

ORDINANCE NO. 38B

BY THE SUPERVISORS OF THE TOWNSHIP OF HAYCOCK, BUCKS COUNTY, PENNSYLVANIA, GRANTING A FRANCHISE TO SERVICE ELECTRIC CABLE T.V., INC., ITS SUCCESSORS AND ASSIGNS, TO OWN, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE TOWNSHIP OF HAYCOCK, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF SAID FRANCHISE, PROVIDING FOR THE REGULATION AND USE OF SAID SYSTEM, PROVIDING FOR THE PAYMENT OF CERTAIN FEES, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, Service Electric Cable T.V., Inc., a corporation with office located in the City of Allentown, Pennsylvania (herein referred to as "Company"), is desirous of having the Township of Haycock grant to it a franchise to operate a cable television business within the Township; and

WHEREAS, the Township of Haycock deems it advisable and in the best interest of its citizens to grant such franchise to Company and, in any event, to regulate in part, the Company's operation of its cable television business in the Township.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, and it is hereby ORDAINED AND ENACTED by the Supervisors of the Township of Haycock, Bucks County, Pennsylvania, as follows, to wit:

SECTION 1. Definitions. For the purpose of this Ordinance the following terms, phrases and words shall have

the 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 words in the singular number include the plural number. The word "shall" is always mandatory.

(a) "Township" is the Township of Haycock, a Second Class Township, located in Bucks County, Pennsylvania.

(b) "Company" means SERVICE ELECTRIC CABLE T.V., INC.

(c) "Person" is any person, firm partnership, association, corporation, company or organization of any kind, and the partners in partnerships and officers of corporations.

(d) "Cable Television System" or "System" shall mean a system of antennas, cables, wires, lines, towers, waveguides, or other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, amplifying, and distributing, audio, video and other forms of electronic or electrical signals, located in the Township.

(e) "Gross Subscriber Revenues" shall mean only those revenues derived from the monthly service charges by subscribers located within the Township for the regular cable television reception service, which service includes only the transmission signals on VHF Channels 2 through 13.

As required by the Federal Communications Commission, Gross Subscriber Revenues shall not include any revenues received: (a) as reimbursement of expense in the operation of any access channels; (b) as advertising payments; (c) from the leasing of cable channels; (d) from programs for which a per-channel or per-program charge is made; and (e) from furnishing other communications and nonbroadcast services either directly or as a carrier for another party or any other income derived from the system. Gross Subscriber Revenues shall also not include revenues received as installation charges and fees for reconnections, inspection, repairs or modifications of any installations.

SECTION 2. Qualifications of Grantee and Grant of Authority. A public hearing concerning the granting of the franchise herein granted to Company was held on the 5th day of November, 1980, at 8:00 o'clock, at the Haycock Township Municipal Building, Bucks County, Pennsylvania. Public notice of said hearing was given by advertisement in Quakertown Free Press, a newspaper of general circulation in the Township of Haycock, on October 28, 1980, and —, 1980, which notice invited interested parties to participate in said hearing and comment upon the legal, character, financial, technical and other qualifications of the Company to continue to operate a Cable Television System in the Township. Said hearing having been held on the date and at the place stated

above, and said hearing having been fully open to the public, and the Township having received at said hearings all comments regarding the qualifications of the Company to receive this franchise, the Township hereby finds that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's construction arrangements are adequate and feasible, and that therefor the Township hereby grants to the Company a non-exclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, along, across, above and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the Township, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Township of a Cable Television System for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes herein set forth but does not include or purport to include the right to utilize the private property, real or personal, of any other person or firm.

-SECTION 3. Franchise Term. The Franchises granted herein shall terminate 15 years from date of grant, subject to renewal for periods of reasonable duration on the same terms and conditions as contained herein, or on such different or additional terms and conditions as may be lawfully specified by the Township's governing body and as are consistent with the requirements of relevant Regulations of the Federal Communications Commission. The Company's application for franchise renewal shall be granted provided: (1) the Company shows that its CATV service during the preceding franchise period has reflected a good-faith effort to serve the needs and interests of its subscribers and service area, and (2) the Company has not demonstrated a disregard of the law or relevant Regulations or Ordinances.

- SECTION 4. Payments to the Township. The Company shall, during each year of operation under this Franchise, pay to the Township an amount equal to three percent (3%) of the annual Gross Subscriber Revenues received by the Company for regular monthly cable television rendered to customers located within the Township. Each annual payment shall be made the first day of March for the preceding calendar year and along with said payment, the Company shall furnish the Township with an operating report showing the Company's annual Gross Subscriber Revenues during the preceding year and such other information as the Township shall reasonably require.

SECTION 5. Records and Reports. The Company shall keep full, true, accurate and current books of account, which books and records shall be made available for inspection and copying by an authorized representative of the Township at all reasonable times.

SECTION 6. Local Office; Complaint Procedures.

(a) During the term of this Franchise, and any renewal thereof, the Company shall maintain within the Township, a local business office or agent for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters. The provisions of this Section shall be deemed to be complied with if Company maintains a local business headquarters office within 25 airline miles of the principal coordinates of the Township, which office may be reached by a local, toll-free telephone call, and provides the Township Manager's office with the name, address and phone number of a person who will act as the Company's agent to receive complaints regarding quality of service, equipment malfunctions and similar matters. The local office shall be open to receive inquiries or complaints from subscribers during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within three (3) business days of

their receipt. The Company shall keep a maintenance service log which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint and the time and date thereof. This log shall be made available for periodic inspection by Township.

(b) The Company shall, by appropriate means such as a card or brochure, as subscribers are connected or reconnected to the system furnish information concerning the procedures for making inquiries and/or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed. The Township appoints its Manager or his designated Township employee as responsible for implementation of the complaint procedures and continuing administration of the Franchise.

SECTION 7. Liability and Indemnification. The Company shall pay, and by its acceptance of this Franchise expressly agrees that it will pay, all damages and penalties which the Township may legally be required to pay as a result of the negligence of the Company, its agents, contractors, or sub-contractors, in the installation, operation, or maintenance of the Cable Television System authorized herein. The Township shall notify the Company's representative within fifteen (15) days after the presentation of any claim or demand to the Township, either by suit or otherwise, made

against the Township on account of any negligence or contract as aforesaid on the part of the Company. The Company further agrees as follows:

(a) Company shall carry Workmen's Compensation insurance, with statutory limits, and Employer's Liability insurance with limits of not less than One Hundred Thousand Dollars (\$100,000) which shall cover all operations to be performed by Company as a result of this Ordinance.

(b) Company shall carry Comprehensive General Liability and Comprehensive Automobile Liability insurance with bodily injury and/or death coverage of not less than Five Hundred Thousand Dollars (\$500,000) per occurrence, and property damage limits of not less than Three Hundred Thousand Dollars (\$300,000).

(c) Company shall carry Contractual Liability insurance coverage for all liability which Company has contractually assumed hereunder, including the indemnification obligations assumed by Company in this SECTION 7, the coverage under said policy to be the same as the limits set forth in the preceding sub-section 7 (b) of this Ordinance.

(d) Company's Workman's Compensation, Comprehensive General Liability and Comprehensive Automobile Liability insurance and all other insurance which Company is obliged under the terms of this Ordinance to carry shall be written by an insurance company authorized to do business

in Pennsylvania with capital and/or surplus of not less than Three Million Dollars (\$3,000,000). Company agrees to furnish Township with certified copies or certificates of insurance of said policies, which shall provide that insurance shall not be cancelled unless ten (10) days prior written notice shall first be given to Township. Township shall be given a certified copy of the policy written to provide the contractual liability coverage required by sub-section 7 (c) of this Ordinance.

SECTION 8. System Construction, Maintenance and Procedures.

(a) Upon grant of this Franchise to construct and maintain a community television system in the Township, the Company may enter into contracts with any Public Utility Companies or any other owner or lessee of any poles located within or without the Township to whatever extent such contract or contracts may be expedient and of advantage to the Company for use of poles and posts necessary for proper installation of the System, obtain right-of-way permits from appropriate State, County and Federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the Company's receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the System and its subscribers and obtain whatever other permits a Township,

County, State or Federal Agency may require. In the construction, installation and maintenance of its System, the Company will use steel, cable and electronic devices, all of specialized and advanced design and type; in the operation of its Systems, the Company will employ personnel with training, skill and experience in electronics and communications. Material and/or personnel of this sort may not be available to the Company for its System in the event of war or other similar national emergency.

(b) The Company's System, poles, wires, and appurtenances shall be located, erected and maintained so that none of them shall endanger or interfere with the lives of persons, or interfere with any improvements the Township may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.

(c) The Township acknowledges that the proposed System of Company will serve an acceptable portion of the Township. However, in the event that the Township should annex further territory as authorized by law and if Company's System is in the area of the Township which abuts the annexed territory, the Company shall extend energized trunk cable to the remaining portions of the Township so annexed within one (1) year thereafter, unless additional time is granted by the governing body of the Township upon

request of the Company for good cause shown. Extension of Service shall not be required into an area which does not meet the requirements set forth in SECTION 9 of this Franchise.

(d) 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 or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.

(e) In case of any disturbance of payment, sidewalk, driveway or other surfacing, the Company shall, at its own cost and expense and in a manner approved by the Township, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced.

(f) In event that at any time during the period of this Franchise, the Township shall lawfully elect to alter or change the grade of any street, alley or other public way, the Company upon reasonable notice by the Township, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(g) The Company shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant or main, or sewer main or appurtenance, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such manner as not to interfere with the usual travel on said streets, alleys and public ways.

(h) The Company shall, on 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 buildings. 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 the authority to require such payment in advance. The Company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

(i) The Company shall have the authority to trim trees located within the legal right-of-way of any streets, alleys, sidewalks and public places of the Township so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company, all trimming to be done under the supervision and direction of

the Township and at the expense of the Company. As a condition for granting approval for the cutting of any trees, if such cutting could result in liability on the part of the Township the Township may require Company to provide, in advance, such security as the Township may reasonably require to save harmless the Township from and indemnify the Township for any such liability and, in any event, Company does hereby agree to save harmless and indemnify Township of and from any claims for damages arising out of any such cutting, whether or not Township has requested security in advance.

(j) The Company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the Township and to any public or parochial elementary or secondary school. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

SECTION 9. Line Extensions.

(a) It shall be the obligation of Company to serve all residents of the Township except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically noncompensatory. For purposes of determining compliance with the provisions of this Section, and to provide for a reasonable and nondiscriminatory policy governing

extensions of cable service within the Township, which policy was subject to public review in the public proceeding leading to the award of this Franchise, Company shall extend service to new subscribers, at the normal installation charge and monthly rate for customers of that classification, under the following terms and conditions:

(1) Where the new subscriber or nearest subscriber of a group of new subscribers is located within 200 feet of existing trunk cable, and

(2) Where the number of homes to be passed by such new extension cable plant bears the same proportional ratio to the total amount of new cable plant as the average number of homes passed per mile of existing cable plant.

(b) In the event the requirements of subsections (a)(1) and (a)(2) are not met, the installation cost per subscriber shall be determined in accordance with Company's rate schedule in effect at the time, which rate schedule shall be fair and reasonable in the circumstances.

SECTION 10. Compliance with Standards. All facilities and equipment of Company shall be constructed and maintained in accordance with the requirements and specifications of the National Electrical Safety Code and such applicable ordinances and regulations set forth by the Township and/or any other local, state or Federal agencies.

SECTION 11. Company Rules and Regulations. The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this Franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of Federal and State laws.

SECTION 12. Procedures. No renewal of this Franchise shall be effective pursuant to a public proceeding affording due process. The Company shall be a party to any such proceedings and any other proceedings in which its rights, privileges or interests would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules or regulations.

SECTION 13. Approval of Transfer. The Company shall not sell or transfer its System to another, nor transfer any rights under this Franchise to another, without written approval by the Township, provided, that such approval shall not be unreasonably withheld if the vendee, assignee or lessee has filed with the appropriate official of the

Township, an instrument duly executed, reciting the fact of such sale, assignment or lease and accepting the terms of this Franchise and agreeing to perform all conditions thereof.

SECTION 14. Compliance with FCC Rules and Regulations.

The Company shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the Federal Communications Commission ("FCC"). This shall include adherence by the Company to FCC rules regarding technical and engineering specifications involved in the construction of the CATV System and signal carriage therein.

SECTION 15. Publication Costs. The Company shall assume the costs of the publication of all notices in connection with the grant of this Franchise, the adoption of this Ordinance and the public hearing held in connection therewith.

SECTION 16. Legal Costs. All expenses for legal services reasonably incurred by the Township in connection with the grant of this Franchise, the adoption of this Ordinance, and the proceedings held in connection therewith shall be reimbursed to the Township by Company.

SECTION 17. Activities Prohibited.

(a) The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company, nor shall the System

interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the Township.

(b) Except for service to be supplied to the Township itself and to schools in the Township, the Company shall not, as to rates, charges, service facilities, rules, regulations, or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage. Provided, however, that nothing in this Franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

SECTION 18. Landlord - Tenant.

(a) No landlord shall demand or accept payment from Company for permitting Company to provide cable television service on or within said landlord's property or premises. Provided, however, that such landlord may be entitled to reasonable reimbursement for any direct expenses incurred by him in connection with the installation of cable television service.

(b) No landlord shall interfere with the installation of cable television facilities upon his property or premises nor shall such landlord discriminate in rental

charges, or otherwise, between tenants who receive cable service and those who do not. No landlord shall demand or accept payment from any tenant, in any form, for permitting cable television service on or within his property or premises.

SECTION 19. Theft of Services and Tampering.

(a) No person, whether or not a subscriber to the cable system, shall willfully, maliciously or otherwise damage or cause to be damaged any wire, cable, conduit, apparatus, appurtenance, or equipment of a Company operating a cable television system within the Township, or commit any act with intent to cause such damage, or to tap, tamper with or otherwise connect any wire or device to a wire, cable, conduit, apparatus, appurtenance or equipment of such Franchisee with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to such Company, or to obtain cable television or other communications service with intent to cheat or defraud said Company of any lawful charge to which it is entitled.

(b) Any person who violates any provision of this Section shall upon conviction thereof in a summary proceeding be sentenced to pay a fine not to exceed Three Hundred Dollars (\$300) plus costs of prosecution and in default of payment thereof, or any part thereof, shall be sentenced to

undergo imprisonment for a period not to exceed thirty (30) days.

SECTION 20. Severability.

(a) If any section, subsection, sentence, clause, phrase or portion of this Ordinance 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 affect the validity of the remaining portions hereof.

(b) Should any provision of this Franchise be inconsistent or at variance with any rule, regulation or policy, in whole in the part, of the Federal Communications Commission or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.

ORDAINED AND ENACTED into an Ordinance this ____ day of _____, 1980.

ATTEST:

TOWNSHIP OF HAYCOCK

By _____