

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

In the Matter of	)	<b>DECISION AND ORDER NO. 345</b>
	)	
	)	
TIME WARNER ENTERTAINMENT	)	
COMPANY, L.P.	)	
	)	
Capital Payments for Public, Educational,	)	
and Governmental Access Facilities and	)	
Equipment in the County of Kauai, for the	)	
period 2010 through 2016.	)	
_____	)	

**DECISION AND ORDER NO. 345**

I. **INTRODUCTION**

- A. On September 7, 2006, the State of Hawaii (“**State**”) Department of Commerce and Consumer Affairs (“**Department**”) issued Decision and Order No. 327 (“**D&O No. 327**”), which approved the June 7, 2006 agreement between the cable operator, Time Warner Entertainment Company, L.P. (“**TWE**”), and the designated public, educational, and governmental (“**PEG**”) access organization for the County of Kauai, Hoike: Kauai Community Television (“**Hoike**”), regarding TWE’s annual payment of capital funds to Hoike for the purchase of PEG access facilities and equipment.
- B. In D&O No. 327, the Department also directed TWE, in consultation with Hoike, to submit to the Director of Commerce and Consumer Affairs

("Director") by April 30, 2009, a schedule for the payment of capital funds for PEG access facilities and equipment for the years 2010 to 2016 (the end of the franchise term for TWE's Kauai County cable franchise area).

- C. By letter dated June 23, 2009, TWE informed the Department that it had reached agreement with Hoike to maintain its annual capital funds payment at the current level of \$3.00 per basic subscriber in the Kauai County cable franchise area.
- D. TWE attached to its June 23, 2009 letter an email dated June 23, 2009 from JS Robertson, Managing Director of Hoike, confirming Hoike's agreement to TWE's recommendation of \$3.00 per subscriber.
- E. TWE further proposed that its annual capital contribution on January 31<sup>st</sup> of each year will be based upon the number of basic cable subscribers in the Kauai County cable franchise area as of December 31<sup>st</sup> of the previous year.
- F. In a June 24, 2009 letter, TWE again confirmed that the intent of the agreement with Hoike was that TWE's annual capital contributions will be equal to \$3.00 per cable television subscriber in the Kauai County cable franchise area.
- G. After reviewing TWE's request to approve the proposed payment schedule and Hoike's concurrence, the Department believes that it is in the best interest of cable television subscribers to approve the capital fund payments described above.

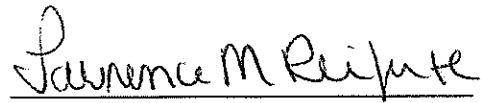
## II. ORDER

NOW, THEREFORE, the Director hereby orders that:

- A. In accordance with D&O No. 327, the Director approves of the capital fund payment schedule agreed to between TWE and Hoike for the Kauai County franchise area. Accordingly, TWE shall continue to make capital fund payments equal to \$3.00 per cable television subscriber in the Kauai County cable franchise to the designated PEG access entity for Kauai County each year from January 1, 2010 to 2016 (the end of the franchise term).
- B. The capital fund payments shall be based upon the number of cable television subscribers in the Kauai County cable franchise as of December 31<sup>st</sup> of the prior year.
- C. TWE shall make its annual capital fund payment on or before January 31<sup>st</sup> of each year to the designated PEG access entity for Kauai.
- D. In the event the PEG access channels are converted from analog to digital and/or to high definition, TWE and the designated PEG access organization for Kauai County may request approval from the Director that the capital funds payment agreement and schedules be re-negotiated and a new capital funds payment plan be submitted. The Director may, in the Director's sole discretion, grant this request.

E. Except as otherwise provided in this Decision and Order, the remaining terms and conditions of D&O Nos. 291, 319, and 327 not specifically amended herein shall continue to remain in full force and effect.

DATED: Honolulu, Hawaii December 8, 2009.

A handwritten signature in cursive script that reads "Lawrence M Reifurth".

LAWRENCE M. REIFURTH  
Director of Commerce and  
Consumer Affairs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DECISION AND ORDER NO. 345 was served upon the following person at the address shown below by mailing the same, postage prepaid, on this 8th day of December, 2009.

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Secretary