

ORDINANCE NO. 985-98

AN ORDINANCE OF THE CITY OF HUNTERS HOLLOW, BULLITT COUNTY, KENTUCKY GRANTING A FRANCHISE TO TCI CABLEVISION OF NORTHCENTRAL KENTUCKY, INC. FOR THE CONSTRUCTION AND OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF HUNTERS HOLLOW.

WHEREAS; the City of Hunters Hollow, having determined that the financial, legal and technical ability of TCI Cablevision of NorthCentral Kentucky, Inc., is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTERS HOLLOW, BULLITT COUNTY, KENTUCKY, as follows:

SECTION I: Terms. For the purpose of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings set forth 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. "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide Cable Service and other service to subscribers.
- b. "Franchise Authority" means the City of Hunters Hollow, Bullitt County, Kentucky, or the lawful successor, transferee or assignee thereof.
- c. "Grantee" means TCI Cablevision of NorthCentral Kentucky, Inc., or the lawful successor, transferee or assignee thereof.
- d. "Basic Revenues" mean revenue received by the Grantee from the operation of the Cable System in the Service Area, consisting of basic and expanded basic revenue; provided however, that such phrase shall not include (i) revenue received from any national advertising carried on the Cable System; (ii) any fees or taxes on Cable Service which are imposed directly or indirectly on any Subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.
- e. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or

rights-of way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchise Authority in the City of Hunters Hollow which shall entitle the Franchise Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System.

SECTION II: Grant. The City of Hunters Hollow hereby grants a non-exclusive Franchise to construct and operate a Cable System in, along, among, upon, across, above, over, under or in any manner connected with Public Ways within the City of Hunters Hollow and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System.

SECTION III: Term. The Franchise granted pursuant to this Ordinance shall be for an initial term of Fifteen (15) years from its passage and final adoption.

SECTION IV: Conditions of Street Occupancy. All transmission and distribution structures, poles, other lines, and equipment installed or erected by the Grantee pursuant to the terms hereof shall be so located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said Public Ways.

SECTION V: Restoration of Public Ways. If during the course of the Grantee's construction, operation or maintenance of the Cable System there occurs a disturbance of any Public Way by Grantee, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

SECTION VI: Safety Requirements. Construction, installation and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable Federal Communications Commission or other federal, state and local regulations. The Cable System shall not unreasonably endanger or interfere with the safety of persons or property in the City of Hunters Hollow.

SECTION VII: License Fee. The Grantee shall pay to the Franchise Authority a Franchise fee equal to Five percent (5%) of Basic Revenues received by the Grantee from the operation of the Cable System on an annual basis. The Franchise fee payment shall be due and payable ninety (90) days after the close of the preceding calendar year. Each payment shall be accompanied by a brief report from a representative of the Grantee showing the basis for the computation.

SECTION VIII: Renewal of Franchise. The Franchise Authority and the Grantee agree that any proceedings undertaken by the Franchise Authority that relate to the renewal of the

Grantee's Franchise shall be governed by and comply with the provisions of the Cable Communications Policy Act of 1984, as amended.

SECTION IX: Transfer of Franchise. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchise Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness.

SECTION X: Insurance Requirements. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise Comprehensive General Liability Insurance providing an amount of \$300,000 for bodily injuries, (including accidental death) to any one person, and subject to an aggregate limit in the amount of \$500,000 for any one occurrence, and the amount of \$500,000 for property damage.

SECTION XI: Notice of Violation. In the event that the Franchise Authority believes that the Grantee has not complied with the terms of the Franchise, it shall notify the Grantee of the exact nature of the alleged non-compliance. The Grantee shall have thirty (30) days from receipt of the notice to respond to the Franchise Authority to cure such default or, in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, to initiate reasonable steps to remedy such default and notify the Franchise Authority of the steps being taken and the projected date that they will be completed.

SECTION XII: Acts of God. The Grantee shall not be held in default of non-compliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such non-compliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

SECTION XIII: Notice. Unless expressly otherwise agreed between the parties, every notice or response to be served upon the Franchise Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service. The notice or responses to the Franchise Authority shall be addressed as follows:

City of Hunter Hollow
Attention: City Clerk
3718 Arcadia Court
Louisville, Kentucky 40229

The notices or responses to the Grantee shall be addressed as follows:

TCI Cablevision of NorthCentral Kentucky, Inc.
P. O. Box 721
Shepherdsville, Kentucky 40165

with a copy to:

TCI Great Lakes, Inc.
Attn: Legal Department
111 Pfingsten Road, Suite 400
Deerfield, IL 60015

The Franchise Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other.

SECTION XIV: Severability. If any Section, sentence, paragraph, term or provision hereof is determined to illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

SECTION XV: Any ordinance or part of an ordinance in conflict with this Ordinance or any part of this Ordinance is hereby repealed.

SECTION XVI: The Clerk is directed to advertise this Ordinance as provided by law.

Given first reading at a regular meeting of the City Council of the City of Hunters Hollow, Bullitt County, Kentucky, on the 19th day of November, 1996. Given second reading, voted upon and passed at the regular meeting of the City Council of the City of Hunters Hollow, Bullitt County, Kentucky, the 17th day of December, 1996.

Votes for 5; Votes against 0; Not Voting 0.


LINDA PARKER, MAYOR

ATTEST:


RECKA DANIELS, CITY CLERK