



COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

**DEPARTMENT OF  
TELECOMMUNICATIONS & ENERGY  
Cable Television Division**

CTV 03-4

Review by the Cable Television Division of the Department of Telecommunications and Energy of Federal Communications Commission Forms 1240 and 1205 filed by Time Warner Entertainment-Advance/Newhouse Partnership d/b/a Time Warner Cable.

---

**APPEARANCES:** Nancy Karm  
Vice President - Finance  
Time Warner Cable  
1021 High Bridge Road  
Schenectady, NY 12303  
FOR: TIME WARNER CABLE  
Petitioner

## RULING ON RESPONSES TO INFORMATION REQUESTS

The Cable Television Division (“Cable Division”) of the Department of Telecommunications and Energy is currently reviewing the proposed basic service tier programming and equipment rates filed by Time Warner Entertainment-Advance/Newhouse Partnership (“Time Warner” or “the Company”) in the above-referenced docket. On March 30, 2004, the Cable Division issued 27 information requests to Time Warner. Time Warner filed responses to these information requests on April 20, 2004 and May 5, 2004. However, for many of the requests, Time Warner responded that it did not consider the request relevant and provided no substantive response.

The Federal Communications Commission (“FCC”) has given local franchising authorities broad authority in rate proceedings to obtain information from cable operators. In a recent Memorandum Opinion and Order, which discussed the cost of affiliated programming, the FCC pointed out that the cable operator “has the burden of proving that its existing or proposed rates for basic service and associated equipment comply with the requisite laws and regulations,” TCI of Pennsylvania, Inc., DA 04-34, at ¶ 15 (issued January 9, 2004), citing 47 C.F.R. § 76.937. The FCC continued that a cable operator has an obligation to provide any information that is reasonably necessary to support its proposed rates. The local franchising authority does not bear the burden of obtaining the necessary information from other sources. Id. The FCC has also stated that franchising authorities and the parties to a rate proceeding must have access to the information upon which the rate justification is based. Such access is essential to permit the franchising authority to make an informed evaluation, based on complete information, of the reasonableness of the rate in question. Third Order on Reconsideration, FCC 94-40, 9 FCC Rcd 4316, at 4353, ¶ 77 (1994).

In our previous Time Warner rate order, we discussed in considerable detail the establishment of the appropriate cost for ratemaking purposes of Time Warner’s affiliated channel, Capital News 9. Time Warner Cable Entertainment Advance/Newhouse Partnership, CTV 02-16, at 2-6 (Sept. 30, 2003). While we approved the projected costs, we stated that “[i]n the next filing, Time Warner should be prepared to justify any claimed actual costs associated with affiliated programming by either demonstrating a prevailing company price for that programming, or that costs claimed reflect the lesser of fair market value or net book costs.” Id. at 6. Moreover, since the costs of Time Warner’s Capital News 9 are included in the calculation of the basic service tier rate, Time Warner cannot reasonably make the claim that the requested information is irrelevant to a review of the basic service tier rate (See responses to Information Requests 11, 13, 16, 17, 18, 19, and 20).

The Cable Division directs Time Warner to provide detailed, substantive responses to Information Requests 11, 13, 16, 17, 18, 19, and 20. In addition, Time Warner did not present a substantive response to Information Request 5 that identified Capital News 9’s specific

capital accounts and the time periods over which these accounts are depreciated or amortized. We direct Time Warner to provide a detailed, substantive response to Information Request 5. We further direct Time Warner to identify the name of the person or persons responsible for the response to each information request, and to provide any documentation, for any question, that was omitted from the previous filing. The Cable Division directs Time Warner to provide these responses on or before May 21, 2004.

**By Order of the  
Department of Telecommunications and Energy  
Cable Television Division**

**/s/ Alicia C. Matthews  
Alicia C. Matthews  
Director**

Issued: May 7, 2004