



PUBLIC NOTICE

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SOCIAL CONTRACT FOR TIME WARNER CABLE AVAILABLE FOR COMMENT

THE COMMISSION SEEKS COMMENT ON A PROPOSED SOCIAL CONTRACT WITH TIME WARNER CABLE THAT PROVIDES INCREASED INVESTMENT IN CABLE TV INFRASTRUCTURE; ASSURES RATE STABILITY; PROVIDES FOR RESOLUTION OF RATE CASES; AND PROVIDES REFUNDS OF UP TO APPROXIMATELY \$4.7 MILLION PLUS INTEREST TO AFFECTED SUBSCRIBERS

Time Warner Cable (TWC) and the Federal Communications Commission have negotiated a proposed social contract (Contract). The proposed Contract was negotiated pursuant to the Commission's authority to regulate cable services under Title VI of the Communications Act and the Commission's February 22, 1994 decision that it would consider social contracts as an alternative form of regulation for cable operators. The proposed Contract will be considered for approval after evaluating public comment on this proposed agreement. This notice and the proposed Contract are being mailed to each person who has filed a rate complaint with respect to one of TWC's systems, and to all franchising authorities that have granted a cable franchise to TWC. This notice contains a summary description of the proposed Contract; the terms of the proposed Contract, however, will be controlling and interested persons should read the proposed Contract in its entirety. Copies of the proposed Contract can be obtained in the manner described below.

The proposed Contract is designed to improve TWC's cable service by substantially upgrading the channel capacity and technical reliability of its United States cable systems. In addition, the proposed Contract will assure fair and reasonable rates for TWC's cable service customers and reduce the administrative burden and costs of regulation for local governments, the Commission, and TWC.

The five-year proposed Contract covers cable programming service tiers in all of TWC's cable franchises, including those that are currently unregulated because no complaint has been filed

against the cable programming services tier. Thus, the Contract will provide rate stability and other benefits for TWC's customers regardless of their regulatory status. It also provides for the creation of a low-priced basic service tier. TWC serves approximately 9.7 million subscribers.

Under the 1992 Cable Television Consumer Protection and Competition Act, a basic service tier is the tier of programming that contains at a minimum local broadcast stations. Cable programming services tiers are all other cable services, except those sold on a per channel or per program basis.

Specifically, the proposed Contract provides for the investment of \$4 billion to rebuild and upgrade all of TWC's domestic cable systems during the period from 1995 to 2000, including deployment of fiber optic technology, increased channel capacity and improved system reliability and signal quality. At least 60% of the new analog capacity added as a result of the upgrade will be used for regulated cable programming services tiers, and, on average, regulated cable programming services offered on the upgraded systems will contain at least 15 additional channels.

The proposed Contract provides for the resolution and termination of TWC's pending cable programming services cases, including cable programming services cases against the systems TWC recently acquired from Houston Industries (KBLCOM) and Newhouse Broadcasting Corporation. To resolve these cases, TWC will make cash refunds in the form of bill credits to affected customers totalling approximately \$4.7 million plus interest. Basic service tier benchmark cases currently pending before local franchising authorities would not be resolved by the proposed Contract. Those cases will continue to be resolved by TWC and the local franchising authorities pursuant to Commission rules.

TWC will provide its subscribers with a low-cost basic service tier. To accomplish this, TWC will reduce its basic service tier rates on systems serving at least 85% of TWC's total subscribers to a level 10% below the current rates. TWC will be permitted to offset each of the 10% reductions by increasing the rate for its cable programming services tier. TWC also will restructure the basic service tier on any remaining systems so as to create a lifeline basic tier. TWC will not increase the programming on any basic service tier for the term of this Contract, except where required by applicable law or regulation or contract lawfully entered into pursuant to such law or regulation, or to provide additional local origination channels. However, local franchising authorities may elect not to have this low-cost service created within their franchise areas.

In light of the upgrade commitment contained in the proposed Contract, TWC will be permitted to increase the monthly rates for the cable programming services tier by \$1.00 during each year of the Contract. On each system, the increase will be added to the cable programming services tier having the greatest number of subscribers. During the life of the proposed Contract, the only other permitted increases to TWC's cable programming services tier rates will be for inflation and increases in external costs. During the period of the proposed Contract, TWC will not avail itself of any additional per-channel adjustment permitted by the Commission's *Going Forward* rules for any programming services added to the cable programming services tier after the effective date of the contract. TWC also will forego its right to use cost of service justifications to support

any future rate increases for any systems covered by the proposed Contract during the period that the proposed Contract is in effect.

If TWC fails to meet the upgrade commitment within the term provided for under the Contract, subscribers to the cable systems that have not been upgraded will be entitled to appropriate refunds equal to the cable programming services rate increases provided by the Contract, with interest, plus a liquidated damages penalty of 15% of such amount.

Under the proposal, in the systems where TWC and its predecessors did not create a la carte packages, TWC will be permitted to create migrated product tiers consisting of up to 4 services migrated from the regulated tiers. The migrated channels will be priced at the rate regulated price with increases allowed for inflation and external costs. There will be no limit on the number of channels that TWC may add to the migrated product tiers at the price of 20 cents per channel plus license fees. After April 1, 1997, TWC may convert any migrated product tier to a new product tier with market constrained pricing as permitted by the *Going Forward* rules.

For the Newhouse systems acquired by TWC that had a la carte packages, TWC will be permitted to create migrated product tiers. Where the system had a "superstation" a la carte package (typically three superstations and one satellite channel), the package will become a migrated product tier, initially priced at their current rates which are less than 29 cents per channel (exclusive of copyright fees). TWC will also be allowed to create another migrated product tier consisting of satellite channels located in other a la carte packages as long as the cumulative number of migrated services is no greater than six. These channels will be priced at the current per channel rate. (Newhouse's non-superstation a la carte packages were created from tiers that were affirmatively marketed and had traditionally low penetration rates of basic subscribers). TWC will be able to add an unlimited number of new channel offerings at the rate of 20 cents per channel plus license fees to these migrated product tiers.

The remaining Newhouse channels from the a la carte packages will be put back in benchmark regulated cable programming services tiers. The rates for these tiers will increase due to the addition of these channels; however, the increases will be limited to not more than 25 cents per channel (including license fees).

In systems where TWC has created a la carte packages which are being treated as new product tiers in areas contiguous with franchises where migrated product tiers will be created pursuant to the proposed Contract, TWC will be permitted to lower the prices of the new product tiers and raise the prices of the adjacent migrated product tiers in a revenue neutral manner to TWC to provide uniform rates in those systems. In those circumstances, the new product tiers will be subject to the price cap increases applicable to migrated product tiers.

TWC will be permitted to establish prices for equipment and various installation functions based on averaged costs for all its systems on a geographic regional basis.

If the Commission adopts rules providing for annual adjustments to rates for basic service tiers and cable programming service tiers, TWC will comply with those rules and adjust its rates no more than annually.

TWC will offer a cable connection to 100% of the public schools passed by its cable systems. These connections will be provided free of charge to all such schools requesting connections. TWC also will provide a cable connection at cost to all secondary private schools that receive funding under Title I of the Elementary and Secondary Education Act of 1965. Further, if any internal wiring installation is needed at the connected schools, it will be provided at the TWC system's cost of materials and labor. Such additional internal wiring will be provided to public schools without charge if TWC is able to coordinate with other comparable electrical wiring installation in cases of new construction or substantial rehabilitation of existing schools. Basic service tier and cable programming services tier service will be provided to each outlet in connected schools at no charge. TWC will provide a free monthly educational program listing to each connected school. TWC also will develop and provide to connected schools materials for teachers that explain the educational applications of TWC's broadband cable systems.

Finally, upon successful development by TWC and Time Inc. of an on-line service for personal computers, TWC will provide each connected public school with a free connection to this on-line service to the extent it is available on the local cable system. Upon request, each connecting school will receive one free modem and access to the service for use during the school year. TWC also has agreed to provide additional modems to the school at cost. TWC will sponsor a workshop in each franchise area to educate teachers and to provide them with an opportunity for hands-on training.

Prior to a customer's termination of cable service, TWC systems will not restrict the ability of customers to remove, replace, rearrange or maintain any cable wiring located within the interior space of their dwelling units. TWC will provide customers with a notification upon commencement of service, and annually thereafter, advising them of their rights (i) to remove, replace, rearrange or maintain the home wiring themselves, (ii) to select a qualified third party contractor, and (iii) to request the TWC system provide such service at standard hourly installation rates, plus materials at cost. TWC systems will offer to supply such materials to subscribers at cost.

Parties wishing to comment on the proposed Contract should do so by filing with the Secretary no later than September 5, 1995 an original and four copies of their comments. Replies may be filed no later than September 20, 1995. All such pleadings should reference the file number noted above.

The proposed contract is available for reference in the Cable Services Bureau's public reference room, Room 333 at 2033 M Street, N.W., Washington, D.C. Copies are available from the Commission's copy contractor, International Transcription Services, at Room 246, 1919 M Street, N.W., Washington, D.C. 20554, telephone number (202) 857-1433. The contract is also available via Internet at FCC.GOV. For further information, contact JoAnn Lucanik, Nancy Markowitz or Jerome Fowlkes at (202) 416-0800.

Media contact: Morgan Broman at (202) 416-0852.

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