ("**TWE**").

B. Among other things, D&O 291 approved the transfer of the cable television franchise held by G Force, LLC to TWE for the island of Kauai.

C. Section IV.P of D&O 291 ("**Section IV.P**") states in part that "the franchise term for TWE's Kauai cable system shall be initially extended to December 31, 2012; provided that if TWE completes the 750 Mhz system upgrade by December 31, 2003 to the satisfaction of the State, the franchise term shall be extended by Decision and Order to December 31, 2016".

D. Section 3.1(a) of D&O 291 ("**Section 3.1(a)**") states that "[b]y December 31, 2003, TWE shall construct, reconstruct, rebuild, reconfigure, and/or upgrade the System to a minimum bandwidth of 750 Mhz plus digital capability, and provide a minimum of 75 activated Channels" ("**750 Mhz Upgrade**").

E. In December 2003, TWE's attorneys informed the Department that TWE had completed the 750 Mhz Upgrade, and asked the Department for a determination that:

1. The 750 Mhz Upgrade requirements of Section 3.1(a) of D&O 291 have been satisfied; and

2. TWE is entitled to a four (4) year extension of its franchise term for the Kauai cable television system through December 31, 2016, pursuant to Section IV.P of D&O 291.

F. In December 2003, the Department randomly contacted subscribers on the island of Kauai (from a list provided by TWE) to confirm completion of TWE's digital service and high-speed Internet service as a result of their upgraded system. All of the contacted subscribers confirmed that they were receiving such service from TWE.

G. Based on the above, the Department finds that TWE has completed the 750 Mhz Upgrade which increased TWE's ability to deliver additional programming to Kauai residents, and has complied with the requirements of Section 3.1.

II. INTENT TO ISSUE A DECISION AND ORDER

The Department intends to issue a Decision and Order addressing TWE's request to extend its franchise. However, prior to issuing a Decision and Order, the Department will allow interested persons to submit comments on TWE's 750 Mhz Upgrade described above for thirty (30) calendar days from the date of this Notice. The Department will consider the comments timely submitted, and issue its Decision and Order thereafter.

DATED: Honolulu, Hawaii, April 19, 2004.


MARK E. RECKTENWALD
Director of Commerce and Consumer Affairs