

ROBERT E. TORRES

FCC MAIL SECTION
before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 97M-12

FEB 3 3 54 PM '97

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|---------------------------------|---|------------------------|---------|
| In re Applications of |) | WT DOCKET NO. 96-41 | |
| |) | | |
| LIBERTY CABLE CO., INC. |) | | 70660 |
| |) | | |
| For Private Operational Fixed |) | File Nos: | |
| Microwave Service Authorization |) | 708777 | WNTT370 |
| and Modifications |) | 708778, 713296 | WNTM210 |
| |) | 708779 | WNTM385 |
| New York, New York |) | 708780 | WNTT555 |
| |) | 708781, 709426, 711937 | WNTM212 |
| |) | 709332 | (NEW) |
| |) | 712203 | WNTW782 |
| |) | 712218 | WNTY584 |
| |) | 712219 | WNTY605 |
| |) | 713295 | WNTX889 |
| |) | 713300 | (NEW) |
| |) | 717325 | (NEW) |

ORDER

Issued: January 29, 1997 ; Released: January 31, 1997

The following scheduling was made on-the-record at the hearing session of January 28, 1997:

| | |
|---|--------------------------------|
| Corrections to Transcript | February 7, 1997 ¹ |
| Deadline for TWCV to file Motion for Discovery of Privileged Documents | February 10, 1997 ² |
| Liberty Opposition to TWCV Motion for Inquiry on Discovery | February 14, 1997 |
| TWCV Reply to Liberty Opposition | February 21, 1997 |
| Bureau Comment on Motion | February 21, 1997 |
| Proposed Findings of Fact and Conclusions of Law | February 28, 1997 |
| Reply Proposed Findings of Fact and Conclusions of Law | March 7, 1997 |

¹ Time Warner/Cablevision ("TWCV") have been ordering daily transcript. Therefore, the transcripts are available to counsel for review under this schedule. Preferably, corrections should be submitted by Joint Motion or Stipulation.

² The parties shall negotiate disclosure of significantly relevant Liberty documents relating to the period January 1995 to July 1995, that are listed in the Log of Privileged Documents. On February 10, 1997, TWCV may file its motion to compel, subject to an in camera review, if negotiations fail.

The following bench rulings also were made on-the-record:

All Exhibits which were marked for identification during the hearing are to be placed on the public file of this case even if exhibit documents are designated "Confidential".³

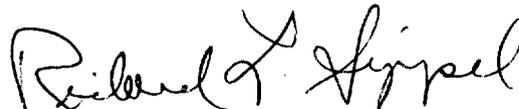
A certified true copy of handwritten notes of Mr. Howard Barr taken at the conference telephone call of April 27, 1995, shall be submitted to the Presiding Judge by Liberty for in camera review.

The parties shall present analysis (inter alia) of the Commission's Character Qualifications, 102 F.C.C. 2d 1179. et seq. (1986) to the record of the credibility and candor hearing, including the Commission's standard on flagrant disregard of Commission rules and policy. Id. at 1229.

In proposed and reply conclusions of law, the parties shall brief as a separate legal issue under the APA and the Commission's hearing practices and procedures, the legal authority and/or the legal propriety to grant the licenses in issue without considering the highly relevant and substantial evidence that is contained in the Internal Audit Report ("Report") being withheld from the proceeding by Liberty on a claim of privilege.⁴

SO ORDERED.⁵

FEDERAL COMMUNICATIONS COMMISSION



Richard L. Sippel
Administrative Law Judge

³ Certain documents used as hearing exhibits (e.g deposition transcripts) had been afforded confidential treatment during discovery. Therefore, at the time of discovery they were marked as "Confidential." At the hearing phase of the case, a public proceeding, all documents identified as evidence were ordered, without objection, to be accorded public document status. Therefore, the Secretary's Office shall file in the public record the hearing transcripts of January 10, 13, 14, 15, 16, 21, 27 and 28, 1997, and all hearing exhibits.

⁴ The Report's privilege issue is pending before the U.S. Court of Appeals. Therefore, use of the Report as evidence cannot be considered by the Presiding Judge at this juncture of the proceeding.

⁵ Copies of this Order were faxed or e-mailed of the date of issuance.