



9-2-04
#63

MEMORANDUM

TO: Mayor and Council Members

FROM: Rondella M. Hawkins, Manager
Telecommunications & Regulatory Affairs

DATE: September 1, 2004

SUBJECT: 9/2/04 Agenda item # 63 – Time Warner Basic Tier Rates

The City of Austin is certified by the Federal Communications Commission to regulate rates for basic tier (least expensive cable package), equipment and installations for Time Warner.

On October 1, 2003, Time Warner Entertainment Advance-Newhouse (Time Warner) filed with the City their rates to be implemented on January 1, 2004. The City has up to one year to disapprove any portion of the rates, otherwise the rates are deemed approved.

There are two key rates established in the rate filings, the maximum permitted rate (MPR) which sets the rate ceiling that Time Warner can charge, and the operator selected rate (OSR), which sets the rate that Time Warner can choose to bill customers. The OSR can be less than the MPR. Time Warner requested a MPR of \$22.08 and implemented the OSR of \$10.50 on January 1, 2004. Prior to January 1, 2004, the basic tier rate was \$8.58 and had been since January 1, 1997.

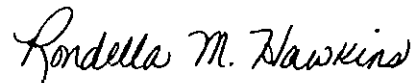
The City engaged Fox, Smolen and Associates (FSA) to review Time Warner's proposed schedule of rates and determined that the MPR for the basic service tier should not exceed \$10.50, the same rate implemented by Time Warner on January 1, 2004. FSA's review indicated equipment and installation rates are reasonable, and therefore no Council action is necessary.

Because the City and Time Warner disagree on the interpretation of the applicable FCC rules and regulations as to the calculation of the basic service tier rate under the filing method that Time Warner opted to use, an agreement was negotiated with Time Warner to freeze the OSR at \$10.50 until January 1, 2006 and to use \$10.50 MPR as true-up rate in their October 2005 rate filing. Essentially, this agreement sets the MPR at \$10.50 instead of the \$22.08 as requested by Time Warner. There is no impact to current customers since Time Warner has been charging

\$10.50 since January 1, 2004.

On August 31, 2004, the Council Committee for Telecommunications Infrastructure recommended to the City Council that it adopt staff's recommendation to enter into an agreement with Time Warner Entertainment Advance-Newhouse that sets the MPR at \$10.50 until January 1, 2006 and use \$10.50 as the MPR in its next filing.

Please call me at 974-2422 if you need further information.

A handwritten signature in cursive script that reads "Rondella M. Hawkins".

Rondella M. Hawkins

cc: Toby Hammett Futrell, City Manager
Vickie Schubert, Deputy Chief Financial Officer