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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEB 10 11 47 AM '97

In re Applications of	)	WT DOCKET NO. 96-41	70702
	)		
LIBERTY CABLE CO., INC.	)		
	)		
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)

O R D E R

Issued: February 6, 1997 ; Released: February 10, 1997

It is deemed appropriate at this time to terminate immediately any further discovery. The parties were to negotiate disclosure of significantly relevant documents that are listed in a Log of Privileged Documents that was made available by Liberty several months ago. Order FCC 97M-12. Time Warner/Cablevision were authorized to seek compulsory process by February 10, 1997, for the further discovery of documents claimed to be privileged that were identified as significantly relevant if the negotiations failed. Id. at n. 1. On further reflection after developments that occurred immediately following the conclusion of the hearing on January 28, 1997, it is determined that no purpose is served by permitting further discovery.

The last witness was Mr. Howard Barr. He acknowledged that he had made notes during a telephone conference with Mr. Price and others. That document was examined and ordered produced. Order FCC 97 M-13. The notes referred to a letter authored by an attorney of the same law firm in April 1993. That letter was reviewed in camera and it was ordered produced. Order FCC 97M-14. The hearing record should include identified contemporaneous notes to an event that was testified to by the witness. That evidence would be limited to the aforementioned notes of Mr. Barr and the letter of April 1993. However, there is no need shown to further prolong discovery of speculative documents which have been identified to counsel for several months and as to which there has been no showing of significant relevance. The parties and their counsel have been given dates for Proposed Findings and Reply Findings and meeting those deadlines should be the primary focus.<sup>1</sup> See Order FCC 97M-12.

<sup>1</sup> There is a pending Motion for Inquiry on Discovery which is not effected by this Order. The pleading cycle remains as set. See Order FCC 97M-12.

Accordingly, IT IS ORDERED that negotiations for privileged documents shall conclude at 5:00 p.m. on February 7, 1997, and there shall be no further compulsory discovery in this case.<sup>2</sup>

IT IS FURTHER ORDERED that the documents identified above (notes and letter) that relate to the testimony of Mr. Howard Barr may be moved into evidence by motion to be filed no later than February 11, 1997.<sup>3</sup>

IT IS FURTHER ORDERED that except as indicated above, all discovery in this case IS TERMINATED and the evidentiary hearing record of this case SHALL BE CLOSED on February 12, 1997.

FEDERAL COMMUNICATIONS COMMISSION<sup>4</sup>



Richard L. Sippel  
Administrative Law Judge

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<sup>2</sup> Any agreements as to privileged documents that were reached as of the issuance of this Order shall be honored, and the parties may continue to negotiate through the close of business on February 7, 1997. Any party may move to receive any negotiated privileged documents into evidence upon a showing of relevance if the motion is filed by February 10, 1997 with hand or fax same-day service. Any objection on relevance must be filed on February 12, 1997.

<sup>3</sup> Those documents have been reviewed and the privilege protection has been denied. See Orders FCC 97M-13 and FCC 97M-14. The documents are deemed relevant and that is why they were ordered to be produced. Id. Two copies of each document with an appropriately assigned TWCV exhibit number will be furnished to the Presiding Judge's Legal Technician for inclusion in the record.

<sup>4</sup> Copies of this Order were faxed or e-mailed in the a.m. of the date of issuance.