

TOWNSHIP OF PYMATUNING, MERCER COUNTY, PENNSYLVANIA

CABLE TELEVISION FRANCHISE ORDINANCE

ORDINANCE NO. 103

An Ordinance granting unto Shenango Cable TV, Inc., of 513 Allegheny Street, Hollidaysburg, Pennsylvania, a corporation organized under the laws of the State of Pennsylvania, its successors and assigns, the right, privilege and franchise to acquire, construct and operate a cable television system and to sell and supply audio and video cable television services at any and all places within the corporate limits of the Township of Pymatuning, as said limits now are or hereafter at any time may be established; prescribing the terms and conditions of such franchise; and providing for the imposition and collection of a franchise fee.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Pymatuning, following public notice and a public hearing on August 11, 1977, in which the qualifications, construction arrangements and rates and charges of Shenango Cable TV, Inc., have been examined, that:

SECTION 1. FRANCHISE GRANT

(a) The Township of Pymatuning (hereinafter "the Township") hereby grants to Shenango Cable TV, Inc. (hereinafter "Grantee"), its successors and assigns, the right, privilege and franchise to acquire, construct and operate a cable television system within the corporate limits of the Township (hereinafter "the franchise area") and to sell and supply audio and video cable television services within the franchise area subject to conditions and restrictions set forth herein.

(b) The Township hereby grants to the Grantee the right to construct, maintain and operate in or upon the streets, highways, sidewalks, bridges and other public ways and lands in the Township, equipment, structures, facilities, apparatus and appurtenances of any nature which

are or which may be used in or reasonably necessary for the business of providing audio and video cable television services, subject to conditions and restrictions set forth herein.

(c) The rights, privileges and franchise granted herein shall terminate March 31, 1992. Not later than six (6) months prior thereto, the Township shall review Grantee's performance and this Ordinance at a public hearing preceded by public notice and, if it finds Grantee's performance to have been satisfactory, it shall renew the rights, privileges and franchise granted herein for an additional period of 15 years, upon such terms and conditions as it may determine.

(d) This franchise shall not be exclusive and shall not restrict the Township in any manner in the exercise of any franchising or other regulatory power which it now has or which it hereafter may be granted by federal, state or local law.

SECTION 2. CONSTRUCTION

(a) Grantee shall use due diligence to obtain or retain all necessary permits and authorizations which may be required in the conduct of its business including, without limitation, utility joint use agreements, microwave radio licenses, authorizations from appropriate county and state agencies and a Certificate of Compliance from the Federal Communications Commission ("the FCC"). Within one year of the grant of a Certificate of Compliance by the FCC, Grantee shall complete significant construction of its basic trunk line if it has not already done so; within each year thereafter, Grantee shall extend energized trunk cable to at least 20 percent of the then unserved portion of the franchise area; provided, however, that Grantee shall not be required to extend service to any area where the density of prospective subscribers is, in the opinion of Grantee, not sufficient to make service economically feasible.

Whenever the Grantee shall receive a request for service from at least 13 subscribers within 1,320 feet of its trunk cable, it shall extend its system to such subscribers at no cost to the subscribers for such system extension other than the usual connection fees for all subscribers provided that such extension is technically and physically feasible. Grantee shall be entitled to a reasonable extension of the schedule specified herein in the event construction is delayed by acts of God, earthquake, lightning, flood, fire, explosion, vandalism, strikes or other industrial disturbances, riots or other civil disturbances, late delivery of equipment, supplies or machinery by suppliers, late performance by suppliers of services, denial of necessary governmental authorizations, or other similar causes reasonably beyond Grantee's control.

(b) Grantee's plant and equipment, including structures, poles, wires, cable and appurtenances shall be installed in accordance with good engineering practices, shall not endanger or interfere with the lives of persons or Township property and improvements thereto and shall not unnecessarily or unreasonably hinder or obstruct pedestrian or vehicular traffic or cause interference with the proper use of streets, alleys and other public ways and places or with the rights or convenience of owners of property adjoining such streets, alleys or other public ways and places. All installation shall be of a permanent nature and shall be maintained in a safe condition.

(c) In case of any disturbance of pavement, sidewalk, driveways or other surface by reason of construction or installation undertaken by Grantee, Grantee shall, at its own cost and expense and in a manner approved by the Township, replace and restore such pavement, sidewalk, driveway or other surface to the condition existing before the construction or installation was commenced.

(d) Any opening or obstruction in the streets or other public ways made by Grantee in the course of the installation, operation, maintenance or removal of equipment, structures, facilities, apparatus and appurtenances shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights. Whenever it is deemed necessary by the Township, Grantee shall install steel plates to allow a public way to remain useable while openings or obstructions exist.

(e) If at any time during the period of this ordinance the Township shall elect to alter or change the grade of any street, alley or public way, Grantee, upon reasonable notice from the Township, shall remove, re-lay and relocate its poles, wires, cables, underground conduits, manholes or other fixtures at its own expense.

(f) Upon reasonable request from any person holding a building permit issued by the Township, Grantee shall remove or temporarily raise or lower wires it has installed to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and Grantee shall have the authority to require such payment in advance.

(g) Grantee shall have the authority to trim trees which are located on or which overhang streets, alleys, sidewalks and public places of the Township in such a manner and to such an extent as may be necessary to prevent the branches of trees from coming in contact with wires or cable installed by Grantee. All such trimming is to be done under the supervision and direction of the Township and at the expense of Grantee.

(h) Upon the termination of this franchise, Grantee promptly shall remove all of its equipment, structures, facilities, apparatus and appurtenances from the streets, alleys, sidewalks and public places in the Township if requested to do so by the Township and shall restore all such areas to their original condition.

SECTION 3. TECHNICAL STANDARDS

In the construction, maintenance and operation of a cable television system, Grantee shall at all times fully comply with technical standards established by the rules and regulations of the Federal Communications Commission applicable to such system.

SECTION 4. SERVICES TO BE PROVIDED

Grantee shall provide such cable television services as may be required by the rules or regulations of the Federal Communications Commission applicable to such system, and may provide such additional services as it wishes and as are permitted by those rules and regulations or by order of the FCC, including services for which a per-program or per-channel charge is made.

SECTION 5. COMPLAINTS

(a) Grantee shall maintain an office or a designated agent either within the franchise area or within a neighboring community which can be easily reached by the public, for the purpose of receiving, investigating and responding to complaints from subscribers.

(b) Complaints concerning cable service may be directed to the Township Secretary or other person designated by the Township Board of Supervisors. Upon receipt of a complaint, the Secretary shall forward a copy to the Grantee. Within such time as may be prescribed, Grantee shall satisfy the complaint or state that it is unwilling or unable to do so. If Grantee fails to satisfy the complaint, the Township Secretary shall notify the complainant that he may file a formal complaint. Within ninety (90) days thereafter, the complainant may file a complaint with the Township in a form and manner to be specified whereupon the Township shall investigate and if, in the judgment of the Township Board of Supervisors, the complaint can be remedied and the Grantee arbitrarily refuses to do so, the Supervisors may refer the matter to the Federal Communications Commission Cable Television Bureau for investigation and, where appropriate, formal legal action.

(c) Grantee shall provide each subscriber with written notice of the foregoing complaint procedures at the time service to the subscriber is commence.

SECTION 6. FRANCHISE FEE

(a) On or before the first day of each December, Grantee shall pay to the Township a franchise fee of three percent (3%) of Grantee's gross subscriber revenues from cable television operations during the preceding fiscal year beginning on the 1st day of November and ending on the 31st day of October. No other fee, charge or consideration shall be imposed by the Township. "Gross subscriber revenues per year from cable television operations" shall include only those revenues derived from fees paid by subscribers for basic monthly cable television service, including the provision of television broadcast signals and access and origination channels, if any, and shall not include revenues from sale of advertising, rental of studios or equipment, provision of program production services, per-channel or per-program charges to subscribers ("pay-cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other income derived from the system.

(b) Within thirty (30) days of the end of each fiscal year during the franchise term, Grantee shall file with the Township a statement of Grantee's gross subscriber revenues from cable television operations during the preceding fiscal year.

(c) In the event Grantee's franchise should be terminated for any reason prior to the end of the term provided for herein, Grantee shall immediately submit to the Township a statement of the gross subscriber revenues from cable television operations during the time elapsed since the end of the last calendar year for which a franchise fee was paid to the Township by Grantee; not later than thirty (30) days following the termination of the franchise, Grantee shall pay to the Township three percent (3%) of such revenues together with any other sums legally due and owing to the Township.

(d) The Township shall have the right to inspect Grantee's records from which the payments hereunder are computed and shall have the right to audit and recompute the amount of such payments. Acceptance of payments by the Township shall not be construed as a release, accord or satisfaction of any claim the Township may have for further or additional sums payable hereunder or for any other performance or obligation required of Grantee.

SECTION 7. RATES

(a) Grantee's rates and charges presently in effect throughout its system and to be applicable in this franchise area are as follows:

(1) Single-user rates, applicable to all single dwelling units, multiple dwelling units where billing is made to each individual occupant, and individual businesses, companies, firms, and professional offices subscribing for a single unit, shall be:

INITIAL SERVICE CHARGE

Installation charges for CATV and/or FM signal	19.50
Installation of second or additional outlets	7.50

Monthly Charge for C.A.T.V. or FM signal:

Initial outlet	6.25
Second or additional outlet	1.00

Additional Service charges:

Disconnect due to wilful non-payment	7.50
Requested reconnect	5.00
Transfer by customer from one dwelling to another	10.00
Relocation of service within structure	5.00

(2) Multiple-user rates, applicable to motels, hotels, mobile home parks and all multiple dwellings or business establishments where one billing is made to the owner for two or more single units shall be:

Installation Charge	Negotiable
Monthly Service Charge	Not to exceed residential Rates

(b) The rates and charges herein shall be subject to future change to permit Grantee to realize a fair rate of return on its investment and further to insure the community quality cable television service. Any future changes in such rates and charges, shall be filed by the Grantee with the Township but shall not require approval by the Township.

SECTION 8. INSURANCE

(a) Grantee shall obtain at its expense the following insurance policies:

(1) A general comprehensive public liability insurance policy indemnifying, defending and saving harmless the Township, its officers, boards, commissions, agents or employees from any and all claims by any person whatsoever for injury to or death of a person or persons occasioned or alleged to have been occasioned by the operations of Grantee under the franchise granted herein, in the amount of at least \$500,000.00 per personal injury or death of any one person and \$1,000,000.00 for personal injury or death of any two or more persons in any one occurrence.

(2) Property damage insurance indemnifying, defending and saving harmless the Township, its officers, boards, commissions, agents or employees from and against all claims by any person whatsoever for property damage occasioned or alleged to have been occasioned by the operation of Grantee under the franchise granted herein, in the amount of at least

\$250,000.00 for property damage of any one person and \$500,000.00 for property damage of two or more persons in any one occurrence.

(b) All of the foregoing insurance contracts shall be issued and maintained by companies authorized to do business in the State of Pennsylvania and shall be kept in full force and effect by Grantee during the term of this franchise and until completion of all obligations of this franchise, including any required removal of equipment, structures, facilities, apparatus and appurtenances.

SECTION 9. INDEMNITY

Grantee shall fully indemnify, defend and save harmless the Township, its officers, boards, commissions, agents and employees against any and all claims, suits, actions, liability and judgments for damage to persons or property, including, without limitation, damages arising out of the installation, operation or maintenance by Grantee of a cable television system whether or not any act or omission complained of is authorized, allowed or prohibited by the franchise. Grantee shall pay all expenses, including attorneys fees, incurred by the Township in defending itself with regard to all such claims, suits, actions, liability and judgments.

SECTION 10. COMPLIANCE WITH LAW

Grantee shall at all times comply with applicable federal, state and local laws and regulations. In the event the Federal Communications Commission amends its rules or regulations to require the inclusion of additional provisions in this Ordinance or the deletion of existing provisions, this Ordinance shall be appropriately amended within one year of the FCC's action.

SECTION 11. ADMINISTRATION

The Township shall enforce the obligations of the Grantee that are set forth in this Ordinance.

SECTION 12. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this franchise shall be held unconstitutional, invalid under state

or federal law or inconsistent with the regulations of the Federal Communications Commission, all other provisions shall retain their full force and effect.

ENACTED AND ORDAINED this 11TH day of AUGUST, 1977.

TOWNSHIP OF PYMATUNING

By Chas J Gordon Sr

Harry H. Urang

John A. Asherholt Jr

Attest:

Freida Eckman
Township Secretary

Supervisors

ACCEPTANCE

And now, this 11 day of AUGUST, 1977,
the Grantee in the franchise duly passed by the Supervisors of the
Township of Pymatuning on the 11 day of AUGUST, 1977,
and attached hereto, is accepted by the Grantee which agrees to be
bound by and comply with the terms stated therein.

SHENANGO CABLE TV

BY Henry Benton
↓ President

ATTEST:

Donna M. Benton
Secretary

(corp. seal)