

TOWNSHIP OF SHAMOKIN
NORTHUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 90-2

AN ORDINANCE AMENDING AND REPEALING ORDINANCE NO. 1-1989 REQUIRING THAT THE PROVIDING OF CABLE TELEVISION SERVICE BE AUTHORIZED BY FRANCHISE; GRANTING A FRANCHISE TO SERVICE ELECTRIC CABLE TV, INC., A PENNSYLVANIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO INSTALL, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM; PRESCRIBING TERMS AND CONDITIONS; ALSO PROVIDING REGULATIONS FOR USE OF THE SYSTEM; AND OTHER LEGAL REQUIREMENTS.

BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained, as follows:

Section 1. Short Title.

This Ordinance shall be known and may be cited as the "Cable Television Franchise Ordinance".

Section 2. Definitions.

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and words in the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely directory.

- (a) "Municipality" is the Township of Shamokin, acting through its duly constituted governing body.
- (b) "Cable Television System" or "System" shall mean any facility or group of facilities which, in whole or in part, receives, modifies or originates television, FM Radio or other electrical signals for the

purpose of transmitting or distributing such signals by wire, cable or other means to subscribing members of the public or to selected customers, as herein contemplated. This definition shall include those systems which do not occupy or cross over or under the public ways and places of Municipality.

- (c) "Company" is Service Electric Cable TV, Inc., its successors and assigns.
- (d) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

Section 3. Franchise Required.

From and after the enactment of this Ordinance, no cable television system shall be constructed, installed or operated in the Municipality unless such construction, installation or operation shall first have been authorized by Ordinance of Municipality duly enacted.

Section 4. Grant of Authority.

Having determined that the continued availability of cable television service would afford significant social, educational and entertainment benefits to the public in Municipality; that a high quality of such service responsive to the needs and desires of residents of Municipality can best be assured by the granting of an exclusive franchise to the qualified provider; and that Company has the legal, character, financial, technical and other qualifications to construct, erect, own, operate and maintain the cable television system serving this Municipality, the Municipality hereby grants unto the Company the exclusive right and privilege to construct, erect, operate and maintain a cable television system in, under over, along, across or upon the public streets, highways,

sidewalks, rights-of-way and places within the boundaries of the Municipality, to the extent permitted by law. Municipality grants Company permission to attach or otherwise affix or install its cables and other equipment to and in the facilities of any public utility even though the same may occupy or cross over or under the public ways and places of Municipality.

Section 5. Franchise Term.

This grant shall be for a period of fifteen (15) years from the effective date of this Ordinance with an option to renew same for an additional fifteen (15) years. Exercise of Company's option shall be governed by the procedures, rights and remedies provided in Section 626 of the Communications Act of 1934, 47 U.S.C. 151 et. seq., as amended by the Cable Communications Policy Act of 1984, Pub. L. 98-549.

Section 6. Franchise Fee.

As compensation for the rights conferred upon it by this Ordinance, including the privilege of engaging in the business of operating a cable television system in the Municipality, the Company shall pay annually to the Municipality a fee equal to three (3%) percent of gross revenues collected by the Company from charges for basic cable television service rendered to the Company's subscribers within the Municipality. "Gross revenues shall not include charges for or revenues from: any taxes billed to and collected from subscribers' optional cable television services; services other than the transmission and distribution of television signals; advertising; the leasing of cable channels; furnishing other communications and non-broadcast television services either directly or as a carrier for another party; installation charges and fees for move, reconnections, inspection, repairs or modifications of any

installations; other customer services for which separate charges are made; or any other income derived by the Company.

Payment of such annual fee shall be made not later than March 31 of the year following the calendar year in which the fee accrues. Such annual fee shall be reduced by the amount of any tax, assessment, fee or other charge imposed, levied, made or collected by Municipality upon or from Company for the privilege of engaging in the business of operating a cable television system in the Municipality.

"Basic cable television service" shall mean that tier of cable television service to which all users must subscribe in order to obtain cable television service and for which a charge is made.

"Optional cable television service" shall mean the furnishing of television programming for which a per-channel or per-program charge is made additional to that for basic cable television service.

Section 7. Acceptance of Franchise.

This grant is made upon the express condition that the Company, within thirty (30) days after written notice is given to the Company that this Ordinance has taken effect and becomes operative, shall file with the Secretary or other duly authorized official of the Municipality a written acceptance of the same. When this Ordinance shall have been accepted by the Company, such Ordinance and acceptance shall constitute a contract between the Municipality and the Company for all the uses, services and purposes set forth in this Ordinance. Except as may be otherwise provided by State or Federal law, order or regulation, the rights and obligations of Municipality and Company shall be those specified herein and shall not be enlarged, diminished or altered by

unilateral action of Municipality during the term of the franchise or renewal thereof. The Company by its acceptance of the provisions of this Ordinance binds itself to provide the necessary cable television system and to establish, operate and maintain the local cable television system contemplated in this Ordinance, continuing without substantial interruption except for causes beyond its control until the expiration of the term of this grant. In the event that said Company fails to file said written acceptance within the time hereinabove specified, this grant shall be of no effect and void.

Section 7. Installation and Extension of System.

Company shall serve all residents of Municipality except to the extent that low household density, adverse terrain or other factors render providing service impracticable or technically or economically infeasible. Company's cable television system shall not be required to be installed in, or extend to, areas of Municipality where potential revenues from subscribers to be served therein would produce a return insufficient to justify economically such installation or extension. If otherwise practicable and technically feasible:

- (a) Service shall be provided at normal installation and monthly service rates to an individual customer whose point of connection is located within one hundred fifty (150) feet of in-place distribution cable;
- (b) Company, at its cost, shall make an extension of its cable system where the number of existing households per linear mile of cable to be passed by the extension equals or exceeds the average number of households per linear mile of existing cable plant within Municipality.

- (c) In no event shall Company be required to make an extension where the number of existing households to be passed per mile is less than fifty (50). Nor shall Company be required to install or extend its cable system in areas where it cannot obtain necessary rights-of-way over private property at economically feasible cost, or permission to attach its facilities to public utility poles or conduits.

Section 8. Regulatory Action.

The performance by the Company hereunder is subject to limitations, restrictions, or requirements now existing or which may henceforth be imposed by law, rule or order of the Federal Communications Commission or other government, board, commission or authority. The Company shall not be deemed in default of any of the requirements of this Ordinance to the extent it acts in compliance with, or refrains from doing anything prohibited by such law, rule or order.

Section 9. Condition of Street Occupancy.

- (a) All transmission and distribution structures, lines and equipment erected by the Company within the Municipality shall be so located as to cause minimum feasible interference with the proper use of streets, alleys and other public ways, roads and places, and to cause minimum feasible interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways, roads and places. The Company shall obtain any required permits prior to construction.
- (b) In the case of any disturbance of pavement, sidewalk, driveway or other surfacing by Company, Company shall, at its expense and in

a manner approved by the Municipality, replace and restore the same in as good condition as before said work was commenced.

Section 10. Compliance with Standards.

Company's construction and maintenance of the transmission and distribution system shall be in accordance with applicable state and federal laws or regulations now in effect or later enacted regulating or affecting Company's installation or operation.

Section 11. Company Liability - Indemnification.

The Company shall save the Municipality harmless from all loss sustained on account of any suit, judgment, execution, claim or demand whatsoever, resulting solely from the operation of the Company in the construction, operation or maintenance of its system in Municipality. The Municipality shall notify the Company within ten (10) days after the presentation of any claim or demand, either by suit or otherwise, made against the Municipality on account of any damages or losses as aforesaid resulting from the operations of the Company. Thirty (30) days from the enactment date of this Ordinance, the Company shall furnish satisfactory evidence in writing that it has in force public liability insurance of not less than Two Hundred Fifty Thousand (\$250,000.00) Dollars for any one person and Five Hundred Thousand (\$500,000.00) Dollars for any one accident, and property damage insurance of not less than Two Hundred Fifty Thousand (\$250,000.00) Dollars duly issued by an insurance company or insurance companies authorized to do business in this Commonwealth.

Section 12. Landlord-Tenant.

- (a) No landlord shall demand payment from Company for permitting Company to provide cable television service on or within said

landlord's property or premises. Provided, however, that such landlord may be entitled to reasonable reimbursement for any direct expenses incurred by him in connection with the installation of cable television service, and to just compensation for any permanent occupation of his property resulting from the installation of Company's facilities therein.

- (b) No landlord shall interfere with the installation of cable television facilities upon his property or premises nor shall such landlord discriminate in rental charges, or otherwise, between tenants who receive cable service and those who do not. No landlord shall demand or accept payment from any tenant, in any form, for permitting cable television service on or within his property or premises.
- (c) As used in this Section, the term "landlord" means any individual or entity owning, controlling, leasing, operating or managing leased residential premises.

Section 13. Publication Costs.

The Company shall assume the cost of publication of this Ordinance as such publication is required by law and shall pay the same upon demand by the Municipality.

Section 14. Separability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction, such portion shall be deemed a separate, distinct and

independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 15. Ordinances Repealed.

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 16. Enactment.

The effective date of this Ordinance shall be _____.

This Ordinance is hereby duly executed and ordered into law this 12th day of December, 1990.

ATTEST:

TOWNSHIP OF SHAMOKIN

ATTEST:

SERVICE ELECTRIC CABLE TV, INC.
