

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

In Re Applications Of)	WT DOCKET NO. 96-41
)	
)	File Nos.:
BARTHOLDI CABLE CO., INC.)	708780 (WNTM555)
)	709332 (New)
For Special Temporary Authority)	711937 (WNTM212)
For Private Operational Fixed)	
Microwave Radio Service)	
)	
New York, New York)	

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Microwave Branch
Wireless Telecommunications Bureau

**REPLY TO OPPOSITION TO REQUESTS FOR RENEWAL OF SPECIAL
TEMPORARY AUTHORITY**

Bartholdi Cable Company, Inc. ("Bartholdi") hereby replies to the
September 12, 1997 Objection to Requests for Renewal of Special Temporary
Authority filed by Time Warner Cable of New York City and Paragon
Communications (collectively "Time Warner").¹ In the guise of challenging
Bartholdi's STA requests, Time Warner seeks to re-ignite long-since-resolved inquiries

¹ Objection to Requests for Renewal of Special Temporary Authority of Time Warner Cable of New York City and Paragon communications, File Nos. 708780, 709332, 711937 (Sept. 12, 1997) ("Time Warner Objection"). Since there is no formal procedure for opposing requests for temporary authority, Bartholdi assumes that Time Warner's Objection will be considered an Informal Objection under 47 C.F.R. 101.43. However, Bartholdi notes that Time Warner fails to disclose its interest in Bartholdi's pending applications, as is required by 47 C.F.R. § 101.43 for all Informal Objections.

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into the sale of certain non-licensed assets of Bartholdi to Freedom/RCN. In doing so, however, and as further detailed below, Time Warner neglects to inform the Microwave Branch that:

- the transaction which Time Warner complains of has now been thoroughly investigated and reviewed by the Bureau's Enforcement Division, which found no basis to proceed with further action;
- the transaction has been painstakingly briefed before and reviewed by an FCC Administrative Law Judge, who more than a year ago found no basis to allow further inquiry into the transaction; and
- all of the documents and "facts" submitted by Time Warner in its objection have been before the Bureau, the ALJ and, indeed, Time Warner for many months.²
- Time Warner actively participated in all of these proceedings.

In effect, Time Warner – months after the fact – now seeks two things to which (under well-settled Commission precedent) it is not entitled: an appeal of the Bureau's decision not to institute further proceedings on the basis of its investigation *and* an appeal of the ALJ's interlocutory ruling.³ On this procedural basis alone, the Bureau should dismiss or deny Time Warner's objection.

² Indeed, the reason that Time Warner is able to produce these documents at all is because they were provided to Time Warner (as well as the Bureau and the ALJ) by Bartholdi. The one exception is a declaration contained in Exhibit E to Time Warner's objection. However, this is not the declaration of anyone with direct knowledge of the transaction or of the working relationship between Bartholdi or Freedom. Rather, it is the declaration of one of Time Warner's lawyers, who was present at certain interviews with Bartholdi and Freedom employees during the course of the Bureau's investigation a year ago. However, despite Time Warner's apparent attempt to create a factual dispute based on its lawyer's hearsay recollections, the Bureau is fully aware of the facts and testimony.

³ Since the facts which Time Warner now says prove an unauthorized transfer of control have been in Time Warner's possession for months (and in some cases nearly a year and a half), the time for Time Warner creditably to re-seek enlargement of the issues against Bartholdi has long since passed.

However, even to the extent that the Bureau overlooks Time Warner's forum shopping, it is quite clear that the transaction between Bartholdi and Freedom is fully consonant with Commission precedent. Indeed, Time Warner's objection is largely void of any analysis of the Commission's extensive and consistent case law in this area and appears to be nothing more than another round in its ongoing and well-publicized campaign to maintain its monopoly in the New York City multi-channel video market. As such, Bartholdi urges the Commission expeditiously to dismiss or deny Time Warner's objection.

I. BACKGROUND

While the Bureau is fully aware of the operative facts,⁴ a brief review of the nature of the transaction between Bartholdi and Freedom cited by Time Warner, as well as the parallel proceeding currently before Administrative Law Judge Richard Sippel, may be helpful. In 1996, Bartholdi sold certain unlicensed assets to Freedom/RCN. To effectuate that transaction, Bartholdi and Freedom entered into three agreements⁵: (i) an Asset Purchase Agreement, (ii) a Transmission Services Agreement, and (iii) a Subcontractor Agreement. Under the Asset Purchase

⁴ Bartholdi is providing no further factual documentation with this pleading since, as detailed herein, all of the relevant documents and facts are already in the possession of the Bureau and Time Warner. Indeed, they have been known to the Bureau and to Time Warner for months.

⁵ Under the terms of that sale, Bartholdi specifically retained its operating licenses and control of its transmission facilities.

Agreement, Bartholdi sold many of its assets for cash and an ownership interest in Freedom.⁶

None of those assets, however, implicated Bartholdi's control of its microwave facilities. Indeed, the documents related to the transaction explicitly and purposefully provided for Bartholdi's continued control. For example, through the Transmission Services Agreement, Bartholdi agreed to provide operational fixed microwave communications services exclusively to Freedom over Bartholdi's licensed facilities.⁷ This agreement guaranteed Bartholdi *unfettered access to and control of its equipment*.⁸ Under the Subcontractor Agreement, Bartholdi retained Freedom as a paid technical subcontractor to operate and maintain the microwave network on a day-to-day basis, *again, however, explicitly subject to Bartholdi's control*.⁹

In addition, as the Bureau is also aware, certain of Bartholdi's licenses are the subject of a hearing before Judge Sippel, primarily revolving around the premature activation of certain license paths.¹⁰ On July 15, 1996, Bartholdi and the Bureau filed a joint Motion for Summary Decision in the hearing proceeding, which, if accepted, would resolve the ultimate issues in the proceeding in Bartholdi's favor but require

⁶ Asset Purchase Agreement at § 2.

⁷ Transmission Services Agreement at § 2. Provision of service on this basis is explicitly contemplated by the Commission's rules. 47 C.F.R. § 101.135.

⁸ *Id.* § 3.

⁹ Subcontractor Agreement at § 2.1.

¹⁰ *See Liberty Cable Co., Inc.*, 11 FCC Rcd 14133 (1996). It is the institution of this hearing that has led to the ambiguity as to the necessity of the subject STA requests. *See infra* at Section IV.

Bartholdi to pay a substantial forfeiture. On September 11, 1997, Judge Sippel partially granted this motion. The remainder of the motion remains pending before the judge.

II. THE WIRELESS TELECOMMUNICATIONS BUREAU HAS ALREADY DETERMINED THAT BARTHOLDI DID NOT ILLEGALLY TRANSFER CONTROL OF ITS MICROWAVE LICENSES

In its objection, Time Warner gamely asserts that the subject STAs should not be granted because “Bartholdi has [without FCC authorization] transferred control of facilities . . . to Freedom/RCN”.¹¹ As noted above, this is now at least the third time (over the course of a year and a half) that Time Warner has made this allegation, based largely on the same facts asserted here. On each occasion Time Warner has been turned down – for the very good reason that Time Warner has been wholly unable to demonstrate or even to concoct an iota of evidence that Freedom/RCN somehow controls Bartholdi and its licenses.

For example, during the course of the Bartholdi hearing – indeed, nearly a year and a half ago – Time Warner tried to induce the presiding officer to add an issue regarding unauthorized transfer of control. However, after a thorough review of the original transaction documents and arguments filed by all the parties, Judge Sippel denied Time Warner’s request to enlarge the issues. In doing so, the Judge found that “Time Warner is not able to show through personal knowledge that Freedom and

¹¹ Time Warner Objection at 4.

Liberty/Bartholdi agreed to transfer control of licensed facilities to Freedom or that the facilities would be operated by Freedom after the transfer of assets".¹²

In addition, a year ago, the Bureau conducted its own investigation (pursuant to Section 308(b) of the Communications Act)¹³ into the Bartholdi/Freedom transaction.¹⁴ As part of this, Commission investigators sought and received additional documents from Bartholdi, conducted site inspections of Bartholdi facilities and interviewed numerous Bartholdi and Freedom employees.¹⁵ Based on this exhaustive and thorough review, the Bureau more than nine months ago stated that it had found *no basis* for pursuing the matter further and *specifically declined* to file or support any further motion to enlarge based on an unauthorized transfer of control.¹⁶

During the course of these other proceedings, Time Warner has filed a blizzard of paper containing arguments virtually identical to those found in its current objection to grant of the Bartholdi STAs. Undaunted by the Bureau's comprehensive

¹² Memorandum Opinion and Order, *Liberty Cable Co., Inc.*, WT Docket No. 96-41 at ¶ 15 (July 12, 1996).

¹³ Order, *Liberty Cable Co., Inc.*, WT Docket No. 96-41 (July 11, 1996) (denying motion to enlarge and approving the Section 308 inquiry).

¹⁴ In his ruling on Time Warner's motion to enlarge, Judge Sippel concluded that the Bureau had the authority to conduct such an investigation (as suggested by Bartholdi) during the pendency of the hearing.

¹⁵ Remarkably, it is information gained through this year-old investigation that Time Warner's counsel now seeks to invoke through his hearsay declaration.

¹⁶ See, e.g., Statement of Joseph Weber, *Liberty Cable Co., Inc.*, WT Docket No., 96-41, Transcript at 356, lines 6 - 19 (December 12, 1996).

investigation and its decision not to pursue any further action, Time Warner wants another bite at the apple.

However, in seeking yet another forum for its arguments, Time Warner has not alleged any significant new facts or adduced any new documents to support its conclusions but relies exclusively on previously submitted materials and its counsel's dubious declaration characterizing these recycled facts. Bartholdi urges the Bureau once again to make clear to Time Warner that enough is enough and to deny this objection.

III. BARTHOLDI IS INDISPUTABLY THE REAL PARTY IN INTEREST IN THE AUGUST 21, 1997 STA RENEWAL REQUESTS

Time Warner has been rebuffed in its previous efforts to stir up a transfer of control issue for the simple reason that, under controlling Commission precedent, Bartholdi has not engaged in an illegal transfer of control. Indeed, the facts – as exhaustively discovered by the Bureau – do not even present a close question. Even a cursory review of FCC precedent demonstrates that Time Warner's contrary conclusion is based on faulty legal reasoning, spotty use of Commission precedent, and factual mischaracterizations.

When the record is correctly analyzed under the Commission's *Intermountain Microwave*¹⁷ test, as that precedent had been consistently applied, it is clear that Bartholdi is indisputably the real party in interest in this request for renewal of STA. The facts plainly show that Bartholdi's principals alone own and control the licensee.

¹⁷ 24 R.R. 983 (1963) (specifying the indicia of control for microwave licensees).

While Bartholdi and Freedom have entered into three agreements to transfer certain assets from Bartholdi to Liberty, these agreements (which have been thoroughly analyzed by the Bureau, Time Warner and Judge Sippel) do not raise substantial or material questions of fact regarding Bartholdi's control. Indeed, the agreements affirmatively demonstrate that Bartholdi remains in control. Nothing that Time Warner has adduced – over more than a year of trying, in several different forums – has shown otherwise.

The six *Intermountain* factors that indicate control of microwave facilities are: (i) unfettered use of all facilities and equipment; (ii) day to day operations and control; (iii) determination of and the carrying out of policy decisions; (iv) employment, supervision, and dismissal of personnel; (v) payment of financial obligations, including expenses arising out of operation; and (vi) the receipt of money and profits.¹⁸ In addition to mischaracterizing facts that are already well known to the Bureau, Time Warner's legal analysis often demonstrates a fundamental misunderstanding of these six criteria. Especially glaring is Time Warner's failure to even mention, let alone analyze, the substantial case precedent in this area.

¹⁸ The Commission and the Wireless Bureau have consistently applied these criteria. See *RVC Services, Inc.* 11 FCC Rcd 12136 (WTB 1996); *Ellis Thompson Corp.* 10 FCC Rcd 12554 (ALJ 1995); *La Star Cellular Telephone Co.*, 9 FCC Rcd 7108 (1994); *Brian L. O'Neill*, 6 FCC Rcd 2572 (1991); *Miller Communications, Inc.* 3 FCC Rcd 6477 (CCB 1988); *South Central Bell*, 3 FCC Rcd 1044 (CCB 1988) *aff'd on recon.*, 6 FCC Rcd 6523 (CCB 1991).

A. Unfettered Use of All Facilities and Equipment

As the Commission has consistently found, “a licensee’s unimpeded access to his facilities satisfies the ‘use’ criterion.”¹⁹ This is true even if others have access to the facilities as well. For example, in *Ellis Thompson*, an individual licensee, who lived several thousand miles away from the equipment, leased switch capacity from a separate company which ran its own business on the same equipment, without violating this criterion because the licensee “never has been, and never will be, denied access to the switch.”²⁰

Time Warner wholly ignores this precedent and, thus, is simply wrong in its assertions that the agreements between Bartholdi and Freedom, which give Freedom a possible future ownership interest in Bartholdi’s equipment and create an exclusive business relationship between the companies, restrict Bartholdi’s access to its own facilities.²¹

Indeed, those agreements specifically *require* that Bartholdi retain complete ownership and control of its microwave facilities and its FCC authorizations and have unfettered access to these facilities.²² Moreover, as is apparent from the Bureau’s

¹⁹ *Ellis Thompson*, 10 FCC Rcd at 12557; *see also Volunteers In Technical Assistance*, 1997 FCC LEXIS 4947, at *11 (1997); *Commercial Realty St. Pete, Inc.*, 11 FCC Rcd 15374, 15378 (Oct. 21, 1996); *La Star Cellular Telephone Co.*, 9 FCC Rcd at 7109 (1994); *Brian L. O’Neill*, 6 FCC Rcd at 2575.

²⁰ *Ellis Thompson*, 10 FCC Rcd 24 at 12557.

²¹ Time Warner Objection at 5-6.

²² Asset Purchase Agreement §§ 1.1, 2.1(e) (defining “equipment,” “excluded assets,” and “excluded licenses”); Subcontractor Agreement § 3.2(c); Transmission Services Agreement § 3(c).

investigation, the key sites where Bartholdi's equipment is located are owned by Bartholdi's principals. The mere fact that Bartholdi provides service only to Freedom does not interfere with its access to its facilities and equipment. Thus, it is simply uncontroverted that Bartholdi has complete access to its facilities and equipment.

B. Day-to-Day Operations and Control

Under well-settled Commission precedent, a licensee is in control of "day-to-day operations" even if an agent is responsible for "[d]ay-to-day decisions pertaining to marketing, promoting, advertising, selling, billing, and collecting" – as long as these actions are subject to the licensee's approval.²³ Such an "agency agreement to manage communications facilities is not uncommon and presents no legal barrier to legal operation of those facilities."²⁴

The instant case involves an even more limited agency relationship. Although Bartholdi has subcontracted maintenance and repair work of its network to Freedom, Bartholdi has "ultimate responsibility for decisions affecting the operation of the microwave facilities, including, but not limited to, the execution of contracts and site leases, major expenditures, equipment acquisition, and preparation and filing of

²³ *South Central Bell*, 3 FCC Rcd at 1044-45.

²⁴ *Id.* at 6524. *See also Ellis Thompson*, 10 FCC at 12557-58 (involving an individual licensee who relied almost entirely on a subcontractor to keep his system functioning and exercised virtually no physical control over operations; the only employee rarely visited the facility, the licensee had no right to terminate management for 20 years, and the two companies' management personnel were completely integrated).

necessary FCC applications” under the Subcontractor Agreement.²⁵ In fact, Bartholdi may terminate Freedom as a subcontractor²⁶ or bar individual Freedom workers from performing subcontracted duties.²⁷ Additionally, Bartholdi monitors Freedom’s activities and receives periodic reports from Freedom.²⁸ It is simply irrelevant that a Freedom employee is identified as the contact person on the STA requests and that Freedom employees have access to Bartholdi equipment.²⁹ In light of the agency arrangement and Commission precedent, there is no doubt that Bartholdi clearly maintains ultimate control over its facilities.

C. Policy Decisions

It is also clear that Bartholdi is responsible for the “determination and carrying out of [licensee] policy decisions, including the preparation and filing of applications with the Commission.”³⁰ Again, the Transmission Services Agreement and the

²⁵ Subcontractor Agreement § 3.1(c).

²⁶ *Id.* § 4.4.

²⁷ *Id.* § 3.2(d).

²⁸ *Id.* § 2.1(f).

²⁹ Time Warner Objection at 6.

³⁰ *Intermountain Microwave*, 24 R.R. at 984. This factor does not “prevent a minority partner from participating in system operation as long as such participation does not rise to the level of control.” *Miller Communications*, 3 FCC Rcd at ¶ 10. In *Ellis Thompson* the licensee entered into a contract with an agent under which it agreed to “cooperate[] fully” with the agent and give the agent “sole control” over many legal matters. This demonstrates that even substantial delegation does not violate this criterion. 10 FCC Rcd. 24 at 12558-60.

Subcontractor Agreement guarantee Bartholdi's power over policy decisions.³¹ For example, the Subcontractor Agreement states that Bartholdi has "ultimate responsibility for decisions affecting the operation of the microwave facilities, including, but not limited to, the execution of contracts and site leases, major expenditures, equipment acquisition, and preparation and filing of necessary FCC applications."³²

While Time Warner claims that Bartholdi does not control the policy decisions that affect its system simply because it has not filed additional FCC license applications since selling assets to Freedom and because a non-compete agreement states that Bartholdi must consult with Freedom before filing license applications,³³ this is irrelevant. What is relevant under Commission precedent is *who* made this policy decision, and there is absolutely nothing in the record to suggest that the decision was anything other than what it was: the best business judgment of Bartholdi's principals. Time Warner has utterly failed to demonstrate that this or any other policy decision was made at the direction of Freedom.

³¹ Transmission Services Agreement § 10; Subcontractor Agreement § 3.1(c); *see also* Transmission Services Agreement § 2(d).

³² Subcontractor Agreement § 3.1(c).

³³ Time Warner Objection at 6.

D. Employment and Personnel

Bartholdi also clearly maintains control over “employment, supervision, and dismissal of personnel.”³⁴ Indeed, there is nothing in the record to suggest that Freedom somehow controls Bartholdi’s employees or principals.

Moreover, even if this were not the case, the Commission repeatedly has approved agency agreements where a licensee turns over personnel decisions to its agent while retaining the power to oversee the agent’s employees if it is dissatisfied with their performance.³⁵ Even such “turn-key” agreements where agents “employ, supervise, and dismiss system personnel” do not violate the “personnel criterion when the licensee has ultimate control.”³⁶

If full-fledged “turn-key” arrangements pass Commission scrutiny, it is absurd to think that Bartholdi has given Freedom control of its employment decisions. The Subcontractor Agreement states that all employees hired by subcontractors who work on the Bartholdi system must be hired “in consultation and under the direction of [Bartholdi].”³⁷ Bartholdi also retains the authority to insist that any subcontractor

³⁴ *Intermountain Microwave*, 24 R.R. at 984.

³⁵ *See South Central Bell*, 3 FCC Rcd at 1044-45.

³⁶ *Bloomington-Normal MSA Limited Partnership*, 2 FCC Rcd 5427, 5427-28 (CCB 1987). In fact, applying this precedent, the presiding judge in *Ellis Thompson* found no violation of this factor even though the licensee’s “turn-key” agreement allowed the agent to hire and fire all subcontracted employees without consultation, did not allow the licensee to exclude any employee from its facilities and allowed termination of the subcontractor relationship only for good cause. *Ellis Thompson*, 10 FCC Rcd 24 at 12554-60.

³⁷ Subcontractor Agreement § 2.1(a).

employee that provides services to Bartholdi be excluded from work on the Bartholdi system.”³⁸ Thus, the principals of Bartholdi ultimately are responsible for all subcontractor personnel decisions, and Time Warner has utterly failed to show otherwise.

E. Payment of Financial Obligations

The record also clearly demonstrates that Bartholdi is responsible for “payment of [its] financial obligations including expenses arising out of operation.”³⁹ Once again, Time Warner has wholly failed to produce *any* evidence that Bartholdi does not pay its own debts, keep its own financial records, or is otherwise financially directed by Freedom. To the contrary, it is clear from the record that Bartholdi itself fulfills its financial obligations for operational expenses, licensing fees and legal services. According to both the Asset Purchase Agreement and the Subcontractor Agreement, Bartholdi is solely responsible for all network expenses and other financial obligations.⁴⁰ Further, the Subcontractor Agreement states that Bartholdi will pay all

³⁸ *Id.* § 3.2(d).

³⁹ *Intermountain Microwave*, 24 R.R. at 984. The Commission has held that a licensee retains control of financial obligations despite the fact that another firm has “to approve all expenditures in excess of 110% of budgeted amounts.” *RVC Services, Inc.* 11 FCC Rcd 12136; see also *Ellis Thompson*, 10 FCC Rcd at 12560-61 (approving an arrangement where licensee signed checks only of \$5000 or more, and agent paid all other expenses through its access to licensee’s bank account).

⁴⁰ Asset Purchase Agreement § 5.3(q); Subcontractor Agreement § 3.1(f).

taxes assessed against the network.⁴¹ Therefore, there is no question that Bartholdi is financially independent from Freedom.⁴²

F. Receipt of Moneys and Profits

While Time Warner ignores the sixth *Intermountain* criterion, it is also clear on this record that Bartholdi receives "moneys and profits derived from the operation of the microwave facilities."⁴³ Under the Settlement Agreement entered on March 21, 1997⁴⁴ that ended the contractual litigation between them, Freedom provided Bartholdi with a lump sum in full payment of its service obligations to Bartholdi under their Transmission Services Agreement.⁴⁵

⁴¹ Subcontractor Agreement § 3.1(e).

⁴² Time Warner's sole piece of "evidence" is its claim that Freedom does not compensate Bartholdi for services and that Bartholdi has not sent invoices to Freedom regarding these services. Time Warner Objection at 7-8. Not only does this fail to demonstrate that Freedom controls Bartholdi's finances, it is affirmatively misleading. As Time Warner is aware, the payments were withheld because of a business dispute between Bartholdi and Freedom (hardly evidence that Freedom controls Bartholdi). This dispute was resolved through a settlement whereby Freedom paid Bartholdi a lump sum to cover provision of microwave services.

⁴³ *Intermountain Microwave*, 24 R.R. at 984; the Commission has held that a licensee controls the receipt of profits where an agent "collects paging revenues . . . [and] receives a commission," and pays the remainder to the licensee. *South Central Bell*, 3 FCC Rcd. At ¶ 10. Substantially similar "turn-key" billing arrangements have consistently passed Commission scrutiny. See, e.g., *Bloomington-Normal MSA Limited Partnership*, 2 FCC Rcd 5427; *Macon Group*, 2 FCC Rcd 5409 (CCB 1987); *Modesto CelTelCo*, 2 FCC Rcd 4775 (CCB 1987).

⁴⁴ The Settlement Agreement was provided to Judge Sippel on March 26, 1997, and Time Warner on April 7, 1997.

⁴⁵ Settlement Agreement ¶ 2(b) (Mar. 21, 1997). The Transmission Service Agreement requires Freedom to provide its services until either (a) March 5, 2001 or (b) until Freedom ends its use Bartholdi's facilities, whichever is earlier.

IV. BARTHOLDI'S APPLICATION FOR SPECIAL TEMPORARY AUTHORITY IS PROCEDURALLY APPROPRIATE

Ultimately, Time Warner asserts that Bartholdi's request for renewal of STAs is procedurally inappropriate. It argues that Bartholdi's microwave paths should be operated under authority of licenses conditioned on the outcome of the hearing pending before Judge Sippel, and not under the authority of STAs.⁴⁶

Bartholdi sought renewal of its STAs out of an abundance of caution. In light of ambiguities in the Hearing Designation Order and Bartholdi's experiences with STA applications, Bartholdi believed the most prudent course to ensure continued authorized use was to file for renewal of STAs. Clearly, however, if the Microwave Branch believes that conditional licenses are more appropriate than STAs for the relevant microwave paths, Bartholdi will defer to this determination and ask the Bureau, accordingly, to dismiss Time Warner's pleading.

⁴⁶ Time Warner Objection at 2-3. Ironically, of course, if Time Warner is correct, there would be no opportunity for it to file this objection.

V. CONCLUSION

For the forgoing reasons, Bartholdi respectfully requests that the Microwave Branch dismiss or deny Time Warner's Objection to its request for renewal of STA prior to February 28, 1998, when Liberty's current STAs expire.

Respectfully submitted,

BARTHOLDI CABLE CO., INC.

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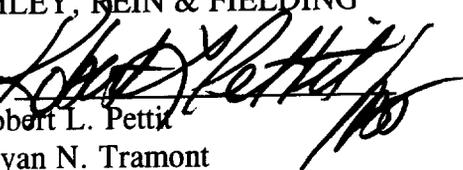
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September 23, 1997

CERTIFICATE OF SERVICE

I, Audrey M. Williams, hereby certify that on this 23rd day of September 1997, I caused copies of the foregoing Bartholdi Cable Company, Inc.'s Reply to the Opposition to Requests for Renewal of Special Temporary Authority of Law of Time Warner Cable of New York City and Paragon Communications, to be delivered by hand to the following parties:

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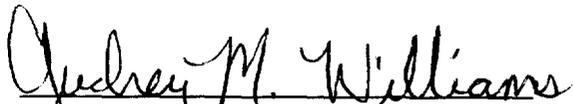
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