

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

In the Matter of	)	<b>DECISION AND ORDER NO. 335</b>
	)	
	)	
TIME WARNER ENTERTAINMENT	)	
COMPANY, L.P.	)	
	)	
Capital Payments for Public, Educational,	)	
and Governmental Access Facilities and	)	
Equipment in the County of Hawaii, for the	)	
period 2008 through 2011.	)	
_____	)	

**DECISION AND ORDER NO. 335**

I. **INTRODUCTION**

- A. On August 4, 2005, the State of Hawaii ("**State**") Department of Commerce and Consumer Affairs ("**Department**") issued Decision and Order No. 322 ("**D&O No. 322**"), which approved the May 18, 2004 agreement between the cable operator, Time Warner Entertainment Company, L.P. ("**TWE**"), and the designated public, educational, and governmental ("**PEG**") access organization for Hawaii County, Na Leo 'O Hawaii ("**Na Leo**"), regarding TWE's annual payment of capital funds to Na Leo for the purchase of PEG access facilities and equipment.
- B. In D&O No. 322, the Department also directed TWE, in consultation with the designed PEG access organization for Hawaii County, to submit to the Director of Commerce and Consumer Affairs ("**Director**") by

April 30, 2007, schedules for the payment of capital funds for the purchase of PEG access facilities and equipment for the years 2008 to the end of the franchise terms for both the East Hawaii and West Hawaii franchise areas (2011).

- C. In a May 3, 2007 letter to TWE, Na Leo agreed to the continuation of the annual capital fund payments of \$125,000.00, collectively, for the East Hawaii and West Hawaii franchise areas; provided that the capital funds payment agreement would be renegotiated if TWE converted the PEG access channels to digital and/or high definition programming.
- D. In a May 7, 2007 e-mail to the Department, TWE informed the Department that it had reached an agreement with Na Leo to maintain the annual capital funds payment at the current level of \$125,000, collectively, for the East Hawaii and West Hawaii franchise areas (or \$62,500.00 for each franchise area).
- E. On May 28, 2007, pursuant to a request by the Department, Na Leo explained that the continuation of the current capital funds payment amount was based in part on the following facts: (1) Na Leo's PEG access equipment was relatively new; (2) the price of new PEG access equipment had decreased; (3) Na Leo had a surplus of unspent capital funds; and (4) industry standards for high definition were still being developed and expected to be in place after a few years, at which time replacing outdated PEG access equipment may be appropriate. Na Leo also reiterated its understanding with TWE that the capital funds payment

agreement could be renegotiated if its PEG access channels were converted to digital or high definition, or both.

- F. After reviewing the agreement between TWE and Na Leo to maintain the current level of annual capital funds payments for both the East Hawaii and West Hawaii franchise areas, the Department believes that it is in the best interest of cable television subscribers to approve the capital fund payment described therein.

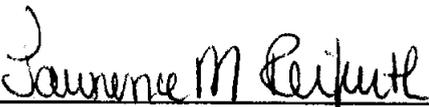
II. **ORDER**

NOW, THEREFORE, the Director hereby orders that:

- A. In accordance with D&O No. 322, the Director approves of the capital funds payment schedule agreed to between TWE and Na Leo for the West Hawaii cable franchise area. Accordingly, TWE shall make annual capital funds payments of \$62,500.00 to the designated PEG access organization for Hawaii County for each year from January 1, 2008 to the end of the franchise term for TWE's West Hawaii cable franchise area.
- B. In accordance with D&O No. 322, the Director also approves of the capital funds payment schedule agreed to between TWE and Na Leo for the East Hawaii cable franchise area. Accordingly, TWE shall make annual capital funds payments of \$62,500.00 to the designated PEG access organization for Hawaii County for each year from January 1, 2008 to the end of the franchise term for TWE's East Hawaii cable franchise area.
- C. TWE shall make these annual fund payments on January 31<sup>st</sup> of each year.

- 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 Hawaii 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 Decision and Order Nos. 173, 185, 242, 244, and 322 shall continue to remain in full force and effect.

DATED: Honolulu, Hawaii, June 20 2007.

  
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LAWRENCE M. REIFURTH  
Director of Commerce and Consumer Affairs