

CITY OF BEAN STATION

**P O BOX 520
785 MAIN STREET
BEAN STATION, TN 37708
Telephone(865) 993-3177
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T.R.A. BOOK-ET ROOM

*Mayor, Rick Brewer
Aldermen.
Scott Satterfield
George Shockey
Carrol Wilder
Steve Winstead*

Wednesday, October 22, 2008

Lisa:

Here is a copy of our franchise agreement with Charter Cable. Please let us know if we need to do anything further on this matter.

Thank you,
City of Bean Station

ORDINANCE NO. 98-12

AN ORDINANCE granting a franchise to Marcus Cable Associates, LLC, to build, construct, operate and maintain a cable television system in the City of Bean Station, Tennessee, and setting forth conditions accompanying the granting of this franchise:

Be it ordained by the City Council of the City of Bean Station, Tennessee, as follows:

Section 1 -- Title. This Ordinance shall be known and may be cited as the Terms and Conditions of the Cable Television Franchise.

Section 2 -- Definitions. For the purpose of this Ordinance, and when not inconsistent with the context, words used herein in the present tense include the future; words in plural include the singular, and vice versa. The word "shall" is always mandatory. The captions supplied herein for each section are for convenience only. Said captions have no force of law, are not part of the section, and are not to be used in construing the language of the section. The following terms and phrases, as used herein, shall be given the meaning set forth below:

- (a) "City" or "Grantor" is the City of Bean Station, a municipal corporation under the laws of the State of Tennessee, or any successor to the Legislative powers of the present City.
- (b) "Grantee" or "Company" is Marcus Cable. It is the grantee of rights under this franchise.
- (c) "Franchise" is the rights granted to any person by the City of Bean Station under the terms of this and any agreement entered into by and between the City of Bean Station, Tennessee, and such person according to the terms of this Code.
- (d) "City Council" is the governing legislative body of the City of Bean Station, Tennessee.
- (e) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- (f) "Cable System" or "Cable Television System" means (i) a system of coaxial cables or other electrical conductors and equipment used or to be used primarily for the interception retransmission, and distribution of television signals, radio, data or other electronic signals, for a fee and (ii) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.
- (g) "CATV System" shall mean cable system.
- (h) "Corporate Limits" shall include all areas lying within the limits of the City of Bean Station, Tennessee, as from time to time changed by annexation or other legal methods.

(i) "Federal Communications Commission" or "FCC" is the Federal Commission or Agency created pursuant to the Communications Act of 1934 or its successor agency.

(j) "Channels" shall mean a group of frequencies in the electromagnetic spectrum capable of carrying an audio-data or an audio-video television signal.

(k) "Basic Cable Service" means any service tier which includes the re-transmission of local television broadcast signals, which tier also meets the definition of Basic Service contained in 47 U.S.C. 543(b)(7).

(l) "Gross Annual Receipts" shall mean all revenue derived directly by the Grantee and its subsidiaries, from or in connection with the operation of the Cable Television System pursuant to this Ordinance; including, but not limited to, gross annual basic cable service

(m) receipts, gross annual premium channels receipts, all other service receipts, gross annual advertising receipts, gross annual receipts from use of commercial channels, receipts from any use of the system for data services, installation and reconnection fees, and converter and other equipment rentals; provided, however, that this shall not include any taxes or franchise fees on services furnished by the Grantee herein, imposed directly upon any subscriber or user by the state, City or other governmental entity and collected by the Grantee on behalf of said governmental unit.

(m) "City of Bean Station" means the present municipal corporation of Bean Station, together with any future annexation made pursuant to law. Also referred to as "City".

(n) "Ordinance" or "Franchise Ordinance" means this Ordinance which grants a franchise and defines the specific rights and obligations of each party pursuant to the general authority, powers and restrictions of this Ordinance.

(o) "Streets" shall mean the surface of and all rights-of-way and the space above and below any public street, road, highway, bridge, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive, waterway, dock, wharf, pier, or easement now or hereafter held by the City for the purpose of public travel and shall include other easements or rights-of-way as shall be now held or hereafter held by the City which shall, within their proper use and meaning entitle the franchisee to the use thereof for the purposes of installing or transmitting cable television system transmissions over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a cable television system.

(p) "Year" means the remaining portion of any calendar year in which a franchise is granted. Thereafter, "Year" means a full calendar year.

Section 3 – Grant of Authority.

(a) The City warrants it has a right to issue a franchise and the Grantee, by acceptance, acknowledges and accepts the right of the City to issue the same.

(b) The City hereby grants to grantee, subject to the right of amendment as hereinafter provided, the 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 City, poles, wires, cables, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation in the City of a cable system for the interception, retransmission, sale, and distribution of television signals, radio, data, or other electronic signals as may be deemed appropriate by the Grantee, upon the limitations, terms, and conditions in this ordinance contained, as the same may be from time to time amended.

(c) This franchise award shall not be sublet, assigned or leased, nor shall any of the rights or privileges therein granted or authorized be transferred or assigned, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, title, interest or property therein pass to or vest in any person except the Grantee, either by act of the Grantee or by operation of law, without the prior consent of the City expressed by ordinance, which consent will not be unreasonably withheld. The City shall take such consent or denial action within the limits prescribed in 47 U.S.C. 537 (e).

(d) The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive when granted by the City.

Section 4 -- Compliance With Applicable Laws.

(a) Grantee, at all times during the life of its franchise, shall be subject to all lawful exercise of the police power by the City. Unless otherwise prohibited by State or Federal law, or where jurisdiction has been or shall be conferred upon a State or Federal commission, board or body, the City reserves a right by ordinance or resolution to regulate such cable system as to attachment fees, if any; rates and charges to be paid by the subscribers for the service; the quality of service to be provided subscribers; the rate of construction of facilities so as to serve the territorial area referred to hereinafter; to promulgate rules and regulations and other necessary supervisory procedures to assure prompt completion of the system; to provide service for all citizens of the City, subject to the extension policy as stated in Section 11 wherever located; to set a schedule of construction that will attain the said completion of such system as herein above last stated; and to adopt such other rules and regulations it may now or hereafter lawfully impose in keeping with and not in conflict with applicable State or Federal law, or the lawful rules and regulations heretofore or hereafter adopted by any Federal commission, board or body and/or any lawful State rules and/or regulations lawfully adopted by any State commission, board or body.

(b) Grantee, its successors and assigns granted a franchise hereunder shall be subject to lawful regulations heretofore or hereafter adopted by the Federal Communications Commission and should it now be or hereafter become subject to the jurisdiction of any other commission then also to the lawful rules and regulations adopted by such commission and also to the lawful rules and regulations adopted by any similar Federal commission or State regulatory body, having jurisdiction. If the Grantee, its successors or assigns, shall fail to comply with any material Federal and/or State statute, rules, regulations, orders or conditions lawfully vested under Federal law in any Federal regulatory body and/or rules, regulations, orders and conditions lawfully vested in any State regulatory body and/or rules, regulations, orders and conditions lawfully vested in the City, the City shall have the right to terminate or cancel any franchise

granted hereunder after written notice to the Grantee to correct such failure or default and such failure or default shall continue for a period of time specified in such notice, not less than ninety (90) days.

Section 5 -- Franchise and Area. Any franchise granted hereunder relates to the present City limits of the City and to any area hereafter added thereto during the term of any franchise granted hereunder.

Section 6 -- Services. The cable television system provided by the Grantee shall have a bandwidth of no less than 750 MHz.

Section 7 -- Customer Service and Signal Quality Requirements. The Grantee shall:

- (a) Comply with the technical standards provided by the Federal Communications Commission at 47 C.F.R. 76.601 through 76.609, as from time to time amended.
- (b) Limit failures which leave 5 or more subscribers with no cable service to a minimum by locating and addressing with reasonable efforts such malfunctions properly and promptly, but in no event longer than twenty-four (24) hours after notice unless prevented by an act of God.
- (c) Demonstrate by instruments or otherwise to subscribers that a signal of adequate strength and quality is being delivered.
- (d) In the case of any outage from any cause in which one or more customers are completely without cable service for 24 hours or more, upon request from customers affected, calculate a pro rata reduction in the charge for cable service, to be itemized and included in the next regular bill to the customer(s) involved.
- (e) Comply with the Customer Service and Consumer Protection Standards at 47 C.F.R. 76.309, as from time to time amended by the Federal Communications Commission.

Section 8 -- Emergency Broadcast Services Required.

(a) The Grantee shall provide, but without charge and subject to the rules and regulations of the Federal Communications Commission, public emergency broadcast capabilities whereby the City can interrupt service on all channels in order to make such public emergency communications as it deems necessary.

(b) Grantee, at its own expense and upon specific written request by the City, will provide and maintain one connection for Basic Service to each City building, each public, primary, middle and high school, public library; and each police station and fire station within the corporate limits of the City; provided, that Grantee shall not be responsible for providing the distribution system or internal wiring within any of such places and provided, further, that Grantee shall not be required to bear the expense or cost of any installation necessary for such purposes beyond a 125 foot service drop. Such additional costs, on a time and materials basis, shall be borne by the requesting institution or location. Further, no monthly customer service fee will be charged for Basic Service for the first connection of such facilities. Nothing in this

Franchise shall be construed to permit any person, organization or other entity receiving a free connection or free service under this provision to extend such connection or service to other persons or locations or to receive any remuneration or compensation for any such connection or service unless approved in writing by Grantee.

Section 9 -- Indemnification. Grantee shall save the City harmless from all loss sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever against the City resulting from negligence on the part of Grantee in the construction, operation or maintenance of its cable television system in the City; and for this purpose Grantee shall carry property damage and personal injury insurance with some responsible insurance company or companies qualified to do business in the State of Tennessee. The amounts of such insurance to be carried for liability due to property damage shall be \$100,000 as to any one occurrence; and against liability due to injury to or death of person, \$250,000 as to any one person and \$500,000 as to any one occurrence. The City shall notify Grantee, in writing, within ten (10) days after the presentation of any claim or demand, either by suit or otherwise, made against the City on account of any negligence as aforesaid on the part of Grantee. Where any such claim or demand against the City is made by suit or legal action, written notice thereof shall be given by the City to Grantee not less than five (5) days prior to the date upon which an answer to such legal action is due or within ten (10) days after the claim or demand is made upon the City, whichever notice period yields Grantee the larger amount of time within which to prepare an answer.

Section 10 -- Construction & Maintenance.

(a) All structures, lines and equipment erected by Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys, public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners. Existing poles, posts, conduits, and other such structures of any electric power system, telephone company, or other public utility located in the City shall be used to the extent practicable in order to minimize interference with travel and avoid unnecessary duplication of facilities. The City shall actively assist Grantee to the fullest extent necessary in obtaining reasonable joint pole or conduit use agreements from the owners of existing poles or conduits. To the extent that existing poles, posts, conduits, and other such structures are not available, or are not available under reasonable terms and conditions, including excessive cost or unreasonable limitation upon the use of Grantee's cable television system, Grantee shall have the right to purchase, lease, or in any other manner acquire land, rights-of-way, or public utility easements upon or under which to erect and maintain its own poles, conduits, and other such structures as may be necessary for the construction and maintenance of its cable television system. Where all other existing utilities are underground, Grantee shall locate its facilities underground.

(b) In case of any disturbance by Grantee of pavement, sidewalk, driveway or other surfacing, Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway or surface so disturbed in as good condition as before said work was commenced.

(c) Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its lines to permit the moving of the building. The expense of such temporary removal shall be paid by the person requesting the same, and Grantee shall have the authority to require such payment in advance.

(d) All poles, lines, structures and other facilities of Grantee in, on, over and under the streets, sidewalks, alleys, public utility easements and public grounds or place of the City shall be kept by Grantee at all times in a safe condition.

(e) When the City undertakes any reconstruction, realignment or any other work on City streets which would require relocation or modification of Grantee's poles, wires or other facilities, City shall notify Grantee, and Grantee shall be responsible for such relocations of Grantee's facilities. Grantee shall be entitled to any reimbursement funds that may be made available to other affected parties.

Section 11 -- Service Extension. Grantee agrees to extend its cables to provide additional service within the corporate limits of the City of Bean Station so as to make the service available to all residential occupancies within the City. Extension of service shall not be required into an area where there are less than twenty-five homes per lineal mile beyond 500 feet of Company's existing trunk system.

Section 12 -- Amendments & Supplemental Agreements. It shall be the policy of the City to amend the Franchise, upon application of the Grantee, or when otherwise warranted, to enable the Grantee to take advantage of any development or developments in the field of transmission of television and radio signals which will afford it an opportunity to more efficiently, effectively or economically serve its customers

Section 13 -- Filings & Communications With Regulatory Agencies. The City shall be notified of all petitions, applications, registrations and responses to complaints submitted by the Grantee to the Federal Communications Commission concerning the Grantee's system, and shall provide copies of all such documents to the City if requested to do so.

Section 14 -- Maps, Plats & Reports.

(a) The Grantee shall file with the City Administrator a true and accurate map or plat of existing plant and proposed extensions upon request.

(b) The Grantee shall file upon request with the City, or its designee, not later than ninety (90) days after requested, an income statement applicable to the operations within the City during the preceding twelve month period, and a balance sheet. There shall be submitted along with them such other reasonable information as the City shall request with respect to the company's properties and expenses related to its CATV operations within the City.

(c) The Grantee shall make available upon request by the City Administrator a current list of its partners and stockholders with an interest of 10% or greater, its officers and directors and bond holders.

Section 15 -- Franchise Term & Renewal. This franchise shall take effect and be in full force from 1/- 23, 1978 and after acceptance by Grantee as provided in Section 20, and the same shall continue in full force and effect for a term of ten (10) years. Renewals shall be accomplished as provided for in Federal law and regulations.

Section 16 -- Forfeiture. If Grantee should violate any material terms, conditions, or provisions of this franchise or if Grantee should fail to comply with any material provisions of any ordinance of the City regulating the use by Grantee of the streets, alleys, public utility easements or public ways of the City, and should Grantee further continue to violate or fail to comply with the same for a period of ninety (90) days after Grantee shall have been notified in writing by the City to cease and desist from any such violation or failure to comply so specified, then Grantee may be deemed to have forfeited and annulled and shall thereby forfeit and annul all the rights and privileges granted by this franchise; provided, however, that such forfeiture shall be declared only by written decision of the City Council after an appropriate public proceeding before the City Council affording Grantee due process and full opportunity to be heard and to respond to any such notice of violation or failure to comply; and provided further that the City Council may, in its discretion and upon a finding of violation or failure to comply, impose a lesser penalty than forfeiture of this franchise or excuse the violation or failure to comply upon a showing by Grantee of mitigating circumstances. Grantee shall have the right to appeal any finding of violation or failure to comply with any resultant penalty to any court of competent jurisdiction, as provided in 47 U.S.C. 555. In the event that forfeiture is imposed upon Grantee, it shall be afforded a period of six (6) months within which to sell, transfer, or convey this cable television system to a qualified purchaser at fair market value. During this six (6) month period, which shall run from the effective date of the final order or decision imposing forfeiture, including any appeal, Grantee shall have the right to operate this cable television system pursuant to the provisions of this franchise.

Section 17 -- Surrender Right. Grantee may surrender this franchise at any time upon filing with the City Administrator a written notice of its intention to do so at least six (6) months before the surrender date. On the surrender date specified in the notice, all of the rights and privileges and all of the obligations, duties and liabilities of Grantee in connection with this franchise shall terminate. Further, should the Grantee, his and/or its successors and assigns discontinue the business for which this franchise is granted, all poles, wires, cables and other devices shall be removed without expense to the City, within ninety (90) days after demand for such removal is made by the City.

Section 18 -- Transfers. All of the rights and privileges and all of the obligations, duties and liabilities created by this franchise shall pass to and be binding upon the successors of the City and the successors and assigns of Grantee; and the same shall not be assigned or transferred without the written approval of the City Council, which approval shall not be unreasonably withheld, in compliance with the requirements of 47 U.S.C. 537(e); provided, however, that this Section shall not prevent the assignment or hypothecation of the franchise by Grantee as security for debt without such approval; and provided further that transfers or assignments of this franchise between any parent and subsidiary corporation or between entities of which at least fifty percent (50%) of the beneficial ownership is held by the same person, persons, or entities shall be permitted without the prior approval of the City Council.

Section 19 -- Franchise Fee. In consideration of the terms of this franchise, and in conformity with 47 U.S.C. 542, Grantee agrees to pay the City a sum of money equal to five percent (5%) of Grantee's gross annual receipts per year. Such sum shall be payable quarterly, no later than the 30th of the month following the end of the quarter. This payment shall be in addition to any other tax or payment owed to the City by Grantee, including ad valorem or business taxes.

Section 20 -- Effective Date and Acceptance. This Ordinance shall become effective on Nov. 23, 1998 and, after acceptance by Grantee, shall then be and become a valid and binding contract between the City and Grantee; provided, however, that this Ordinance shall be void unless Grantee shall, within ninety (90) days after the final passage of this Ordinance as provided in Section 22, file with the City Administrator a written acceptance of this Ordinance and the franchise herein granted, agreeing that it will comply with all of the provisions and conditions hereof and that it will refrain from doing all of the things prohibited by this Ordinance.

Section 21 -- Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Federal or state court or administrative or governmental agency of competent jurisdiction, specifically including the Federal Communications Commission, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 22 -- Passage and Effective Date. For purposes of becoming a law, this ordinance shall be effective after its final passage, the public welfare requiring it. For all other purposes, it shall be effective as provided for in Section 20 above.

This Ordinance is granted the 23 day of Nov., 1998.

Bean Station City Council

ATTEST:

Barbara S. Wolfe

By: Mayer
Title: City Clerk

2008 OCT 20 PM 1:34

TRA DOCKET ROOM

October 20, 2008

Ms. Lisa Cooper
TRA Programs Manager
ATTN: TRA Docket Room (08-00169)
460 James Robertson Parkway
Nashville, TN 37243

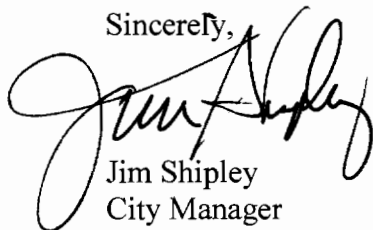
RE: Notice of TRA Receipt of Application for Certificate of Franchise Authority and
Official Request for Information

Dear Ms. Cooper:

The City of Cookeville has received notice from Charter Communications advising that it has filed an application for a state-issued certificate of franchise authority with the TRA. In response to your request for information, I am writing to advise that the City of Cookeville has no PEG channels has, as such, has no funding for same.

Should you have any questions or require additional information, please feel free to contact me.

Sincerely,



Jim Shipley
City Manager