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**Date:** 8/29/02 12:31PM  
**Subject:** Time Warner FCC Form 1235 Rate Filing; other issues

FROM Dr. Barry Orton  
TO: City of Milwaukee

After extensive discussions with Time Warner, Jim Michalski and I recommend that the City officially accept Time Warner Cable's FCC Form 1235 Rate Filing for 2002. As you know, Time Warner recently sent the City a letter with a commitment to yearly file an informational Form 1235 showing the Social Contract revenue offset and to be bound by the lower rate on the informational Form 1235. This resolved the last of our concerns with the 2002 filing; several others had all been resolved with a productive series of document exchanges and meetings over the last six months.

As to the question of whether, after this latest exercise, the City should remain a rate regulator, I would still argue yes. The value of having a professional review of Time Warner Cable's rates is twofold: first, the City's review is, to my knowledge, the only check on basic rates charged in the entire Milwaukee Division. Without this exercise, the company could, in theory, significantly subsidize its other enterprises by overcharging basic subscribers. More importantly, rates for associated equipment and service (FCC Form 1205) could then be raised without any oversight by the City.

Regarding the cable modem franchise fees, I would still counsel the City to wait. The FCC rulemaking is still in progress and the several suits challenging the FCC's initial conclusions in this matter are proceeding. The City can audit the fees paid it after 2002 ends.

I also counsel the City to hold off on the important question of whether it has authority over cable modem customer service issues. The FCC will clarify these issues when the rulemaking concludes.

As you might be aware, I have also assisted Randy Gschwind with the telecom vision draft he's been working on.

The 2001 contract with the UW-Madison for my consulting services is now almost completed. Does the City wish to renew the arrangement, either through the end of 2002 or into 2003? I've enjoyed working with you all, I believe I've been useful to the City, and would expect a similar assortment of issues to keep popping up.

Barry Orton

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