



**FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

**DA 07-1069**

March 7, 2007

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Mr. James Shelton  
P.O. Box 766  
Fallbrook, California 92028

Roger Keating, President  
Los Angeles Division  
Time Warner Cable  
959 South Coast Drive  
Suite 300  
Costa Mesa, California 92626

Re: Time Warner Cable Offices at Torrance, Garden Grove, and Gardena, California

Gentlemen:

By complaint dated October 4, 2005, as supplemented on May 8, June 12, and July 25, 2006, Mr. James Shelton alleges that, on September 16, 2005, the Torrance and Garden Grove, California, offices of Time Warner Cable ("Time Warner") failed to maintain for public inspection their Equal Employment Opportunity ("EEO") public files, in violation of Section 76.1702(a) of the Commission's Rules (the "Rules").<sup>1</sup> Mr. Shelton alleges that Time Warner also violated this Rule in that, on September 13, 2005, upon his request, the Time Warner office in Gardena, California did not provide him with its last five years of EEO public files. He states that the office provided him the EEO public files for only two years, 2003 and 2004. Mr. Shelton further alleges that the office failed to provide him an area for undisturbed inspection of the EEO public files that he was given. He states that a Time Warner employee took notes and stood less than three feet away from him while he was inspecting the EEO public files. For the following reasons, we deny the complaint.

On April 18, 2006, the Commission's EEO staff sent Time Warner a letter of inquiry with respect to Mr. Shelton's allegations. In response to that letter and Mr. Shelton's submissions, by correspondence dated May 16 and 31, and July 6, 19 and 20, and August 21, 2006, Gregory Drake, Senior Counsel for Time Warner, states that Time Warner has

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<sup>1</sup> 47 C.F.R. § 76.1702(a). Mr. Shelton also alleges the violation by Time Warner of the cable public file rule, 47 C.F.R. §76.1700. This allegation will be separately addressed by the Commission's Enforcement Bureau.

consolidated its reporting units to areas where its headends are located.<sup>2</sup> According to Mr. Drake, the Torrance and Gardena facilities are considered one unit because they share a common headend, and the EEO public files for the Torrance office are located at the Gardena facility, where the headend is located. Mr. Drake states that its Garden Grove office does not maintain EEO public files because that office is not a separate reporting FCC unit. Similarly, he explains that because the Garden Grove facility is combined with Time Warner's Orange, California, facility, the public files are located at the Orange facility, where the common headend is located. Finally, Mr. Drake asserts that, because Mr. Shelton is a former employee with pending litigation against Time Warner, Mr. Drake stayed in the viewing area while Mr. Shelton inspected the EEO records to ensure that nothing from the files was taken.

Section 76.1702(a) of the Rules requires every cable employment unit with six or more full-time employees to maintain, for public inspection, a file containing its EEO program information and copies of all EEO annual reports filed with the Commission. Units are required to retain these materials for a period of five years. The Rule also requires cable operators to provide reasonable accommodation for undisturbed inspection of its EEO records by the public.<sup>3</sup>

As a result of our review of the submissions by the parties, we do not believe that Time Warner violated Section 76.1702(a) of the Rules. We deem reasonable the explanation of Time Warner that its EEO public files are located at its reporting employment units. The Commission's policy allows a cable system with multiple business offices to so maintain one public file location.<sup>4</sup> Although the Rule requires units to maintain EEO public files for a period of five years, currently, units will have only two years of EEO data in their public files because the Rule became effective on March 10, 2003.<sup>5</sup>

Nor do we find, under the circumstances cited by Mr. Shelton, that Time Warner failed to provide him with reasonable accommodation for his undisturbed inspection of its EEO records. Our Rule does not prohibit cable operators from supervising public access to their public records to ensure that materials are not stolen, damaged, or misplaced.

Accordingly, we deny the above-noted complaint of EEO public file violations filed by James Shelton against Time Warner Cable.

Sincerely,

Lewis Pulley  
Assistant Chief, Policy Division  
Media Bureau

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<sup>2</sup> Both Mr. Drake and Mr. Shelton voluntarily filed multiple submissions in order to supplement their original correspondence.

<sup>3</sup> See 47 C.F.R. § 76.1702(a).

<sup>4</sup> See *Reminder of Cable Television System Public Inspection File Obligations*, Public Notice, 19 FCC Red 23632 (2004); *Comcast Corporation*, Order, 19 FCC Red 20813 (EB 2004).

<sup>5</sup> See 47 C.F.R. § 76.75