

RESOLUTION NO. CCCXXXVII (337)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF CANBY, OREGON, ESTABLISHING RULES AND  
REGULATIONS AND STANDARDS OF OPERATION FOR A  
NON-EXCLUSIVE CABLE COMMUNICATIONS FRANCHISE TO  
BE GRANTED TO THE CANBY TELEPHONE ASSOCIATION

WHEREAS, the City Council is considering the granting of  
a non-exclusive franchise to the Canby Telephone Association to  
provide cable television service to residences and institutions  
of Canby; and

WHEREAS, Section 2 of the proposed Cable Communications  
Franchise Ordinance provides that Rules and Regulations and  
Standards of Operation for cable television shall be established  
by Resolution as a part of the granting of a franchise;  
NOW, THEREFORE,

THE CANBY CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

Section 1. Rules and Regulations for Customer Service  
Standards.

(A) Grantee shall maintain and operate a local office in  
the service area throughout the franchise period.

(B) All subscribers shall receive all legally available  
services requested insofar as their financial and other  
obligations to the Grantee are honored. Neither the  
Council nor the Grantee shall, as to rates, charges,  
service, service facilities, rules, regulations, or in  
any respect, make or grant any preference or advantage to  
any person, except as modified herein, nor subject any  
person to prejudice or disadvantage. Nothing in this  
provision shall be construed to prohibit the reduction or  
waiving of charges in connection with promotional  
campaigns for the purpose of attracting subscribers, nor  
shall this provision be interpreted to prohibit the  
establishment of graduated schedules which vary with the  
volume of usage, to which any subscriber, or programmer  
on a leased channel, shall be entitled.

(C) The cable television system shall be extended to  
every new subdivision of the City, and the capacity to  
provide cable television service shall be provided by

Grantee during the construction phase of every new subdivision; pursuant to the provisions of the requirements of the Cable Communications Franchise Ordinance and Subsection 7.4 of the Enabling Ordinance.

(D) No polls or monitoring of other two-way responses of the subscriber shall be conducted by Grantee without the subscriber's consent. The program of which the poll is part shall contain explicit disclosure of the nature, purpose, and prospective use of the results of the poll. No commercial or other use of information of individual subscriber viewing habits or patterns may be made and no release of such information shall be permitted without the prior consent of the City Council or pursuant to the rules and regulations duly adopted by the City. This does not preclude Grantee's use of aggregate subscriber viewing data for the above stated purposes.

(E) Whenever Grantee elects to rebuild, modify, or sell the system, or in the event that 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 system purchase by the Grantor, or change of Grantee, the current Grantee shall cooperate with the Grantor to operate the system for a temporary period, not to exceed one year, in maintaining continuity of service to all subscribers. Grantee shall be entitled to the profits or losses from operation of the franchise during such temporary period.

## Section 2. Standards of Operations: Programming.

(A) The programming of the Basic TV, FM and Premium (Pay TV) services shall be at a minimum as set forth in Grantee's franchise application.

(B) Grantor may require Grantee to provide other unidirectional and interactive cable services such as teletext, videotext, and (but not limited to) playcable when such services have been demonstrated to be technically and economically feasible on other cable systems of similar description and size.

(C) After two years of operation, Grantee shall furnish to all subscribers along with their monthly service statement, a complete descriptive menu of possible programming and services, including area independent stations, satellite carried programming, local programming, and other services

available to Grantee. The menu to be in the format of a mailback survey for determination of the subscribers' programming preferences. The results of the survey are to be provided the City by the Grantee with any proposed change(s) to accommodate the subscribers' desired revisions as indicated by the results of the survey. The requirements of this paragraph shall not continue beyond three (3) such surveys unless so directed by Grantor.

When demonstration is made by the survey or other means, that sixty percent (60%) or more of Grantee's subscribers desire a modification and/or addition to the cable television services, one for which the majority of those subscribers have previously paid or agreed to pay a sufficient amount of money to Grantee to return Grantee's investment for providing such service within a period not exceeding five (5) years, and Grantee elects not to provide the modified or additional service, the City may require Grantee to show cause why it should not be required to modify and/or add to the service to provide said service to the subscribers. Should Grantee not be able to demonstrate that it is unable financially and on a technically viable basis to modify and/or add the service, the City may require Grantee to provide such modification and/or addition to the service.

(D) Although the programming procedure of shared channel usage for non-contrasting programming is encouraged to preclude having numerous channels with long blank periods (i.e., infrequent meaningful programming), it is an implicit obligation of Grantee in accepting the franchise to actively foster full usage of entertainment, access, and local origination channel capabilities, including readily activating additional channels as necessary to fulfill this obligation.

### Section 3. Institutional, Commercial and Government Services.

(A) The City will have the option to utilize, at no cost to the City, Institutional and Residential systems' frequency spectrums in full six mega-hertz (6 MHz) channels and/or other bandwidths when desired for the transmission and reception of video, data, facsimile, and/or audio in support of City telecommunications and/or community services. Such total bandwidth shall not exceed the equivalent of two (2) video channels' bandwidth in either the upstream or downstream directions, i.e., a total of four (4) video channels equivalent bandwidth. The City will be responsible for the provision of all terminal and cable access equipments associated with the use of no-cost bandwidths, i.e., modems, etc., for such

applications. Grantee will be responsible for headend interconnection (and switching, if required) of the channels for both uni-directional and bi-directional communications. Any critical City circuits, as designated by the City Administrator, carried on the cable system shall be afforded immediate priority in repair in the event of a system, service outage affecting those circuits.

(B) Grantee shall, when requested by the City, provide the capability for live cablecasting of Council meetings and other municipal activities. Council may require Grantee to provide a permanent cabling and lighting installation in the Council Chambers with a minimum of a two camera capability, at any time during the franchise period. Grantee shall provide the staff to operate the cameras and equipment during periods of required operation.

(C) The City may require Grantee to provide, not prior to three years from franchise award unless proved economical feasible theretofore, a bi-directional interconnect with at least one of the major cable television systems in the Portland Metropolitan area for the importation of a number of the origination/access channels of that area. The interconnect shall provide for the importation of a minimum of four (4) video channels and two mega-hertz (2 MHz) additional frequency bandwidth for data, etc., plus the return transmission of a minimum of one (1) video channel, when required by the City, and two mega-hertz of frequency bandwidth for data, etc. The City may not unreasonably require Grantee to provide the interconnect, and Grantee may be authorized a rate increase, if deemed justified by the City, to offset the construction cost of the interconnect.

#### Section 4. Standards of Operation: Technical

(A) The Federal Communications Commission (FCC) Rules and Regulations, Part 76, Subpart K (Technical Standards) shall apply. However, because of the emphasis on interactive and other innovative services, modifications of FCC technical performance standards as required by the City's CATV Request for Proposals (RFP) and proposed by Grantee in its franchise application are considered necessary to meet system design objectives. The RFP specified technical performance standards except where enhanced by the Grantee proposed technical performance standards are herein adopted as the minimum standards for the technical performance of Grantee's system.

(B) The forward portion of the Residential system plant shall be capable of carrying a minimum of fifty-four (54) six mega-hertz (6 MHz) video channels, the full FM

broadcast band and adequate bandwidth for pilot carriers or such auxiliary signals as required for system control, In the event that future FCC restrictions prohibit uses of portions of the band (e.g., the aircraft navigational frequencies from 108 to 120 MHz), a commensurate reduction in channel capacity may be affected or modifications made to the slope/gain control method to retain channel capacity. The combined forward trunk and distribution system will deliver signals to each and every subscriber's TV receiver that will meet or exceed the technical performance specifications established in Subsection (A) above at the Canby mean temperature plus or minus fifty (+ 50) degrees fahrenheit (F). This shall include the effects of drop cables, interior splits, and any terminal equipments such as descramblers and set top converters.

(C) Grantee shall design, construct, activate and operate a separate super-split three hundred mega-hertz (300 MHz) Institutional cable system when so directed by the City to serve those institutions within the City as designated by the City, regardless of the period remaining of the franchise. The technical performance specifications established in Subsection (A) above shall apply to the Institutional system as well.

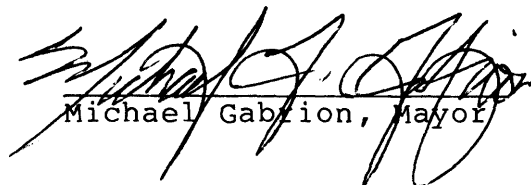
(D) The Residential and Institutional systems shall have the capability of providing and delivering return signals from each subscriber and institutional tap to the extreme downstream end of any area in compliance with the specifications established in Subsection (A) above. This capability shall include transmission of color, video, black and white video, and both low and high speed data, whether analog or digital. Where applicable, the end of system performance specifications shall include any signal reprocessing equipment necessary to achieve forward transmission.

(E) Grantee shall routinely monitor the entire cable system for signal leakage with prompt resolution of any or all complaints of radio frequency (RF) interference. If Grantee fails to promptly correct any such verified system discrepancy after notification of Grantee by Grantor, Grantor may have the discrepancy corrected at Grantee's expense and may assess those costs plus an additional amount, that additional amount not to exceed Five Hundred Dollars (\$500) per incident, from the Grantee provided Security Fund and/or Performance Bond required by Section 14 of the City's Cable Communications Franchise Ordinance.

(F) The technical performance specifications established

above in this Section of this Ordinance are intended to ensure accommodation of possible multiple institutional and residential interactive telecommunications applications, e.g., data, audio, video, telemetry, etc., as well as possibly significantly expanded entertainment service offerings. Grantee shall make additional service capacity available including an expanded Institutional network capacity if necessary, when required by the City to accommodate those Residential and/or Institutional broadband communications services beyond the capacity of Grantee's then existing system. Grantee shall assist the City in determination of the expansion of the Institutional network to ensure timely provision of additional service capacity. The City, however, reserves the right of requiring Grantee to design, construct, activate and operate an expanded Institutional network in part or throughout the City, at the City's sole option and without unilateral monetary or other pre-conditions on the part of the Grantee; however, Grantee does not thereby waive the right to request a rate increase for such construction and operation after the period stated in Subsection I of Resolution No. 338, pertaining to Rates and Charges. If the expanded network is provided by a separate cable, the conditions as set forth in Subsection (C) above apply as well. The City will not apply unreasonable criteria in determination of the requirement for the expanded network coverage.

PASSED by the City Council and APPROVED by the Mayor this  
20th day of April, 1983.

  
Michael Gabrion, Mayor

ATTEST:

  
Marilyn K. Perbett, Deputy Recorder