

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Ordinance No. 81

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An ordinance relating to the terms of a franchise for a cable communications system; providing for regulation and administration of a cable communications system, and other matters pertaining thereto.

Section 1. Section Title and Pleading.

This ordinance shall be known as the Multnomah County Cable Communications System Ordinance, or CATV Ordinance, may be so pleaded, and shall be referred to herein as "this ordinance."

Section 2. Definition.

A. For the purposes of this ordinance unless the context requires otherwise, the following terms are defined as follows:

1. Additional Subscriber Services: Any service not included in Basic Subscriber Television Service, or Basic Subscriber Radio Service or Institutional Services, including, but not limited to, pay-cable.
2. Agency Subscriber: A subscriber who receives a service in a public agency, school, or non-profit corporation.
3. Basic Subscriber Radio Service: The provision to all subscribers of such audio services as the

retransmission of broadcast AM or FM radio signals, the retransmission of shortwave, weather, news, time and other similar audio broadcast channels, and the transmission of cablecast AM or FM radio signals, as permitted by the FCC.

4. Basic Subscriber Television Service: The total of all of the following:
  - (a) The retransmission to all subscribers of all broadcast television channel signals authorized by the FCC and provided for herein;
  - (b) The cablecasting to all subscribers of the Local Origination Channel, and the Public Educational, and Government Access channel signals, as authorized by the FCC;
  - (c) The transmission to all subscribers of all other cablecast open-channel signals.
5. Board of County Commissioners: Multnomah County Board of Commissioners, or such representative as may be designated to act on cable communications matters.
6. Broadcast Signal: A television or radio signal that is transmitted over the air to a geographic audience and is received by a cable communications system off-the-air or by microwave link.
7. Cable Communications System, System, Cable TV System, CATV System, or Broadband Communications

Network: A system of antennas, cables, amplifiers, towers, microwave links, cablecasting studios, and any other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, amplifying, storing, processing, or distributing audio, video, digital, or other forms of electronic or electrical signals.

8. Cablecast Signal: A non-broadcast signal that originates within the facilities of the cable communications system.
9. Channel: A six Megahertz (MHz) frequency band, which is capable of carrying either one standard video signal, a number of audio, digital or other non-video signals, or some combination of such signals.
10. City: The city of Portland, Oregon, and all of the territory within its present and future corporate boundaries.
11. City Council: The Council of the city of Portland, Oregon.
12. Commercial Subscriber: A subscriber who receives a service in a place of business, where the service may be utilized in connection with a business, trade or profession.
13. Converter: An electronic device which converts signal carriers from one form to another.

14. Corporation for Community Access: The non-profit, public corporation whose duties shall include the financing and management of the community and public access channels.
15. County: The unincorporated area of Multnomah County, Oregon.
16. Educational Channel or Educational Access Channel: Any channel where educational institutions are the only designated programmers.
17. FCC: The Federal Communications Commission, or a designated representative.
18. Franchise Agreement: A signed and notarized statement accepting and agreeing to all of the provisions of the franchise, including referenced specifications, franchise applications, and other related material.
19. Government Channel or Government Access Channel: Any channel where local government agencies are the only designated programmers.
20. Grantee: The person to which a franchise is granted for the construction, operation, maintenance, and reconstruction of a cable communications system, and the lawful successors, transferees, or assignees of such person.
21. Grantor: The Board of County Commissioners of Multnomah County, Oregon.

- a. Wherever applicable, the term Grantor shall also mean the City Council of the City of Portland or such representative person or entity as may be designated initially or at some future date to act on cable communications matters.
22. Gross Annual Subscriber Revenues: The annual gross revenues received by the Grantee from residential, commercial and agency subscribers for Basic Subscriber Television Service and Basic Subscriber Radio Service.
23. Institutional Services: Such video, audio, data, and other services provided to institutional users on an individual application, private channel basis. These may include, but not be limited to, two-way video, audio or digital signals among institutions, or from institutions to residential subscribers.
24. Leased Channel or Leased Access Channel: Any channel available for lease and programming by persons or entities other than the Grantee, including those portions of the other access channels not in use by their designated programmers.
25. Local Origination Channel: Any channel where the Grantee is the only designated programmer, and provides video programs to subscribers.

26. Metropolitan Communications Authority or Authority:  
The agency whose duties shall include the regulating, monitoring and reporting on the cable communications system for the Grantor.
27. Monitoring: Observing a one-way communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever.
28. Non-Broadcast Signal: A signal that is transmitted by a cable communications system and that is not involved in an over-the-air broadcast transmission path.
29. Open Channel: Any channel that can be received by all subscribers, without the necessity for special equipment.
30. Pay-Cable or Pay-Television: The delivery to subscribers, over the cable communications system, of television signals for a fee or charge to subscribers over and above the charge for Basic Subscriber Service, on a per program, per channel, or other subscription basis.
31. Person: Any natural person, association, corporation, company, partnership, sole proprietorship, or other legal entity.
32. Private Channel or Closed-Circuit Channel: Any

channel which is available only to subscribers who are provided with special converter or terminal equipment to receive signals on that channel.

33. Programmer: Any person who produces or otherwise provides program material or information for transmission by video, audio, digital, or other signals, either live or from recorded tapes or other storage media, to subscribers, by means of the cable communications system.
34. Public Access Channel: Any channel where any member of the general public may be a programmer, without charge, on a first-come, first-served, non-discriminatory basis, in accordance with FCC regulations.
35. Resident: Any person residing in the County Service Area.
36. Residential Subscriber: A subscriber who receives a service in an individual dwelling unit, where the service is not to be utilized in connection with a business, trade, or profession.
37. Section: Any section, subsection, or provision of this ordinance.
38. School: Any educational institution, public or independent, formal or informal, including primary and secondary schools, colleges, universities and community colleges, except commercial educational

enterprises.

39. Streets and Public Ways: The surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing within the County Service Area, or as may hereinafter be extended.
40. Subscriber: Any person, firm, corporation, or other entity who subscribes to a service provided by the Grantee by means of or in connection with the cable communications system.
41. Tapping: Observing a two-way communications signal exchange, where the observer is neither of the communicating parties, whether the exchange is observed by visual or electronic means, for any purpose whatsoever.

Section 3. Policy.

- A. The Board has determined that it is in the best interests of the citizens of Multnomah County to have an ordinance that identifies the conditions upon which the County will grant a franchise to construct and operate a cable communications system.
- B. The Board has further determined that it is in the best interests of the citizens of Multnomah County to have an ordinance that regulates and supervises the operation of a cable communications system to protect the health, safety, and general welfare of its citizens.

- C. It is the intent of this ordinance that it be consistent with an ordinance to be adopted by the City Council of the City of Portland, Oregon so that there may be a joint city-county franchise covering both the City of Portland and the unincorporated areas of Multnomah County.
- D. The Board recognizes that the City of Portland has not adopted its franchise ordinance. The Board acknowledges that in the event the City of Portland's ordinance differs in any substantial respect from this ordinance, this ordinance may be amended to provide for a consistent joint city-county cable communications system.
- E. The Board acknowledges that this ordinance was adopted after public hearings have been held wherein the citizens of Multnomah County have had an opportunity to express their opinions.

Section 4. Grant of Franchise.

- A. Grant. In the event an application for a franchise agreement meeting the requirements of this ordinance is accepted, the Grantor shall grant to Grantee a non-exclusive, revocable franchise to construct, reconstruct, operate and maintain a cable communications system. Such franchise shall constitute both a right and an obligation to provide the services of a cable communications system as required by the provisions of the franchise.

- B. Use of Public Streets and Ways. For the purpose of operating and maintaining the franchise, the Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the public streets and ways within the County such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of the cable communications system, and to place all equipment necessary or convenient for the transmission of signals by cable upon the poles now existing or in the future erected in the street areas which belong to or are used by Pacific Northwest Bell Telephone Company, a corporation, Pacific Power and Light Company, a corporation, or Portland General Electric Company, a corporation, pursuant to the terms and conditions of an agreement for use of poles being entered into by such corporations and Grantee. Prior to any construction or alteration, the Grantee shall file plans with the appropriate County departments, and receive written approvals before proceeding.
- C. Duration. The term of the franchise, and all rights, privileges, obligations, and restrictions pertaining thereto, shall be fifteen (15) years from the effective date of the franchise, unless revoked sooner as provided in Section 15.

- D. Franchise Non-Exclusive. The franchise granted shall be non-exclusive. The Grantor reserves the right to grant such additional franchises for a cable communications system as it deems appropriate.
- E. Franchise Non-Transferable. The franchise shall not be transferred, assigned, mortgaged, leased or sublet, either in whole or in part, nor shall title thereto, either legal or equitable, or any right or interest pass to or vest in any person, except the Grantee, either by act of the Grantee or by operation of law, without the written consent of the Grantor. The granting, giving, or waiving of any one or more of such consents shall not be deemed a waiver of any other item requiring consent.
- F. Change in Control. The Grantee shall promptly notify the Grantor of any proposed change in, or transfer of, or acquisition by, any other party of control of the Grantee with respect to which the consent of the Grantor is required, pursuant to Section 4E. Such change in control shall make this franchise subject to revocation unless and until the Grantor shall have consented thereto. For the purpose of determining whether it will consent to such change, transfer, or acquisition of control, the Grantor may inquire into the qualifications of the prospective controlling party, and the Grantee shall assist the Grantor in any such inquiry. Grantor may

condition said transfer upon the terms and conditions as it deems appropriate.

Section 5. Design and Construction Provisions.

- A. System Design Concept. The Grantee shall construct a cable communications system in accordance with the design concept of Exhibit A. The system shall consist of two interconnected networks, an "A" Cable or a Subscriber Cable Network, and a "B" Cable or an Institutional Cable Network. The system shall be expandable, with an initial configuration and expansion increments as detailed in Exhibit A.
- B. Initial Channel Capacity. The Subscriber Cable shall have an initial on line capacity to deliver to each subscriber at least thirty (30) outbound channels and three (3) inbound channels that can accept signals generated from specified locations. The Institutional Cable shall have an initial capacity as specified in Exhibit A with expansion capability to a capacity of twenty-eight (28) inbound and twenty-eight (28) outbound channels.
- C. Initial Geographical Coverage.
  1. Subscriber Cable. The Grantee shall design and construct the Subscriber Cable in such a manner as to pass by every single-family dwelling unit, multiple-family dwelling unit, agency and business establishment within the area of the franchise.

2. Institutional Cable. The Institutional Cable, as specified in Exhibit A, shall initially connect the following institutions which lie along the route of the Institutional Cable:
- a. Multnomah County Courthouse Hearing Room;
  - b. Department of Public Safety police facilities;
  - c. Hospitals;
  - d. Multnomah County Library, Main Branch;
  - e. Colleges, universities and community colleges;
  - and
  - f. High schools.
3. The geographical coverage and the number of institutions served by the Institutional Cable may be expanded under the conditions described in Exhibit A or as otherwise mutually agreed by the grantor and Grantee.

D. Cablecasting Facilities. The Grantee shall provide cablecasting facilities in accordance with the requirements of Exhibit A. Such facilities shall remain the property of the Grantee, whether used for local origination or access cablecasting.

E. Interconnection. The Grantee shall provide the interconnection capability specified in Exhibit A. The Grantor may, in the future, require the Grantee to participate in interconnecting the cable communications system to adjoining cable systems. Such interconnection

shall be required when both the Grantor and the franchising authority for the other cable system agree that such interconnection is desirable, and also on the number of channels to be transmitted and received by each system.

1. When such interconnection is required, the cost shall be borne by both Grantees, in the proportion of number of channels received to total number of channels transmitted and received, under the assumption that benefits accrue primarily through receipt of additional channels.

F. System Construction Schedule.

1. The Grantee shall begin to offer basic subscriber television and radio service within one (1) year after receipt of the FCC Certification of Compliance, unless mutually extended. At least 25% of the planned capital investment shall be committed each year, with the construction objective being to offer basic subscriber television and radio service to all areas on a non-discriminatory completion schedule.
2. The Grantee shall complete installation of the Institutional Cable and offer institutional service within two (2) years after receipt of the FCC Certificate of Compliance unless mutually extended.
3. The Grantee shall complete installation of the Basic Subscriber Television and Radio Service to all residents of the franchise area within four (4)

years after receipt of the FCC Certificate of Compliance unless mutually extended.

4. Service need not be provided where power and telephone facilities are not provided.
5. The Grantee shall provide a detailed construction plan indicating progress schedule, area construction maps, test plan, and projected dates for offering service. In addition, the Grantee shall update this information on a monthly basis, showing specifically whether schedules are being met and the reasons for any delay.
6. Failure to receive a Certificate of Compliance within two (2) years after award of the franchise will be grounds for franchise revocation, as provided by Section 15.

G. Penalties for Delay in Construction. The Grantor may, at its sole option, apply any of the following damages in connection with delays in system construction:

1. Reduction in the duration of the franchise on a month-for-month basis for each month of delay exceeding three (3) months.
2. Forfeiture of performance bonds for delays exceeding one (1) year.
3. Termination of the franchise for delays exceeding eighteen (18) months.

H. Provision of Service. After service has been established

the Grantee shall provide service to any requesting subscriber within sixty (60) days from the date of request.

- I. Undergrounding of Cable. The undergrounding of cables is encouraged. Cables shall be installed underground where existing utilities are already underground. Previously installed aerial cable shall be undergrounded in concert, and on a cost-sharing basis, with other utilities.
- J. Construction Components and Techniques. Construction components and techniques shall be in accordance with Exhibit B.
- K. Technical and Performance Standards. System technical and performance standards shall be in accordance with Exhibit C.
- L. Test and Compliance Procedure. The Grantee shall submit, concurrent with its franchise application, a detailed test plan describing the methods and schedules for testing the cable communications system on an ongoing basis to determine compliance with the provisions of Exhibit C. The tests for Exhibit C, paragraph 2, shall be performed periodically, at intervals no greater than every six (6) months, on a minimum of 20 subscriber television receivers, located throughout the service area. At least eight (8) of these locations shall be at the furthest extension, as it exists. The tests shall

be witnessed by representatives of the Grantor, and written test reports shall be submitted to the Grantor. If more than 10% of the locations tested fail to meet the performance standards, the Grantee shall be required to indicate what corrective measures have been taken, and the entire test shall be repeated for at least 20 different locations. If a second failure of more than 10% results, the Grantor may, at its option, order a reduction in subscriber rates due to degraded service.

- M. Emergency Requirements. The Grantee shall design and construct the system to provide for a restricted audio override of all audio channels during emergencies. An emergency power source shall also be provided by the Grantee at the headend of the system. The Institutional Cable Network shall have equipment redundancy as specified in Exhibit B.
- N. Construction Codes. The Grantee shall strictly adhere to all building and zoning codes currently or hereafter in force. The Grantee shall arrange its lines, cables, and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of said public or private property by any person. In the event of such interference, the Grantor may require the removal of the Grantee's lines, cables, and appurtenances from the property in question.

O. Construction and Use of Poles. The construction, maintenance and use of Grantee's television signal transmission system shall comply with the standards of materials and engineering and all other provisions of an agreement for use of poles being entered into by and between the Pacific Northwest Bell Telephone Company, a corporation, Pacific Power and Light Company, a corporation, Portland General Electric Company, a corporation, and the Grantee herein. In the event Grantee cannot obtain the necessary poles and allied facilities pursuant to the provisions of such an agreement, it shall be lawful for the Grantee to make all needed excavations in any portion of the streets, alleys or public highways for the purpose of placing, erecting, laying, maintaining, repairing and removing poles, conduits, supports for wires and conductors, and any other facility needed for the maintenance or extension of the system of the Grantee. This provision shall not exempt the Grantee from compliance with all provisions relating to such excavations or construction or from any provision requiring payment of permit or license fees pertaining thereto. All poles of the Grantee shall be erected between the curb and the sidewalk unless otherwise designated by the proper authorities, and each pole shall be set whenever practicable at an extension of a lot line. The Grantor shall have the right to require the Grantee to change the location of any pole, conduit, structure

or facility within the street area when in the opinion of the Grantor the public convenience requires such change, and the expense thereof shall be paid by the Grantee. All pipes, conduits and underground facilities shall be laid down and maintained, in such manner as not to interfere with sewers, water pipes, or any other property of the Grantor, or with any pipes, wires or conduits that may have been laid theretofore in the streets, alleys or highways of said Grantor by or under its authority, and the system of pipes, wires and conduits constructed or erected by the Grantee shall be of good quality and workmanship and shall be maintained in good repair and efficiency. The foregoing authority to make needed excavations and to place, erect, maintain, repair and remove poles and supports for wires and conductors in the streets, alleys or public highways of the County is intended to apply only to such locations where no utility poles exist or where such poles cannot physically accommodate facilities of the Grantee.

- P. Restoration of Streets. Whenever the Grantee shall disturb the surface of any street, alley, public highway or ground for any purpose mentioned herein, the Grantee shall restore the street, alley, public highway or ground to the condition in which it was prior to the opening thereof. When any opening is made by the Grantee in any hard surface pavement in any street, alley or

public highway the Grantee shall promptly refill the opening and restore the pavement to the satisfaction of the Grantor. The Grantor may refill or repave in case of neglect of the Grantee. The cost thereof, including the cost of inspection and supervision, shall be paid by the Grantee. All excavations made by the Grantee in the streets, alleys and public highways shall be properly safeguarded for the prevention of accidents. The work hereby required shall be done in strict compliance with the rules, regulations and ordinances of the Grantor as now or hereafter provided.

- Q. Reservation of Street Rights. Nothing in the franchise shall be construed to prevent the Grantor from constructing sewers, grading, paving, repairing or altering any street, alley, or public highway, or laying down, repairing or removing water mains or constructing or establishing any other public work. All such work shall be done, insofar as practicable, in such manner as not to obstruct, injure or prevent the free use and operation of the system of the Grantee; provided, however, that if any of the poles, wires, conduits, conductors, pipes or appurtenances of the Grantee shall interfere with the construction or repair of any street or public improvement, all such poles, wires, conduits or other appliances and facilities shall be removed or replaced in such manner as shall be directed by the Grantor so as not to interfere with

the public work of the Grantor. Such removal or replacement shall be at the expense of the Grantee herein.

- R. Trimming of Trees. Nothing contained in this ordinance shall be deemed to empower or authorize Grantee to cut or trim any trees in any of the streets, alleys or public highways. The Grantee may obtain authorization to trim trees from the owner of property which is adjacent to the street area in which such tree stands.
- S. Use of Poles and Conduits by Grantor. The Grantee shall permit the Grantor to fasten wires and cables and stretch such wires and cables on any and all poles of the Grantee. The Grantee shall not be responsible for any damage resulting to the wires, cables or property of the Grantor resulting from such use of its poles by the Grantor, unless the damage was attributable to the Grantee.
- T. Street Vacation or Abandonment. If at any time during the term of this franchise any street, alley, public highway or portion thereof that is being used by the Grantee shall be vacated by the Grantor, or the use thereof discontinued by the Grantee, the Grantee shall forthwith remove the facilities from such street, alley or public highway unless specifically permitted to continue to use such street, alley or public highway. Upon the removal of such facilities, the Grantee shall restore, repair or reconstruct the street area where such removal has occurred, and place the street area

where such removal has occurred in such condition as may be required by the Grantor. In the event of failure, neglect or refusal of the Grantee, after thirty (30) days' notice by the Grantor to repair, improve or maintain such street or portion thereof, the Grantor may do such work or cause it to be done, and the cost thereof shall be paid by the Grantee.

- U. Movement of Facilities. In order to move a large object, such as a vehicle, building or other structure over the streets, alleys or highways, the Grantee may be requested upon reasonable notice to move or remove any of its wires, cables, poles or other facilities placed pursuant to the franchise. The cost shall be at the expense of the person requesting such removal.
- V. Common User. The Grantor may require the Grantee to allow any utility the right to use of the poles or underground conduits of the Grantee whenever in the judgment of the Grantor it is deemed impracticable to permit the erection of poles or the construction of an underground conduit system by any other utility which may at the time have authority to construct or maintain a conduit or poles in the street area. Both parties shall share the costs incident thereto and under such rules and regulations as they may agree upon, but in case they fail to agree within a reasonable time, then upon such terms, conditions and regulations as the

Grantor may determine to be just and reasonable.

- W. Filing of Pole User Agreement. Within one (1) year after the effective date of the franchise, the Grantee shall file with the Grantor a certified copy of the agreement between Grantee and the Pacific Northwest Bell Telephone Company, Pacific Power and Light Company and Portland General Electric Company, or separate agreements between each of said companies and Grantee, in form approved by the Grantor.

Section 6. Service Provisions.

- A. Services to be Provided. The cable communications system shall provide as a minimum, the services listed in Exhibit D.
- B. Basic Subscriber Television Service. The Basic Subscriber Television Service shall include the FCC-required services, the distant television broadcast signals, and the provision of all other cablecast open-channel signals. This service shall be provided to all subscribers at the established Basic Subscriber Television monthly subscription rates.
- C. Basic Subscriber Radio Service. The Basic Subscriber Radio Service shall include the provision of all designated audio services, including broadcast FM and AM radio, and cablecast FM signals. This service shall be provided to all subscribers at the established Basic Subscriber Radio monthly subscription rates.

- D. Institutional Service. The Institutional Service shall include the provision of transmission and reception services to institutional users, on a leased channel basis at the established Institutional Service rates. Services may include the distribution of video or non-video signals.
- E. Additional Subscriber Services. Additional subscriber services, not included in the Basic Subscriber Television Service and Basic Subscriber Radio Service services specified above, may be provided, either within the basic subscription rates, or on a premium basis, subject to applicable FCC regulations.
- F. Local Origination Channel. The Grantee shall operate the cablecasting studios on a high-quality, professional basis for the purpose of providing cablecast programming responsive to local needs and interests. The emphasis for the Local Origination Channel shall be on providing programming that is unavailable to viewers on broadcast television channels.
- G. Government Access Channel. The Grantee shall provide a channel for the use of the Grantor at no charge to the Grantor for an initial five (5) year period, as provided by the FCC. The Grantee shall make every effort during this period to provide advice and technical expertise to aid in the utilization of this channel.
- H. Educational Access Channel. The Grantee shall provide

a channel for the use of the local public educational institutions at no charge to those institutions for an initial five (5) year period, as provided by the FCC. The Grantee shall make every effort during this period to provide advice and technical expertise to aid in the utilization of this channel.

- I. Public Access Channel. The Grantee shall make at least one (1) channel available to the public at no charge, as required by the FCC. Consideration shall also be given to provision of a second channel, designated the "Community News and Information Channel", when the usage of the Public Access Channel approaches six (6) hours per day for a period of six (6) months. The Public Access Channel or Channels shall be managed and operated by an independent, nonprofit public corporation, as specified in Section 10 of this ordinance. The Grantee shall make available for programmers of Public Access Channels the facilities listed in Schedule A.

Section 7. Operation and Maintenance.

- A. Open Books and Records. The Grantor shall have the right to inspect at any time during normal business hours, all books, records, maps, plans, income tax returns, financial statements, service complaint logs, performance test results and other like materials of the Grantee which relate to its operation. Access to the aforementioned records shall not be denied by the

Grantee on the basis that said records contain "proprietary" information.

B. Communications with Regulatory Agencies. Copies of all petitions, applications, communications, and reports submitted by the Grantee to the Federal Communications Commission, Securities and Exchange Commission or any other Federal or State regulatory commission or agency having jurisdiction in respect to any matters affecting cable communications operations authorized pursuant to the franchise, shall also be submitted simultaneously to the Grantor. Copies of responses from the regulatory agencies to the Grantee shall likewise be furnished to the Grantor upon receipt by Grantee.

C. Reports.

1. Annual Report. No later than April 15 of each year, the Grantee shall present a written report to the Grantor which shall include:
  - a. A fully audited and certified financial report for the previous calendar year, including gross revenues from all sources, gross subscriber revenues from each category of service, net income and end-of-year balance sheet.
  - b. A summary of the previous year's activities including but not limited to subscriber totals, and new services.
  - c. A summary of complaints received and dispositions

made thereof, and

c. Projected plans for the future.

2. Monitoring and Compliance Reports. No later than April 15 of each year, the Grantee shall provide a written report of the FCC performance tests required in Part 76, Section 76.601 of FCC Rules and Regulations or as may hereinafter be amended. In addition, the Grantee shall provide, in accordance with Section 5 of this ordinance, reports of the Test and Compliance procedures no later than thirty (30) days after the completion of each series of tests.

3. Additional Reports. The Grantee shall prepare and furnish to the Grantor, at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions, or property, as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the Grantor in connection with the franchise.

D. Maintenance and Complaints.

1. The Grantee shall maintain an office in the County which shall be open during all usual business hours, have a publicly listed toll free telephone, and be so operated to receive subscriber complaints and requests for repairs or adjustments on a

24-hour basis. A written log shall be maintained listing all complaints and their disposition.

2. The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system. A written log shall be maintained of all service interruptions.
3. The Grantee shall maintain a repair force of technicians capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. No charge shall be made to the subscriber for this service.
4. The Grantor shall ensure that all subscribers, programmers, and members of the general public have recourse to a satisfactory hearing of any complaints, where there is evidence that the Grantee has not settled the complaint to the satisfaction of the person initiating the complaint. The Grantor shall establish procedures for handling and settling complaints.

E. Safety.

1. The Grantee shall, at all times, employ the standard of care attendant to the risks involved and shall

install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public or to employees of the Grantee.

2. The Grantee shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the Electrical Code of the Grantor, and in such manner that they will not interfere with any installations of the Grantor or any public utility.
3. All lines, equipment, and connections in, over, under, and upon the streets and public ways shall at all times be kept and maintained in a safe and suitable condition, and in good order and repair.

Section 8. Regulation of Rates.

- A. Charges Permitted and Regulated. The Grantee may make such charges for services provided to subscribers as are permitted by the franchise or by subsequent approval of the Grantor. The Grantee shall receive no remuneration whatsoever from its subscribers in connection with any service provided to subscribers without approval of the Grantor.
- B. Schedule of Rates. The initial schedule of rates to be utilized by the Grantee shall be those approved in the Grantee's franchise application and shall not be

increased for a period of two (2) years after commencement of a city-county wide operation. The schedule of rates shall include installation and monthly charges for providing Basic Subscriber Television Service, Basic Subscriber Radio Service, and Institutional Service. Rates for additional services which will be offered initially shall be included. Special rates for special subscribers may be included. No additional charge shall be made for the installation of any converter without prior approval of the Grantor. All rates shall be published and non-discriminatory and shall be uniform to all persons and organizations of like classes, under similar circumstances and conditions.

1. Nothing in this Section shall be construed to prohibit the reduction or waiving of charges in conjunction with promotional campaigns for the purpose of attracting subscribers, nor shall this provision be interpreted to prohibit the establishment of a graduated scale of charges and rate schedules which vary with volume of usage, to which any subscriber or programmer included within a particular classification shall be entitled.

C. Changes in Rates. Increases in rates for any service shall be authorized by the Grantor only after application by the Grantee, and upon approval by the Grantor after appropriate public hearing in accordance with rules to

be adopted which shall be announced by written notice published in a newspaper of general circulation at least ten (10) consecutive days before the date of the hearing. Decreases in rates for any service may be implemented at the discretion of the Grantee, after written notice to the Grantor.

- D. Advance Charges and Deposits. The Grantee may require subscribers to pay for each month of service in advance at the beginning of each month. Deposit or advance payment for special equipment required for institutional or additional services shall not be charged without prior approval of the Grantor. Nothing in this provision shall be construed to prohibit charges for initial installation and reconnection.
- E. Installation and Reconnection. Except as otherwise provided in this ordinance, the Grantee may make a charge to subscribers for the installation of service outlets and for the reconnection of service outlets. The rates for such connection or reconnection shall be authorized by the Grantor as provided in subsection B. The Grantee may waive all or a portion of such charges for connection or reconnection, as provided in subsection B.
- F. Disconnection. There shall be no charge for disconnection of any installation or outlet. If any subscriber fails to pay a properly due monthly subscriber fee, or any other properly due fee or charge, the Grantee may

disconnect the subscriber's service outlet. Such disconnection shall not be effected until sixty (60) days after the due date of said delinquent fee or charge, or until ten (10) days after written notice of the intent to disconnect has been mailed by certified mail, return receipt requested to the subscriber in question. If after disconnection the subscriber pays the delinquent fee or charge and pays a reconnection charge, the Grantee shall promptly reinstate the subscriber's cable service.

G. Refunds to Subscribers and Programmers.

1. If the Grantee fails to provide any service requested by a subscriber or programmer, the Grantee shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the service in question by the subscriber or programmer.
2. If any subscriber terminates any monthly service during the first twelve (12) months of service because of the failure of the Grantee to render the service in accordance with the standards set forth in this ordinance, the Grantee shall refund to such subscriber an amount equal to the installation or reconnection charges paid by the subscriber multiplied by the fraction of the twelve (12)

month period for which the subscriber will not be receiving service. In the event that the subscriber has made an annual payment in advance, a similar portion of the payment shall be refunded by the Grantee.

3. If any subscriber terminates service for reasons not attributable to a failure of service, the Grantee shall refund the prorata portion of any prepaid subscriber service fee.

Section 9. Metropolitan Communications Authority.

A. Intent. It is the intent of the Grantor to provide for the day-to-day administration and enforcement of the provisions of the franchise by the establishment of a joint city-county agency in accordance with state law.

B. Authority Established. The City Council and Board of County Commissioners shall establish an entity to be known as the Metropolitan Communications Authority.

The Board of Directors of the Metropolitan Communications Authority shall be appointed by resolution of the City and County Commissioners. The Board of Directors shall consist of five (5) members, serving staggered terms of four (4) years. The Chairman of the Authority shall be elected by Authority members to serve a term of two (2) years.

C. Responsibility of Authority. The Authority shall have responsibility for performing the following functions:

1. Administering and enforcing the provisions of franchise awarded pursuant to this ordinance.
2. Coordination of the operation of government cable channels.
3. Providing technical, programming and operational support to public agency users.
4. Establishing procedures and standards for institutional operations and services, use of dedicated channels, and sharing of public facilities.
5. Seeking outside funding sources for new and experimental services.
6. Planning expansion and growth of cable services.
7. Analyzing the possibility of integrating cable communications with other City and County telecommunications networks.
8. Formulating and recommending long-range telecommunications policy for the City and County.

D. Staff and Facilities. The Authority shall have such staff and facilities as necessary to fulfill its responsibilities. Annual budgets shall be prepared by the Authority and submitted for approval by the City Council and Board of County Commissioners.

E. Funding. The Metropolitan Communications Authority shall be funded from the franchise fees paid by the Grantee. These funds may be supplemented by general City and County funds, at the discretion of the City

and County Commissioners.

- F. Operation. The Metropolitan Communications Authority shall devise, promulgate, and administer such reasonable rules, regulations, and procedures as may be required to implement the provisions of this franchise, or any subsequent ordinance, ruling, contract, or agreement adopted or entered into by the City and the County Commissioners with regard to cable communications and related services. Such rules, regulations, and procedures shall be reasonable and confined to matters pertaining to the enforcement of policies adopted by the City and the County Commissioners. In the event that the Grantee becomes dissatisfied with any material rule, regulation, or procedure initiated by the Metropolitan Communications Authority, the Grantee may exercise the right of appeal granted in Section 13 of this ordinance.

Section 10. Corporation for Community Access.

- A. Intent. It is the intent of the Grantor to insure that the Public Access and other community channels are governed by an independent, nonprofit corporation so that these channels are free of censorship, open to all citizens of the City of Portland and Multnomah County, are available for all forms of public expression, community information, and debate on public issues.
- B. Establishment of Agency and Functions. The Grantor shall provide for the appointment of an independent

agency which shall have the responsibility to perform the following acts and functions:

1. Financing, promotion and operation of the Public Access Channels, the Community Information and Education Channels, and all other channels as may in the future be designated for community-based programming.
2. Assure that the Public Access and Community Channels are made available to all residents of Multnomah County on a non-discriminatory, first-come, first-served basis.
3. Assure that no censorship or control over program content of the Public Access Channels exists, except as necessary to comply with FCC prohibition of material that is obscene, or contains commercial advertising, or conducts a lottery.
4. Devise, promulgate, and administer all rules, regulations, and procedures pertaining to the use and scheduling of the Public Access and Community Channels.
5. Maintain logs of programmers who use the channels, in accordance with the rules of the FCC.
6. Prepare, in conjunction with the Grantee, such regular or special reports as may be required or desirable.
7. Hire and supervise all staff persons who may be

required.

8. Make all purchases of materials and equipment that may be required within budgeted funds.
9. Develop additional sources of funding, such as foundation or federal or state grants, to further community programming.
10. Perform such other functions relevant to the Public Access Channel as may be appropriate.

C. Public Access Rules. Within sixty (60) days after the incorporation of the Corporation for Community Access, the Board of Directors shall complete a set of rules for the use of the Public Access and Community Channels which shall be promptly forwarded to the Grantor and the FCC. The rules shall be prepared, to the greatest extent possible, in cooperation with the Grantee. The rules shall, at a minimum, provide for:

1. Access on a first-come, first-served, non-discriminatory basis for all residents of the City and the County;
2. Prohibition of advertising for commercial or political purposes, as defined by the FCC;
3. Prohibition of any presentation of lottery information, or obscene or indecent material;
4. Public inspection of the log of producers, which shall be retained by the Grantee for a period of two (2) years;
5. Procedures by which individuals or groups who

violate any rule may be prevented from further access to the channel; and

6. Free use of such reasonable amounts of channel time, cablecasting facilities, and technical support as are provided for in this franchise.

Section 11. General Financial and Insurance Provisions.

A. Payment to the Grantor.

1. The Grantee shall pay to the Metropolitan Communications Authority an annual amount equal to five percent (5%) of the Grantee's Gross Annual Subscriber Revenues from the Grantee's operations within the City and County. If the Institutional "B" Cable Network is proposed as an independent system, the Grantee shall pay to the Metropolitan Communications Authority an annual amount equal to five percent (5%) of the Grantee's Gross Annual Revenues. The Metropolitan Communications Authority shall allocate such amount between the City and County in the same proportion as the Grantee's Gross Annual Subscriber Revenues are derived from the area within the jurisdiction of the City and County. If at any time during the term of the franchise the FCC permits total gross annual revenues from all sources to become the basis for computing the fee, such basis shall automatically be utilized herein. All funds received pursuant

to this subsection shall be deposited into the General Fund of the Grantor.

2. Payments due the Grantor shall be computed quarterly. Each quarterly payment shall be due and payable no later than thirty (30) days after the end of the quarter. Each payment shall be accompanied by a brief report showing the basis for the computation and such other relevant facts as may be required by the Grantor.
3. Acceptance of any payment shall not be considered as an accord, nor shall such acceptance of payment be considered as a release of any claim the Grantor may have for further or additional sums payable under the provisions of the franchise. All amounts paid shall be subject to audit and recomputation by the Grantor.
4. The Grantee shall initiate franchise fee payments to the Metropolitan Communications Authority at the minimum rate of One Hundred Fifty Thousand Dollars (\$150,000.00) per year following the issuance by the FCC of a Certificate of Compliance. Sums in excess are to be considered advances of payments due in later years of the franchise insofar as they exceed the actual franchise payments due during any year. If the B system is proposed as an independent system, then the applicant

shall be required to pay a 5% franchise fee of gross revenues to the City and County. Twenty-Five Thousand Dollars (\$25,000) shall be a minimum fee per year until the 5% franchise fee exceeds this amount. Sums in excess of 5% are to be considered advances of payments due in later years of the franchise insofar as they exceed the actual franchise payments due during any year.

B. Security Fund.

1. Within thirty (30) days after the effective date of the franchise, the Grantee shall deposit into a bank account, established by the Metropolitan Communications Authority, and maintain on deposit through the term of this franchise, the sum of One Hundred Thousand Dollars (\$100,000.00), as security for the faithful performance by the Grantee of all the provisions of the franchise, and compliance with all orders, permits and directions of any agency of the Grantor having jurisdiction over the Grantee. The Grantor may withdraw money from the security fund to make payment of any claims, liens and taxes due the Grantor which arise by reason of the construction, operation or maintenance of the system.
2. Within thirty (30) days after notice to the Grantee that an amount has been withdrawn by the Authority

from the security fund pursuant to subsection 1 of this Section, the Grantee shall deposit a sum of money sufficient to restore the security fund to the original amount of One Hundred Thousand Dollars (\$100,000.00).

3. If after ten (10) days' notice the Grantee fails to pay any amount due and payable to the City or County, or fails to comply with any provision of this ordinance the Authority reasonably determines can be remedied by an expenditure of the security, the Authority may immediately withdraw such amount from the security fund, including interest and penalties. Upon such withdrawal, the Authority shall notify the Grantee of the amount withdrawn and the Grantee shall deposit a sum of money sufficient to restore the security fund to the original amount of One Hundred Thousand Dollars (\$100,000.00).
4. The security fund deposited pursuant to this Section shall become the property of the Grantor in the event that the franchise is cancelled by reason of the default of the Grantee. The Grantee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of the franchise, provided that there is then no outstanding

default on the part of the Grantee.

5. The rights reserved to the Grantor with respect to the security fund are in addition to all other rights of the Grantor whether reserved by this ordinance or authorized by law, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right the Grantor may have.

C. Faithful Performance Bond. Upon the effective date of the franchise, the Grantee shall furnish proof of the posting of a faithful performance bond payable to the Authority, with good and sufficient sureties approved by the Grantor, in the sum of Five Hundred Thousand Dollars (\$500,000.00) conditioned that the Grantee shall well and truly observe, fulfill, and perform each term and condition of the franchise. Such bond shall be maintained by the Grantee throughout the term of this franchise. Written evidence of payment of required premiums shall be filed and maintained with the Board.

D. Damages and Defense.

1. The Grantee shall hold harmless and pay all damages and penalties which the Grantor may legally be required to pay as a result of the exercise of the franchise. Damages and penalties shall include, but not be limited to, damages arising out of copyright infringements, defamation, and all other

damages arising out of the construction, operation, maintenance or reconstruction of the cable communications system, whether or not any act or omission complained of is authorized, allowed, or prohibited by the franchise.

2. The Grantee shall pay all expenses incurred by the Grantor in defending itself with regard to all damages and penalties mentioned in Section 1 above. These expenses shall include, but are not limited to, all out-of-pocket expenses, including attorney fees.
3. The Grantee shall pay all expenses incurred by the Grantor in connection with the submission and defense of an application for a Certificate of Compliance filed with the FCC by the Grantee.

E. Liability and Indemnification.

1. The Grantee shall maintain throughout the term of the franchise liability insurance insuring both the Grantee and the Grantor against all damages enumerated in subsection D above in the minimum amounts of \$300,000 for bodily injury or death to any one person, \$1,000,000 for bodily injury or death resulting from any one accident or occurrence, \$300,000 for property damage resulting from any one accident or occurrence, and \$1,000,000 for professional liability.

2. Upon the effective date of the franchise, the Grantee shall furnish proof to the Grantor that satisfactory insurance policies have been obtained. Such insurance policies shall be approved by the Grantor. The Grantee shall supply proof of payment of the required premiums, as often as the premiums are required to be paid.
3. Costs of Consultant. As necessary to aid in the analysis of all matters relative to the franchise, the Grantor may employ the services of a consultant. All fees of the consultant incurred by the Grantor shall be paid by the Grantee.
4. Costs of Publication of Franchise. The Grantee shall pay the costs of publication of the franchise documents.

Section 12. Rights Reserved to the Grantor.

- A. Right to Purchase the System. The Grantor may in any lawful manner and upon the payment of a fair valuation purchase, condemn, acquire, take over and hold the real property and plant and equipment of the Grantee in whole or in part; if such purchase or taking over be upon revocation or termination of the franchise, such valuation shall not include any sum for the value of the franchise or grant under which such plant and property is being operated or any other intangible values. The Grantee shall make it a condition of each contract entered into

by it that the Grantor shall have the right to succeed to all privileges and obligations pertaining thereto.

B. Right of Inspection of Records.

1. There shall be kept in the office of the Department of Administrative Services a separate record containing at least the following information:
  - a. The true and entire cost of construction of equipment, of maintenance and of the administration and operation thereof; the amount of stock issued, if any; the amount of cash paid in, the number and par value of shares, the amount and character of indebtedness, if any; the rate of taxes, the dividends declared; the character and amount of all fixed charges, the allowance, if any, for interest, for wear and tear or depreciation; all amounts and sources of income.
  - b. The amount annually collected from the County, and the character and extent of the service rendered to the County.
  - c. The amount annually collected from other users of service and the character and extent of the service rendered therefor to them.
2. The books and records shall be open to public examination at any time during normal business hours.
3. The information shall be furnished by the Grantee

to the Director of the Department of Administrative Services upon his request, and at the Grantee's own cost and expense.

- C. Right of Inspection of Construction. The Grantor shall have the right to inspect all construction and installation and to make such tests as it shall find necessary to ensure compliance with the terms of this ordinance.
- D. Right of Intervention. The Grantor shall have the right of intervention in any suit or proceeding in which the Grantee is a named party.
- E. Right to Require Removal of Property. At the expiration of the term of the franchise, or upon its revocation or expiration, the Grantor shall have the right to require the Grantee to remove, at its own expense, all portions of the Cable Communications System from all streets and public ways within the City and the County.

Section 13. Rights Reserved to the Grantee.

- A. Right of Appeal to Grantor. Should the Grantee become dissatisfied with any material decision or ruling of the Metropolitan Communications Authority pertaining to cable communications matters, the Grantee may appeal the matter to the Grantor as provided in the intergovernmental agreement establishing the Metropolitan Communications Authority.

Section 14. Rights of Individuals Protected.

- A. Discriminatory Practices Prohibited. The Grantee shall

not deny service, access, or otherwise discriminate against subscribers, programmers, or general citizens on the basis of race, color, religion, national origin, or sex. The Grantee shall strictly adhere to the equal employment opportunity requirements of the Federal government, as expressed in Section 76.13 (a)(8) and 76.311 of Chapter 1 of Title 47 of the Code of Federal Regulations. The Grantee shall comply at all times with all other applicable Federal, State, and County laws, and all executive and administrative orders relating to non-discrimination.

- B. Cable Tapping Prohibited. Neither the Grantee, nor any other person, agency, or entity shall tap, or arrange for the tapping, of any cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever.
- C. Privacy and Other Human Rights. The Grantee and the Grantor shall maintain constant vigilance with regard to possible abuses of the right of privacy or other human rights of any subscriber, programmer, or general citizen resulting from any device or signal associated with the cable communications system. The Grantee will not utilize the two-way communications capability of the system for subscriber surveillance of any kind.
- D. Permission of Property Owner Required. No cable, line, wire, amplifier, converter, or other piece of equipment

owned by the Grantee shall be installed by the Grantee without first securing the written permission of the owner of any property involved. If such permission is later revoked, whether by the original or a subsequent owner, the Grantee shall remove all of its equipment and promptly restore the property to its original condition.

- E. Sale of Subscriber Lists Prohibited. The Grantee shall not sell, or otherwise make available, lists of the names and addresses of its subscribers, or any list which identifies, by name, subscriber viewing habits, to any person, agency, or entity, for any purpose whatsoever.

Section 15. Revocation and Renewal.

- A. Revocation. The Grantor may revoke the franchise, and all rights and privileges pertaining thereto, in the event that:
1. The Grantee violates any provision of the franchise; or,
  2. The Grantee's construction schedule is delayed for over 18 months; or
  3. The Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt; or
  4. The Grantee is found to have practiced any fraud or deceit upon the Grantor; or
  5. The Grantee fails to receive a Certificate of

Compliance within two (2) years after franchise award.

- B. Upon an order of revocation, the Grantee shall remove its structures or property from the streets and restore the streets to such condition as the Grantor may require. In the event the Grantee fails or refuses to remove its structures and property, the Grantor may perform the work and collect the cost thereof from the Grantee. The cost of removal shall be a lien upon all plant and property of the Grantee.
- C. Foreclosure. In the event of foreclosure or other judicial sale of all or a substantial part of the system, or upon the termination of any lease covering all or a substantial part of the system, the Grantee shall notify the Grantor of such fact, and such notification shall be treated as a notification that a change in control of the Grantee has taken place, and the provisions of Section 4F of this ordinance shall apply.
- D. Receivership. The Grantor shall have the right to revoke the franchise one hundred and twenty (120) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Grantee, unless:
1. The receiver or trustee has fully complied with all the provisions of the franchise and remedied all defaults thereunder; and

2. The receiver or trustee assumes and agrees to be bound by each and every provision of the franchise.

E. Expiration.

1. Upon expiration of the initial term of this franchise, the Grantor shall have the right to:
  - a. Renew or extend the franchise;
  - b. Invite additional proposals;
  - c. Terminate the franchise without further action.
2. The Grantee shall make it a condition of each contract it enters into that the Grantor has the right to exercise the options.

F. Continuity of Service Mandatory. It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify, or sell the system, or the Grantor revokes or fails to renew the franchise, the Grantee shall do everything in its power to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances during the lifetime of the franchise. In the event of purchase by the Grantor, or a change of Grantee, the current Grantee shall cooperate with the Grantor to operate the system for a temporary period, in maintaining continuity of service to all subscribers.

Section 16. Miscellaneous Provisions.

A. Separability. If any section of this ordinance is held

to be invalid or preempted by federal or state regulations or laws, such finding or preemption shall not affect the remaining sections of this ordinance.

- B. Captions. The captions to sections throughout this ordinance are intended solely to facilitate reading. Such captions shall not affect the meaning or interpretation of this ordinance.
- C. No Recourse Against the Grantor. The Grantee shall have no recourse whatsoever against the Grantor or its officials, boards, commissions, agents, or employees for any loss, costs, expense, or damage arising out of any provision or requirement of the franchise or because of the enforcement of the franchise.
- D. Nonenforcement By the Grantor. The Grantee shall not be relieved of its obligation to comply with any of the provisions of the franchise by reason of any failure of the Grantor to enforce prompt compliance.
- E. Subsequent Action by State or Federal Agencies. Should the State of Oregon, the FCC, or any other agency of the Federal or State government subsequently require the Grantee to deliver any signals in addition to those required by this franchise, or to perform or cease to perform any act which is inconsistent with any provisions of the franchise, the Grantee shall so notify the Grantor. Upon receipt of such notification, the Grantor shall determine if a material provision of the franchise

is affected. Upon such determination, the Grantor shall have the right to modify or amend any of the sections of the franchise to such reasonable extent as may be necessary to carry out the full intent and purpose of the franchise.

Section 17. Franchise Applications.

A. Content of Applications for Franchise. Applicants for a franchise under the provisions of this ordinance shall submit written applications to the Grantor, at a time and place designated by the Grantor containing the following information:

1. Identity of the Applicant.

- a. The name and address of the applicant. If the applicant is a partnership, the name and address of each partner, limited or general, shall be set forth. If the applicant is a corporation, the application shall state the names and addresses of its directors, officers, and stockholders owning more than 3% of the stock, the names and addresses of parent and subsidiary companies and the state of incorporation.
- b. A complete disclosure of any pending transaction, such as inclusion of local ownership, which would affect the ownership interest described above.

c. A complete disclosure as to whether the application is contingent or dependent upon the obtaining of financing which will result in the altering, or alienation of the legal or equitable interests of any party or parties listed in the above Section.

2. Cable Experience of the Applicant.

- a. A list of all cable television systems which have been designed, constructed, affiliated or are being operated by the applicant, indicating:
- (1) The date on which the franchise was initially awarded in each case.
  - (2) The number of channels presently being provided by each system.
  - (3) The number of channels providing non-broadcast service and the general extent of such non-broadcasting programming.
  - (4) The installation and present monthly individual subscriber fee.
  - (5) The nature and amount of other regular or special fees, including pay-TV fees, now being paid by subscribers in each system.
  - (6) The franchise fee being paid and the name or names of the governmental officials in each community who might provide

further information about each system.

- b. For any systems presently operating in any of the largest 100 television markets in the United States, a description of all non-broadcast services being offered by each system.
3. Description of the Proposed Cable System. The proposed cable system shall be described in detail including, but not limited to, the following:
  - a. System design and technical features, including:
    - (1) Headend Design;
    - (2) Distribution Plant;
    - (3) Subscriber Equipment;
    - (4) Cablecasting Facilities;
    - (5) Channel and Services Capacity;
    - (6) Two-way Communications Capacity.
  - b. Services to be provided.
  - c. Construction and service schedules including estimated capital expenditures phased in conjunction with the service schedule.
4. Schedule of Proposed Rates and Charges.
  - a. A proposed schedule of rates and charges for all services to all types of subscribers, with relevant terms and conditions.
  - b. A proposed service agreement form between Grantee and subscribers.

5. Commitment on New Services. Any commitment that the applicant desires to make with respect to new or additional services, or growth and expansion of the system over and above the initial services to be provided.
6. Financial Data.
- a. A current certified financial statement for the applicant, and, if applicable, the parent corporation holding more than ten percent (10%) of the applicant's stock, including the names and addresses of all officers of both the parent and applicant corporation, the boards of directors of each, and shareholders holding more than three percent (3%) of the authorized stock of the parent corporation.
  - b. A pro forma financial statement for each of the first five (5) years of operation of the system, including:
    - (1) The capital required for construction;
    - (2) The anticipated annual revenues from operations, operating expenses, and working capital needed in excess of the capital required for construction; and
    - (3) Sources of funds to be provided for (1) and (2).
  - c. Written evidence of enforceable commitments

from corporations, banks or persons who will provide the required funds, including parent and subsidiary companies, with the terms and conditions thereof, and the obligations that may have influence upon this system.

- d. Submission of a current audited balance sheet and a profit and loss statement from each of the three most recent years showing the identity, nature and basis of evaluation of any assets that will be used or converted to provide the committed funds as to any person who will be a source of funds.
- 7. Response to Community Need and Interest. A statement of intent with respect to providing local origination programming and other services based specifically on community needs and interests.
- 8. Additional Information. Any additional information that will assist the Grantor in evaluating the special or unique qualifications of the applicant, or the advantages of the proposed system.
- B. Application Fee. Each application shall be accompanied by a non-refundable application fee in the amount of Fifteen Hundred Dollars (\$1,500.00).
- C. Application Closing Date. Applications will be accepted until the close of business January 17, 1975.
- D. Bid Bond. Each application shall be accompanied by a

bid bond in the amount of \$5,000.00 to secure the applicant's good faith. The bid bond shall be furnished on the condition that if the applicant is awarded the franchise, and shall fail to accept the award, the bid bond shall be forfeited as liquidated damages, losses, costs, and expenses incurred by the franchisor by reason of such failure. Bid bonds will be returned to all applicants within thirty (30) days after award of a franchise.

Section 18. Evaluation of Applications.

- A. Applications shall be in substantial compliance with the requirements set out in this document. Applications may vary from the requirements as set forth herein only to the following extent and in the following manner:
1. Applicants may submit applications limited to the construction and operation of the Institutional Network Cable System.
  2. Applications may provide for greater service, operational or technical capabilities than are provided herein.
  3. The technical methods outlined in Schedules A, B, and C need not be complied with in exact detail as long as the operational intent and performance requirements of the Schedules can be demonstrated to be met by alternative techniques.
  4. The applications may provide for a different

completion time schedule other than the four (4) years required herein up to the FCC required maximum of five (5) years.

5. Applications may vary for the schedule for implementing deferred services contained in Schedule D. The applicant shall state the reasons for variance.

B. Applications meeting the requirements of subsection A above shall be rated and weighted in accordance with the following procedure:

1. Section 17A lists the required content of franchise applications. Table 1 provides a weighting of each item of the application, in terms of the degree of importance. The weighting is quantified as a percentage, with 100% representing a complete application.
2. The individual applications will be rated on a 3-level scale, to indicate the quality of the material contained in the application. For each item there is assigned a weighting factor as set forth in Table 1. The levels are as follows:
  - 3 "Excellent" or "Exceptional": that is defined as substantially above minimum adequacy.
  - 2 "Acceptable" or "Adequate": that is defined as meeting ordinance requirements, or if not specifically required in the ordinance, meeting what are considered good standards.

- 1 "Unsatisfactory": that is defined as not in compliance with system objectives, or considered below acceptable standards, or ambiguous, or not discussed.
3. A tabulation is compiled in the form of Table 2, in which all applications are rated on the 3-2-1 scale for each item. The rating is then multiplied by the assigned weight for the item (R x W column). This serves to put the ratings in proportion, so that, for example, an "unsatisfactory" rating in a major area will outweigh an "exceptional" rating in a less important area.
  4. The tabulation produced as a result of this procedure will produce a quantitative total of "points" for each application, as shown in Table 2. The highest point total indicates the application considered to be the best.
  5. If the final point totals of more than one applicant are very close, other factors may be included, but the highest rated application in any event shall merit first consideration.
- C. Based upon the above evaluation procedure the application that is selected for approval shall be transmitted to the City Council and County Commissioners for the procedures required to grant a franchise. The City and County reserve the right to reject any and all applications

received in whole or in part.

Section 19. Adoption.

This ordinance being necessary for the health, safety and general welfare of the people of Multnomah County, shall take effect on the thirtieth (30th) day after its adoption, pursuant to Section 5.50 of the Charter of Multnomah County.

Adopted this 31st day of October, 1974, being the date of its Second reading before the Board of County Commissioners of Multnomah County, Oregon.

BOARD OF COUNTY COMMISSIONERS

By M James Heason  
Chairman