

ORDINANCE NO. 91-006

AN ORDINANCE granting to SIMMONS CABLE TV, its successors and assigns, the right, privilege and authority to construct and operate a non-exclusive cable television system within the limits of Scott County, Kentucky, excluding the corporate limits of the City of Georgetown, Kentucky, in its present forms or in any later recognized, consolidated, enlarged, or re-incorporation form.

BE IT ORDAINED by the Fiscal Court of the County of Scott, Kentucky, that:

SECTION 1. "DEFINITIONS": For the purpose of this contract, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the content, 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. Provisions of this contract shall be construed in accordance with the laws of the State of Kentucky.

(a) "COUNTY": The County above named, of the State of Kentucky, in its present form or in any later recognized, consolidated, enlarged or reincorporated form.

(b) "FISCAL COURT": The present governing body of the County or any further court, commission or board constituting the legislative body of the county.

(c) "FRANCHISE PROPERTY": All property owned, installed or used under authority of this franchise contract.

(d) "GRANTEE": The persons or corporations to whom this non-exclusive franchise is granted by the County.

(e) "STREET": The surface of, and the space above and below any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway, or drive, now or hereafter existing or such within the County.

(f) "CABLE": Coaxial cables, wave guides, or other conductors and equipment for providing television, radio or other signals (hereinafter collectively called "Signals") by cable or through its facilities as hereinafter contemplated.

SECTION 2. "GRANT OR FRANCHISE": The County hereby grants to the Grantee, subject to the provisions herein contained a franchise to engage in the business of operating and providing a non-exclusive cable system in the County of Scott, excluding the corporate limits of the City of Georgetown, Kentucky, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in streets such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliance, attachments, and other property as may be necessary and appurtenant to the Cable system; and, in addition, so to use, operate and provide similar properties rented or leased from other person, firms or corporation, for such purpose.

SECTION 3. "DURATION OF GRANT": This grant shall expire fifteen (15) years after the effective date hereof, unless sooner terminated by the County as hereinafter provided.

SECTION 4. "CHARGE FOR SERVICE": The Grantee shall have the right to charge for the service rendered, signal delivered, etc., in accordance with its regulations and by-laws of the laws of the State of Kentucky.

SECTION 5. "LIMITATIONS OF GRANT":

(a) Any privilege claimed under this franchise by the Grantee in any street shall be subordinate to any prior lawful occupancy of the streets, or other public property, or which in the future may interfere with public safety or necessary public improvements as determined by the Fiscal Court.

(b) Franchise property shall be constructed or installed in streets only at such locations and in such a manner as shall be approved by the Fiscal Court, acting in the exercise of reasonable discretion. Construction or installation of franchise property in all other public places shall be subject to approval of and regulation by the Fiscal Court.

SECTION 6. "TERMINATION OF FRANCHISE":

(a) Any future renewal of this grant shall be in compliance with the franchise renewal procedure contained in the Cable Communications Policy Act (Section 626) at the option of both the County and the Grantee.

(b) In the event of expiration or material breach by the Grantee of this contract, this franchise may be terminated by the Fiscal Court after written notice and an opportunity to be heard is afforded the Grantee and an opportunity of at least ninety (90) days is afforded the Grantee to comply with the contract.

(c) In the event this franchise is cancelled or not renewed, the Grantee shall be obligated for a reasonable period to continue service to the public as a trustee for his successor interest, subject to an accounting for net earnings or losses during the interim period.

(d) In the event of non-renewal of this franchise, the County may, at its option, and for fair market value of this system as a going concern, require that all right, title and interest in the Cable property be transferred to the County or to a Grantee designated by the County.

SECTION 7. "CHANGES REQUIRED BY PUBLIC IMPROVEMENTS": Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, alley, or public place or remove from any street, alley, or public place any franchise property when required by the County by reason of any reasonable lawful municipal use by the County with which the use of the Grantee unreasonably interferes.

SECTION 8. "INDEMNIFICATION TO COUNTY":

(a) Grantee agrees that it shall hold the County harmless from all claims for damages arising out of or by reason of the construction, maintenance or operation of the aforementioned system. Grantee agrees that at all times during the existence of this franchise, they will maintain in force, furnish, and file with the County, at their expense, a general comprehensive liability insurance policy, in protection of the County, its boards, commissions, officers, agents and employees, in a company acceptable to the County, and in form satisfactory to the County, protecting the County and said persons against liability for loss or damages for personal injury, death, and property damage occasioned by the operations of Grantee under this contract, with minimum liability limits of \$100,000.00 for personal injury or death of any one person, and \$300,000.00 for personal injury or death of two or more persons in any one occurrence, and \$100,000.00 for damages to property resulting from any one occurrence.

(b) The policies mentioned in the foregoing paragraph shall contain a provision that a written notice of any cancellation or reduction of said policy shall be delivered to the County thirty (30) days in advance of the effective date hereof. If such insurance is provided in either case by a policy which also covers Grantee or any other entity or person than those named, then such policy shall contain the standard cross-liability endorsement.

SECTION 9. "INSPECTION OF PROPERTY AND RECORDS":

At all reasonable times, Grantee shall permit any duly authorized representative of the County to examine all franchise property, together with any appurtenant property of the Grantee situated within or without the County, and to examine all maps and other records kept or maintained by the Grantee or under its control. Grantee shall file with the County on or before the last day of March of each year a current map or set of maps drawn to scale showing all cable system equipment located in streets, alleys and public places of the County.

SECTION 10. Grantee will not engage in the sale or repair of television sets or other receiving equipment, other than its own.

SECTION 11. Grantee will at all times operate their system so that there will be no interference with other reception of T.V., radio or other impulse signals, and in accordance with all of the Regulations of the Federal Communications Commission.

SECTION 12. Grantee shall furnish, without cost, any and all of its services, in which they shall deal under this franchise to the buildings of all public high schools and public grade schools within the County, to the fire departments therein, the Scott County Municipal Buildings, the Scott County Jail and the Scott County Public Library, provided that said locations are located not more than five hundred (500) feet from Grantee's then existing cable distribution system. It is fully understood, however, that such service shall be provided to one entrance connection in said buildings, and extensions beyond the said original connection shall be at the sole expense of the users in said public high schools, grade schools, fire department buildings, municipal buildings, jail and public library. Grantee shall retain an available channel for public service use, when necessary.

SECTION 13. It is the intent and purpose that Grantee will Contract with all local utility companies, for the use of their poles and equipment to provide for the Grantee's cables and equipment.

SECTION 14. "WARRANTY": The Grantee covenants and agrees that it will construct and operate this system in a good and workmanlike manner with competent and qualified personnel; and that it will construct and operate the system with the same or greater degree of skill exercised by other competent operations of similar systems in the industry.

SECTION 15. "CONSIDERATION FOR FRANCHISE CONTRACT":

In consideration of the terms of this franchise contract the above-named Grantee agrees that within thirty (30) days after the first and anniversary date of this agreement and within thirty (30) days after each succeeding anniversary date of this agreement, it will pay to the County an amount determined at three per cent (3%) of the company's gross subscriber revenues derived from subscribers' fees paid to said Grantee for signals transmitted to subscribers within the County during the calendar year following the anniversary of this contract. This three per cent (3%) is to be paid on gross receipts from subscriber services in lieu of all taxes and impositions levied or imposed by the County upon the corporation, its property, business or operations for the preceding tax year. The Grantee at the time of the remittance of the above amount to the County shall furnish a statement sworn to by an officer or bookkeeper of the said Grantee showing a gross amount of such subscribers' fees paid to it during the period for which the payment is being made and will submit a verified statement of the gross income of the company from a C.P.A.. The County shall have all rights of inspection and verification conferred in Section 9 hereof. Grantee shall keep separate subscriber revenue records for this franchise, from any and all other franchise account it may have.

SECTION 16. The Grantee shall maintain a building adequate to enclose and protect the equipment required for the operation of the Cable television system.

SECTION 17. The Grantee will provide a "State of the Art" cable television system capable of at least 35 television channels, with not less than 20 television channels activated at the outset of implementation of the newly constructed cable system which will be completed within twenty-four (24) months from the date of award of franchise.

SECTION 18. The Grantee may maintain and operate a local business office for the receipt of subscriber complaints, and shall provide for 24-hour maintenance service. The County hereby designates the County Judge Executive as the government official responsible for subscribers' complaints.

SECTION 19. "WORKERS' COMPENSATION": Company shall carry Workers' Compensation coverage for all of its employees, subject to such coverage, and shall submit to the County certificates from the insurance company or companies and the Workers' Compensation Commissioner showing that such insurance and workers' compensation

coverage are in effect. Such insurance shall not be revocable without fifteen (15) days notice to the County.

SECTION 20. Whenever it is necessary to shut-off or interrupt service to make repairs, adjustments, installations or for any other purpose, Grantee shall do so at such time as will cause the least amount of inconvenience to its customers, and unless such interruptions are unforeseen and immediately, it shall give reasonable notice thereof to its customers.

SECTION 21. The Grantee will comply with all applicable rules and regulations of the Federal Communications Commission now or hereafter promulgated and with the rules and regulations of any other State or Federal authority having jurisdiction over it.

SECTION 22. This franchise shall be subject to alteration or amendment pursuant to Section 3 of the Constitution of the Commonwealth of Kentucky with the written consent of the Grantee and the County, provided, however, that this franchise shall be subject to any amendment necessary for compliance with the regulations and standards of the Federal Communications Commission.

SECTION 23. If any section, subsection, sentence, clause, phrase, or portion of this permit 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.

SECTION 24: This ordinance shall become effective upon date of publication.

APPROVED FIRST READING: Aug 5, 1991

APPROVED SECOND READING: Sept. 9, 1991

ADOPTED BY THE SCOTT FISCAL COURT THIS 9 DAY OF September , 1991.

COUNTY OF SCOTT, KENTUCKY

APPROVED: George Zushy
COUNTY JUDGE EXECUTIVE

ATTEST:

Martha G. Felecia
FISCAL COURT CLERK

HAVE READ:
AGREED TO:

SIMMONS CABLE TV


BY: Bruce A. Armstrong
BRUCE A. ARMSTRONG
EXECUTIVE VICE PRESIDENT

Elizabeth A. Wood
ELIZABETH A. WOOD
COUNTY CLERK
1991

PUBLISHED: 9/11/91 and 9/25/91

COMMONWEALTH OF KENTUCKY
COUNTY OF SCOTT

This 9 day of September , 1991, County of Scott, Kentucky, by George Lusby, Scott County Judge Executive, and Martha Neclerio, Clerk of the Scott Fiscal Court, personally appeared before me, who executed and attested the foregoing franchise contract, and acknowledged said execution and attestation to be their official act and deed, for and on behalf of the County of Scott, Kentucky, by authority and direction of its Fiscal Court.


NOTARY PUBLIC
My commission expires: 11-2-94