

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

FCC 97M-19

70754

In re Applications of	)	WT DOCKET NO. 96-41	
	)		
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	WNTW82
	)	712218	WNTT584
	)	712219	WNTT505
	)	713295	WNTX889
	)	713300	(NEW)
	)	717325	(NEW)

FCC MAIL SECTION

FEB 12 1997

**ORDER**

Issued: February 12, 1997 ; Released: February 14, 1997

On February 11, 1997, there was filed Motion Of Time Warner Cable Of New York City And Paragon Cable Manhattan To Admit Documents Into Evidence Without Objection From Liberty Cable. See Order FCC 97M-16, released February 10, 1997 (parties given until February 11 to move recently produced documents into evidence). There is no objection to the Motion.<sup>1</sup>

The documents are identified as follows:

- TWCV Exh. 50. - Undated handwritten notes of Mr. Howard Barr made during a telephone conversation with Mr. Lloyd Constantine on or about the afternoon of June 22, 1995.
  
- TWCV Exh. 51. - Two copies of a letter dated April 20, 1993, from Jennifer Richter, an attorney at Pepper & Corazzini, to Bruce McKinnon at Liberty. The second copy of the letter bears the handwritten notation: "Peter: Pls. review and advise. B.N. 4/28/93."

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<sup>1</sup> Since the discovery of the documents, Liberty has asserted the work product and the attorney-client privilege. After review, the Presiding Judge ruled that the privileges are not available for these particular documents. See Order FCC 97M-13 and Order 97M-14. Liberty has not conceded the correctness of those rulings and has reserved the right to reassert the privileges in any appeal.

The handwritten note of Mr. Barr was taken contemporaneously with a conversation about the unlawful activations and identifies buildings and dates of certain of the activations. The letter of April 20, 1993, relates to advice and warning about FCC compliance and the avoidance of unauthorized activations. The handwritten notation of Mr. Nourain's establishes his awareness of the advice and the probable awareness of Mr. Peter Price, Liberty's President and the officer immediately responsible for compliance.

Accordingly, IT IS ORDERED that the aforementioned documents as identified above ARE HEREBY RECEIVED IN EVIDENCE as TWCV Exh. 50 and TWCV Exh. 51.

FEDERAL COMMUNICATIONS COMMISSION<sup>2</sup>

A handwritten signature in black ink, appearing to read "Richard L. Sippel". The signature is written in a cursive, flowing style.

Richard L. Sippel  
Administrative Law Judge

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<sup>2</sup> Copies of this Order were faxed or e-mailed to counsel on the date of issuance.