

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

In the Matter of Time Warner)
Entertainment Company, L.P. dba)
Oceanic Cablevision)
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)
Filing of Basic Service Rates)
(Settlement of Rate Filings))

DECISION AND ORDER NO. 178

WHEREAS, the Cable Television Division, Department of Commerce and Consumer Affairs of the State of Hawaii (the "State") became certified to regulate basic cable service rates and associated charges as of May 12, 1994, and has followed regulations prescribed by the Federal Communications Commission (the "FCC"), 47 C.F.R. Part 76, Subpart N ("FCC Rules"), and by the State's Department of Commerce and Consumer Affairs, sections 16-133-40 to 53 of the Hawaii Administrative Rules (the "Department Rules"), for the regulation of the basic service tier and associated equipment, installations, services and charges; and

WHEREAS, by letter dated May 12, 1994, the State notified Time Warner Entertainment Company, L.P. dba Oceanic Cablevision (the "Company") that the Company's rates for the basic service tier and associated charges for equipment and installation for its cable system were subject to regulation by the State; and

WHEREAS, the Company gave the State notice that effective as of July 14, 1994, the Company would restructure its basic service rates to comply with revised rate regulation rules adopted by the FCC that became effective on May 15, 1994 (the "Amended Rules"); and

WHEREAS, in connection with justifying the Company's rate for the basic service tier in effect after July 14, 1994 and continuing through December 31, 1997, the Company

submitted FCC Forms 1200, 1210, 1205, and 1240 (sometimes hereinafter collectively referred to as "Rate Filing")¹ to the State for review and approval; and

WHEREAS, each of the Company's filings cover specific periods for which it sought to justify its proposed maximum permitted rates for the basic service tier and associated equipment and installations, as follows:

FCC Form 1200 and related forms filed June 17, 1994, as revised and amended, for basic service tier rate in effect after July 14, 1994;

FCC Form 1205 filed on February 29, 1995, for changes to equipment and installation charges after June 28, 1995 based on year ending 1994 data;

FCC Form 1210 filed on February 29, 1995, for changes to basic service tier rate after June 28, 1995 based on increased cost for the first quarter of 1995;

FCC Form 1240 filed on December 28, 1995, as revised and amended, for changes to basic service tier rate for the twelve month period from January 1, 1996 to December 31, 1996;

FCC Form 1240 filed on October 7, 1996, as revised and amended, for changes to basic service tier rate for the twelve month period January 1, 1997 to December 31, 1997; and

WHEREAS, the State reviewed all of the above filings and issued draft orders disapproving each of the Company's proposed maximum permitted rates, copies of which were provided to the Company for review and comment;² and

WHEREAS, pursuant to the Amended Rules, the FCC Form 1200 filing sets the maximum permitted rate for the basic service tier after July 14, 1994, and it sets the floor

¹The Rate Filing submitted for the Company's system covers Community Identification Numbers CUID HI0001, HI0004 through HI0010 inclusive, HI0012, HI0014, and HI0057 through HI0072 inclusive. Because the Company has franchise agreements with various military branches on the island of Oahu, the Company for purposes of its Rate Filing submitted revised subscriber counts, revenues, and costs to reflect the exclusion of military subscribers.

²As a part of the settlement, all the draft orders were not finalized and issued, instead, this final Order is being issued, which covers the Company's Rate Filing and draft orders.

for subsequent adjustments to the basic service tier rate, e.g., the FCC Form 1210 rate adjustment is based upon the approved FCC Form 1200 rate, the first FCC Form 1240 rate adjustment is based upon the approved FCC Form 1210 rate, and the second FCC Form 1240 rate adjustment is based upon the previous approved Form 1240 rate; and

WHEREAS, after reviewing all of the Company's rate filings described above, the State's adjusted maximum permitted rates for the Company's basic service tier would subject the Company to refund liability for subscribers' overpayment during the period July 14, 1994 through December 31, 1997; and

WHEREAS, the Company stated that it disagrees with the State's adjusted maximum permitted rates for its basic service tier, and under FCC rules the Company has the right to file an appeal to the FCC, which process will be expensive for both parties, will prolong the uncertainty of basic service tier rates for subscribers, and the outcome of which is unpredictable; and

WHEREAS, the Company and the State have agreed to a settlement regarding the Company's rate filings described herein and attached hereto;³ and

WHEREAS, under the Settlement Agreement, the Company and the State have agreed to, among other things, that the Company will pay to subscribers as overcharges for the period July 14, 1994 through December 31, 1997 the total amount of \$2,300,000 plus interest ("Settlement Amount"), the Company's maximum permitted rate for the basic service tier was \$9.90 as of January 1, 1997, and the Company shall reduce its current rate to \$9.90 per month (assuming a 20 channel basic service tier that includes a program guide) effective January 1, 1998 and shall continue until the entire Settlement Amount has been paid to subscribers, all as more particularly described in the Settlement Agreement; and

WHEREAS, the Settlement Amount will be reduced by credits which will consist of yearly inflation and external cost adjustments as provided by FCC rules and available for calendar year 1998 and each subsequent year until the entire Settlement Amount has been paid to subscribers as described in the Settlement Agreement; and

³The settlement agreement between the Company and the State was made in accordance with the Third Order On Reconsideration, MM Docket Nos. 92-266 and 92-262, Federal Communications Commission, FCC 94-10 (rel. March 30, 1994), at paragraph 71 ("Parties in a setting procedure may, of course, stipulate to particular facts and even the final rate level itself, as long as the basis for each such stipulation is clearly articulated, there is some support for each stipulation in the record, and it does not circumvent our rate regulations.")

WHEREAS, within 10 days from the date hereof, the Company shall submit, in a form acceptable to the State, a pro forma as of January 1, 1998, detailing yearly adjustments for inflation and external costs as provided by FCC rules, projected maximum permitted rates, projected credits to subscribers including interest, and work down of the Settlement Amount on a monthly basis; and

WHEREAS, during the years for which the Settlement Agreement is in effect the Company shall submit to the State by October 1 of each year its annual FCC Form 1240 describing the increases it would be entitled to implement for inflation and external costs but for the Settlement Agreement, together with supporting documentation including, but not limited to, rate of inflation and programming agreements; and

WHEREAS, notwithstanding any change to laws or rules relating to the regulation of basic service tier rates including, but not limited to, deregulation through legislation or effective competition or any other circumstance that would allow the Company to restructure, reduce, or increase its basic service tier and/or rates, the Company has agreed that it will continue to perform its obligations under the Settlement Agreement until the entire Settlement Amount (including accrued interest) is credited to subscribers; and

WHEREAS, prior to December 1, 1997, the Company shall provide written notice to its subscribers, which notice shall first be approved by the State, on the reduced basic service tier rate and any other terms of the Settlement Agreement; and

WHEREAS, the Company shall provide other written notices to subscribers regarding the Settlement Agreement at no less than yearly intervals during the term of the Settlement Agreement; and

WHEREAS, the Company shall also provide written notices to subscribers, which shall first be approved by the State, regarding the expiration of the Settlement Agreement and implementation date of its first rate increase no later than 30 days prior to such date; and

WHEREAS, the Settlement Agreement negotiated with the Company ensures stable basic service tier rates for the term of the Settlement Agreement without unduly burdening the operations of the Company, and it reduces the administrative burdens associated with rate regulation of the basic service tier on the State, the Company, and the FCC as to appeals of rate orders; and

WHEREAS, because the Settlement Agreement provides substantial benefits to the Company's subscribers of the basic service tier, it is in the public interest to approve and adopt the Settlement Agreement;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The maximum permitted rate for the Company's basic service tier (assuming a 20 channel tier including a program guide) shall be \$9.90 per month effective as of January 1, 1997, and the Company shall reduce its current basic service tier rate to \$9.90 on January 1, 1998 and shall reduce its rate further by that date and for the future in accordance with FCC regulations as required to reflect any reductions in its external costs or reductions in channels, provided that the Settlement Agreement is implemented in full.

2. The Company shall return to subscribers as overcharges \$2,300,000 (TWO MILLION THREE HUNDRED THOUSAND DOLLARS) plus interest ("Settlement Amount") covering the period July 14, 1994 through December 31, 1997, in accordance with the Settlement Agreement.

3. The Settlement Agreement between the Company and the State attached hereto is hereby approved and incorporated herein. If, but only if, the Company complies with each of its obligations thereunder, it may charge the rates, and return overcharges to subscribers in the manner provided therein. Otherwise, the Company shall charge \$9.80 for its basic service tier and promptly return all amounts owed to subscribers plus interest and any applicable penalty.

4. Nothing herein nor anything in the Settlement Agreement shall be deemed to affect the Company's obligations and commitments under its franchise issued by the State.

5. In the event of any conflict between a provision of the settlement as set forth in the Settlement Agreement and this Order, the provision set forth in the Settlement Agreement shall control.

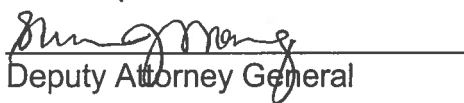
6. This Order is issued and shall be effective as of the date hereof.

DATED: Honolulu, Hawaii Aug. 27, 1997.



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

APPROVED AS TO FORM:


Deputy Attorney General

SETTLEMENT AGREEMENT
(Oceanic Cable - Basic Service Tier Rate)

This Settlement Agreement is made on August 27, 1997, and entered into by and between the State of Hawaii through its Department of Commerce and Consumer Affairs, State of Hawaii ("State"), whose office is located at 1010 Richards Street, Honolulu, Hawaii 96813, and Time Warner Entertainment Company, L.P. dba Oceanic Cable ("Oceanic Cable") whose principal place of business and address is at 200 Akamainui Street, Mililani, Hawaii 96789-3999.

I. BACKGROUND

By letter dated May 12, 1994, the State notified Oceanic Cable that its rates for the basic service tier and associated charges for equipment and installation for its cable system were subject to regulation by the State.

Oceanic Cable gave the State notice that effective as of July 14, 1994, the Company would restructure its basic service rates to comply with revised rate regulation rules adopted by the FCC that became effective on May 15, 1994 (the "Amended Rules").

In connection with justifying its rate for the basic service tier in effect after July 14, 1994 and continuing through December 31, 1997, Oceanic Cable submitted FCC Forms 1200, 1210, 1205, and 1240 (sometimes hereinafter collectively referred to as "Rate Filing")¹ to the State for review and approval.

Oceanic Cable's filings cover specific periods for which it sought to justify proposed maximum permitted rates for the basic service tier and associated equipment and installations, as follows:

FCC Form 1200 and related forms filed June 17, 1994, as revised and amended, for basic service tier rate in effect after July 14, 1994;

FCC Form 1205 filed on February 29, 1995, for changes to equipment and installation charges after June 28, 1995 based on year ending 1994 data;

¹The Rate Filing submitted for Oceanic Cable's system covers Community Identification Numbers CUID HI0001, HI0004 through HI0010 inclusive, HI0012, HI0014, and HI0057 through HI0072 inclusive. Because Oceanic Cable has franchise agreements with various military branches on the island of Oahu, Oceanic Cable for purposes of its Rate Filing submitted revised subscriber counts, revenues, and costs to reflect the exclusion of military subscribers.

FCC Form 1210 filed on February 29, 1995, for changes to basic service tier rate after June 28, 1995 based on increased cost for the first quarter of 1995;

FCC Form 1240 filed on December 28, 1995, as revised and amended, for changes to basic service tier rate for the twelve month period from January 1, 1996 to December 31, 1996; and

FCC Form 1240 filed on October 7, 1996, as revised and amended, for changes to basic service tier rate for the twelve month period January 1, 1997 to December 31, 1997.

Pursuant to the Amended Rules, the FCC Form 1200 sets the maximum permitted rate for the basic service tier after July 14, 1994. As such, it sets the floor for subsequent adjustments to the basic service tier rate, e.g., the FCC Form 1210 rate adjustment is based upon the approved FCC Form 1200 rate, the first FCC Form 1240 rate adjustment is based upon the approved FCC Form 1210 rate, and the second FCC Form 1240 rate adjustment is based upon the previous approved Form 1240 rate.

After reviewing all of Oceanic Cable's rate filings described above, the State's adjusted maximum permitted rates for Oceanic Cable's basic service tier would subject Oceanic Cable to refund liability for subscribers' overpayment during the period July 14, 1994 through December 31, 1997.

On the other hand, Oceanic Cable stated that it disagrees with the State's adjusted maximum permitted rates for its basic service tier and thus it should not be subject to refund liability.

The State and Oceanic Cable recognize and agree that any appeal of the State's adjusted maximum permitted rates that may be initiated by Oceanic Cable is time consuming and expensive, and that a settlement of this matter without any admission of wrongdoing or liability on the part of Oceanic Cable in accordance with the provisions of this Settlement Agreement would beneficially conserve the time, energy and resources of the parties. This Settlement Agreement is intended to resolve only the issue of refund liability arising from or in connection with Oceanic Cable's Rate Filing. Moreover, it is not the intent of the parties to this Settlement Agreement to create any judicially enforceable rights in any other parties, i.e., it is the intent of the parties that this Settlement Agreement will be enforceable against Oceanic Cable by the State exclusively and no other party may seek to enforce this Settlement Agreement as a third party beneficiary or otherwise.

II. SETTLEMENT PROVISIONS

The State and Oceanic Cable wish to settle all of the rate filings described hereinabove without further proceedings, and hereby enter into this Settlement Agreement for the valuable consideration and mutual promises hereinafter stated.

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

(1) This Settlement Agreement shall apply to and close each of Oceanic Cable's Rate Filing described hereinabove. The State will issue a final consolidated order resolving Oceanic Cable's Rate Filing, which order shall (i) approve the amounts and rates set forth in paragraphs (2) and (3) hereof; (ii) find that Oceanic Cable owes subscribers \$2,300,000 in refunds; and (iii) order that the refunds be paid to subscribers in accordance with this Settlement Agreement. Oceanic Cable agrees that it will not appeal such order and that such order shall be fully enforceable against it. The provisions of this Settlement Agreement shall not be binding on any party unless the order is adopted in substantially the form set forth in Appendix A.

(2) Oceanic Cable agrees to return \$2,300,000 (TWO MILLION THREE HUNDRED THOUSAND DOLLARS) plus interest ("Settlement Amount") to subscribers in settlement of any refund obligation it might have for basic service tier rate overcharges for the period July 14, 1994 through December 31, 1997. Interest shall be paid at a rate of 8% per annum on the outstanding amounts owed to subscribers but not yet returned to them. The interest owed will accrue quarterly, based on the outstanding balance owed to subscribers at the beginning of the quarter, beginning on January 1, 1998. The Settlement Amount will be returned by limiting the basic service tier rate that Oceanic Cable charges as provided below.

(3) The parties agree that the maximum permitted rate for the 20-channel basic service tier (including a program guide) that Oceanic Cable was providing on June 1, 1997 was \$9.90. Oceanic Cable agrees to reduce its basic service tier rate at least to this level by January 1, 1998, and to reduce its rate further by that date and for the future in accordance with FCC regulations as required to reflect any reductions in its external costs or reductions in channels. However, Oceanic Cable may charge no more than \$9.90 per month for its basic service tier until the Settlement Amount has been returned to subscribers as provided in this Settlement Agreement.

(4) The Settlement Amount owed will be reduced quarterly by an amount that represents the difference between the \$9.90 basic service tier rate, and the higher, maximum permitted rate that could have been charged for that quarter if that \$9.90 rate had been increased to include annual pass-through of increases in external costs and

inflation in accordance with FCC rules. The term "maximum permitted rate" refers to the maximum permitted rate as it may be approved or established by the State in accordance with FCC rules.

(5) Oceanic Cable shall submit a Form 1240 by October 1, 1997 and every October 1 thereafter until the entire Settlement Amount has been returned to subscribers. The Form 1240 shall be submitted with supporting documentation including, but not limited, to documentation of applicable inflation rate or rates, and programming costs. The October 1, 1997 Form 1240 shall use \$9.90 as the maximum permitted rate at Line A1 and use \$0.1609 as the external cost at Line I7 and \$0.1375 as the true-up segment at Line I8. Using those figures, and otherwise following applicable FCC rules, the maximum permitted rate for the basic service tier applicable for calendar year 1998 shall be calculated. The maximum permitted rate for subsequent years will be calculated by adjusting the maximum permitted rate for the preceding year and adjusting for inflation and external costs as provided by FCC rules (1999 rate being established by adjusting the 1998 maximum permitted rate for inflation and external costs, and so on).

(6) (i) To the extent that Oceanic Cable's maximum permitted rate in any given year is based upon projection of inflation or external costs, and the projection overstates costs or inflation, then when Oceanic Cable makes its next Form 1240 filing, the Settlement Amount will be increased and interest recalculated to reflect such overstatement. The Settlement Amount will not be deemed returned until after all projections upon which the reductions in the Settlement Amount were based have been tried-up.

(ii) The parties agree that all the external costs associated with PEG (public, education, and government access) are fully reflected in the \$9.90 rate, and no upward adjustment may be made on the basis of costs for PEG use of the cable system.

(7) The State may review and approve or disapprove Oceanic Cable's proposed maximum permitted rate, and may set a maximum permitted rate if Oceanic Cable's proposed maximum permitted rate is disapproved. However, except to the extent otherwise provided herein, the State is not required to make a determination or issue any orders regarding the reasonableness of the proposed maximum permitted rates for any filing, and its failure to do so will not relieve Oceanic Cable of its obligation to return the Settlement Amount to subscribers. The State will monitor and verify Oceanic Cable's proposed adjustments described in each filing. Oceanic Cable understands and agrees that in order for the State to monitor and verify its proposed adjustments, Oceanic Cable must submit to the State complete and accurate documentation.

(8) (i) Within 10 days from the State order approving or adopting this Settlement Agreement, Oceanic Cable shall submit to the State, in a form acceptable to the State, a pro forma as of January 1, 1998, detailing yearly adjustments for inflation and external costs as provided by FCC rules, projected maximum permitted rates, projected credits to subscribers including interest, and work down of the Settlement Amount on a monthly basis.

(ii) Within 10 days after the end of each calendar quarter, Oceanic shall submit to the State quarterly reports, in a form acceptable to the State, detailing the credits applied and the remaining balance of the Settlement Amount plus accrued interest.

(9) For the calendar year in which the entire remaining outstanding balance of the Settlement Amount (including accrued interest) is anticipated to be credited to subscribers, Oceanic Cable may charge its subscribers a blended basic service tier rate for that year. The blended rate shall be a rate between \$9.90 and the approved maximum permitted rate for that calendar year. The blended rate is intended to provide Oceanic Cable the opportunity to prorate the entire remaining uncredited balance of the Settlement Amount for that calendar year. In the event Oceanic Cable decides to implement a blended rate as described herein, Oceanic Cable shall provide the State 90 days prior written notice, in a form acceptable to the State, stating the outstanding balance of the Settlement Amount (including accrued interest) and supporting documentation, together with a pro forma, and a FCC Form 1240 which will require review and approval by the State.

(10) At any time after the date of this Settlement Agreement, the State and Oceanic Cable may issue a joint public release to be published in more than one media, announcing the basic terms and benefits of this Settlement Agreement.

(11) Prior to December 1, 1997, Oceanic Cable shall provide written notice to its subscribers, which notice shall first be approved by the State, regarding the reduced basic service tier rate and any other terms of this Settlement Agreement.

(12) During the term hereof, Oceanic Cable shall provide other written notices to subscribers regarding the settlement agreement at no less than yearly intervals, reminding subscribers that the \$9.90 basic service tier rate or lower rate required to conform to FCC rules will continue to be in effect until Oceanic Cable credits to subscribers the entire Settlement Amount plus accrued interest.

(13) Oceanic Cable shall also provide written notice to subscribers, which notice shall first be approved by the State, regarding the expiration of this Settlement

Agreement and implementation date of its first rate increase no later than 30 days prior to such date. With respect to the implementation of such first rate increase, the Company may increase its monthly basic service tier rate up to the maximum permitted rate as approved by the State, and Oceanic Cable shall provide written notice of such increase to subscribers in accordance with FCC rules.

(14) Notwithstanding any change to laws or rules regarding the regulation of basic service tier rates including, but not limited to, deregulation through legislation or effective competition, or any other circumstance that would allow Oceanic Cable to restructure, reduce, or increase its basic service tier and/or rates, Oceanic Cable agrees that it will continue to perform its obligations under this Settlement Agreement until the entire Settlement Amount (including accrued interest) has been credited to subscribers. After crediting the entire Settlement Amount (including accrued interest), Oceanic Cable shall be released from any claim of overcharges for the basic service tier covering the period July 14, 1994 through December 31, 1997.

(15) (i) In the event Oceanic Cable fails to implement the reduction to its basic service tier rate as required under paragraph (3) hereof, or fails to satisfactorily perform in a timely or proper manner any of its obligations or responsibilities or fails to observe or perform any term or condition required to be performed or observed by Oceanic Cable under this Settlement Agreement, and having been given reasonable notice of and opportunity to cure the same, fails to take satisfactory corrective action within the time specified, the State may declare Oceanic Cable to be in default. If Oceanic Cable is declared to be in default, it shall refund the Settlement Amount (including accrued interest), plus liquidated damages of 15% of the outstanding balance of the Settlement Amount to subscribers, and the maximum permitted rate for the basic service tier shall be \$9.80 per month plus any adjustments that may have been approved by the State as of the date of declaration of default.

(ii) The Settlement Amount must be returned to subscribers within six (6) months of the date the State declares Oceanic Cable to be in default. The amount must be returned in the form of cash or credits against subscribers' bills as subscribers may be required to continue service in order to receive the value of any credited amount. Within 15 days after receipt of written notice from the State, Oceanic Cable shall submit a refund plan, in a form acceptable to the State, showing how much it intends to refund, how the total refund/credit amount was calculated and other information as may be required by the State. Oceanic Cable shall implement the refund plan as approved by the State.

(iii) Notwithstanding the generality of the immediately preceding paragraph, for purposes of the State's authority to enforce any provision of this Settlement Agreement against Oceanic Cable, including administrative and court

actions, Oceanic Cable agrees that any breach of this Settlement Agreement by Oceanic Cable shall be considered the equivalent of a violation of an order of the State, entitling the State to exercise any rights and remedies attendant to the enforcement of a State order.

(16) Oceanic Cable waives any right it may have to any judicial or administrative review or appeal, or any other right: (i) to otherwise challenge or contest the validity of the Settlement Agreement or any order by the State implementing, adopting, or approving the Settlement Agreement in any forum as a claim or as a defense, or in any other manner; or (ii) to use this Settlement Agreement as evidence in any such proceeding. Oceanic Cable agrees that the provisions of this Settlement Agreement shall be incorporated into the State's order formally approving or adopting this Settlement Agreement. Oceanic Cable and the State agree that they will each actively defend, before any forum, any State order adopting or approving this Settlement Agreement against any legal challenge by any third party to any such order. Oceanic and the State each agree that they will reasonably cooperate with the other in such defense of the Settlement Agreement and any such order.

In the event the State brings an action to enforce the terms of the State order adopting or approving this Settlement Agreement, Oceanic Cable agrees, subject to the terms of the immediately preceding paragraph, that it will not contest the validity of such State order, or the State's authority to enter into the Settlement Agreement. Oceanic Cablevision reserves the right, in defense of such an enforcement action, to demonstrate that it has complied with the provisions of the Settlement Agreement or to assert its own interpretation regarding any performance obligations imposed by the Settlement Agreement which may be subject to dispute.

(17) This Settlement Agreement is without a finding by the State of any wrongdoing by Oceanic Cable. Neither this Settlement Agreement nor any aspect of the settlement contained herein constitutes an admission by Oceanic Cable of any violation of, or failure to conform to or comply with, any law, rule or order applicable to Oceanic Cable's Rate Filing.

(18) If any provision, clause or part of this Settlement Agreement is invalidated by order of any court having proper jurisdiction over the subject matter of this Settlement Agreement, the remainder of this Settlement Agreement shall not be affected thereby and shall remain in full force and effect; provided, however, that if either party reasonably determines that such invalidation is material to this Settlement Agreement, the parties shall negotiate in good faith to reconstitute the Settlement Agreement in a form that is, to the maximum extent possible, consistent with both the original intent of both parties in entering into this Settlement Agreement and the rationale for such invalidation order. In the event the parties are not able to mutually

agree to the reconstitution of the Settlement Agreement, the State shall have the right to rescind the portion of its order implementing, adopting, or approving the Settlement Agreement and to require Oceanic Cable to return the entire Settlement Amount to subscribers in the form of refunds or credits as provided in paragraph 15(ii) hereof. Oceanic Cable agrees that it will neither contest the State's authority to issue orders implementing the refunds nor contest the validity of such orders.

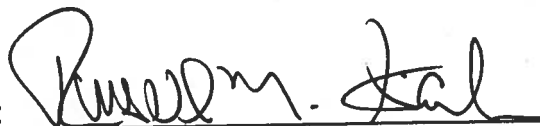
(19) This Settlement Agreement represents the complete agreement between the parties to the Settlement Agreement and supersedes any prior agreements, understandings and representations, if any. The parties represent, warrant and agree that the provisions of this Settlement Agreement are binding on each of them in accordance with their terms, and that the signatories hereto have been authorized by the parties to execute this Settlement Agreement on their behalf. This Settlement Agreement may be amended only by a written instrument signed by the parties hereto.

(20) (i) Any statute of limitations or other time limitation under federal or state laws and regulations is hereby extended and tolled as required to give effect to each and every provision hereof; and Oceanic Cable waives any rights it may have under the same that would permit it in any respect to challenge any of its obligations or any of the State's rights hereunder.

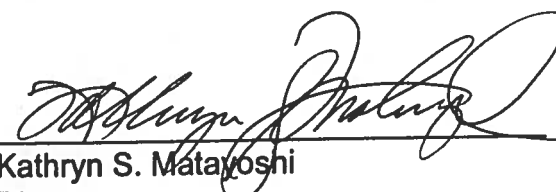
(ii) The compromises made in this Settlement Agreement include the repayment and set-off of any franchise fee amounts that the State might otherwise be required to return to Oceanic Cable under applicable FCC rules, and Oceanic Cable acknowledges that receipt of all amounts that might be owing to it.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed and delivered by or on behalf of the parties hereto as of the date first above written.

TIME WARNER ENTERTAINMENT COMPANY, L.P.
dba OCEANIC CABLE

BY: 
Russell M. Saiki
Vice-President/Finance

STATE OF HAWAII, THROUGH ITS
DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS

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

APPROVED AS TO FORM:


Deputy Attorney General
State of Hawaii

APPENDIX A

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

In the Matter of Time Warner
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Oceanic Cablevision

Filing of Basic Service Rates
(Settlement of Rate Filings)

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DECISION AND ORDER NO. 178

WHEREAS, the Cable Television Division, Department of Commerce and Consumer Affairs of the State of Hawaii (the "State") became certified to regulate basic cable service rates and associated charges as of May 12, 1994, and has followed regulations prescribed by the Federal Communications Commission (the "FCC"), 47 C.F.R. Part 76, Subpart N ("FCC Rules"), and by the State's Department of Commerce and Consumer Affairs, sections 16-133-40 to 53 of the Hawaii Administrative Rules (the "Department Rules"), for the regulation of the basic service tier and associated equipment, installations, services and charges; and

WHEREAS, by letter dated May 12, 1994, the State notified Time Warner Entertainment Company, L.P. dba Oceanic Cablevision (the "Company") that the Company's rates for the basic service tier and associated charges for equipment and installation for its cable system were subject to regulation by the State; and

WHEREAS, the Company gave the State notice that effective as of July 14, 1994, the Company would restructure its basic service rates to comply with revised rate regulation rules adopted by the FCC that became effective on May 15, 1994 (the "Amended Rules"); and

WHEREAS, in connection with justifying the Company's rate for the basic service tier in effect after July 14, 1994 and continuing through December 31, 1997, the Company submitted FCC Forms 1200, 1210, 1205, and 1240 (sometimes hereinafter

collectively referred to as "Rate Filing")¹ to the State for review and approval; and

WHEREAS, each of the Company's filings cover specific periods for which it sought to justify its proposed maximum permitted rates for the basic service tier and associated equipment and installations, as follows:

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FCC Form 1240 filed on December 28, 1995, as revised and amended, for changes to basic service tier rate for the twelve month period from January 1, 1996 to December 31, 1996;

FCC Form 1240 filed on October 7, 1996, as revised and amended, for changes to basic service tier rate for the twelve month period January 1, 1997 to December 31, 1997; and

WHEREAS, the State reviewed all of the above filings and issued draft orders disapproving each of the Company's proposed maximum permitted rates, copies of which were provided to the Company for review and comment;² and

WHEREAS, pursuant to the Amended Rules, the FCC Form 1200 filing sets the maximum permitted rate for the basic service tier after July 14, 1994, and it sets the floor for subsequent adjustments to the basic service tier rate, e.g., the FCC Form

¹The Rate Filing submitted for the Company's system covers Community Identification Numbers CUID HI0001, HI0004 through HI0010 inclusive, HI0012, HI0014, and HI0057 through HI0072 inclusive. Because the Company has franchise agreements with various military branches on the island of Oahu, the Company for purposes of its Rate Filing submitted revised subscriber counts, revenues, and costs to reflect the exclusion of military subscribers.

²As a part of the settlement, all the draft orders were not finalized and issued. Instead this final Order is being issued, which covers the Company's Rate Filing and draft orders.

1210 rate adjustment is based upon the approved FCC Form 1200 rate, the first FCC Form 1240 rate adjustment is based upon the approved FCC Form 1210 rate, and the second FCC Form 1240 rate adjustment is based upon the previous approved Form 1240 rate; and

WHEREAS, after reviewing all of the Company's rate filings described above, the State's adjusted maximum permitted rates for the Company's basic service tier would subject the Company to refund liability for subscribers' overpayment during the period July 14, 1994 through December 31, 1997; and

WHEREAS, the Company stated that it disagrees with the State's adjusted maximum permitted rates for its basic service tier, and under FCC rules the Company has the right to file an appeal to the FCC, which process will be expensive for both parties, will prolong the uncertainty of basic service tier rates for subscribers, and the outcome of which is unpredictable; and

WHEREAS, the Company and the State have agreed to a settlement regarding the Company's rate filings described herein and attached hereto;³ and

WHEREAS, under the Settlement Agreement, the Company and the State have agreed to, among other things, that the Company will pay to subscribers as overcharges for the period July 14, 1994 through December 31, 1997 the total amount of \$2,300,000 plus interest ("Settlement Amount"), the Company's maximum permitted rate for the basic service tier was \$9.90 as of January 1, 1997, and the Company shall reduce its current rate to \$9.90 per month (assuming a 20 channel basic service tier that includes a program guide) effective January 1, 1998 and shall continue until the entire Settlement Amount has been paid to subscribers, all as more particularly described in the Settlement Agreement; and

WHEREAS, the Settlement Amount will be reduced by credits which will consist of yearly inflation and external cost adjustments as provided by FCC rules and available for calendar year 1998 and each subsequent year until the entire Settlement Amount has been paid to subscribers as described in the Settlement Agreement; and

³The settlement agreement between the Company and the State was made in accordance with the Third Order On Reconsideration, MM Docket Nos. 92-266 and 92-262, Federal Communications Commission, FCC 94-10 (rel. March 30, 1994), at paragraph 71 ("Parties in a setting procedure may, of course, stipulate to particular facts and even the final rate level itself, as long as the basis for each such stipulation is clearly articulated, there is some support for each stipulation in the record, and it does not circumvent our rate regulations.")

WHEREAS, within 10 days from the date hereof, the Company shall submit, in a form acceptable to the State, a pro forma as of January 1, 1998, detailing yearly adjustments for inflation and external costs as provided by FCC rules, projected maximum permitted rates, projected credits to subscribers including interest, and work down of the Settlement Amount on a monthly basis; and

WHEREAS, during the years for which the Settlement Agreement is in effect the Company shall submit to the State by October 1 of each year its annual FCC Form 1240 describing the increases it would be entitled to implement for inflation and external costs but for the Settlement Agreement, together with supporting documentation including, but not limited to, rate of inflation and programming agreements; and

WHEREAS, notwithstanding any change to laws or rules relating to the regulation of basic service tier rates including, but not limited to, deregulation through legislation or effective competition or any other circumstance that would allow the Company to restructure, reduce, or increase its basic service tier and/or rates, the Company has agreed that it will continue to perform its obligations under the Settlement Agreement until the entire Settlement Amount (including accrued interest) is credited to subscribers; and

WHEREAS, prior to December 1, 1997, the Company shall provide written notice to its subscribers, which notice shall first be approved by the State, on the reduced basic service tier rate and any other terms of the Settlement Agreement; and

WHEREAS, the Company shall provide other written notices to subscribers regarding the Settlement Agreement at no less than yearly intervals during the term of the Settlement Agreement; and

WHEREAS, the Company shall also provide written notices to subscribers, which shall first be approved by the State, regarding the expiration of the Settlement Agreement and implementation date of its first rate increase no later than 30 days prior to such date; and

WHEREAS, the Settlement Agreement negotiated with the Company ensures stable basic service tier rates for the term of the Settlement Agreement without unduly burdening the operations of the Company, and it reduces the administrative burdens associated with rate regulation of the basic service tier on the State, the Company, and the FCC as to appeals of rate orders; and

WHEREAS, because the Settlement Agreement provides substantial benefits to the Company's subscribers of the basic service tier, it is in the public interest to approve and adopt the Settlement Agreement;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The maximum permitted rate for the Company's basic service tier (assuming a 20 channel tier including a program guide) shall be \$9.90 per month effective as of January 1, 1997, and the Company shall reduce its current basic service tier rate to \$9.90 on January 1, 1998 and shall reduce its rate further by that date and for the future in accordance with FCC regulations as required to reflect any reductions in its external costs or reductions in channels, provided that the Settlement Agreement is implemented in full.

2. The Company shall return to subscribers as overcharges \$2,300,000 (TWO MILLION THREE HUNDRED THOUSAND DOLLARS) plus interest ("Settlement Amount") covering the period July 14, 1994 through December 31, 1997, in accordance with the Settlement Agreement.

3. The Settlement Agreement between the Company and the State attached hereto is hereby approved and incorporated herein. If, but only if, the Company complies with each of its obligations thereunder, it may charge the rates, and return overcharges to subscribers in the manner provided therein. Otherwise, the Company shall charge \$9.80 for its basic service tier and promptly return all amounts owed to subscribers plus interest and any applicable penalty.

4. Nothing herein nor anything in the Settlement Agreement shall be deemed to affect the Company's obligations and commitments under its franchise issued by the State.

5. In the event of any conflict between a provision of the settlement as set forth in the Settlement Agreement and this Order, the provision set forth in the Settlement Agreement shall control.

6. This Order is issued and shall be effective as of the date hereof.

DATED: Honolulu, Hawaii _____, 1997.

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

APPROVED AS TO FORM:

Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DECISION AND ORDER NO. 178, together with the attached document, was served upon the following parties at the address shown below by mailing the same, postage prepaid, on this _____ day of _____, 1997.

JOHN T. KOMEIJI, ESQ.
BETH K. FUJIMOTO, ESQ.
Watanabe, Ing & Kawashima
First Hawaiian Center
999 Bishop Street
22nd & 23rd Floors
Honolulu, Hawaii 96813
Attorneys for Time Warner Entertainment Company,
L.P. dba Oceanic Cablevision

Patti K. Kodama
Secretary

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DECISION AND ORDER NO. 178, together with the attached document, was served upon the following parties at the address shown below by mailing the same, postage prepaid, on this 27th day of August, 1997.

JOHN T. KOMEIJI, ESQ.
BETH K. FUJIMOTO, ESQ.
Watanabe, Ing & Kawashima
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999 Bishop Street
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Attorneys for Time Warner Entertainment Company,
L.P. dba Oceanic Cablevision



Patti K. Kodama
Secretary