

15 Sept
1990

ORDINANCE NO. 3-75

AN ORDINANCE GRANTING TO LIBERTY TV CABLE, INC., A FRANCHISE FOR THE FURNISHING OF TELEVISION AND RADIO RECEPTION SERVICE AND IMPOSING PROVISIONS AND CONDITIONS RELATING TO THE EXERCISE OF SUCH FRANCHISE.

BE IT ORDAINED AND ENACTED BY THE SUPERVISORS OF THE TOWNSHIP OF KISKIMINETAS IN COUNCIL ASSEMBLED, AND IT IS HEREBY ORDAINED AND ENACTED BY AUTHORITY OF THE SAME.

Section 1. This ordinance shall be known and may be cited as the Community Antenna Television Franchise Ordinance.

Section 2. For the purpose of this ordinance the following terms, phrases and words shall have the meaning given herein.

- (a) "Community Antenna Television System" or "System" shall mean an arrangement or combination of apparatus whereby television and/or radio signals broadcast over the air are received at one or more towers, antennas or other device from television and/or radio stations licensed by the Federal Communications Commission or are originated by the Company or otherwise, and which for a consideration are transmitted by means of a co-axial cable or other suitable device to television and/or radio receiving sets of subscribers to such service, or to other devices on subscribers' premises.
- (b) "Subscriber" shall mean any person receiving for any purpose the Community Antenna Television Service.
- (c) "Township" shall mean the Township of Kiskiminetas,

(e) "Supervisors" shall mean the Supervisors of the Township of Kiskiminetas.

(f) "Person" shall mean any person, firm, partnership, association, company or organization of any kind.

Section 3. Pursuant to full consideration and approval of the Company's legal, character, financial, technical, and other qualifications, and the adequacy and feasibility of its construction arrangements, and as part of a full public proceeding affording due process, the Supervisors do hereby grant to Liberty TV Cable, Inc., for a period of fifteen (15) years from the date hereof the right to operate a community antenna television system within the Township and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain its facilities in, upon, along, across, above, over and under the streets, sidewalks, alleys, bridges, highways, public ways and public places in the Township and on property owned or leased by it or its subscribers, and, in addition, to use services, facilities or properties provided by power companies or telephone companies within the limits of the Township. Provided, further that this franchise ordinance shall be subject to renewal for an additional fifteen (15) year period, upon application by the Company at least six (6) months prior to the expiration hereof and upon approval of the Supervisors as part of a full public proceeding affording due process.

Section 4. The Company shall procure any and all covenants, grants, Certificates of Compliance, and permits which may be required from Federal, Municipal, State or other Governmental Authorities and/or from any public utility operation in the Township, for or in connection with the placing, maintaining or using of the community antenna television system herein specified. If Company shall refuse or neglect to

ship in an appropriate proceeding.

Section 5.

- (a) The Company shall, at all times during the term of this grant or renewal thereof, be subject to all lawful exercise of the police power by the Township, and to such reasonable regulations in connection therewith as the Township shall hereafter by resolution or ordinance provide.
- (b) This franchise ordinance is governed by and subject to all applicable rules and regulations of the Federal Communications Commission. Any modifications of the provisions of Section 76.31 of the Rules and Regulations of the Federal Communications Commission shall be incorporated into this ordinance by the Township and Company within one (1) year of the adoption of the modifications, or at the time of the next franchise renewal, whichever occurs first.

Section 6. The Company shall employ such devices and equipment as may be reasonably necessary on facilities owned or leased by it to avoid interference to TV reception by non-subscribers, and its system shall comply in all respects with Federal Communications Commission regulations particularly with respect to regulations concerning freedom from spurious radiation.

Section 7. Company shall indemnify and save the Township and its agents and employees harmless from all and any claims for personal injuries or property damages, and any other claims and costs, including attorney's fees, expenses of investigation and litigation of claims and suits thereon which may arise from the installation and/or operation of Company's television antenna system or any equipment of the Company. In

of a final judgment being obtained against said Township, either independently or jointly with said Company, the said Company will pay said judgment and all costs and hold the Township harmless therefrom. For this purpose Company shall carry and at all times maintain on file with the Secretary of the Township and at all times keep in force, certificate of insurance relating to a public liability policy or policies in the name of the Company, insuring Company and the Township against any and all liability arising from the installation and/or operation of said system, which policy or policies shall be approved by the Solicitor of the Township. Such liability policy or policies shall be in the sum of One Hundred Thousand (\$100,000.00) Dollars for damage to property in any one accident, and not less than Five Hundred Thousand (\$500,000.00) Dollars for injury or death to any one person, and not less than the sum of One Million (\$1,000,000.00) Dollars for death or injury to all persons affected by any one accident. The Company shall also carry workmen's compensation coverage for all of its employees subject to such coverage, and shall submit to the Secretary of the Township a certificate of insurance showing that workmen's compensation coverage is in effect.

Section 8. The Company shall file with Township a map of the network of attachments and television cable proposed to be installed by the Company in the Township, if required by the Township.

Section 9. All the rights conferred upon the Company by this grant are non-exclusive rights.

Section 10.

(a) All equipment and facilities installed by Company pursuant hereto shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with any new improvements Township may deem proper to make, or to unnecessarily

- (b) All installations shall be of a permanent durable nature and shall be installed in accordance with good engineering practices, and shall comply with all existing regulations, ordinances and laws so as not to interfere with the right of the public or of individual property owners.
- (c) No equipment or facilities shall be erected by Company upon any public streets, sidewalks, alleys, bridges, highways or other public ways or places unless permission is first obtained from the Township; provided, however, that such permission shall not be unreasonably withheld.
- (d) The Company shall, on the request of any person holding a building moving permit issued by the Township, temporarily raise or lower its wires 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 the Company shall have the authority to require such payment in advance. The Company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

Section 11. The Company shall during the continuance of this grant provide facilities and service sufficient at least to meet the rules and regulations and technical standards of the Federal Communication Commission. Company shall maintain and operate its system and render efficient service on a minimum of eight (8) TV Channels. The Company shall not, as to rates, charges, service, facilities, rules, regulations, or in any other respect, make or grant any preference or advantage to any person.

customer coming within such classification would be entitled.

Section 12.

- (a) During the term of this grant Company shall pay to Township on or before July 15th and January 15th of each calendar year a sum equal to three percent (3%) of the gross receipts collected by the Company during the preceeding six (6) calendar months from subscribers or users for services provided within Township, provided, however, that such payments shall cease upon the offering of service in the Township by someone other than Company. Gross receipts shall include monthly service charges, but shall not include monies received as installation charges, charges and fees for reconnections, relocations or modifications of any installation, or as compensation for auxiliary services, Pay-TV (programs for which subscribers pay an additional charge for non-broadcast, non-mandated programs), advertising, leased channels, deposits on or payments for converters or special equipment provided by the Company in connection with Pay-TV or other auxiliary services, or local, State or Federal taxes levied directly upon subscriber charges. Such payments by Company to Township shall be in lieu of any Company license tax or similar levy.
- (b) Company shall file with Township within one hundred twenty (120) days after the expiration of each calendar year a certificate showing the gross receipts as defined herein. Within fifteen (15) days after filing such statements, Company shall pay any unpaid balance for the

financial, statistical, customer and service records relating to the property and the operation of the Company within the Township.

Section 13.

- (a) Company shall have the right to charge and collect reasonable compensation from persons and groups to whom it shall furnish service, and the rates so determined shall permit the Company to earn profits sufficient to attract capital.
- (b) Concurrently with adoption of this ordinance, the Township shall approve the schedule of rates to be charged Company's subscribers, which schedule (a copy of which is attached hereto as Exhibit "A" and thereby made a part hereof) shall be in full force and effect immediately upon adoption of this ordinance by the Township and its acceptance by the Company as provided in Section 19 hereof.
- (c) Except as provided in Subsection (d) of this Section, no increase in rates charged to subscribers shall be made by the Company except as authorized by the Township after an appropriate public proceeding affording due process; provided, however,
- (d) that not more often than once within any twelve (12) month period the Company is hereby authorized by the Township to increase any or all of its rates by an amount not exceeding the percentage by which the National U.S. Consumer Price Index published by the U.S. Bureau of Labor Statistics (or any similar Index by which said Index shall be replaced) shall have increased since the

increases, shall be deemed to have been made pursuant to such public proceeding.

Section 14. The Company shall not sell, transfer or assign this grant without approval of the Township which said approval will not be unreasonably withheld. Provided, further that no sale or transfer shall be effective until the vendee or assignee has filed with the Township Secretary an instrument accepting the terms of the grant.

Section 15. The Company shall maintain a business office with a toll-free listed telephone number in the Kiski Valley, so that maintenance service shall be promptly available to subscribers upon request.

Section 16. Procedures have been adopted by the Company and the Township for the investigation and resolution of all complaints regarding Company's community antenna television service operations, a copy of which is attached hereto as Exhibit "B". These procedures, as from time to time amended by mutual consent of the Township and the Company, shall be contained in the Township's administrative regulations and a copy thereof shall be available at Company's business office. Any person having a complaint regarding the Company's operations may direct such complaint to the Company, or if not satisfied with the Company's disposition of such complaint, to the Township Secretary, who shall have primary responsibility for the continuing administration of this franchise and implementation of complaint procedures. Company shall give notice of the procedures for reporting and resolving complaints to each subscriber at the time of initial subscription to the cable system.

Section 17. The Company's system presently serves a substantial portion of the franchised area. Company shall furnish service within three (3) years to all other portions of the franchised area where

receiving television signals, radio signals, picture, program, or sound,

(b) It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a licensed Community Antenna Television System within this Township for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the owner of said system.

(c) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, picture, program or sound.

(d) Any person, firm or corporation violating any of the provisions of this Section shall be guilty of a misdemeanor, and each and every day or portion thereof during which any violation of any of the provisions of this Section is committed, continued, or permitted shall be deemed a separate offense and upon conviction of any such violation such violator shall be punishable by a fine of not more than \$500.00 or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. Any equipment or structure erected or maintained and any work commenced or continued in violation of this Section shall be and is hereby declared unlawful and a public nuisance, and the Solicitor on direction of the Supervisors shall institute necessary legal proceedings for the abatement,

Section 19. This ordinance shall be null and void unless within thirty (30) days after approval of the Supervisors, Company has filed with the Township its written acceptance of the rights and privileges hereby granted, agreeing to be bound by all the terms and conditions herein imposed; and upon such acceptance the provisions hereof shall be deemed a contract between the Township and the Company, as well as a franchise from the Township to the Company.

Section 20. The Company shall reimburse Township for expenses incurred by it in publication of this ordinance within thirty (30) days after Township shall furnish Company with a written statement of such expenses.

Section 21. Company shall indemnify and save the Township harmless and defend at its cost, any and all claims by persons for alleged violations of copyrights resulting from Company's activities or any and all claims by persons resulting from the granting of the right to operate a community antenna television system within the Township to the Company.

Section 22. This ordinance is subject to and shall be deemed to be amended by any future regulation of Community Antenna Television System by the Federal Communications Commission and/or the Pennsylvania Public Utility Commission.

Section 23. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.

Ordained and enacted into an ordinance this 12th
day of November 1975.

EXHIBIT "A"

Subscriber Rate Schedule

	<u>Installation/ Connection Charge</u>	<u>Monthly Service Charge</u>
1. <u>Standard single-family residence (see Note 1), including individual dwelling units in multiple-dwelling buildings and condominiums, and in Mobile Home Parks:</u>		
First TV or FM-radio outlet (see Note 2 below for special provisions relating to underground drops and Note 3 for drop lines exceeding 150 feet in length)	\$10.00	\$5.95
Additional outlets in same residence or dwelling unit (including reconnection)	\$ 7.50	\$1.25
Re-connect existing connections, for same or different subscriber or for transfer of subscriber to a different address	\$10.00	\$5.95
(Additional outlets, same as above)		
Relocate outlet in same residence, each outlet	\$ 7.50	---

Notes:

1. Company, as a means of promoting sales of its services, or for other business reasons, from time to time, and solely in its own discretion, may present prizes or gift certificates, or allow various discounts, allowances, waivers of charges, periods of free service, or other reductions of any of its charges (including those hereinafter provided), in any such case without specific approval of the franchising authority.
 2. For underground drops, subscriber must provide the trench, at least 12 inches minimum (preferably 18 inches) below the surface, from his property line to the point where the drop cable emerges for contact to the building. Subscriber may dig his own trench or contract with others. Company will contract with subscriber to provide the trench for fifty cents (50c) per lineal foot of trench. Damage to cable in said trench (less normal wear and deterioration) shall be repaired at the expense of the subscriber.
 3. Subscriber must pay Company the cost of materials and labor for that part of a drop which is in excess of 150 feet, measured from the tap-off device on the distribution cable to the terminal at the set connected to the subscriber's primary outlet.
2. Offices, Clubs, Lodges, Taverns, Lounges, TV dealers and TV service dealers (places where members or the public can view the sets):
- a) Installation charge: Company's cost of materials and labor (including engineering, supervision and travel time), as from time to time determined by Company, from the tap-off device on the distribution cable to the terminal(s) at the set(s).

3. Apartment Houses (containing twelve or more units, at least one outlet per unit; owner or operator of building to pay both installation and monthly charges for all units, whether occupied or not).
 - a) Installation charge: Company's cost of materials and labor (including engineering, supervision and travel time), as from time to time determined by Company, from the tap-off device on the distribution cable to the terminals at all sets.
 - b) Monthly service charge: \$3.00 for the first outlet in each apartment, plus 75¢ for each extra outlet.

4. Motels and Hotels (and similar places having transient populations, but not including Mobile Home or Trailer Parks), where the owner or operator of the property pays all charges:
 - a) Installation charge: Company's cost of materials and labor (including engineering, supervision and travel time), as from time to time determined by Company, from the tap-off device on the distribution cable to the terminals at all sets. If there is an existing distribution system within the Motel or Hotel and Company's inspection finds it acceptable, the installation (interface) charge shall be \$50.00.
 - b) Monthly service charge: \$5.95 for the first outlet plus \$1.25 for each additional outlet.

5. Trailer Parks (but excluding Mobile Home Parks):
 - a) Installation Charge: Company's cost of materials and labor (including engineering, supervision and travel time), as from time to time determined by Company, from the tap-off device on the distribution cable to the ends of the drop lines servicing the location ("pad") where each trailer may be positioned, said cost to be paid entirely by owner or operator of the property.
 - b) Monthly service charge: \$5.95 per outlet; provided, however, that if owner or operator agrees to pay the monthly service charge for all outlets, whether the trailer locations are occupied or not, such agreement to be cancellable only upon twelve (12) months' notice to Company, the monthly charge shall be \$5.95 for the first outlet plus \$3.00 for each additional outlet.

6. Other, or unusual equipment or service requested by subscriber:

Both installation and monthly service charges shall be negotiated individually, compatibly with the foregoing.

7. Unwarranted complaint calls:

First such call.....No charge..

Subsequent calls, each (optional with Company).....\$5.00..

8. Converters:

Company may require a deposit for each converter it provides, 50% of which shall be refunded (without interest) when subscriber returns the same converter in the same condition as it was at the time of installa-

EXHIBIT "B"

Liberty TV Cable, Inc.

PROCEDURES FOR INVESTIGATION AND RESOLUTION OF COMPLAINTS

Liberty TV Cable, Inc. (Company) and the Township of Kiskiminetas hereby adopt the following procedure for investigation and resolution at the local level of all complaints made against the Company regarding its cable television service:

1. The Company shall maintain a business office in the Kiski valley, with a toll-free listed telephone number, to which complaints and requests for cable maintenance service can be directed. During regular business hours, except in event of emergency, at least one Company employee shall be available to accept complaints made in person at the business office and to answer the telephone for that purpose. At times other than regular business hours, the Company shall provide for the answering of the aforementioned telephone by a telephone answering service, or otherwise, with such calls relayed to a responsible employee of the Company.

2. Requests for cable maintenance service shall be assigned to Company personnel and corrective action taken as soon as possible.

3. The Council will designate a person or persons as the Borough official who shall have primary responsibility for the continuing administration of the cable franchise and the enforcement and implementation of the complaint procedure set forth below. Members of the Council of the shall refer complaining parties to the Company or to the designated Borough official.

COMPLAINT PROCEDURE

4. Complaints shall be recorded on a form to be prepared by the Company, and a complaint shall not be valid or properly filed unless at least the following information has been provided:

(a) Complainant: Name, address, and phone number at which, and times when, complainant may be reached.

(b) Location: Exact address or defined area where the

man who has been consulted and the information received from him.

As soon as reasonably possible, the Company shall investigate such complaint; make the necessary corrections if reasonably possible; and contact the complainant by telephone at the telephone number given (or, at the Company's option, in person at the address given), and explain what the Company has done to correct the problem complained of; or if the problem is not immediately solvable, explain the difficulty and inform the complainant of steps being taken and when the problem will be corrected. If several complaints are caused by the same set of circumstances, however, the Company may limit its contacts to a reasonably representative number.

5. If the complaint is not so resolved, or if complainant is not satisfied with Company's resolution of the complaint, and in those cases where complaints are originally directed to the Council;

- (a) Complainant may submit to the or designated official a complaint, which must be in writing and must contain the information set forth above, together with complainant's version of any previous actions taken by the Company and the basis of the continued complaint. The shall immediately mail a copy of such complaint to the Company's local business office.
- (b) The Secretary shall forthwith conduct his own investigation of the complaint, either individually or jointly with the Company. Within one week after receipt of the complaint, the Secretary shall, in writing, notify the complainant and the Company of his findings, conclusions and recommendations.
- (c) Company shall forthwith take such actions as are reasonably feasible to comply with the recommendations of the Secretary and mail a written report thereon to the and to the complainant.
- (d) If complainant is not satisfied with the resolution of the complaint, the Company shall provide the Secretary with the complete written record of the complaint and shall cooperate with the Council in its review and in such further investigation as the Council shall deem relevant and appropriate.

6. The Company shall give notice of the foregoing procedure to each subscriber at the time of initial subscription to the cable service, and at the Company's option the complaint procedure may be made part of its subscriber service contract.

CERTIFICATE OF SERVICE

I, Deborah Baker, on the 27th day of January, 1976, have served a copy of the attached "Application for Certification" by regular mail, postage prepaid, to the following:

KDKA-TV
Westinghouse Broadcasting Co., Inc.
1 Gateway Center
Pittsburgh, Pa. 15222

WQED and WQEX
Metropolitan Pittsburgh Public Broadcasting, Inc.
4802 Fifth Avenue
Pittsburgh, Pa. 15213

WIIC-TV
WIIC-TV Corporation
341 Rising Main Avenue
Pittsburgh, Pa. 15214

WPGH-TV
Pittsburgh Telecasting, Inc.
750 Ivory Avenue
Pittsburgh, Pa. 15214

WTAE-TV
The Hearst Corp., WTAE Divison
400 Ardmore Blvd.
Pittsburgh, Pa. 15230

WTAJ-TV
Gateway Communications, Inc.
Suite 612, Executive Building
Cherry Hill, N.J. 08034

WJNL-TV
Cover Broadcasting, Inc.
341 Lincoln Street
Johnstown, Pa. 15901

WJAC-TV
WJAC, Inc.
Hickory Lane
Johnstown, Pa. 15907

WSTV-TV
Rust Craft Broadcasting Co.
WSTV Broadcast Center
Market Street
Steubenville, Ohio 43952