

RESOLUTION

A RESOLUTION AUTHORIZING A NONEXCLUSIVE COMMUNITY ANTENNA TELEVISION SYSTEM FRANCHISE IN THE UNINCORPORATED AREAS OF ATCHISON COUNTY; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE TERM OF SUCH FRANCHISE; PROVIDING FOR REQUIREMENTS AND CONDITIONS; AND PROVIDING FOR THE SEVERABILITY THEREOF.

WHEREAS, the Attorney General of the State of Kansas has given his opinion that counties may, pursuant to K.S.A. 19-101a grant franchises to companies seeking to furnish such cable television services in the county outside the territorial jurisdiction of cities which regulate cable television within their respective territories;

WHEREAS, it is hereby declared to be necessary, desirable, and in the public interest for the County to expressly assume jurisdiction over and to regulate cable television service within all portions of Atchison County, Kansas, other than in those cities which regulate cable television within their respective territories;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ATCHISON COUNTY, KANSAS:

SECTION 1. Definitions. For the purpose of this Resolution, the following terms, phrases, words, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- (a) "Board" shall mean the present governing body of the County or any future board constituting the legislative body of the County.
- (b) "CATV" shall mean a Community Antenna Television System as hereinafter defined.
- (c) "Community Antenna Television System" shall mean a system of antenna, coaxial cables, wires, wave guide or other conductors or equipment used for the purpose of providing television or FM radio service by its

facilities as herein contemplated, all of which will be used to regularly supply the public with a service.

- (d) "County" shall mean the County of Atchison, State of Kansas.
- (e) "Unincorporated areas of the county" shall mean all portions of Atchison County which are not currently served by a cable television system and which are not located within the current boundary lines of an incorporated city.
- (f) "Franchise" shall mean and include the authorization granted hereunder to construct, operate, and maintain a CATV system in the County.
- (g) "Grantee" shall mean Country Cable, Inc., a Kansas corporation.
- (h) "Property of Grantee" shall mean all property owned, installed, or used by the Grantee in the conduct of a CATV business under the authority of this franchise.
- (i) "Street" shall mean the surface of and the space above and below any public street, road, highway, freeway, lane, path, alley, court, sidewalk, parkway, right of way, or drive now or hereafter existing as such within the County.
- (j) "Subscriber" shall mean any person or entity receiving for any purposes the CATV service of the Grantee.

SECTION 2. Franchise Granted.

A. A franchise shall be and hereby is granted to Country Cable, Inc., a Kansas Corporation, hereinafter referred to as Grantee, and Grantee is authorized to engage in the business of operating and providing a CATV system in the County, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, and retain in, on, over, under, upon, across, and along any public streets, conductors, ducts, conduit, vaults, manholes, amplifiers, appliances, attachments, and

other property as may be necessary and appurtenant to the CATV system; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, firms, or corporations, including, but not limited to, any public utility or other grantee franchised or permitted to do business in the County.

B. The Grantee shall use existing poles, towers, or other existing facilities where possible and it shall be the sole responsibility of the Grantee to negotiate and enter into any and all contracts with the owner of such facilities to secure the necessary space thereon or therein for its operation under this franchise, and the Grantee shall permit any utility or utilities by appropriate contract or agreement negotiated by the parties to use any and all facilities constructed or erected by the Grantee. All said agreements and installations shall be subject to all existing and future resolutions and regulations of the County.

C. The Grantee's transmission and distribution system, poles, wires, and appurtenances shall be located, erected, and maintained so as not to endanger or interfere with the lives of persons, or to interfere with improvements the County may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, or other public property. Removal of poles or equipment when necessary to avoid such interference will be at the Grantee's expense.

D. The construction and maintenance of the transmission and distribution system shall be in accordance with the provisions of the National Electrical Safety Code of the National Board of Fire Underwriters, and such applicable governmental resolutions and regulations affecting electrical installations, which may be presently in effect, or hereafter adopted or amended.

E. All installations of equipment shall be of permanent nature, durable, and installed in accordance with good engin-

eering practice, and of sufficient height to comply with all existing governmental regulations, ordinances, resolutions, and state laws so as not to interfere in any manner with the right of the public or individual property owner, and shall not interfere unduly with the travel and use of public places by the public during the construction, repair, and removal thereof and shall not unduly obstruct or impede traffic.

F. In the maintenance and operation of its television transmission and distribution system in the streets, alleys, easements, and other public places, and in the course of any new construction or addition to its facilities, the Grantee shall proceed so as to cause the least possible inconvenience to the general public.

G. The Grantee may make a charge to subscribers for installation and connection to the CATV system and a monthly service charge.

SECTION 3. Term of Franchise. This nonexclusive franchise and the rights, privileges, and authority hereby granted shall take effect and be in full force from and after final passage by the Board and publication in the official County newspaper and shall continue in force and effect for a term of fifteen (15) years from said publication.

This franchise may be terminated prior to its date of expiration by the County in the event that the Board shall have found, after thirty (30) days' notice of any proposed termination and public hearing, that after having received written notice from the County setting forth the nature of any such default, the Grantee has continued to be in material default, the Grantee has continued to be in material default of any provision of this Resolution after having had sufficient time to remedy the default.

SECTION 4. Conditions.

(a) This franchise shall be nonexclusive.

- (b) No privilege or exemption is hereby granted or conferred by this franchise except those specifically prescribed herein.
- (c) Any privilege claimed under this franchise by the Grantee in any street or easement, or other public property, shall be subordinate to any prior lawful occupancy of the streets, easements, or other public property.
- (d) The Grantee shall have no recourse whatsoever against the County for any loss, cost, expense, or damage arising out of any provision or requirement in this Resolution.

SECTION 5. Grantee Property - Relocation. The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place any property of the Grantee when required by the County by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, or any other improvements by public agencies.

- (a) The Grantee shall prepare and furnish to the County, at the times and in the form prescribed, such reports with respect to its operations, affairs, transactions, or property as may be reasonably necessary or appropriate to the performance of any of the rights, functions, or duties of the County or any of its officers in connection with this franchise.

SECTION 6. Grantee Requirements.

When not otherwise prescribed herein, all matters herein required to be filed with the County shall be filed with the County Clerk.

- (A) The Grantee shall pay to the County a sum of money sufficient to reimburse it for all publication expenses

incurred by it in connection with the granting of this franchise. Such payment shall be made within thirty (30) days after the County furnishes the Grantee with a written statement of such expenses.

(B) The grantee hereby contracts and is hereby obligated during the term of this franchise to pay to the County a franchise fee of 3% of its monthly service. Said franchise fee shall be added to the bill of each subscriber and the Grantee will pay to the County in January of each year all sums collected during the preceeding calendar year.

SECTION 7. Acceptance. Within sixty (60) days after the date this Resolution is adopted, the Grantee shall file with the Board its written acceptance of the franchise and its agreement to be bound by, to comply with, and do all things required of it by the provisions of this franchise.

SECTION 8. Severability. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, and phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid, or unconstitutional. The invalidity of any portion of this Resolution shall not abate, reduce, or otherwise affect any consideration or other obligation required of the Grantee of any franchise.

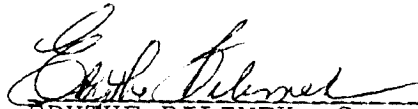
SECTION 9. Effective Date. This Resolution shall take effect upon the publication in the official county paper.

ADOPTED at Atchison, Kansas this 10th day of


November _____, 1982.


BILL PUTHOFF, Commissioner



AL PICKMAN, Commissioner


EDYTHE BILIMEK, Commissioner

ATTEST:


Clerk

APPROVED AS TO FORM:


LEONARD L. BUDDENBOHM,
County Counselor