

ORDINANCE NO. 86-3

AN ORDINANCE PROVIDING FOR THE GRANTING OF NONEXCLUSIVE FRANCHISES TO ERECT, CONSTRUCT, MAINTAIN AND OPERATE COMMUNITY ANTENNA TELEVISION SYSTEM FACILITIES, AND ADDITIONS THERETO, IN, UNDER, OVER, ALONG, ACROSS AND UPON THE STREETS, LANES, AVENUES, ALLEYS, SIDEWALKS, BRIDGES, HIGHWAYS, PARKING LOTS AND OTHER PUBLIC PLACES IN THE CITY OF RUSSELLVILLE, KENTUCKY, AND SUBSEQUENT ADDITIONS THERETO, FOR THE PURPOSE OF TRANSMISSION AND DISTRIBUTION OF CABLE TELEVISION IMPULSES AND TELEVISION ENERGY TO THE INHABITANTS OF THE CITY OF RUSSELLVILLE, KENTUCKY; AUTHORIZING THE ADVERTISEMENT FOR BIDS ON SUCH FRANCHISES; REGULATING THE SAME; AND FOR OTHER PURPOSES.

WHEREAS, the City of Russellville, Kentucky (the "City of Russellville") desires to grant, in accordance with sections 163 and 164 of the Constitution of the Commonwealth of Kentucky, one or more nonexclusive franchises for the erection, construction, maintenance and operation of a community antenna television ("CATV") system in the City of Russellville;

WHEREAS, the City of Russellville deems the granting of such CATV system franchises to be necessary for the preservation of the public health, safety, and welfare of the inhabitants of the City of Russellville;

BE IT ORDAINED by the City Council of the City of Russellville as follows:

SECTION I

Upon the conditions herein set forth and in accordance with sections 163 and 164 of the Constitution of the Commonwealth of Kentucky, the City of Russellville shall grant

to one or more grantees to be designated by one or more ordinances of the City of Russellville (the "Grantees") a nonexclusive franchise to erect, construct, maintain, and operate CATV transmission and service distribution facilities including, but not limited to, the erection of poles, cables, wires and other appurtenances and additions thereto in, over, under, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges, highways, parking lots and other public places in the City of Russellville, and subsequent additions thereto, for the purpose of transmission and distribution by cable of television impulses and television energy to the inhabitants of the City of Russellville in all forms, in accordance with the laws and regulations of the United States and the Commonwealth of Kentucky, and the ordinances and regulations of the City of Russellville (each of the foregoing being referred to hereinafter as a "Nonexclusive Franchise").

SECTION II

Upon adoption of this ordinance and in accordance with section 164 of the Constitution of the Commonwealth of Kentucky, the City of Russellville shall: (1) duly advertise for bids for a Nonexclusive Franchise, directing that all bids be submitted to the Council of the City of Russellville no later than 8:00 A.m. MARCH 18, 1986; (2) publicly receive bids for a Nonexclusive Franchise; and (3) award a

Nonexclusive Franchise to the highest and best bidder, taking into consideration all factors held relevant thereto under the law of the Commonwealth of Kentucky; provided, however, that the City of Russellville expressly reserves the right to: (a) award more than one Nonexclusive Franchise; (b) reject any or all bids for a Nonexclusive Franchise; and (c) withhold the granting of any Nonexclusive Franchise. The Clerk of the City of Russellville is hereby ordered and directed to duly advertise in accordance with the requirements of the law of the Commonwealth of Kentucky for bids for a Nonexclusive Franchise. Such advertisement shall provide that all bids shall contain the following information and provisions: (a) a schedule of the rates to be initially charged for services offered; (b) a provision that the CATV system shall have a minimum channel capacity of eighteen (18) channels; (c) a provision that the CATV system shall be addressable; and (d) a provision that the amplification equipment to be used in the CATV system shall be manufactured by Scientific Atlanta or equal and C-COR or equal.

SECTION III

The poles used for the CATV transmission and distribution system shall be those of the Electric Plant Board of Russellville, Ky., the Southern Bell Telephone & Telegraph Co. and any other utility company which owns or shall own poles

located in the City of Russellville (or any successor to any of such entities), provided that mutually satisfactory agreements can be entered into with the aforesaid companies. All streets and sidewalks that may be disturbed or damaged in the construction of the CATV system shall be promptly repaired by any such Grantee at its own expenses and to the satisfaction of the governing body of the City of Russellville; provided, however, that if such repairs are not made by such Grantee, the City of Russellville shall, after reasonable notice to such Grantee, make such repairs as it deems necessary and charge the same to such Grantee.

SECTION IV

The CATV transmission and distribution system, poles, wires and appurtenances shall be located, erected, set, constructed and maintained so as not to endanger or interfere with the lives of any person, damage any property, public or private, or to interfere with any improvements the City of Russellville may deem proper to make, or to hinder unnecessarily or obstruct the free use of the streets, alleys, bridges or other public places or property.

Construction, maintenance, and operation of the CATV system, including connections made to the CATV system to provide service to subscribers, shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Code of the

National Board of Fire Underwriters and such applicable ordinances and regulations of the City of Russellville affecting electrical installations which may be presently in effect or which may be enacted by the Council of the City of Russellville. The operation of the CATV system shall conform to all rules and regulations of the of the Federal Communications Commission applicable thereto.

SECTION V

The Grantee shall be subject to all ordinances now in force or that may be hereafter passed relative to the use of highways, streets, alleys, bridges and public places of the City of Russellville.

SECTION VI

The Grantee shall hold the City of Russellville safe and harmless from all damages or claims for damages arising by reason of negligence in the constructing or maintenance or operation of the CATV system.

SECTION VII

In consideration of the granting of a Nonexclusive Franchise, each Grantee shall pay to the City of Russellville as a tax and as compensation for the rights and privileges enjoyed hereunder the sum of \$100.00 per year or one percent (1%) of each such Grantee's annual gross revenue from its CATV system located in the City of Russellville, whichever sum is the larger. Said tax shall be in lieu of all other fees or

taxes including occupation, license, excise and special taxes or fees of any nature, whatsoever, except municipal ad valorem taxes on each Grantee's property located within the limits of the City of Russellville.

SECTION VIII

Each Nonexclusive Franchise will be for a term of twenty (20) years from the date of the granting of each such Nonexclusive Franchise and shall cease and determine at the expiration of such term.

SECTION IX

Each Grantee shall comply with the provisions of the Cable Communications Policy Act of 1984. To the extent that any provision set forth in this or any ordinance regarding a Nonexclusive Franchise or in any accepted bid regarding a Nonexclusive Franchise is inconsistent with the Cable Communications Policy Act of 1984, the provisions of the Cable Communications Policy Act Control.

SECTION X

The Grantees shall reimburse the City of Russellville for the costs of publishing this ordinance and for the advertising provided for in Section II of this ordinance.

SECTION XI

This ordinance shall be enacted and effective upon its passage and publication as required by law.

First Reading conducted on March 4, 1986.

Second Reading conducted and passage by roll call
vote on March 6, 1986.

AYES	NAYES	ABSENT	ABSTAIN
<i>Everett Smith</i>	<i>None</i>	<i>Billie Hampton</i>	<i>None</i>
<i>Gene Hawkins</i>		<i>Kennel Jones</i>	
<i>Mark Bennett</i>			
<i>Darry Hancock</i>			

Ken Smith
MAYOR, CITY OF
RUSSELLVILLE, KENTUCKY

ATTEST:

[Signature]
CITY CLERK