

AN ORDINANCE GOVERNING THE PROCEDURES AND STANDARDS FOR THE REGULATION OF CABLE TELEVISION RATES PURSUANT TO THE RULES OF THE FEDERAL COMMUNICATIONS COMMISSION AND THE CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992; AND DECLARING AN EMERGENCY

WHEREAS, on the 1st day of March, 1983, the Village of Richfield, Ohio ("Village") passed and adopted Ordinance No. 12-1983 granting to Complexicable of Brecksville/Richfield, a Limited Partnership, the nonexclusive right to construct, own and operate a cable television system in the City which right was eventually transferred to Cablevision of the Midwest, Inc. ("Grantee") by Resolution No. 31-1988; and

WHEREAS, the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act") was enacted on October 5, 1992 and became effective on December 4, 1992. The 1992 Cable Act amends the Cable Communications Policy Act of 1984 and, in particular, Section 623 (47 U.S.C. 543) governing the regulation of rates charged by cable television operators; and

WHEREAS, on April 1, 1993, the Federal Communications Commission ("FCC") adopted rate regulations pursuant to the 1992 Cable Act. These FCC rate regulations were released May 3, 1993 and became effective September 1, 1993; and

WHEREAS, pursuant to 47 C.F.R. Part 76.900, Subpart N, Section 76.910, on the 14th day of October, 1993, the Village submitted FCC Form 328 -- Certification for Local Franchising Authorities -- to the FCC via Registered Mail, Return Receipt Requested. Pursuant to Section 76.910, the date on the return receipt, October 14, 1993, is to be considered the date filed. A copy of FCC Form 328 was also served on Grantee on October 8, 1993; and

WHEREAS, this Ordinance will govern the procedures to be undertaken by the Village for the regulation of Grantee's cable television rates pursuant to the 1992 Cable Act and the regulations of the FCC.

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

SECTION 1. All rates and charges for basic cable service and any other cable programming services, as defined by the 1992 Cable Act and applicable FCC regulations, shall, to the extent permissible, be subject to regulation by the Village in a manner provided by this Ordinance. This Ordinance shall apply to all cable television system operators in the Village. The Grantee and/or any other operator of a cable television system operating in the Village shall be

subject to the rate regulation provisions provided for herein, and those of the FCC at 47 C.F.R., Part 76.900, Subpart N.

The Village reserves the right to amend this Ordinance from time to time consistent with the requirements of the FCC, and state and federal law.

SECTION 2.

- A. The Village hereby adopts and shall follow the rules relating to cable rate regulation promulgated by the FCC at 47 C.F.R., Part 76.900, Subpart N. Prior to approving or disapproving any rates, the Village shall provide an opportunity for consideration of the views of interested parties.
- B. Upon adoption of this Ordinance, the Clerk of Council will send to Grantee and each operator of a cable television system in the Village, via Certified Mail, Return Receipt Requested, a written notice, which shall include a copy of this Ordinance and notice that the Village is certified by the FCC to regulate the cable television rates authorized by the Ordinance.
- C. Within thirty (30) days after receipt of the aforesaid notice, Grantee and any other cable television operator shall have thirty (30) days to respond with rate and benchmark information utilizing FCC Form 393 -- Determination of Maximum Initial Permitted Rates for Regulated Cable Services and Actual Cost of Equipment.
 1. If the initial rates and/or any subsequent rate increases are within the FCC standards, the rates will be effective thirty (30) days after submission.
 2. If the Village is unable to determine whether the rate at issue is within the FCC's standards, based on the material before it, or if the Grantee or any other cable operator has submitted a cost-of-service showing seeking to justify a rate above the FCC's reasonable rate level, the Village may take an additional period of time to make a final determination and toll the effective date of the proposed rates for a commensurate period.
 - a. The Village may take an additional ninety (90) days if it needs more time to ensure that a rate is within the FCC's rate standards.

- b. The Village may take an additional one hundred fifty (150) days to evaluate a cost-of-service showing seeking to justify a rate above the reasonable rate level.
 - c. The Village must issue a brief written decision regarding its invocation of the additional time period.
- 3. In all cases, the Village will issue a written decision to approve the rate schedule, disapprove the rate schedule or continue for review.
 - 4. If rates are in excess of the FCC's standards, the rates may be reduced by the Village pursuant to applicable FCC regulations.
- D. After the initial rate schedule procedures are followed, as described in this Section, Grantee and/or any other cable operator shall, in conjunction with each change in the rates and charges applicable to basic cable service, conform to the standards of the FCC. Before any rate change is effective, Grantee and/or any other cable operator shall notify the Village of its requested rate change by giving the Village thirty (30) days advance written notice before the change is effective and by providing the Village with its rates and applicable information pursuant to FCC regulations.
 - E. To the extent specifically permitted by federal law and applicable FCC rules, Grantee and/or any other cable operator shall be permitted to appeal to the FCC for a review of the decision of the Village.

SECTION 3.

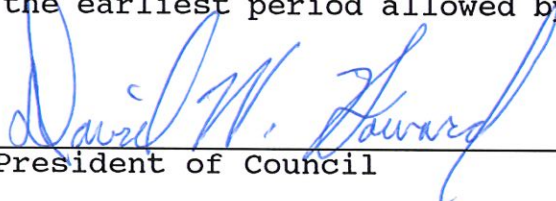
- A. The Village may utilize a rate consultant to advise it on proposed rate changes and to assist it in the procedures and the standards for review adopted by the FCC. A rate consultant may be any person who has sufficient background and experience, in the sole opinion of the Village, to properly evaluate and analyze rates and charges.
- B. All costs for the review of initial rates or rate changes shall be paid by the cable operator upon demand of the Village, unless contrary to applicable rules of the FCC governing these procedures or unless otherwise specifically preempted by state or federal law. The costs shall include, but not be limited to, rate consultants,

attorney's fees and the reasonable value of services (as determined by the Village) rendered by the Village or any Village employees, agents or representatives of the Village.

SECTION 4. The requirements described in this Ordinance are applicable to the Grantee and all operators of cable television systems within the Village subject to rate regulation according to the 1992 Cable Act and applicable FCC rules.

SECTION 5. 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 that in order to protect the Village's cable television subscribers it is necessary that the within Ordinance become effective at the earliest time permitted 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: 12-21-93



President of Council

ATTEST:


Clerk of Council



Mayor

Dated: 12/21/93