

ORDINANCE NO. 82

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO STAR CABLE ASSOCIATES, A PENNSYLVANIA GENERAL PARTNERSHIP, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE TOWN OF BEASLEY, TEXAS, AND SETTING FORTH CONDITIONS ACCOMPANYING THE GRANTING OF THIS FRANCHISE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Beasley, Texas, has found and determined that the public necessity and convenience of the Town of Beasley, Texas would be served by a cable communications system and,

WHEREAS, the Town Council of the Town of Beasley, Texas has concluded full and open public hearings, during which any and all applicants, interested parties and members of the public desiring to make application and/or present statements concerning the grant of a cable television franchise, were afforded an opportunity to do so. The legal, character, financial, technical and other qualifications and adequacy and feasibility of the construction arrangements of all applicants were fully considered, and the qualifications of all applicants were fully considered, and the qualifications and construction program and proposals of Star Cable Associates were approved.

BE IT ORDAINED by the Town Council of the Town of Beasley, Texas:

SECTION 1. DEFINITIONS

A. "Cablecasting" is

programming carried on a cable system, exclusive of broadcast signals, whether originated by the cable operator or any other party.

B. "Cable Communications System;" "System" is

any system which receives and amplifies signals broadcast by one or more television and/or radio stations and which transmits programming originated by the system itself or by another party, and distributes such signals and programming by wire, cable, microwave, satellite, or other means to persons who subscribe to such service.

C. "Town" is

the Town of Beasley, Texas in its present incorporated form or as it may be changed by annexation.

D. "Council" is the Town Council of the Town of Beasley, Texas.

E. "Grantee" is Star Cable Associates, a general partnership of the State of Pennsylvania, as set out in the attached assumed name certificate doing business as Star Cable Company, and Grantee's lawful successors and assigns in accordance with the provision of this ordinance.

F. "Basic Revenue" is any and all compensation derived from Basic Monthly Service plus that portion of Optional Premium Channel revenues that are retained by the cable operator and/or Grantee.

G. "Subscriber" is a recipient of cable television service.

SECTION 2. GRANT OF NON-EXCLUSIVE AUTHORITY

There is hereby granted by the franchising authority to the Grantee, the non-exclusive right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the Town poles, wires, cables, underground conduits, manholes, and other cable conductors and fixtures necessary for the maintenance and operation in the Town of Beasley, Texas of a Cable Communications System, to be used for the sale and distribution of cable services to the residents of the Town. Said broadband cable services shall include, but shall not be limited to, the carriage of television and radio signals and any cablecasting programming.

The Grantee shall, at all times during the operation of this franchise, be subject to all lawful exercise of the police power as may be hereafter provided by the franchising authority.

SECTION 3. FRANCHISE TERRITORY

The non-exclusive franchise is for the present territorial limits of the Town of Beasley, Texas and for any area henceforth added thereto during the term of this franchise.

Cable service shall be made available to the area set forth on the map attached hereto as Exhibit A in accordance with the construction timetable contained in Section 5 of this ordinance. With respect to any areas annexed by the Town pursuant to Section 1 (C), Grantee shall make cable service available to such annexed area as long as it is economically feasible to do so. As used herein, "economically feasible" shall mean that there are at least 20 dwelling units per mile of cable distribution plant.

SECTION 4. DURATION OF FRANCHISE: RENEWAL

The duration of the rights, privileges and authorizations hereby granted shall be fifteen (15) years from the date the franchise is awarded.

This franchise may be renewed or extended by the franchising authority, upon application of the Grantee, in accordance with the then existing rules of the FCC and all other applicable laws. Renewal or extension of the franchise shall be considered in a full public proceeding affording due process, during which the performance of the Grantee, and the adequacy of the franchise ordinance will be reviewed. Nothing in this provision shall be construed to require such renewal or extension.

SECTION 5. COMMENCEMENT AND COMPLETION OF CONSTRUCTION

Within thirty (30) days of the date of the award of this franchise, the Grantee must undertake the necessary steps to secure authorization to operate from the appropriate governmental agencies regulating cable service. If authorization to operate is not received within twelve months of the date of franchise, the franchise may be cancelled at the option of the Town. The Grantee shall begin construction

immediately upon receiving said authorization, and shall provide cable service to the franchise area within 120 days after receiving said authorization.

Prior to beginning any construction, the Grantee shall furnish bond to the Town in the sum of \$10,000.00 which shall guarantee cable communications system construction within the time set forth and in the manner herein provided. Such bond shall be guaranteed by a company approved by the Town.

In lieu of the bond hereinabove provided for, Grantee may at its option on acceptance of this franchise deposit with the Town a Certificate of Deposit issued by any bank or savings and loan association doing business in the State of Texas, or cash funds in the amount of \$10,000.00 which certificate or cash monies shall be pledged to guarantee the cable communications system construction within the time set forth and in the manner herein provided. Due to the uncertainty and speculative nature of any damages that the Town might incur as a result of the Grantee's failure to construct the system within the time set forth in the manner herein provided, such pledge shall recite that the monies so pledged constitute agreed liquidated damages to the Town in the event the Grantee fails to so construct such system.

SECTION 6. TRANSFER OF CONTROL

No transfer of control of the cable system shall take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance, or any other form of disposition, without prior notice to and approval by the Town Council; provided, however, that Grantee shall be permitted to collaterally assign its cable system and its rights under this ordinance to its lenders.

SECTION 7. RATES

The initial rates which may be charged by the Grantee to subscribers shall be as follows:

Basic Cable (25 channels)	\$16.50
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Premium Channels	\$10.50 each
HSE	\$ 6.50
Remote Converters	\$ 3.50 per month
Additional Outlets (2 outlets)	\$ 5.00 per month
Cable Guide	\$ 1.50 per month
Converter Deposit (on each converter) Refunded upon disconnection	\$30.00
Installation (after marketing) Free for the first 90 days of marketing.	\$25.00

For the 4th outlet added to a house, there will be a \$75.00 installation fee due to additional material needed. There will also be an extra \$5.00 per month charge.

If a customer has more than 1 premium service, they will receive a discount as follows:

If receiving 2 premium channels, discount is 1.00
 If receiving 3 premium channels, discount is 3.00
 If receiving 4 premium channels, discount is 7.00
 If receiving 5 premium channels, discount is 14.00

The foregoing sets forth the initial rates to be charged by Grantee. The Town and the Grantee both acknowledge that Federal law currently preempts the Town from regulating the rates Grantee can charge. Grantee hereby agrees that in the event the law changes and the Town can once again regulate Grantee's rates, Grantee agrees that its future rate increases shall be subject to the Town's consent in accordance with the terms of the re-regulation provisions. In such an event, Grantee shall reimburse Town for reasonable expenses incurred in employing rate consultants to evaluate Grantee's rate modification requests, to present evidence and to advise Town Council on such rate modification requests under the terms of this Section.

SECTION 8. PAYMENT TO THE CITY

A. Amount and Time. As compensation for the right, privilege and franchise herein conferred, Grantee shall pay to Town each year during the term of this franchise a sum equal to three percent (3%) of Grantee's Basic Revenue for such year. Such payments shall be made quarterly. Grantee shall file with the Town Secretary within sixty (60) days after the expiration

of each quarter of each calendar year, or portion thereof, during which this franchise is in effect, a financial statement prepared according to accepted accounting practice showing in detail the Basic Revenues of Grantee during the preceding quarter of the calendar year. Such statement shall be accompanied by Grantee's payment to Town of three percent (3%) of such Basic Revenues for such quarter.

B. Right of Inspection of Records. Town shall have the right to inspect Grantee's records showing the Gross Revenues from which payments to Town are computed and to audit and recompute any and all amounts paid under this franchise. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim Town may have for further or additional sums payable under this franchise or for the performance of any other obligation hereunder.

SECTION 9. BROADBAND CABLE COMMUNICATIONS SERVICE

The communications system permitted to be installed and operated hereunder shall:

1. Be operated in conformance with the FCC's Technical Standards, 47 C.F.R. §76.601 et seq., or revisions and substitutions thereof.
2. Carry on the system all allowable broadcast signals pursuant to FCC's signal carriage rules.
3. Provide optional premium channel - Home Box Office

SECTION 10. USE OF STREETS

All transmission and distribution structures, lines, and equipment erected by the Grantee within the Town should be so located as to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets. Grantee will provide the Town with copies of its agreement with other utility companies giving to Grantee the right to use such existing utility poles. The Grantee shall make application with the Town showing all proposed cable routes. The Town Mayor shall approve said application before

construction is started; however, any delay occasioned by such approval shall extend the time for construction of the system under Section 5 of this ordinance. The Grantee shall also file with the Town true and correct maps or plats of all existing and proposed installations.

The surface of any street disturbed by Grantee in laying, constructing, maintaining, operating, using, extending, removing, replacing or repairing its system shall be restored by Grantee immediately after the completion of the work, at its cost and expense, to as good a condition as before the commencement of the work and maintained by Grantee to the satisfaction of Town Council, for one year from the date of completion of such restoration work. In all cases where requested by the Town and where underground service is to be installed, Grantee shall bore under street surfaces. No street shall be encumbered by construction, maintenance, removal, restoration or repair work by Grantee for a longer period than shall be necessary to execute such work. If there is an unreasonable delay by Grantee in restoring and maintaining streets after such excavations or repairs have been made, Town shall have the right without further notice to restore or repair the same and to require Grantee to pay on demand the reasonable cost of such restoration or repair.

Whenever by reason of the construction, repair, maintenance, relocation, widening, raising or lowering of the grade of any street by Town or by the location or manner of construction, reconstruction, maintenance or repair of any public property, structure or facility by Town, it shall be deemed necessary by Town for Grantee to move, relocate, change, alter or modify any of its facilities or structures, such change, relocation, alteration or modification shall be promptly made by Grantee, at its cost and expense, when directed in writing to do so by Town, without claim for or right of reimbursement of cost or damages against Town. In the event

Grantee, after such notice, fails or refuses to commence, pursue or complete such relocation work within a reasonable time, Town shall have the authority, but not the obligation, to remove or abate such structures of facilities and to require Grantee to pay to Town on demand the reasonable cost of such removal or abatement, all without compensation or liability for damages to Grantee.

Any poles or other fixtures placed in or adjacent to any street by the Grantee shall be placed in such manner as to comply with all requirements of the Town.

The Grantee shall, at the request of any person holding a moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

The Grantee shall have the authority to trim trees upon and overhanging streets of the Town so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, except that at the option of the Town, such trimming may be done by it or under its supervision and direction at the expense of the Grantee.

In all sections of the Town where the cables, wires, or other like facilities of public utilities are placed underground, the Grantee shall place its cables, wires or other like facilities underground.

At the expiration of the term for which the franchise is granted, or upon its termination and cancellation, as provided for herein, the Town shall have the right to require the Grantee to remove at Grantee's expense any and all portions of the cable television system from all streets within the Town.

SECTION 11. INDEMNIFICATION

Grantee agrees to indemnify Town and save Town harmless from and against any and all claims, actions, damages, liability and expense of every kind and character asserted by any person or entity for loss of life, personal injury, loss of profits or other damages, and/or damage to or loss of property arising from or out of the installation, operation or maintenance of the cable system authorized herein, or occasioned wholly or in part by any act or omission of Grantee, its agents, contractors, employees, or servants regardless of whether the death, injury, loss or damage is contributed to by any negligence of Town or its agents or employees; provided, however, that the indemnity provided for in this paragraph shall have no application to any claim, loss, damage, cause of action, suit or liability resulting from the sole willful or grossly negligent conduct of Town. In case Town shall, without fault on its part, be made a party to any litigation commenced by or against Grantee, then Grantee shall protect and hold Town harmless and shall pay all costs, expenses and reasonable attorney's fees incurred or paid by Town in connection with such litigation.

Within thirty (30) days after the effective date of this franchise, Grantee shall file with the Town Secretary and shall maintain on file throughout the term of this franchise a liability insurance policy issued by a company approved by the Town on an annual basis and duly authorized to do business in the State of Texas insuring Town and Grantee with respect to the installation, maintenance and operation of Grantee's system in the following minimum amounts:

(1) One person. One Million Dollars (\$1,000,000.00) for bodily injury or death to any one person.

(2) One accident. One Million Dollars (\$1,000,000.00) for bodily injury or death resulting from any one accident.

(3) Property damage. Five Hundred Thousand Dollars (\$500,000.00) for property damage resulting from any one occurrence.

(4) All other types of liability. One Hundred Thousand Dollars (\$100,000.00) for all other types of liability.

Town Council reserves the right to require Grantee to increase the minimum amounts of liability insurance coverage to reasonable amounts generally required of such systems. Such requirements shall be expressed by resolution or ordinance.

Such policy of liability insurance shall contain the provision that written notice of expiration, cancellation or reduction in coverage of the policy shall be delivered to the Town Secretary and to Grantee at least thirty (30) days in advance of the effective date thereof.

Such liability insurance shall be kept in full force and effect by Grantee during the existence of this franchise and thereafter until after the removal of all poles, wires, cables, underground conduits, manholes and other conductors and fixtures incident to the maintenance and operation of Grantee's system, should such removal be required by Town Council or undertaken by Grantee.

SECTION 12. SAFETY REQUIREMENTS.

The Grantee shall install and maintain its cables and other equipment in accordance with standard utility practice, utility pole line agreements, State or City Ordinance and statutes and regulations of the National Electric Safety Code.

The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

SECTION 13. OTHER BUSINESS ACTIVITY.

Grantee shall not engage in the business of selling, repairing or installing television receivers or radio receivers within the Town during the term of this franchise. Grantee shall not suggest, recommend or single out any television or radio sales or service firm or business establishment to be patronized by subscribers. Grantee shall exercise all

reasonable influence on its officers, agents, employees and representatives to insure compliance with this section. It is provided that this section does not prohibit Grantee from servicing or repairing converters and other technical equipment which it owns and which are leased or otherwise furnished to subscribers for use with Grantee's services.

SECTION 14. SERVICE STANDARDS.

The Grantee shall put, keep, and maintain all parts of the system in good condition throughout the entire franchise period.

Upon termination of service to any subscriber, the Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request.

Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

Grantee shall not allow its cable or other operations to interfere with television reception of persons not served by Grantee, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the Town.

SECTION 15. NO EMERGENCY USE OF THE SYSTEM.

Grantee shall not incorporate into its facility the capability for an emergency interrupt whereby Town, in time of crisis, may be able to introduce a bulletin on all channels simultaneously.

SECTION 16. COMPLAINT PROCEDURE

Town Official Responsible. The Town Mayor is designated by the Town as having primary responsibility for the continuing administration of the franchise and implementation of complaint procedures.

Grantee shall be so operated that complaints and requests for repairs or adjustments may be received on a twenty-four (24)