

1981

RESOLUTION

A RESOLUTION AWARDING TO NATIONAL CABLECASTING SERVICE, INC., A FIFTEEN YEAR (15) YEAR NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, OWN, OPERATE AND MAINTAIN A COMMUNITY ANTENNA TELEVISION SYSTEM WITHIN THE TOWNSHIP OF PINCONNING, COUNTY OF BAY, STATE OF MICHIGAN; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANTING OF SAID FRANCHISE; REGULATION AND USE OF THE COMMUNITY ANTENNA TELEVISION SYSTEM.

BE IT RESOLVED BY THE TOWNSHIP BOARD OF THE TOWNSHIP OF PINCONNING, COUNTY OF BAY, STATE OF MICHIGAN:

SECTION 1. Definitions

For the purposes of this Resolution, the following terms, phrases, words and their derivation shall have meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and the words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

a. "Township" is the Township of Pinconning, County of Bay, State of Michigan.

b. "Community Antenna Television System", hereinafter referred to as "CATV System" or "System", means a system of coaxial cables or other electrical conductors and transmission equipment used or to be used primarily to receive television or radio signals directly or indirectly off-the-air and other related service and transmit them to subscribers for a fee.

c. "Company" or "Grantee" shall be National Cablecasting Services, Inc., a Michigan Corporation, or anyone who succeeds it in accordance with the provisions of this resolution.

d. "Person" is any person, firm partnership, association, corporation, company, or organization of any kind.

SECTION 2. Grant of Non-Exclusive Franchise

The Township hereby grants to the Company the non-exclusive fran-

To construct, erect, suspend, install, renew, maintain, and otherwise own and operate throughout the Township, in, upon, along, across, above, over and under the streets, alleys, easements, public ways and public places as now laid out or dedicated, and all extensions thereof, and additions thereto, in the Township a system of poles, wires, cables, underground conduits, ducts, trenches, conductors, amplifying equipment, manholes, fittings, and any and all other fixtures, appliances and appurtenances necessary for the installation, ownership, maintenance and operation in the Township of a cable television (CATV) system either separately or in conjunction with any public utility maintaining the same in the Township. This franchise shall further include the right, privilege, easement, and authority to construct, erect, suspend, install, lay, renew, repair, maintain and operate such poles, wires, cables, underground conduits, manholes, ducts, trenches, fixtures, appliances and appurtenances for the purpose of distribution to inhabitants within the limits of the Township. Without limiting the generality of the foregoing, this franchise shall and does hereby include the right in, over and upon the streets, sidewalks, alleys, easements, public grounds and places in the Township for the purpose of installing, erecting, operating or in any other way acquiring the use of, as by leasing, all poles, lines and equipment necessary to operate a CATV system and the right to make connections to subscribers, the right to repair, replace and enlarge and extend said lines, equipment and connections. The rights are granted herein by the Township after due consideration of the legal, character, financial, technical and other qualifications of the Company, and the adequacy and feasibility of its construction arrangements, in a full public proceeding which included notice of the consideration of the Company's construction policy, and the Township approved the Company's qualifications as a part of said public proceeding which afforded due process.

SECTION 3. Compliance with Applicable Laws and Ordinances

The Company shall at all times during the life of this Resolution subject to all lawful exercise of the police power by the Township and to such

SECTION 4.

Effective Date and Term

This Resolution shall take effect and be in full force after final passage and publication hereof, as provided by law, and said Resolution shall continue in full force and effect for a term of fifteen (15) years upon the terms and conditions set forth herein. An option for renewal, for an additional fifteen (15) year period under the terms and conditions mutually agreeable to both parties, may be exercised by the Company giving the Township notice in writing of its election to exercise this option, which notice shall be given not less than one (1) year nor more than two (2) years prior to the expiration of the term of the Resolution. Such renewal shall be granted by the Township after consideration of the Company's qualifications and after full public proceedings affording due process. This Resolution, when accepted by the Company, shall be and become a valid and binding contract between the Township and the Company, but this Resolution shall be void unless the Company shall, within thirty (30) days after passage and publication of same by the Company, file with the Township Supervisor of the Township of Pinconnung, its unconditional acceptance of the Resolution, as hereinafter provided.

SECTION 5.

Territorial Area Involved

This Resolution is related to the present territorial limits of the Township and to any area henceforth added thereto during the term of this agreement; provided, however, that the Company shall not be required to build those sections of the Township that do not meet a general density standard of Sixty (60) homes per cable mile including interconnectiong trunk. The Company shall be required to provide service at regular rates to all structures, which are not covered under Section 9 of this Resolution, within one hundred fifty (150) feet of its trunk lines. Nothing herein contained is intended to preclude the Company from extending its cables and equipment outside the Township for the purpose of serving other areas provided the Company is legally enfranchised to serve the other areas.

SECTION 6.

Liability and Indemnification

of is authorized, allowed, or prohibited by this Resolution.

d. The Company shall pay all expenses incurred by the Township in defending itself with regard to all damages and penalties mentioned in subdivision "a" above. These expenses shall include all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by the Township Attorney or his assistants or any employees of the Township.

c. The Company shall maintain throughout the term of this Resolution liability insurance insuring the Township and the Company in the minimum amount of:

- (1) \$250,000 for bodily injury or death to any one person within the limit, however, of \$500,000 for bodily injuries or death resulting from any one accident.
- (2) \$50,000 for property damage resulting from any one accident.

The Company will apply for the licenses and permits necessary for the construction and operation of the cable television system herein described within (30) thirty days after being awarded the franchise by the Township of Pinconning. Copies of the foregoing insurance policies are to be filed with the Township Clerk.

SECTION 7. Services Standards and Requirements

a. The Company shall maintain its service in accordance with the best-accepted standards of the industry, so as to provide its subscribers with the highest possible level of quality and reliability.

b. The System shall meet all applicable FCC radiation specifications as provided for in paragraph 76.605 (a) (12) of the Commission's rules. Conformance to said standards will ensure non-interference with any other type of communications system operating in or near the Township of Pinconning.

c. Whenever it shall be necessary to shut off or interrupt the service for the purpose of making repairs, adjustments or installations, the Company shall do so at such time as will cause the least amount of inconvenience to its subscribers and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its subscribers.

- d. In the event of any interruption of service whether planned or unforeseen, the Company shall proceed with due diligence and restore service as quickly as possible under the circumstances.
- e. The Township and Company has adopted procedures for the investigation and resolution of complaints related to the operation of the Company's cable television system.

SECTION 8. Special Services

a. Schools and Educational Uses

The Company shall furnish, upon request, one outlet for each local school, municipal office or agency within its service area and not more than one hundred and fifty (150) feet from the Company's existing service facilities.

- b. Service available to municipal and educational institutions will public school buildings and private school system buildings located in the Township, as requested, will be connected to the system as will each municipal building within the distance limitations set forth in subparagraph (a) above; the initial connection to each building will be made free of charge.
- c. In the case of an emergency or a disaster, the Company shall, upon request of the Township, make available its facilities to the Township for emergency use during the emergency or disaster period.

SECTION 9. Safety Requirements

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

b. The Company shall install and maintain the wires, cables, fixtures, and other equipment in accordance with the requirements of the National Safety Code and local ordinances which are applicable.

c. All structures and allines, equipment, and connections in, or over, under an/or upon the streets, sidewalks, alleys, and public ways or places of the Township where ever situated or located, shall be kept and maintained at all times in a safe, suitable, substantial condition, and in good order and repair.

SECTION 10. New Developments

It shall be the policy of the Township to amend this Resolution liberally, upon application of the Company, when necessary to enable the Company to respond to changes in Federal Communications Commission regulations, and to take advantage of any developments in the field of transmission of television signals and related services which will afford it an opportunity more effectively, or economically to serve its customers. Such amendments shall be made by the Township within one year from the date of such changes in FCC rules and regulations or at the time of franchise renewal, whichever occurs first.

SECTION 11. Conditions on Street Occupancy

- a. All transmission and distribution structures, lines and equipment erected by the Company within the Township shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners whose land may adjoin any of the said streets, alleys, or other public ways and places.
- b. In case of disturbance of any streets, sidewalk, alley, public way, or paved area, the Company shall, at its own cost and expense and in a manner approved by the Township's appropriate authority, replace and restore such street, sidewalk, alley, public way, or paved area in as good a condition as before the work involving such disturbance was done.
- c. If at any time during the period of this Resolution the Township shall lawfully elect to alter or change the grade or alignment or re-

- d. Any poles or other fixtures placed in any public way by the Company shall be placed in such manner as not to interfere with the usual travel on such public way.
- e. The Company shall have the authority, under the supervision of the Township's appropriate authority, to trim trees upon and overhanging streets, alleys, sidewalks, and public ways and places of the Township so as to prevent the branches from coming in contact with the wires and cable of the Company.

f. The Company shall, at the request of any person holding a building moving permit issued by the Township, temporarily raise or lower its wires to permit the moving of the building. The expense of such temporary removal, raising or lowering of wires, shall be paid by the person requesting the same, and the Company shall have authority to require such payment in advance. The Company shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary wire change.

SECTION 12. Preferential or Discriminatory Practices Prohibited

- a. The Company shall not, as to rates, charges, service, service facilities, rules, regulations, or in any other respect, make or grant any undue preference or advantage within a given class of subscribers in the Township.
- b. The Company may, in its discretion, require from any subscriber or prospective subscriber a deposit to guarantee payment of subscriber fees. Such deposit shall not exceed an amount equivalent to the maximum bill for subscriber service for 90 days. The Company shall keep records to show:
 1. The name of the subscriber making the deposit.
 2. The account number or other identification of the premises occupied by the subscriber when the deposit was made.
 3. The amount and date of making the deposit.
 4. A record of each transaction concerning the deposit.Such deposits may be retained by the Company as long as required to insure payment of subscriber fees. Upon final discontinuance of service, the Company

Any balance due the subscriber shall be promptly refunded. Prior to final discontinuance of service, deposits may be returned to the subscriber where satisfactory credit has been established to the satisfaction of the Company.

SECTION 13.

Removal of Facilities upon Request

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

SECTION 14.

Non Assignable

The Company shall not transfer, sell nor assign the rights granted to it by the Resolution without the express written consent of the Township Board of Trustees. The Township Board of Trustees shall not unreasonable withhold its consent to an assignment. The transfer, sale, or assignment of these rights to a subsidiary or division of the Company, shall not be considered a transfer, sale or assignment requiring the consent of the Board of Trustees.

SECTION 15

Township Rights in Resolution

a. The right is hereby reserved to the Township to adopt, in addition to the provisions contained herein and in existing applicable agreements, such additional regulation as it shall find necessary in the exercise of the police power; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the right herein granted.

b. The Township shall have the right, during the life of this Resolution to install and maintain free of charge upon the poles of the Company any wire and pole fixtures necessary for a police alarm system or traffic control system on the condition that such wires and pole fixtures do not interfere with the CATV operation of the Company.

c. The Township shall have the right to inspect the maps, plans, and other like materials of the Company at any time during normal business hours.

d. The Township shall have the right to supervise all construction or installation work performed subject to the provision of the Resolution and other pertinent provision of law.

SECTION 16. Forfeiture of Resolution

If the Company shall fail to comply with any of the provisions of this grant or shall default in any of its undertaking or obligations hereunder and shall fail within sixty (60) days after receipt of written notice from the Township to correct such default or non-compliance, the Township shall have the right, after a full and complete hearing to revoke any or all rights and privileges granted hereunder provided, however, that default or non-compliance resulting from factors beyond the reasonable control of the Company shall not be sufficient grounds for revocation.

SECTION 17. Signal Carriage

It will be the policy of the Company to provide on the cable a broad selection of television signals.

SECTION 18. Erection, Removal and Common User of Poles

Poles or other wireholding structures may be erected on public land by the Company subject to the approval of the Township Engineer with regard to location, height, type, and any other pertinent aspects.

SECTION 19. Rates

a. In its rates, charges, service facilities, rules, regulations or in any other respect, the Company shall not make or grant any preference or advantage to any person nor subject any person to any prejudice or disadvantage with the same classifications of service. The Company shall have the right to establish different classifications of service for residential and commercial users and to adopt charges and rate schedules to which any subscriber within said classifications shall be entitled.

b. In the event the Company becomes liable for the payment of copyright royalties, as a result of action by the Congress of the United States the total amount of such royalty payment may be passed through to the subscriber, on a pro-rata basis, the form of increased rates without recourse to Section 20 below. The

SECTION 20. Service Charges

In the event the Company shall file an application for an increased monthly service charge to existing subscribers, the Township board or council is hereby authorized to conduct such hearings as may be necessary to determine the necessity of any such increased charge or charges and it may be necessary for the Company to establish to the satisfaction of the board or council that operational cost and other standard cost factors justify an increase in monthly service charges. In considering any such application filed by the Company, the Township shall consider all cost factors and requirements based upon good accounting practices which the Michigan Public Service Commission applies with an application for rate increases for public utilities.

SECTION 21. Separability

If any section, subdivision, sentence, clause, phase, or portion of the Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not effect the validity of the remaining portions hereof.

SECTION 22. No Sales or Repairs

The Company shall not engage in the business of sale, rental, or repair of television receivers.

SECTION 23. Pay TV

The Company shall have the right to provide pay TV an auxiliary service.

SECTION 24. Representation

Nothing herein contained shall be construed to be a representation by the Township, or any of its officers, agents or employees, that the authorization of this non-exclusive franchise is with the authority of the Township council of grant. It is fully understood that the Township shall not be liable for any cost of any kind incurred by the Company resulting from any portion of the Resolution being held invalid, unauthorized, or unconstitutional; nor shall the Township be

SECTION 25.

Duration and Acceptance of the Resolution

- a. This Resolution and the rights, privileges and authority hereby granted shall take effect and be in force from and after final passage and publication hereof, as provided by law, and any franchise permitted or operated hereunder shall continue in force and effect for a term of fifteen(15) years, provided that within thirty (30) days after the date of passage of the Resolution, the Company shall file with the Township Trustees its unconditional acceptance of the franchise and promise to comply with and abide by all its provisions, terms and conditions. Such acceptance and promise shall be in writing duly executed and sworn to, by the appropriate officials of the Company before a notary public or other officer by law to administer oaths.
 - b. Should the Company fail to comply with subsection (a) above, it shall acquire no rights, privileges or authority under this Resolution, whatever.

Passed: 6/20/2012 Date

Township of Pinconning , Michigan

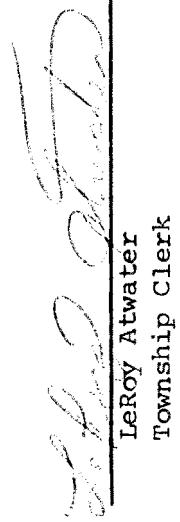
By: Jeffrey Bright
Township Supervisor

Attest: Jeffrey Bright
Township Clerk

January 29, 1981

National Cablecasting Services, Inc.
P.O. Box 572
West Branch, Michigan 48661

The following is an except from the minutes of the Pinconning Township Board special meeting held on the 22nd day of January 1981. Trustee Michael Byrne moved the adoption of a Resolution stating that the Township had no objection to any agreement between Continental Telephone Co., Consumers Power Co. and National Cable Co. Inc., which would permit the National Cable Co. Inc. to attach Community Antenna Transmission Cable to poles owned by them as long as the cables are of legal height and are in complete agreement with the Township Resolution adopted on January 22, 1981.



Leroy Atwater
Township Clerk

Township of Pinconning
Bay County
1721 Cody Estey Rd.
Pinconning, MI 48650

CC: L. Maida, District D/F Engineer
Continental Telephone of Michigan