

#63  
09-02-04

**ORDINANCE NO. 040902-63**

**AN ORDINANCE ESTABLISHING BASIC CABLE, EQUIPMENT AND  
INSTALLATION SERVICE RATES CHARGED BY TIME WARNER  
ENTERTAINMENT/ADVANCE-NEWHOUSE PARTNERSHIP (TIME WARNER  
CABLE).**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** As prescribed by Article 11, Section 6 of the City Charter (Regulation of Rates), the Council gave notice and held a public hearing on September 2, 2004 to consider an increase in rates and charges requested by Time Warner Entertainment/Advance-Newhouse Partnership (Time Warner Cable). The Council accepted public comment on the proposed schedule of maximum basic service, equipment and installation rates submitted by Time Warner Cable.

**PART 2.** The Council adopts the schedule, attached as Exhibit A and incorporated as part of this ordinance, setting the maximum equipment and installation rates charged by Time Warner Cable.

**PART 3.** The Council adopts the agreement, attached as Exhibit B and incorporated as part of this ordinance, setting the maximum basic service tier rate charged by Time Warner Cable.

**PART 4.** This ordinance takes effect on September 13, 2004.

**PASSED AND APPROVED**

\_\_\_\_\_  
September 2, 2004

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§  
§

\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Brown  
City Clerk

## City of Austin

Time Warner Maximum Permitted Rates for Basic Tier,  
Equipment and Installations

	<u>2003</u>	<u>2004</u>	
<b><u>Basic Tier</u></b>	\$8.58	\$ 10.50	With News 8 valued at \$.37
		\$ 8.20	Without News 8
<b><u>Equipment</u></b>			
Addressable	\$ 6.95	\$ 7.99	
Non-Addressable	\$ 0.59	\$ 0.68	
Remote Control	\$ 0.35	\$ 0.34	
Cable Card	\$ -	\$ 2.02	
<b><u>Installation</u></b>			
New Installation	\$ 45.86	\$ 47.21	
Reconnect/Additional Outlet	\$ 31.81	\$ 33.05	
<i>With Install</i>	\$ 19.89	\$ 18.65	
<i>Separate Trip</i>	\$ 31.74	\$ 32.92	
VCR Connection			
<i>With Install</i>	\$ 18.89	\$ 18.65	
<i>Separate Trip</i>	\$ 31.74	\$ 32.92	
Change of Service	\$ 31.81	\$ 33.05	
Interior Wall Drop	\$ 31.81	\$ 33.05	
Addressable Change of Service	\$ 5.25	\$ 5.25	

## **Exhibit B**

### **AGREEMENT**

This Agreement ("Agreement") is being entered into as of this 2nd day of September 2004 by and between the Time Warner Cable ("TWC") and the City of Austin, Texas ("City"),

WHEREAS, the City currently is considering TWC's October 1, 2003 Form 1240 Basic Service Tier ("BST") rate justification for TWC's "Operator Selected Rate" ("OSR") of \$10.50 for the rate year that commenced January 1, 2004;

WHEREAS, the deadline for TWC to file a Form 1240 BST rate justification for the OSR to be charged during the rate year that will commence January 1, 2005 is October 1, 2004; and

WHEREAS, the City and TWC are mutually desirous of expeditiously reaching a final determination of reasonableness of the TWC's OSR for the rate years commencing January 1, 2004 and January 1, 2005, thereby avoiding the cost of additional administrative or judicial proceedings relating to those rate;

TWC and the City hereby agree as follows:

1. TWC will not increase its regulated monthly BST rate above \$10.50 per month through December 31, 2005.
2. The City will not contest or object to TWC's OSR of \$10.50 as a maximum OSR for the period January 1, 2004 through December 31, 2005.
3. To the extent that it would otherwise be required, and to the extent the City can waive and excuse the FCC filing requirements, TWC is excused from the obligation of filing a Form 1240 for the rate year beginning January 1, 2005. Insofar as it is then required by law, TWC will next file a Form 1240 with the City for the rate year commencing January 1, 2006, such filing to be due no later than October 1, 2005. TWC and the City agree that in TWC's October 1, 2005 filing, the "maximum permitted rate" entered in Line A1 will be \$10.50 and the "current true-up segment" in Line D6 will be zero. The terms "maximum permitted rate" and "current true-up segment" shall have the meaning given those terms by the FCC for use in the FCC Form 1240.
4. TWC and the City agree that the purpose of this Agreement is solely to resolve the reasonableness of TWC's regulated monthly OSR for the rate years

commencing January 1, 2004 and January 1, 2005 and that this Agreement does not constitute an admission of wrongdoing on the part either party. Except as provided in paragraph 3 of this Agreement with respect to Lines A1 and D6 of the Form 1240 to be filed on October 1, 2005, both TWC and the City reserve all of their rights in connection with the calculation and review of TWC's Form 1240 for the rate year commencing January 1, 2006 and thereafter, including the right to challenge any figures or calculation methodologies reflected therein.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by or on behalf of the parties hereto.

**TIME WARNER CABLE**

**CITY OF AUSTIN, TEXAS**

By\_\_\_\_\_

By\_\_\_\_\_

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