

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

In the Matter of Kauai Cablevision)	
L.P. (<u>Kalaheo et al.</u>))	DOCKET NO. 94-08
)	
Filing of Initial Basic Service)	
Rates and Associated Charges)	
(FCC Form 393))	
_____)	

FIRST AMENDMENT TO DECISION AND ORDER NO.162

WHEREAS, by Decision and Order No. 162 issued February 14, 1995 but effective February 24, 1995 ("State's Rate Order"), the State determined, among other things, that Kauai Cablevision L.P.'s actual monthly basic service tier rate of \$8.08 was unreasonable, and adjusted the monthly rate to \$7.12;¹ and

WHEREAS, the State required Kauai Cablevision L.P. (the "Company") to refund the overcharges for the period from January 10, 1994 through July 14, 1994, subject to adjustment by adding to that period the days from September 1, 1993 through January 9, 1994, in the event the Federal Communications Commission (the "Commission") grants the State's petition for a waiver of section 76.942(b) of the Commission's rules²; and

WHEREAS, on March 16, 1995 the Company filed its appeal of the State's Rate Order to the Commission, and the State filed its opposition thereto on March 31, 1995; and

¹Kauai Cablevision, L.P.'s system for Kalaheo et al. covers Community Unit Identification numbers HI0044 to HI0055 inclusive, HI0076, HI0077, HI0094, HI0095, and HI0098.

²In the Matter of State of Hawaii Department of Commerce and Consumer Affairs, Cable Television Division, DA 95-1746 (Cable Services Bureaus released August 15, 1995), the Cable Services Bureau denied the State's petition for waiver of section 76.942(b) of the Commission's rules. Thus, the applicable period for which the Company is subject to refunds is from January 10, 1994 up to and including July 14, 1994. See In the Matter of InterMedia Partners, on behalf of Kauai Cablevision, L.P., DA 95-1745, page 4 (Cable Services Bureau released August 15, 1995).

WHEREAS, in its appeal the Company raised three issues: (1) whether the State improperly adjusted Line 104 to equal the amount in Line 301 of the Company's FCC Form 393; (2) whether the 15 day period to issue the refunds to subscribers was unreasonable; and (3) whether the State unreasonably seeks to extend the Company's refund liability period beyond the one-year period set forth in section 76.942(b) of the Commission's rules³; and

WHEREAS, In the Matter of InterMedia Partners, on behalf of Kauai Cablevision, L.P., Consolidated Memorandum Opinion and Order, DA 95-1745 (Cable Services Bureau released August 15, 1995) (the "Commission's Appeal Order"), the Cable Services Bureau denied in part and granted in part the Company's appeal, and remanded to the State the sole issue regarding the 15 day period for the implementation of refunds; and

WHEREAS, in connection therewith, the Commission stated that a cable operator should be given at least 60 days to implement the refunds required by a local rate order⁴; and

WHEREAS, in accordance with the Commission's Appeal Order, the State is amending Decision and Order No. 162 to provide the Company at least 60 days after the date hereof to implement the refunds required thereunder; and

WHEREAS, the State is continuing to review the information regarding the Company's wire maintenance service submitted by the Company by letter dated March 3, 1995, and the State reserves all rights to address the reasonableness of the Company's charge for wire maintenance service as more particularly described in paragraph 5 of said Decision and Order No.162;

NOW, THEREFORE, IT IS HEREBY ORDERED that said Decision and Order No. 162 is hereby amended by deleting the last sentence of paragraph 2 on page 5, which read as follows: "With respect to each affected subscriber entitled to a refund, the Company shall implement the rate refunds ordered hereunder within fifteen (15) days after the effective date of this Order."

IT IS FURTHERED ORDERED that the Company shall implement the rate refunds ordered under said Decision and Order No. 162 to each affected subscriber entitled to a refund within sixty (60) days after the date hereof.


³This issue was resolved by the Commission as discussed in footnote 2, supra.

⁴See Commission's Appeal Order at page 4.

IT IS FURTHERED ORDERED that within seven (7) days after the date hereof the Company shall submit to the State for its review and approval the Company's revised written refund plan covering the period beginning January 10, 1994 and continuing up to and including July 14, 1994, plus interest, franchise fees, and applicable taxes, which shall also include the information described in paragraph 7 of said Decision and Order No. 162.

IT IS FURTHERED ORDER that except to the extent amended herein, the provisions of said Decision and Order No. 162 shall remain in full force and effect and are incorporated herein by reference.

DATED: Honolulu, Hawaii, October 4, 1995.



Kathryn S. Matayoshi
Director of Commerce and
Consumer Affairs
State of Hawaii

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing First Amendment to Decision and Order No. 162 in Docket No. 94-08, was duly served upon the following parties at the address shown below by the mailing the same, postage prepaid, on this 4th day of October, 1995.

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