

**BEFORE THE
STATE OF NEW YORK PUBLIC SERVICE COMMISSION**

Petition of)
)
TIME WARNER CABLE INFORMATION)
SERVICES (NEW YORK), LLC)
)
In the Matter of the Petition of Time Warner Cable) Case No. 12-C-0510
Information Services (New York), LLC for Waivers)
of Certain Commission Regulations Pertaining to)
Partial Payments, Directory Distribution, Timing for)
Suspension or Termination of Service, and a Partial)
Waiver of Service Quality Reporting Requirements.)
)

**Petition of Time Warner Cable Information Services (New York), LLC for Waivers of
Certain Commission Regulations Pertaining to Partial Payments, Directory Distribution,
Timing for Suspension or Termination of Service, and a Partial Waiver of Service Quality
Reporting Requirements**

Maureen O. Helmer
Ekin Senlet
HISCOCK & BARCLAY, LLP
80 STATE STREET
ALBANY, NEW YORK 12207
(518) 429-4220

*Attorney for Time Warner Cable Information
Services (New York), Inc.*

Julie P. Laine
Group Vice President & Chief Counsel, Regulatory
TIME WARNER CABLE INC.
60 COLUMBUS CIRCLE
NEW YORK, NY 10023
(212) 364-8482

*Counsel for Time Warner Cable Information
Services (New York), Inc.*

May 1, 2013

**BEFORE THE
STATE OF NEW YORK PUBLIC SERVICE COMMISSION**

Petition of)	
)	
TIME WARNER CABLE INFORMATION)	
SERVICES (NEW YORK), LLC)	
)	
In the Matter of the Petition of Time Warner Cable)	Case No. 12-C-0510
Information Services (New York), LLC for Waivers)	
of Certain Commission Regulations Pertaining to)	
Partial Payments, Directory Distribution, Timing for)	
Suspension or Termination of Service, and a Partial)	
Waiver of Service Quality Reporting Requirements.)	
)	

**Petition of Time Warner Cable Information Services (New York), LLC for Waivers of
Certain Commission Regulations Pertaining to Partial Payments, Directory Distribution,
Timing for Suspension or Termination of Service, and a Partial Waiver of Service Quality
Reporting Requirements**

Time Warner Cable Information Services (New York), LLC (“TWCIS(NY)”) respectfully submits this Petition requesting waivers of the New York Public Service Commission’s (“Commission” or “PSC”) rules and regulations contained in:

(1) 16 NYCRR § 606.5 - Billing and Collection Services: Partial Payments;

(2) 16 NYCRR § 602.10(a) - Publication of Directory Database; and (3) 16 NYCRR § 609.4(d) Suspension or Termination of Service. In addition, TWCIS(NY) is seeking a partial waiver of the Commission’s Service Quality Reporting Requirements contained in 16 NYCRR §§ 603.3 and 603.4. TWCIS(NY) proposes to limit its reporting to its core customers: i.e. those customers who are subscribed to Lifeline service or characterized as having special needs.

BACKGROUND

TWCIS(NY) is a Delaware limited liability company authorized to provide telecommunications services in New York pursuant to Certificates of Public Convenience and Necessity (“CPCNs”) issued by the Commission on December 31, 1993 in Case 93-C-0569 and on August 25, 1994 in Case 93-C-0899. On December 24, 1997, TWCIS(NY)’s predecessor entities, Time Warner AxS of Rochester, L.P. and Time Warner AxS of New York City, L.P. were granted Eligible Telecommunications Carrier status (“ETC”) by this Commission.¹ The Commission later granted the approval of a corporate restructuring plan and the transfer of CPCNs from Time Warner AxS of Rochester, L.P. and Time Warner AxS of New York City, L.P. to Time Warner ResCom of New York, LLC.² Petitioner’s name change from Time Warner ResCom of New York, LLC to Time Warner Cable Information Services (New York), LLC became effective on October, 6, 2011.³

TWCIS(NY) is a wholly owned subsidiary of Time Warner Cable Inc. (“TWC”). TWC is a leading facilities-based provider of competitive voice services. It is the second largest cable operator in the United States, with operations in 29 states and more than 15 million residential and commercial customers (including nearly 5 million residential voice subscribers). In addition to its digital cable and broadband services, TWC offers IP-based voice services throughout this

¹ Case 94-C-0095 - *Proceeding on Motion of the Commission to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market*, Order Designating Competitive Local Exchange Carriers as Eligible Telecommunications Carriers, Service Areas, and Granting Waivers (Issued and Effective December 24, 1997).

² Case 98-C-0593 - *Joint Petition of Time Warner Communications Holdings, Inc. et al. for Transfers and Rescissions of Certain Certificates of Public Convenience and Necessity and Approval for Corporate Restructuring, Including the Issuance or Transfer of Stock and the Issuance of Debt* (May 12, 1998).

³ See Letter from David W. Cramer, Utility Analyst II (Telecom), State of New York Public Service Commission, to Carey Roesel, Consultant to Time Warner Cable Information Services (New York), LLC, Matter No. 11-02116 (October 11, 2011).

footprint. TWC currently provides IP voice services to more than one million customers in New York.

As the Commission is aware, TWC recently moved all of its IP voice operations from its unregulated VoIP provider to TWCIS(NY) and, as a result, the IP voice services are now offered as a regulated service in New York. In addition, TWCIS(NY) holds its ETC designation pursuant to the Commission's authority granted by Section 214(e) of the Federal Telecommunications Act of 1996.⁴ In a petition filed with the Commission on November 13, 2012 (the "ETC Petition"), TWCIS(NY) sought modification of its existing ETC designation in order to receive Lifeline support from the Federal Universal Service Fund ("USF") and the New York Targeted Accessibility Fund ("TAF") for the benefit of serving low-income customers. The initial petition sought to include much of the TWC network footprint in the designated ETC service area, and a subsequent amendment to that filing added the remaining portions of TWCIS(NY)'s footprint. On March 18, 2013, the Commission granted the ETC Petition.

TWCIS(NY) is now serving a large number of residential customers, including low income customers, in a competitive, albeit more highly regulated telecommunications market. Numerous regulations that heretofore did not apply to TWC's provision of voice service will now apply to this service since TWC moves its residential customers into the ETC. As outlined below, the Commission has agreed to waive some of these regulations for other carriers based on practical considerations and/or because of the level of competition present in the telecommunications markets. In order to offer the best telecommunications service to its customers and expand this customer base, TWCIS(NY) respectfully requests that the Commission grant the waivers discussed in this Petition.

⁴ 47 U.S.C. § 214(e). Section 214(e) of the Telecommunications Act requires state commissions to designate eligible telecommunications carriers and service areas for the purpose of determining universal service obligations and eligibility to receive federal universal service funding.

I. TWCIS(NY) SHOULD BE ALLOWED TO ESTABLISH TWO “BUCKETS” UNDER THE PARTIAL PAYMENT REQUIREMENTS AS LISTED IN 16 NYCRR § 606.5

16 NYCRR § 606.5 establishes the requirements for the allocation of partial payments in the absence of instructions from the customer or a pending billing dispute. The Settlement Agreement approved by the Commission in Case 90-C-1148 established four payment allocation categories: (1) basic local service; (2) local exchange carrier (“LEC”) intra-LATA toll and interregional calling; (3) non-basic LEC services; and (4) all other.⁵ Under this “four-bucket” regime, partial payments by a customer under the conditions noted above are allocated first to past due charges for category one charges, and then to past due charges for category two services and so on. The objective of the partial payment requirements is the continuation of basic local service to customers and assurance that disconnection of basic local service does not occur due to nonpayment of charges for other services that are considered to be less vital to residential customers.

a. The Commission Has Recognized That a Two-Bucket Payment Allocation Approach Should Be Permitted and Has Authorized LECs to Reduce the Allocation Categories to Two Buckets When Requested

In the *Competition III* proceeding,⁶ several LECs requested that the four-bucket rule be eliminated. The Department of Public Service Staff (“Staff”) recommended reducing the allocation categories to two buckets (basic service and all other charges).⁷ Under Staff’s

⁵ Case 90-C-1148 - *In the Matter of the Rules and Regulations of the Public Service Commission Contained in 16 NYCRR, Chapter VI, Telephone and Telegraph Corporations – Amendments to Subchapter A, Service, by the Addition of a New Part 606 – Billing and Collection Services*, Order Approving Settlement Agreement (Issued and Effective August 7, 1992) (“Settlement Agreement”).

⁶ Case 05-C-0616 - *Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services. Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market*, Order Allowing Rate Filing (Issued and Effective April 11, 2006) (“*Competition III* Order”).

⁷ Case 05-C-0616 - *Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services*, Telecommunications in New York:

recommendations regarding the two-bucket rule, partial payments would be allocated first to local service and then any remaining funds would be applied as determined by the LEC.⁸ The Commission accepted this approach.⁹ In the *Competition III* Order, the Commission indicated that the reduction in allocation categories to two buckets would be implemented through a separate rulemaking proceeding.¹⁰ Although the Commission has adopted several amendments to many of its rules establishing requirements for residential telephone service since 2005, the two bucket rule is yet to be embodied in the regulations by the Commission.

On November 1, 2010, Verizon New York Inc. (“Verizon”) filed a petition with the Commission requesting waiver of the four payment allocation categories under 16 NYCRR § 606.5 and proposed that it be allowed to establish two buckets.¹¹ In an order dated May 19, 2011 (“Two-Bucket Order”)¹², the Commission authorized Verizon to reduce the number of billing categories from four to two buckets and acknowledged that the streamlining proposed by Verizon is equally justified for other LECs.

According to the Two-Bucket Order, LECs interested in treatment similar to Verizon were required to submit a letter to the Secretary of the Commission within thirty days after the issuance of the Two-Bucket Order.

Competition and Consumer Protection, A White Paper Prepared by the State of New York Department of Public Service Staff (September 21, 2005) (“Staff White Paper”), at 84-85.

⁸ *Competition III* Order at 104-105.

⁹ *Id.* at 104.

¹⁰ *Id.* at 105.

¹¹ Case 10-C-0609 – *In the Matter of the Petition In the Matter of the Petition of Verizon New York Inc. for Waiver of New York Code of Rules and Regulations, Title 16, §§ 606.4 and 606.5, as Modified by July 1, 1992 Settlement Agreement, as Amended, Pertaining to Billing Categories and Partial Payments*, Petition of Verizon New York Inc. (November 1, 2010).

¹² Case 10-C-0609 – *In the Matter of the Petition of Verizon New York Inc. for Waiver of New York Code of Rules and Regulations, Title 16, §§ 606.4 and 606.5, as Modified by July 1, 1992 Settlement Agreement, as Amended, Pertaining to Billing Categories and Partial Payments*, Order Directing Tariff Amendment (Issued and Effective May 19, 2011).

In this Petition, TWCIS(NY) respectfully requests that the Commission reduce the number of billing categories from four to two buckets for TWCIS(NY). TWCIS(NY) proposes that the first bucket consist of charges related to telephone services and the second bucket consist of charges related to all other services. This will ease the administration of this rule, particularly with all inclusive, all distance telephone packages, while remaining consistent with the goal of not having consumers' telephone service terminated for non-payment of non-telecommunications services.

The Commission's rationale in permitting Verizon to reduce its partial payment allocations to two buckets applies equally to TWCIS(NY). The original four bucket rules were established at a time when LECs were billing for separate long distance carriers. Since that time, the structure of telecommunications rates and other services being provided by carriers have changed dramatically. The vast majority of TWCIS(NY)'s telephone customers subscribe to an unlimited local, intrastate, and interstate calling plan. Also, as observed in the *Competition III* Order and numerous orders by this Commission, the level of competition for voice service has increased substantially. Consumers now have numerous choices for voice service. The two bucket rule adequately protects the availability of residential basic service by applying the first dollars in the door to telephone service. In addition, as the Commission acknowledged in its order, the two-bucket rule is less confusing for customers.

In addition, TWCIS(NY) requests a waiver of the requirement that companies seek two bucket treatment within thirty days of the Commission's order. The Commission has waived the thirty day filing requirement in other instances where the need for or applicability of the two

bucket rule arose after the thirty day period established by the Two-Bucket Order.¹³ TWCIS(NY) requests similar treatment.

TWCIS(NY) respectfully requests that the Commission (i) allow TWCIS(NY) to reduce the allocation buckets from four to two (phone service and all other charges); and (ii) waive the thirty day rule contained in its Two Bucket-Order.

II. TWCIS(NY) SHOULD BE GRANTED A WAIVER OF 16 NYCRR § 602.10(b) REGARDING THE DISTRIBUTION OF TELEPHONE DIRECTORIES

Under Part 602.10(b) of the Commission's Rules, service providers in New York are required to distribute to their customers a directory that contains residential listings.

16 NYCRR § 602.10(b) states:

Each service provider shall distribute at no charge to its customers within a local exchange area, a copy of the local exchange directory for that area, and one additional copy shall be provided for each working telephone number upon request. A copy shall be filed with the Commission.

TWCIS(NY) hereby seeks the same relief requested by and granted to Verizon and Frontier Communications Local Exchange Carriers ("Frontier") in Cases 10-C-0215¹⁴ and 12-C-0060.¹⁵ Technological advances, such as widespread availability and use of internet directories, as well as the personal directories contained in virtually all wireless and wireline handheld devices have made customers much less reliant on, or interested in receiving, printed white page directories.

¹³ Case 10-C-0609 - *Petition of Verizon New York Inc. for Waiver of NYCRR, Title 16, Sections 606.4 and 606.5, as modified by July 1, 1992 Settlement Agreement, As Amended, Pertaining to Billing Categories and Partial Payments*, Commission's Ruling on Extension Request by Chazy and Westport Telephone Corporation (March 28, 2012).

¹⁴ Case 10-C-0215 - *Petition of Verizon New York Inc. for Waiver of NYCRR, Title 16, Section 602.10(b) Pertaining to the Distribution of Telephone Directories*. Order Granting Waiver with Conditions (Issued and Effective October 15, 2010) ("Verizon Directory Order").

¹⁵ Case 12-C-0060 - *Petition of Frontier Communications Local Exchange Carriers for Waiver of the Requirements of 16 NYCRR Section 602.10(b) Regarding the Distribution of Telephone Directories*. Order Granting Waiver (Issued and Effective May 17, 2012) ("Frontier Directory Order").

Moreover, statistics indicate that households using residential white page directories declined from 25% in 2005 to 11% in 2008.¹⁶ Therefore, like Verizon and Frontier, TWCIS(NY) proposes to adopt a more customer-focused and environmentally conscious approach to the distribution of the residential white page directories.

TWCIS(NY) proposes to distribute residential white page directory listings to customers who request one, in either print or CD-ROM format. In addition, TWCIS(NY)'s customers' listing information will generally be available in online directories, thereby, eliminating the need for paper directories for the vast majority of directory users. For these reasons, TWCIS(NY) respectfully requests that the Commission grant TWCIS(NY)'s waiver request and allow TWCIS(NY) to distribute residential white page directory listings to customers who request one.

III. TWCIS(NY) SHOULD BE GRANTED A WAIVER OF 16 NYCRR § 609.4(d) REGARDING TIMING OF SUSPENSION OR TERMINATION OF SERVICE

Under Part 609(4)(d) of the Commission's Rules, a telephone corporation may suspend or terminate service to a residential customer for nonpayment of bills only between the hours of 8 a.m. and 7:30 p.m., Monday through Thursday, and between 8:00 a.m. and 3:00 p.m. on Friday, provided such days are not public holidays. For its customers' convenience, TWCIS(NY) respectfully requests a waiver of this provision and would like to extend these hours.

Currently, TWCIS(NY) deploys its personnel to disconnect or suspend service between the hours of 8:00 a.m. and 9:00 p.m., Monday through Friday, and between 8:00 a.m. and 5:00 p.m. on Saturday. TWCIS(NY) requests that it be permitted to maintain these hours. These times are consistent with TWCIS(NY)'s local front counter operation hours. Customers have the opportunity to walk into the local TWCIS(NY) office and make a payment during these extended

¹⁶ Verizon Directory Order at 3 (citing nationwide Gallup Studies).

hours. They also have the opportunity to pay online and over the phone twenty four hours a day, as well as paying cable representatives directly when they arrive at the customer's premises to disconnect service.

In addition, the overwhelming majority of the TWCIS(NY) customers receive a bundled service (i.e., telephone, cable and/or Internet), and Company personnel must access the customer's premises for a physical disconnect of these services. The TWCIS(NY) voice service requires that TWCIS(NY)-supplied equipment be placed in, and therefore removed from, customers' premises. TWC's dealings with its customers indicate that customers often prefer that TWCIS(NY) personnel access a customer's premises after work hours or on the weekends. Second, by extending the hours for the TWCIS(NY) personnel visits, the Company will have the opportunity to meet with the customer in person which provides an additional chance to reconcile the debt with the customer and therefore avoid termination.

Moreover, the current New York State Consumer Rights Regarding Cable Television Service restrict disconnection of subscriber's service only on Sundays.¹⁷ TWCIS(NY) believes that streamlining of the rules for disconnection of phone and cable services will make the Commission's rules more consistent across the board and less confusing for customers. For the reasons discussed above, TWCIS(NY) respectfully requests that the Commission allow TWCIS(NY) to disconnect service between the hours of 8:00 a.m. and 9:00 p.m., Monday through Friday, and between 8:00 a.m. and 5:00 p.m. on Saturday.

¹⁷ "Disconnection of service for non-payment may not occur on a Sunday, public holiday or a day when the local office of the company is not open for business." See *Consumer Rights Regarding Cable Television Service* available at <http://www3.dps.ny.gov/W/PSCWeb.nsf/All/0E2474A06D5A31AC85257687006F3960?OpenDocument>.

IV. TWCIS(NY) SHOULD BE ALLOWED TO LIMIT ITS MONTHLY REPORTS ON TIMELINESS OF REPAIR PERFORMANCE TO ITS CORE CUSTOMERS

Pursuant to the Commission's Telephone Service Standards, all local exchange carriers are required to file monthly service quality reports including Customer Trouble Report Rate ("CTRR") reports and reports on timeliness of repair performance. See 16 NYCRR § 603.¹⁸ In recent years, the Commission's policy has been to allow competition to set the level of service quality wherever possible. Based on the availability of competitive choice in New York, the Commission has recognized that there is room for flexibility in terms of service quality oversight.¹⁹

TWCIS(NY) proposes to file CTRR Reports for all of its customers, but proposes to limit its monthly reports on timeliness of repair performance to its core customers, similar to the program recently adopted for Verizon.²⁰ TWCIS(NY) would propose to define its core customers as (1) customers subscribing to Lifeline service, and (2) customers who are characterized as having special needs (e.g., those with medical conditions and elderly, blind or disabled customers).²¹ In a recent Order adopting Verizon's Service Quality Improvement Plan,²² the Commission also included customers who lack adequate access to competitive alternatives under its definition of Verizon's core customers. TWCIS(NY) proposes that this

¹⁸ Pursuant to 16 NYCRR § 603.4, all companies are required to report on customer trouble report rate, while only companies with more than 500,000 access lines are required to report on the other service standard metrics, including repair, installation and answer time performance. TWCIS(NY) currently serves more than 500,000 customers.

¹⁹ Case 10-C-0202 - *Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Service Quality Improvement Plan*. Order Adopting Verizon New York Inc. to File a Revised Service Quality Improvement Plan with Modifications (Issued and Effective June 22, 2010) ("Verizon SQIP Order").

²⁰ See Verizon SQIP Order.

²¹ 16 NYCRR Part 609.5 "Suspension or termination of residential basic local exchange service--special procedures provides "special protections for residential customers regarding the suspension or termination and restoration of basic local exchange service in cases involving medical emergencies, the elderly, blind or disabled."

²² Verizon SQIP Order.

group of customers should not be included in TWCIS(NY)'s definition of core customers. TWCIS(NY) is operating as a CLEC in New York State, and by definition, is providing competitive alternatives to the customers of Verizon and other LECs. Therefore, it is superfluous to include "customers without adequate access to competitive alternatives" in the definition of TWCIS(NY)'s core customers.

All of the arguments cited by the Commission in limiting service quality reporting to core customers applies to CLECs, such as TWCIS(NY). While competition adequately protects service quality, the Commission has determined that a higher level of protection may be needed for core customers.²³ The Commission reaffirmed its support of the core customer concept in a recent order issued in the Verizon SQIP matter.²⁴

With the approval of TWCIS(NY)'s ETC Petition, TWCIS(NY) will soon be offering Lifeline services, although it has not yet begun doing so and thus does not currently have any core customers as described above. TWCIS(NY) therefore respectfully requests that the Commission waive the service quality reporting requirements for TWCIS(NY) until it obtains core customers and the number of its core customers reaches a specific threshold. TWCIS(NY) proposes this threshold to be 5,000 core customers in New York State.

Accordingly, TWCIS(NY) requests that it be allowed to (i) limit its reports on timeliness of repair performance to its core customers; and (ii) temporarily suspend these reports until TWCIS(NY) has 5,000 core customers in New York State.

²³ *Id.* at 14.

²⁴ See 10-C-0202 – Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Service Quality Improvement Plan. *Order Resolving Petition And Requiring Further Investigation* (Issued and Effective January 18, 2013) (The Commission denied Attorney General's request for modification of the SQIP to include all of the Verizon customers (core and non-core) and reinstated its position that only the core customers are in need of additional protections.)

CONCLUSION

Competition in the telecommunications market continues to provide increased choices, improved service quality, innovation and economic benefits to New York consumers. The limited waivers requested herein, waivers similar to those granted to other LECs, will facilitate TWCIS(NY)'s ability to provide Lifeline service under the regulatory architecture established by the Commission in numerous orders. Based on the foregoing, TWCIS(NY) respectfully requests that the Commission grant the waivers described above of New York Code of Rules and Regulations, Title 16, Sections 606, 602, 609, and 603 Pertaining to Partial Payments, Distribution of Commission's Directory Database Access, Suspension or Termination of Service, and Service Quality Reporting Requirements.

Respectfully submitted,

TIME WARNER CABLE INFORMATION
SERVICES (NEW YORK), LLC

By: /s/ *Maureen O. Helmer*

Maureen O. Helmer
Ekin Senlet
HISCOCK & BARCLAY, LLP
80 STATE STREET
ALBANY, NEW YORK 12207
(518) 429-4220

&

Julie P. Laine
Group Vice President &
Chief Counsel, Regulatory
TIME WARNER CABLE INC.
60 COLUMBUS CIRCLE
NEW YORK, NY 10023
(212) 364-8482

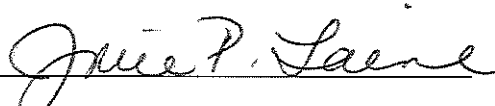
Dated: May 1, 2013

**BEFORE THE
NEW YORK STATE
PUBLIC SERVICE COMMISSION**

STATE OF NEW YORK)
) SS.
CITY OF NEW YORK)

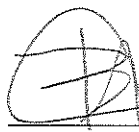
**VERIFICATION OF
JULIE P. LAINE**

Julie P. Laine, being duly sworn, deposes and says: I am the Group Vice President and Chief Counsel of Time Warner Cable Information Services (New York), LLC, the Petitioner in this proceeding. I have read the foregoing Petition of Time Warner Cable Information Services (New York), LLC for Waivers of New York Code of Rules and Regulations, Title 16, Sections 606, 602, 609, and 603 Pertaining to Partial Payments, Distribution of Commission's Directory Database Access, Suspension or Termination of Service, and a Partial Waiver of Service Quality Reporting Requirements and states that I know the contents thereof; and that the facts stated therein are true to the best of my knowledge, information and belief.



Julie P. Laine

Sworn to before me this
30th April
day of ~~May~~, 2013



**WILLIAM C. WESSELMAN
Notary Public, State of New York
Registration #01WE6265380
Qualified In New York County
Commission Expires July 9, 2016**