

ORDINANCE NO: 46 -1994

Offered by: Mrs. Beshara

AN ORDINANCE APPROVING THE INITIAL RATE CHARGED FOR BASIC CABLE TELEVISION SERVICE BY CABLEVISION OF THE MIDWEST, INC.; DISAPPROVING ASSOCIATED INSTALLATION AND EQUIPMENT CHARGES; ORDERING A REFUND TO SUBSCRIBERS; AND DECLARING AN EMERGENCY.

WHEREAS, the Village of Richfield, Ohio ("Village") is a grantor of a cable television service franchise to Cablevision of the Midwest, Inc. ("Grantee"); and

WHEREAS, in accordance with applicable provisions of the Cable Consumer Protection and Competition Act of 1992 (herein-after the "Cable Act") and rules adopted by the Federal Communications Commission ("FCC"), the Village has undertaken all appropriate procedural steps to regulate the basic cable service tier and related installation and equipment rates; and

WHEREAS, in accordance with applicable FCC regulations, on or about October 14, 1993, the Village filed FCC Form 328 -- Certification of Franchising Authority to Regulate Basic Cable Service Rates and Initial Finding of Lack of Effective Competition -- with the FCC; and

WHEREAS, in accordance with applicable FCC regulations, on or about December 21, 1993, the Village passed and adopted a rate regulation ordinance; and

WHEREAS, on or about December 28, 1993, the Village served Grantee with a notification letter regarding FCC certification via Form 328 and the adoption of the rate regulation ordinance and requested that Grantee complete FCC Form 393 -- Determination of Maximum Initial Permitted Rates for Regulated Cable Programming Services and Equipment; and

WHEREAS, the Village received from Grantee FCC Form 393 (a copy of which is on file with the Clerk of Council and made a part of this Ordinance by reference); and

WHEREAS, it was necessary for the Village to request additional information from the Grantee in order to determine the reasonableness of Grantee's basic cable service rates and related installation and equipment rates and Grantee responded to said request on August 2, 1994; and

WHEREAS, follow-up information was required to be requested from Grantee, which Grantee supplied; and

WHEREAS, the Village, in order to accomplish its review in a timely manner, scheduled for its regular meeting date of August 16, 1994, sufficient time for the purpose of reviewing Grantee's FCC Form 393 and related rate regulation information and providing

interested parties ample opportunity to present information to the Village; and

WHEREAS, based upon the Village's August 16, 1994 Council meeting, the information submitted by the Grantee, and the advice of the Village's cable television legal consultants, the Village determines to make the below listed findings and order;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, State of Ohio, that:

SECTION 1. This Council makes the following findings:

- A. Grantee's request for cable rate approval for the initial basic service tier (exclusive of any franchise fee) of \$5.83 is reasonable because it is less than the permitted rate under the FCC's regulations, and is, therefore, approved.
- B. Grantee's requested initial hourly service charge of \$29.46 is approved.
- C. The initial charges for basic service installations and changing tiers ("Non-Addressable") designated as "Actual" in Part I, page 2, of Grantee's FCC Form 393 are unreasonable under FCC regulations and are, therefore, disapproved. (Part I, page 2, of FCC Form 393 is attached hereto and made a part of this Ordinance as Exhibit A).
- D. The Village has an obligation to timely act upon the pending rate application consistent with current FCC rules and regulations. However, to the extent the FCC rules and regulations are altered resulting in a lower reasonable rate for Richfield subscribers, the Village has an obligation to area subscribers to reconsider the pending analysis consistent with the changes the FCC has made in its rules and regulations.

SECTION 2.

Based on the foregoing findings, the Council of the Village of Richfield enters the following order:

- A. Pursuant to FCC regulations, Grantee was permitted to charge no more than the installation, changing of tiers, and monthly equipment rental rates designated as "Permitted" in the attached Exhibit A for the rates effective September 1, 1993.

- B. Grantee shall immediately undertake all necessary steps, in accordance with applicable FCC regulations, to refund to subscribers all applicable overcharges based on the maximum "Permitted" rates for installation, changing of tiers, and monthly lease of equipment specified in paragraph A above, and any franchise fee assessed thereon, plus interest computed at the applicable published rates for tax refund and additional tax payments, which has been overcharged since September 1, 1993. Grantee shall notify the Village when the refunds are made and of the manner and extent of the refunds.
- C. The Village reserves the right to reconsider this Ordinance for the purpose of further reducing rates should new information arise which was not disclosed by the Grantee or future modifications to FCC rules and regulations so provide and permit.
- D. The above rates and charges are subject to change pursuant to the FCC regulations effective May 15, 1994.
- E. The Clerk of Council is directed to serve a certified copy of this Ordinance upon the Grantee immediately upon its passage and execution by certified mail, return receipt requested, and shall cause the full text of this Ordinance, as adopted, to be published to the citizens of Richfield.

SECTION 3.

This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety, and welfare of the inhabitants of the Village of Richfield, such emergency being for the reason that in order to meet the FCC's time deadlines for cable television rate determinations and to take advantage of the Grantee's full refund liability, it is necessary that the within Ordinance become effective at the earliest time provided by law; wherefore, provided this Ordinance receives the affirmative vote of two-thirds or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage and execution by the Mayor; otherwise, it shall take effect and be in

force from and after the earliest period allowed by law.

PASSED: Aug 16, 1994

Daniel S. Stoerbel  
President of Council

ATTEST:

Dorothy Malone  
Clerk of Council

[Signature]  
Mayor

Dated: 8/16/94