

COPY

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

In the Matter of)	DECISION AND ORDER NO. 301
)	(ASSOCIATED EQUIPMENT
Time Warner Entertainment)	RATE ORDER)
Company, L.P.,)	
)	
)	
Annual Adjustment of)	
Associated Equipment Rates)	
(FCC Form 1205).)	
)	

DECISION AND ORDER NO. 301
(ASSOCIATED EQUIPMENT RATE ORDER)

I. INTRODUCTION

WHEREAS, on May 12, 1994, the Cable Television Division of the State of Hawaii ("**State**") Department of Commerce and Consumer Affairs became certified by the Federal Communications Commission ("**FCC**") to regulate basic service tier and associated equipment rates of cable operators¹;

WHEREAS, the State has followed the requirements prescribed by federal law² ("**FCC Rules**") and the State's administrative rules³ in regulating the associated equipment rates⁴ of cable operators in the State;

WHEREAS, under that certain "Social Contract" between the FCC and Time Warner Entertainment Company, L.P. ("**TWE**")⁵, the initial review of equipment and installation charges of systems under TWE was placed with the FCC for annual rate or charge adjustments beginning 1996⁶; and

¹ This "Associated Equipment Rate Order" pertains only to associated equipment rates. The basic service tier rates shall be addressed separately in another consolidated order (see, Decision and Order No. 314).

² See, 47 C.F.R. part 76, subpart N (i.e., 47 C.F.R. §§ 76.901 through 76.990 (2002)).

³ See, Hawaii Administrative Rules ("**HAR**") §§ 16-133-40 to 16-133-53.

⁴ "Associated equipment rates" includes cable television equipment and installation charges.

⁵ See, TWE's "Social Contract", adopted by the FCC on November 30, 1995 (FCC 95-478). Prior to the "Social Contract", the State (as the certified local franchising authority) reviewed equipment and installation charges of TWE.

⁶ For equipment and installation charges in effect as of January 1, 1999, the FCC determined the following maximum permitted rates: Unwired Homes: \$53.61; Prewired Homes: \$35.74; Additional Connection (initial): \$21.27; Additional connection (separate): \$35.74; Changing Tier: \$2.00; Converter Exchanges/Upgrades: \$15.32; Converter (nonaddressable): \$0.19; Converter (addressable): \$2.64; and

WHEREAS, as of June 1999, TWE opted out of certain rate regulation provisions under the "Social Contract", and the State again became the authority to review equipment and installation rate or charge adjustments of TWE cable television systems in Hawaii;

WHEREAS, a cable operator may use the FCC Form 1205 to update its charges for equipment and installation services on an annual basis (this is the official form used by regulators to determine whether an operator's regulated rates for equipment and installations are reasonable under FCC Rules);

WHEREAS, in connection with justifying annual rate adjustments for regulated equipment and installations, the TWE submitted its FCC Form 1205 ("**Rate Filing**") to the State on October 1, 2003 for the period January 1, 2004 through December 31, 2004;⁷

WHEREAS, the cable operator has the burden of proving that its proposed annual adjustment complies with applicable FCC Rules and the State's administrative rules⁸;

WHEREAS, the State retained a financial consultant to assist it in reviewing the cable operator's Rate Filing filing and request to adjust its annual rates; and

WHEREAS, after reviewing TWE's Rate Filing and verifying their calculations, there were no adjustments necessary to TWE's proposed Maximum Permitted Rates.

II. ORDER

A. Maximum Permitted Rates for Associated Equipment

1. The State hereby orders that TWE's proposed Maximum Permitted Rates for regulated equipment and installations are approved.
2. TWE's Maximum Permitted Rates, exclusive of franchise and regulatory fees and taxes, for regulated equipment and installation as of January 1, 2004 and continuing up to the effective date of TWE's subsequent adjustment implemented in accordance with the FCC Rules, shall be as follows:

Remote: \$0.16. See, Rate Order DA-1116 (FCC Cable Services Bureau rel. June 9, 1999) and Rate Order DA 99-1115 (FCC Cable Services Bureau rel. June 9, 1999).

⁷ This Rate Order covers regulated equipment and installation charges of Oceanic Cable, Hawaiian Cablevision (Lahaina), Hawaiian Cablevision (Maui), Hawaiian Cablevision (Molokai/Lanai), Sun Cablevision, Kamehameha Cablevision, Hawaiian Cablevision of Hilo, and Oceanic Time Warner Cable (Kauai), and addresses only those items listed in the Summary Schedule of the Rate Filing.

⁸ See, 47 C.F.R. § 76.937(a), and HAR § 16-133-46.

<u>Installation</u>	<u>Maximum Permitted Rate</u>
Unwired Homes	\$47.21
Pre-wired Homes	\$33.05
Additional Connection (initial)	\$18.65
Additional Connection (separate)	\$32.92
Changing Tiers	\$ 2.00
 <u>Equipment</u>	
Converter 1 (addressable)	\$ 7.99
Converter 2 (nonaddressable)	\$ 0.68
Remote	\$ 0.34


B. Other Provisions

1. The State hereby orders that TWE shall not make adjustments for overestimated or underestimated costs in the Rate Filing above, or increase its associated equipment rates without first complying with all applicable State and federal laws and rules (including but not limited to FCC Rules, regulations, and orders) and obtaining the State's prior approval.
2. The State hereby orders that TWE may charge associated equipment rates that are lower than the Maximum Permitted Rates described above; provided that the lower rates are applied in a uniform and nondiscriminatory way pursuant to all applicable State and federal laws and rules (including but not limited to FCC Rules, regulations, and orders).
3. For the year 2005 annual rate adjustment and for every year thereafter, TWE shall not charge associated equipment rates that exceed TWE's proposed Maximum Permitted Rate or the approved Maximum Permitted Rate for that particular year.
4. This Rate Order shall not to be construed and is not intended to be construed as a finding that the State has accepted as correct any entry, explanation, or argument made by TWE not specifically addressed herein.
5. The State reserves all of its rights under State and federal laws and rules (including but not limited to FCC Rules, regulations, and orders), including the right to review any pending rate filings submitted by TWE and to establish reasonable rates for associated

equipment in the event the State determines that the proposed rates or charges are unreasonable.

6. The State reserves the right to modify this Rate Order if, at any time, it determines that information TWE provided to the State is incorrect or misleading in any material manner, or that TWE is not in compliance with this Rate Order or State and federal laws and rules (including but not limited to FCC Rules, regulations, and orders).
7. This Rate Order is issued and shall be effective as of the date specified below.

DATED: Honolulu, Hawaii, September 28, 2004.



MARK E. RECKTENWALD
Director of Commerce and Consumer Affairs
State of Hawaii