

CITY OF TROUTDALE
RESOLUTION NO. 728-89

RESOLUTION APPROVING TRANSFER AND CONSENT
TO CHANGE IN CONTROL OF CABLE COMPANY;
AND AMENDMENTS TO CABLE COMMUNICATIONS SERVICE
FRANCHISE AGREEMENT WITH CABLESYSTEMS
MULTNOMAH EAST

The City Council Finds:

a. Multnomah County and the Cities of Gresham, Troutdale, Fairview and Wood Village (Jurisdictions) entered a 15-year Cable Communications Service Franchise Agreement (Agreement) with Cablesystems Multnomah East (Cable Company) in May 1983.

b. The Jurisdictions entered an Intergovernmental Agreement which created the Multnomah Cable Regulatory Commission (Commission) to monitor, regulate and supervise the construction and operation of the joint cable communications system.

c. The Cable Company has proposed a change in control of the Cable Company through a sale of all of the stock of its parent corporation, RCA Cablesystems Holding Co. to KBL Cable Incorporated and its parent KBLCOM Incorporated.

d. Sections 3.6 and 3.7 of the Agreement provide that no transfer or change in control of the Cable Company is permitted without the prior written consent of the Jurisdictions.

e. The Cable Company has also proposed a cash settlement of some of its obligations under the Agreement, and amendments to certain sections of the Agreement in order to implement such settlement and facilitate the change in control of the Cable Company.

f. The cash settlement will provide community access and local origination programming services to all subscribers in the Cable Company's service area.

g. The Commission has reviewed and considered these Cable Company proposals, held public hearings and solicited public comment on the proposals, and adopted Commissions Resolution No. 89-1 recommending that the Jurisdictions consent to the transfer and change in control of Cable Company, approve the cash settlement of some Agreement obligations, and approve certain amendments to the Agreement.

THE CITY COUNCIL RESOLVES:

1. The City approves the Settlement Agreement between the Jurisdictions and the Cable Company attached as Exhibit A to this Resolution. The settlement payment of \$4,550,000 shall be allocated by the Commission as follows:

(a) \$773,500 to local origination operating support under Section 6.12 C) of the Agreement;

(b) \$2,957,500 to community access operating support under Section 9.3 of the Agreement; and

(c) \$819,000 to the program in community television under Section 9.4 of the Agreement.

2. The City approves the Consent and Guaranty Agreement between the Jurisdictions and KBL Cable Incorporated (KBLC), KBLCOM Incorporated (KBLCOM) and Houston Industries Incorporated (HI) attached as Exhibit B to this Resolution.

3. The City approves and consents to the acquisition by KBLC of the common and preferred stock of RCA Cablesystems Holding Co. and the resulting change in control of the Cable Company.

4. The Mayor is authorized to sign and execute this Resolution, the Settlement Agreement, the Consent and Guaranty Agreement, and all other documents necessary to effectuate and implement such agreements. The Settlement Agreement and the Consent and Guaranty Agreement shall be effective upon receipt by the Commission of the following:

a. the settlement payment,

b. executed copies of the Settlement Agreement, the Consent and Guaranty Agreement and all implementing documents from the Cable Company, KBLC, KBLCOM, and HI,

c. documentation of KBLC's final financing arrangements, including documents reflecting any credit support provided by HI,

d. KBLCOM's audited fiscal year 1987 financial statements,

e. reimbursement for Commission transfer expenses in accordance with the June 15, 1988 agreement between the Commission and Cable Company and Rogers Communications, Inc.,

f. executed copy of the Letter of Agreement from Cable Company, KBLC, and KBLCOM regarding conditions of transfer approval, attached as Exhibit C.

5. The approvals, consent and authorizations of this Resolution shall expire if the settlement payment, and executed copies of the Settlement Agreement, the Consent and Guaranty Agreement and all other documents are not received by the Commission by August 31, 1989.

Motion to adopt resolution by THALHOFER ;
seconded by BUI , this 14 th day of February,
1989, by the following vote: BUI-Yea; Burgin -Yea; Fowler-Yea; Jacobs-Yea;
Thalhofer -Yea

YEAS 5

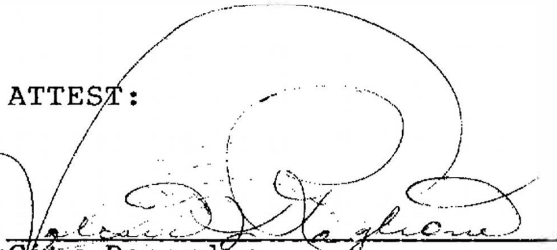
NAYS 0

CITY OF TROUTDALE, OREGON



Sam Cox, Mayor

ATTEST:



City Recorder
VALERIE J. RAGLIONE, CMC

AGREEMENT ON SETTLEMENT OF
CERTAIN CABLE FRANCHISE OBLIGATIONS

This Agreement is between Rogers-Multnomah Cablesystems, an Oregon limited partnership (Cable Company), Rogers U.S. Cablesystems, Inc. and Rogers Communications, Inc. (Rogers), and Multnomah County and the Cities of Gresham, Fairview, Troutdale, Wood Village (Jurisdictions).

INTRODUCTION

A. Cable Company and Rogers, in anticipation of the impending sale of all outstanding shares of RCA Cablesystems Holding Co. to KBL Cable, Inc. and its parent, KBLCOM, Incorporated (Sale), have requested that the Jurisdictions agree to certain amendments to the Cable Communications Service Franchise Agreement (Franchise Agreement) dated May 1983 issued by the Jurisdictions to the Cable Company and Rogers.

B. The Multnomah Cable Regulatory Commission (MCRC) was created by the Jurisdictions to act on their behalf in regulating and enforcing the provisions of the Franchise Agreement.

C. The parties recognize that the Franchise Agreement grew out of a public process in which the Jurisdictions solicited competitive proposals for a cable communications system. The process resulted in the issuance of franchises only to Cable Company, to the continuing benefit to Cable Company, Rogers and their successors and assigns. The existence and maintenance of a valid franchise is a substantial benefit to Rogers in seeking to sell, and KBL Cable, Inc. and KBLCOM in obtaining financing to purchase Cable Company.

D. In return for a payment by Cable Company (Payment) in settlement of certain Franchise Agreement obligations, the MCRC and the Jurisdictions have agreed to Franchise Agreement amendments (Amendments) relating to Community Access programming (Access) and Local Origination programming (LO).

E. The MCRC, Jurisdictions, Cable Company and Rogers believe that these Amendments will clarify ongoing Access and L.O. Operating obligations and maintain a positive relationship between the Jurisdictions and Cable Company after the Sale. The Payment also will help secure the future financial support of Access and L.O. programming.

AGREEMENT

1. Cable Company shall pay to the MCRC at the Settlement Date \$4,550,000.00 less any expenditures made by Cable Company for Access or L.O. operating support after January 1, 1989 (Payment).

2. a. Provided that Jurisdictions have approved the transfer of control of the Cable Company, Cable Company shall make this Payment on the Settlement Date which shall occur within one business day after the purchase of the common shares of RCA Cablesystems Holding Co. by KBL Cable, Inc. pursuant to the Stock Purchase Agreement dated August 9, 1988 between KBL Cable, Inc. and Rogers U.S. Holdings Limited (Investment Date).

b. In the event the Payment has not been received by the MCRC by the close of business on April 14, 1989, the Cable Company shall make the Payment on that date to an escrow account pursuant to an escrow agreement and escrow agent approved by the MCRC. The Payment shall be transferred from the escrow account to the MCRC on the Investment Date.

c. Cable Company and MCRC may agree in writing to another Settlement Date.

3. It is understood and agreed by the parties that an appropriate portion of the Payment will be used by the MCRC for and in support of Access programming and to discharge certain LO obligations of the Cable Company.

4. The Franchise Agreement is amended by adding new Section 2.62, and amending existing Sections 3.11, 6.3, 6.12, 6.16, 9.3, and 9.4. These Amendments are set forth as Attachment A and incorporated as part of this Agreement. The Amendments shall become effective as of the Settlement Date. The Amendments shall be enforceable as if they were original provisions of the Franchise Agreement.

5. All other sections, provisions, requirements and commitments of the Franchise Agreement shall remain in full force and effect after the Settlement Date.

6. Nothing in this Agreement shall modify or affect the obligation of the Cable Company to pay franchise fees in accordance with the Franchise Agreement.

7. Cable Company and Rogers agree that even though the sum of franchise fee payments plus the payments and additional commitments set forth in this Agreement and the Franchise Agreement may total more than five percent of the Cable Company's gross annual revenues as defined by Section 2.25 of the Franchise Agreement in any 12 month period, the payments and additional commitments of this Agreement are not franchise fees as defined in the Cable Communications Policy Act of 1984, 47 USC 542, nor are they to be offset or credited against any franchise fee payments under the Franchise Agreement, nor are they an increase in franchise fees which may be passed through to subscribers under 47 USC 542(c).

8. In exchange for the Jurisdictions' agreement not to enforce certain Franchise Agreement commitments for Access, L.O. and Public Development services, Cable Company and Rogers, their successors and assigns, release and forever discharge the Jurisdictions, MCRC, their officers, agents, employees, successors and assigns, from any and all claims, suits, actions, demands, rights, damages, costs, and expenses whatsoever, including all attorney's fees, of any nature arising from or in connection with the payment made to the MCRC under Section 1 of this Agreement and the Cable Company's ongoing obligations revised by the Franchise Amendments incorporated in Section 4 of this Agreement. In addition, Cable Company and Rogers, their successors and assigns agree not to challenge the validity of any payments to the MCRC under Section 1 of this Agreement or to challenge the validity of any future payments under the Franchise Agreement based upon payments made under obligations revised by the Franchise Amendments incorporated in Section 4 of this Agreement.

9. The release provided in Section 8 of this Agreement is intended by the parties to cover all claims, including past, present, or future, known or unknown, which may develop later or be discovered, including all effects and consequences thereof arising from or relating to the payment to the MCRC under Section 1 of this Agreement and the revised obligations under the Franchise Amendments incorporated in Section 4 of this Agreement.

10. Cable Company and Rogers, and their successors and assigns agree that none of them, either jointly or individually, will challenge in any manner the grandfather status of the Franchise Agreement under the Cable Communications Policy Act of 1984, 47 USC 521 et seq, based upon this Agreement, nor will they participate with any other person or entity in challenging such status.

11. Other than the releases and waivers contained in this Agreement and the Franchise Agreement, nothing in this Agreement nor the fact of execution of this Agreement shall be deemed a waiver of the Jurisdictions', MCRC's, Cable Company's, or Rogers' rights, or the rights of their successors or assigns under federal or state laws.

12. The Jurisdictions and the MCRC agree to indemnify and hold harmless the Cable Company, its successors and assigns from all reasonable costs, expenses and professional fees of any nature that arise from City of Portland claims relating to the Payment, the Settlement Agreement or local origination and local access obligations revised by the Settlement Agreement.

13. Cable Company and MCRC entered an agreement dated June 15, 1988 which is set forth as Attachment B and incorporated as part of this Agreement. Cable Company agrees to reimburse MCRC for its reasonable expenses, costs, and professional fees incurred in connection with the Sale, this Agreement and the Jurisdictions' approval and consent to the transfer of control of Cable Company to KBL Cable, Inc.

14. This Agreement shall be enforceable as if it were a part of the Franchise Agreement.

15. This Agreement shall be effective upon its approval by the governing body of each Jurisdiction, and its execution by all parties.

16. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Rogers-Multnomah Cablesystems, an
Oregon Limited Partnership

By Rogers Cablesystems of Multnomah,
Inc., its General Partner

By _____

Title _____

Dated: _____

Rogers U.S. Cablesystems, Inc.

By _____

Title _____

Dated: _____

Rogers Communications, Inc.

By _____

Title _____

Dated: _____

Multnomah Cable Regulatory Commission

By _____
Its Chairman

Dated: _____

County of Multnomah

By _____
Commission Chairperson

Dated: _____

City of Gresham

By _____
Mayor

Dated: _____

City of Fairview

By _____
Mayor

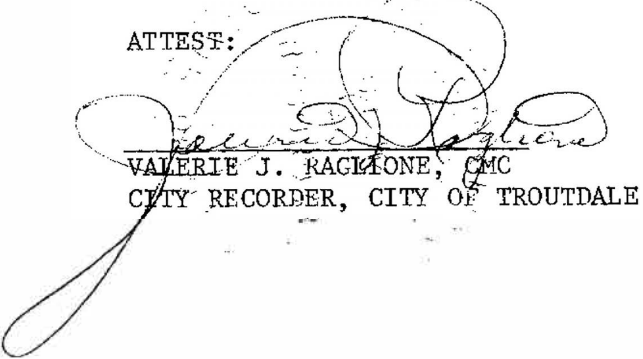
Dated: _____

City of Troutdale

By Sam K Cox
Mayor - Sam K. Cox

Dated: 2/14/89 _____

ATTEST:


VALERIE J. RAGIONE, CMC
CITY RECORDER, CITY OF TROUTDALE

City of Wood Village

By _____
Mayor

Dated: _____

ATTACHMENT A

AMENDMENTS TO CABLE COMMUNICATION SERVICE
FRANCHISE AGREEMENT INCORPORATED
AS PART OF SETTLEMENT AGREEMENT

A. The following new Section is added to and made a part of the Franchise Agreement:

2.62 "Settlement Agreement." The agreement between the Cable Company, Parent corporations, the Commission and the Jurisdictions in anticipation of the sale of the stock of RCA Cablesystems Holding Co. to KBL Cable, Inc.

B. Sections 3.11, 6.3, 6.12, 6.16, 9.3 and 9.4 of the Franchise Agreement are amended to read as follows:

3.11 Effect of Transfer of the Franchise or Change in Control of the Cable Company. The Jurisdictions have agreed to amendments to the original provisions of the Franchise Agreement that modify the Cable Company's obligations to perform local origination service as required in Section 6.12, access services and operations as required in Section 9.3, and community television program as required in Section 9.4, and allow the modification of certain obligations required of the Company in return for the payment of \$4,550,000.00 and a revised Public Development Fund as provided in amended Section 6.16.

6.3 Interactive Residential Services. The Cable Company will complete installation of all interactive services provided for in this franchise agreement within the time frame set forth in A) and B) below. The Cable Company agrees to join the Jurisdictions in a formal review of interactive service feasibility no less than once each year. The formal review process will be designed by the Jurisdictions in consultation with the Cable Company, and will be made part of regulatory practice.

Both the Jurisdictions and the Cable Company acknowledge that the provision of particular interactive services on the cable system is subject to technical feasibility, i.e., the availability of hardware, software, and in some cases satisfactory interconnection with the third parties. The Jurisdictions and the Cable Company also acknowledge that some of the interactive services provided for in this section are experimental in nature. The parties recognize that the Cable Company, after a good faith effort to develop such services, may find that it does not have a sufficient market to justify continued financial investment. In addition, experimental projects conducted in other cable systems and by other cable operators may demonstrate a lack of market potential for certain services. Nonetheless, the Cable Company recognizes the importance of residential interactive services on the system. The Cable Company agrees to maintain, throughout the franchise, a level of capital and operating support for residential interactive services sufficient to sustain a service package comparable in variety and scope to the package described in A) and B) of this section below.

If the Cable Company wishes to delay or have waived the obligation to provide any individual service or services required pursuant to this section, it may be granted such delay or waiver by the Jurisdictions pursuant to the annual review process. In order to be granted such a request, the Company will be required to demonstrate to the satisfaction of the Jurisdictions that 1) the service is not technically feasible, or 2) the Company or others have made a good faith effort to develop and market the service for a reasonable period of time and have found there is not a market for the service sufficient to justify continued financial investment, and the Company has made a commitment to develop an alternative service or package of services consistent with the general requirements of this section.

If the Cable Company fails to convince the Cable Regulatory Commission of its case, it will make the service in question available on a schedule developed by the Cable Company and approved by the Commission. In no case will such service be made available later than 18 months following a commission decision that the service be provided.

The development of new residential interactive services, beyond those provided for in this agreement, is encouraged. The Company agrees to provide such new services when they are found, through the formal review process, to be both technically feasible and available at reasonable cost.

A) Initial Interactive Services. The Cable Company will initially make available to all residential subscribers the following interactive services: security alarm monitoring services (upon approval by and under terms and conditions to be specified by the Jurisdictions), opinion polling, video games, interactive local origination programming, pay-per-view program service, and Reuters IDR.

B) Additional Interactive Services. The Cable Company will also make available to all residential subscribers, subject to the conditions set out below, the following interactive services:

1. Energy Management. The Cable Company will offer to the franchise area electric utility, an energy management system which provides for control over peak electrical power demand. In the event that the offer is accepted, the energy management system will be implemented according to the terms of a contract between the Cable Company and the electric utility.

2. Tele-Education.

a) Cable Company Channels. The Cable Company will offer to the members of the education community in the franchise area the use of the Cable Company's addressable and interactive capability for delivery of educational material to interactive subscribers. This capability allows the Cable Company to restrict viewing of educational programs to subscribers designated by the programmer and to collect responses to multiple choice questions from those subscribers. The Cable Company and education programmers may enter into contracts to provide tele-education programming.

b) Community Access Channels. The Cable Company may also enter into a contract with the provider of community access services to deliver tele-education on an access channel provided that the access services provider pay the cost of securing the channel and the Cable Company's direct incremental costs. Such tele-education programming will be courses for credit from tax-supported educational institutions only. The Cable Company will have the right of first refusal to offer all tele-education programming on its channels.

3. Tele-Shopping. Tele-Shopping will be provided subject to negotiation of suitable agreements with organizations capable of supporting the non-cable aspects of a home shopping service.