

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

In the Matter of Time Warner)
Entertainment Company, L.P. dba)
HAWAIIAN CABLEVISION)
)
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)
Updating of Basic Service Rate)
(FCC Form 1210))

DECISION AND ORDER NO. 189
(Rate Order)

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 Daniels Communications Partners Limited Partnership dba Hawaiian Cablevision Company (the "Company")¹ 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 rates to comply with revised rate regulation rules adopted by the FCC that became effective on May 15, 1994 (the "Amended Rules"); and

WHEREAS, by Decision and Order No. 175 issued on January 22, 1996, the State established \$7.50 as the Company's maximum permitted monthly rate for the basic service tier (FCC Form 1200) from July 14, 1994; and

¹By Decision and Order No. 174 issued on October 2, 1995, the State approved the transfer of the cable communications franchise held by Daniels Communications Partners Limited Partnership dba Hawaiian Cablevision Company to Time Warner Entertainment Company, L.P.

WHEREAS, in connection with justifying the Company's rate adjustment for the basic service tier, the Company submitted its FCC Form 1210 to the State on August 2, 1995 ("Rate Filing")², and in response to the State's request submitted supplemental information on May 10, 1996; and

WHEREAS, on August 7, 1995, pursuant to 47 C.F.R. section 76.933(a)-(b) and section 16-133-44(b) of the Department's Rules, the State issued a written order to extend the rate review period to consider additional information from the Company and to complete its review of the Company's Rate Filing; and

WHEREAS, pursuant to 47 C.F.R. section 76.933(c) and section 16-133-44(c) of the Department's Rules, the State issued a written order on August 17, 1995, directing the Company to keep an accurate account of all amounts received by reason of the rates and charges in issue and on whose behalf such amounts were paid; and

WHEREAS, the State retained a financial consultant to assist it in the stream-lined rate review process; and

WHEREAS, the State prepared a proposed rate order, a copy of which was provided to the Company prior to the issuance of this Rate Order; and

WHEREAS, the State reviewed the Rate Filing, and other evidence and information submitted by the Company; and

WHEREAS, the Company has the burden of proving by a preponderance of the evidence that its proposed adjustment is in conformance with the FCC Rules;³ and

WHEREAS, an operator may use the FCC Form 1210 to justify adjustments to the maximum permitted programming rates computed on its FCC Form 1200, and the operator may adjust, on a quarterly basis, its permitted programming rates to reflect changes in certain external costs, including programming costs, channel additions and deletions, and inflation; and

²The Rate Filing submitted for the Company's system at Lahaina, Maui covers Community Unit Identification number CUID HI0002.

³See 47 C.F.R. Section 76.937(a), and Section 16-133-46 of the Department's Rules.

WHEREAS, in its Rate Filing the Company seeks to justify increasing its maximum permitted monthly rate for the basic tier by \$.33 or from \$7.50 to \$7.83, for external costs and inflation; and

WHEREAS, after reviewing the Company's Rate Filing, there is no adjustment necessary to the Company's proposed maximum permitted monthly rate of \$7.83 for the basic service tier; and

WHEREAS, this Rate Order does not apply to the Company's FCC Form 1205 filed on March 2, 1995 and to the Company's FCC Forms 1240 filed on December 28, 1995 and October 7, 1996;⁴

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Company's proposed maximum permitted monthly rate of \$7.83 for the basic service tier is approved.
2. The Company's maximum permitted monthly rate, exclusive of franchise fees and taxes, for the basic service tier (assuming a 12-channel basic service tier) as of November 30, 1995 and continuing up to the effective date of the Company's subsequent adjustment implemented in accordance the FCC Rules, shall be \$7.83.⁵
3. The Company may not increase its basic service tier rate, nor may it institute charges for any other types of service, equipment or installation associated with the basic service tier without first complying with applicable law or regulation, including the Amended Rules.

⁴The reasonableness of the Company's proposed charges for equipment and installation under said FCC Form 1205, and the proposed adjustments to the basic service tier under said FCC Forms 1240, will be reviewed in subsequent separate reviews.

⁵According to the Company's tariffs filed with the State, the Company's actual rate for the basic service tier of \$7.50 was in effect from July 14, 1994 through December 31, 1995, and thus Company did not implement the adjustment proposed in the Rate Filing. Nothing herein shall be deemed to extend the time period to implement the rate adjustment under this Rate Filing beyond the one-year period set forth in 47 C.F.R. section 76.922(d)(3).

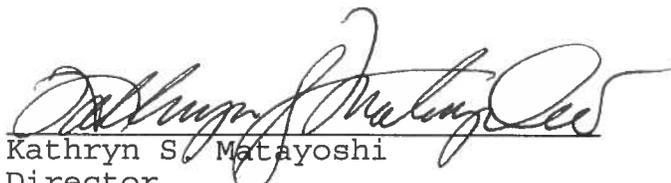
It is noted that the tariffs filed by the Company state that the Company next adjusted its basic service tier rate to \$7.33 effective as of January 1, 1996.

4. The State reserves all rights it has under FCC Rules including the right to review the Company's FCC Form 1205 filed on March 2, 1995 and the Company's FCC Forms 1240 filed on December 28, 1995 and October 7, 1996, and to establish reasonable rates for the basic service tier and associated equipment and installation charges, in the event the State determines that the proposed rates or charges are unreasonable under FCC Rules, including any modifications or amendments to such rules.

5. The State reserves the right to modify this Rate Order if, at any time, it determines that information the Company provided to the State is incorrect or misleading in any material manner, or that the Company is not in compliance with this Rate Order.

6. This Rate Order shall be effective as of the date hereof.

DATED: Honolulu, Hawaii December 12, 1996.


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

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DECISION AND ORDER NO. 189 was served upon the following parties at the address shown below by mailing the same, postage prepaid, on this 12th day of December, 1996.

MR. RUSSELL SAIKI
Time Warner Entertainment Company, L.P. dba
Oceanic Cablevision
200 Akamainui Street
Mililani, HI 96789-3999

Patti K. Kodama
Patti K. Kodama
Secretary