

BRENTON A BLEIER  
ALAN C CAMPBELL  
ARNOLD J WOLF

RECEIVED  
LAW OFFICES OF  
CITY CLERKS OFFICE  
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1001 G STREET, SUITE 101  
SACRAMENTO, CALIF 95804  
DEC 6 8 39 AM '88

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AREA CODE 916  
TELEPHONE 444-5924  
TELECOPIER 444-0194

## MEMORANDUM

DATE: December 5, 1988

TO: Honorable Chairman and Members  
Board of Supervisors  
COUNTY OF SACRAMENTO

Honorable Mayor and Council Members  
CITY OF SACRAMENTO

Honorable Mayor and Council Members  
CITY OF FOLSOM

Honorable Mayor and Council Members  
CITY OF GALT

FROM: BRENTON A. BLEIER  
LAW OFFICES OF BRENTON A. BLEIER  
Special Counsel on Cable Television  
and General Counsel to Sacramento  
Metropolitan Cable Television Commission

SUBJ: Proposed Amendment of Licensing Ordinance

PASSED FOR  
PUBLICATION  
& CONTINUED  
TO 1-3-89

### Summary

This memorandum recommends the amendment of the Cable Television Licensing Ordinance to (1) allow Licensees to elect to supply the same evidence of financial responsibility as franchisees under the Cable Television Franchise Ordinance, (2) provide a procedure for the consolidation of Licenses, and (3) make certain technical corrections to the Ordinance.

At its meeting of December 1, 1988, the Sacramento Metropolitan Cable Television Commission ("the Commission") recommended the adoption of these amendments to your entities.

### Background

The Commission asked staff and counsel to review the Licensing Ordinance with a view to streamlining its administration and

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enforcement in light of the actual experience of its implementation over the last 16 months. In the course of doing so, we met with representatives of Pacific West Cable Company, the Commission's sole remaining Licensee, in order to better understand any legitimate concerns they might have. As a result of the aforementioned review and process, we are recommending two substantive changes in the Licensing Ordinance.

Evidence of Financial Responsibility.

As you will recall, the Franchise Ordinance relied upon the competitive pressures of the competitive selection model to insure financial responsibility. In view of the ministerial, non-competitive nature of the Licensing Ordinance and the indeterminate size of License Areas, the financial responsibility of applicants is determined solely by reference to the performance bonding requirements. While this is a non-intrusive method of determining such financial responsibility, it was necessary that it be a self-effectuating determination.

In this respect, with reference to the very small License Areas selected by the Licensees, the provision has worked very well. However, Pacific West has now requested enough License Areas that the cumulative total of its bonds for its many License Areas exceeds the total security required of a franchisee under the Franchise Ordinance.

Accordingly, it is recommended that the License Ordinance be amended to grant to any Licensee the option to elect to provide the performance bond and security deposit required by the Franchise Ordinance rather than the performance bonding required by the Licensing Ordinance provisions. Thus, in a circumstance such as Pacific West's current situation, it could provide a single performance bond and security deposit in lieu of the performance bonds otherwise required under the Licensing Ordinance.

Similarly, if Pacific West were to ever complete construction in any License Area[s], it could elect to provide the reduced level of performance bonds and security deposit under the Franchise Ordinance provision in lieu of corresponding provisions of the Licensing Ordinance.

We do not believe that this amendment implicates the Initial Franchisee in any way, since the provision would only allow the reduction of the obligations of the Licensee to the level of the Initial Franchisee.

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Consolidation of Licenses.

While we anticipated the "cream-skimming" selection of License Areas which has in fact occurred, we did not anticipate the large number of Licenses which would be requested for very small areas. For example, the Commission has issued well over 200 Licenses to Pacific West in only 16 months.

To aid in the administration of these Licenses for both the Commission staff and the Licensee, we propose to amend the license Ordinance to create a procedure to consolidate Licenses upon the request of a Licensee. The only effective requirements are that the Licensee (1) submit a consolidated schedule of construction, (2) submit a consolidated bond, and (3) not be in default as to any License previously issued. The latter requirement specifically allows a Licensee to surrender any Licenses which are then in default, but are no longer intended to be built.

Technical Corrections.

Inasmuch as we are recommending the first substantive amendments to the Licensing Ordinance, we are also recommending correction of a number of technical, usually typographical, errors in the Ordinance at the same time. For the most part, these involve dropped letters, words or phrases. These modifications are all non-substantive.

Procedure to be Employed.

Because the District Court incorporated the terms of the Licensing Ordinance into its permanent injunction in *Pacific West v. City of Sacramento, et al.*, CIVS 83-1034-MLS, it is my opinion that the constituent jurisdictions may not modify the Ordinance (at least as to Pacific West) without the approval of the Court. Accordingly, upon the recommendation of the Commission, we have simultaneously sought the approval of the Court. On Friday, December 2, 1988, the District Court took the matter under submission. Upon approval of the recommended amendments by all of the jurisdictions, we intend to advise the Court. If the Court has not approved the amendments within one hundred eighty (180) days from the date of your final action, the Ordinance amendments will become null and void.

Comments of Pacific West.

We provided a draft of the attached amendments to Mr. Farrow, counsel for Pacific West, for review and comment. A copy of his

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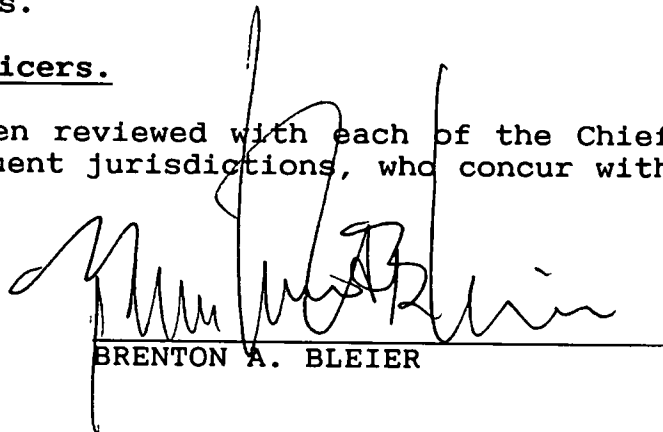
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response is attached. Mr. Farrow, in addition to his usual recitations and protestations for purposes of his pending litigation, made four suggestions: (1) eliminate the security deposit, (2) limit the references in 5.75.601 to the amounts only in 5.50.700 and 5.50.702, (3) exclude inadvertent incorporation by reason of the election, and (4) eliminate the subparts of 5.75.105 relating to the terms and conditions of consolidation.

After consideration, we have modified the draft to include his third concern. We cannot recommend the other three. We believe it would be inappropriate to eliminate the security deposit, since the goal is to equalize the requirements of Franchisees and Licensees, not to reduce them below current levels. We believe the provisions of sections 5.50.700 and 5.50.702 are necessary to a proper interpretation of the requirements of the bond and security deposit and do not, in any event, conflict with the terms of the Licensing Ordinance. The subparts of section 5.75.105 are simply reflective of the intent to consolidate and do not substantively change the requirements which would otherwise apply to issuance of additional, individual Licenses.

Concurrence of Chief Legal Officers.

These amendments have been reviewed with each of the Chief Legal Officers of the constituent jurisdictions, who concur with this recommendation.



BRENTON A. BLEIER

BAB/sjk  
Attachment

cc: Robert E. Smith, Executive Director  
L.B. Elam, Esq., Sacramento County Counsel  
James P. Jackson, Esq., Sacramento City Attorney  
Philip Mering, Esq., Folsom City Attorney  
John W. Stovall, Esq., Galt City Attorney

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Second, in addition to eliminating the reference to the security deposit, the language of your proposed §5.75.601 should be modified to read "a licensee may elect and provide a performance bond in the form and amount required by §5.50.700 of Chapter 5.50 as to any license or licenses in lieu of or instead of the requirements of §5.75.600." This change is necessary because Pac West is not subject to the requirements of the franchise documents.

Third, a second sentence should be inserted in your proposed §5.75.601 which reads "Any such election by the licensee shall not be deemed to impose or create any obligation or requirement for licensee to comply with any of the provisions of Chapter 5.50." Again, this is necessary to make clear that a licensee would only be required to provide the dollar amount and form of the bond specified in §5.50.700 and not assume any other obligation of the franchise ordinance in order to post the alternative bond.

Finally, all of the sub-parts of your proposed §5.75.105 should be eliminated. There is no need to encumber the process of consolidating licenses with these requirements. They are unlawful, unnecessary and should not be included.

Please bear in mind that we are providing these comments solely in an effort to truly reduce the burden of the existing bonding requirements on Pac West. As noted, we strongly object to any bonding requirement and intend to litigate the constitutionality of any such requirement.

Please feel free to give me a call if you have any questions.

Very truly yours,

FARROW, SCHILDHAUSE & WILSON

  
HAROLD R. FARROW

HRF/jka

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LAW OFFICES OF  
FARROW, SCHILDHAUSE & WILSON

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JACOB W. MAYER  
LANCE A. EVANS

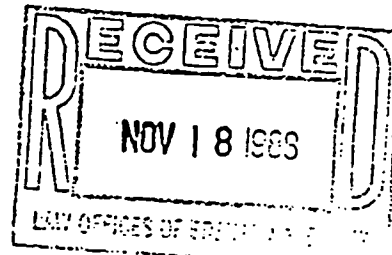
HON. LIONEL J. WILSON  
MAYOR OF OAKLAND  
OF COUNSEL

November 16, 1988

PLEASE REPLY TO  
WALNUT CREEK P. O. BOX

Via Facsimile

Brenton A. Bleier, Esq.  
1001 G St., Suite 101  
Sacramento, CA 95814



Re: Proposed Amendment to Licensing Ordinance

Dear Mr. Bleier:

I have received your letter of November 3, 1988, which encloses a draft amendment to the Cable Television Licensing Ordinance ("the Licensing Ordinance") previously adopted in the County of Sacramento and the Cities of Sacramento, Folsom and Galt. As you requested, I will provide you with my views on this proposed amendment.

As you will recall, the Licensing Ordinance was enacted after jury verdicts that indicated that the City and County of Sacramento had violated the First Amendment rights of Pacific West Cable Company ("Pac West") by denying it access to the Sacramento cable market. In our view, the Licensing Ordinance was adopted in a transparent effort to avoid liability for this violation while at the same time continuing and extending the governmental entities' ability to inhibit the formation and growth of competing cable television companies. It imposes an array of unlawful, unnecessary and extraordinarily burdensome requirements on cable operators. Although Pac West has been forced to comply with these onerous requirements, it has done so under protest and with a full reservation of its rights.

The Licensing Ordinance has made it difficult and expensive for Pac West to construct and operate a cable television system in the Sacramento area. For example, just to

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obtain a license for a particular area Pac West employees must spend 4 to 6 hours per mile of proposed construction to do the necessary engineering work and assembling the applications which the Licensing Ordinance requires. In addition, Pac West has been forced to pay in excess of \$16,000.00 in license application fees under §5.75.102(g). Pac West has incurred this burden and expense in connection with its 212 license applications.

Your proposed amendment modifies but does not eliminate one of the more outrageous requirements of the licensing process. Under §5.75.102(f) Pac West has been required to obtain a performance bond for each license area calculated pursuant to §5.75.600. Pac West has been forced to post \$6.7 million in bonds just to obtain licenses to build 261 miles of plant. To date these bonds have cost Pac West in excess of \$120,000.00 in premiums.

In our view, requiring Pac West to post performance bonds serves no legitimate purpose. The bonds are unnecessary and the bonding requirement itself is unconstitutional. It should be eliminated, not amended.

Moreover, the bonding requirements of §5.75.600 are clearly unduly burdensome and unworkable. Although we continue to object to any bonding requirement, your proposed alternative to the provisions of the Licensing Ordinance will hopefully cause Pac West less damage and will thus reduce Pac West's claims against the defendant's in Action No. 88-985, now pending. Accordingly, without waiving our objections, we will comment on your draft amendment.

As drafted, proposed §5.75.601 would require any licensee to provide the performance bond required by §5.50.700 and the security deposit required by §5.50.702 in order to avoid posting the bonds required by §5.75.600. This provision would force Pac West to make a security deposit of \$250,000 just to reduce its bonding costs. The security deposit requirement does not exist under the Licensing Ordinance and it should not be imposed upon Pac West as a condition for obtaining relief from the existing bond requirements. We strongly object to turning over \$250,000.00 to be deposited into an account controlled by the Cable Commission. Not only would this requirement temporarily deprive Pac West of valuable property, the provisions of §5.50.702 purport to authorize the Cable Commission to permanently do so by withdrawing money from the account, through the assessment of liquidated damages (see §§5.50.702; 5.50.808).

AN ORDINANCE AMENDING CHAPTER 20.5 OF THE SACRAMENTO CITY CODE REGARDING PERFORMANCE BONDING REQUIREMENTS OF CABLE TELEVISION LICENSES, CONSOLIDATION OF CERTAIN CABLE TELEVISION LICENSES AND CERTAIN OTHER TECHNICAL CORRECTIONS.

THE CITY COUNCIL OF THE CITY OF SACRAMENTO, STATE OF CALIFORNIA, DOES ORDAIN AS FOLLOWS:

Section 1. Section 20.5.601 is hereby added to Chapter 20.5 to read as follows:

20.5.601 ALTERNATIVE BONDING AND SECURITY. Notwithstanding the provisions of Section 20.5.600 above, a Licensee may elect and provide the performance bond and security deposit required by Sections 20.700 and 20.702 of Chapter 20 as to any License or Licenses in lieu and instead of the requirements of Section 20.5.600. Upon the proper posting of such alternative bond and security deposit, the Commission shall return performance bonds previously provided for such License or Licenses pursuant to the provisions of this Chapter. Any election by a Licensee pursuant to this Section shall not be deemed to impose or create any obligation or requirement upon the Licensee to comply with any of the provisions of Chapter 20 other than 20.700 and 20.702.

APPROVED  
BY THE CITY COUNCIL  
MAY 3 1989  
OFFICE OF THE  
CITY CLERK

Section 2. Section 20.5.105 is hereby added to Chapter 20.5 to read as follows:

20.5.105 CONSOLIDATION AND REISSUANCE OF LICENSES. Upon the request of any Licensee, the Commission shall consolidate any designated Licenses theretofore issued to said Licensee into a single License having a remaining term equal to the longest remaining term of any License consolidated therein; provided that (1) all areas contained within a consolidated License shall be deemed a single License Area for purposes of determinations required by Sub-Chapter 4, (2) the date of issuance of the consolidated License for purposes of the duty to report pursuant to Section 20.5.304 shall be deemed to be the earliest date of issuance of any License consolidated therein, (3) the Licensee shall have submitted a consolidated schedule of construction established pursuant to Section 20.5.102 (h) as to the



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consolidated License Area, (4) the Licensee shall have submitted a single bond for the consolidated License Area pursuant to Section 20.5.600 or a bond and a security deposit pursuant to Sections 20.700 and 20.702, (5) all Licenses to be consolidated shall have been issued to the same Licensee, and (6) no License(s) theretofore issued to the Licensee, or any affiliate, subsidiary or parent of the Licensee or any other person or entity in which the Licensee has a financial interest or which has a financial interest in the Licensee shall be in default as of the date of the application for consolidation as to any provision of this Chapter or as to any provision of any License issued pursuant to this Chapter. For purposes of determination of default pursuant to the foregoing sentence, no License which has been surrendered for cancellation shall be considered to be such a default.

Section 3. Section 20.5.102(f) of Chapter 20.5 is hereby amended to read as follows:

(f) evidence of financial responsibility in the form of a performance bond conforming to Section 20.5.600 of this Chapter, or, at the option of the applicant, in the form of a performance bond and security deposit conforming to Section 20.700 and 20.702 of Chapter 20,

Section 4. Section 20.5.014(i) of Chapter 20.5 is hereby amended to read as follows:

i. "Streets" shall mean the surface of and the space above and below any street, road, highway, freeway, utility right-of-way or any other easement which now or hereafter exists for the provision of public or quasi-public services to residential or other properties, and in which the County and the Cities is expressly or impliedly authorized or empowered to permit use for the installation and operation of a Cable Television System.

Section 5. Section 20.5.102(e) of Chapter 20.5 is hereby amended to read as follows:

(e) evidence that applicant has applied (including the payment of all applicable fees) to the applicable jurisdiction for building and electrical code review and approval of the plans and construction of the entire Cable Television System within the License Area,

Section 6. Section 20.5.102(h) of Chapter 20.5 is hereby amended to read as follows:

(h) a schedule of construction, as established by the applicant and reflected upon the map(s) provided pursuant to subpart (d) of this section 20.5.102, showing by a logical geographic progression which Streets within the License Area shall be constructed by the applicant within each calendar quarter during the period of construction.

Section 7. Sections 20.5.106 and 20.5.107 of Chapter 20.5 are hereby amended to read as follows:

20.5.106 TERM OF LICENSE. The term of all Licenses issued pursuant to the provisions of this Chapter shall be five (5) years.

20.5.107 UNIVERSAL SERVICE. Any Cable Television System licensed pursuant to the provisions of this Chapter shall provide equal and uniform cable television service, subject only to a reasonable construction schedule established by the applicant pursuant to Section 20.5.102 (h) above, to all Dwelling Units within the License Area defined by the applicant.

*20.5.107 will be taking the place of 20.5.108 when Ord 87-079 was adopted the section no. 20.5.108 was assigned + it should have been 20.5.107*

Section 8. Section 20.5.304 of Chapter 20.5 is hereby amended to read as follows:

20.5.304 DUTY TO REPORT. Commencing at the end of the first full calendar quarter following the issuance of a License pursuant to the provisions of this Chapter, and continuing every calendar quarter thereafter until the date cable television services are made available to one hundred (100%) percent of the Dwelling Units within each License Area, the Chief Executive Officer of the Licensee shall file with the Clerk of the Board of Directors of the Cable Television Commission a written declaration identifying the number and percentage of Dwelling Units in each License Area to which such services have been made available as of the last day of the quarter for which the declaration is made. Upon request the Licensee shall make available to the Commission such maps, documents and other data as were used by the Licensee to compile the aforesaid declaration. Said quarterly declarations shall be filed not later than the first day of the second calendar month following the end of the quarter for which the report is filed.

Section 9. Section 20.5.308 (f) of Chapter 20.5 is hereby amended to read as follows:

f. Delays occasioned by the customary and usual time required to obtain approval to attach lines to poles

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owned by private or public utilities or in the attaching of cable to the poles; provided that if a Licensee submits all plans and documentation required by private or public utility in connection with the approval to attach lines to poles, any time consumed by such approval process which is longer than one hundred fifty (150) calendar days following the submission of all necessary plans and documentation shall be deemed to excuse the Licensee from any violations which are proximately caused by such delay in excess of one hundred fifty (150) calendar days.

Section 10. The second paragraph of Section 20.5.314 of Chapter 20.5 is hereby amended to read as follows:

The County and Cities shall be authorized to establish special fees payable by a Licensee to defray the costs incurred by the Department of the Public Works of the respective agencies in supervising and regulating the installation of a Cable Television System within the Streets of the respective agencies. The respective Directors of Public Works of the County and Cities shall be authorized to formulate reasonable schedules for installation of a Cable Television System within the Streets of the respective agencies for the purpose of adequate restoration and repair of the Streets, and a Licensee and its officers, agents, contractors and subcontractors shall comply with any and all such schedules.

Section 11. Section 20.5.606 of Chapter 20.5 is hereby amended to read as follows:

20.5.606 WAIVER OF SUBROGATION. Each Licensee shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against the County, Cities, Cable Television Commission and in their capacities as such the officers, agents, and employees thereof in connection with any damage covered by any policy, whether for nonpayment or premium, or otherwise, and whether at the request of the Licensee or for other reasons, except after thirty (30) calendar days advance written notice mailed by the insurer to the Clerk of the Board of Directors of the Sacramento Metropolitan Cable Television Commission, and that such notice shall be transmitted postage prepaid, with return receipt requested, and addressed to the Clerk at 1010 8th Street, Sacramento, California 95814.

Section 12. This Ordinance was introduced and the title

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thereof read at the regular meeting of the City Council on \_\_\_\_\_, 1988 and \_\_\_\_\_, 1988. This Ordinance shall take effect and be in full force on and after thirty (30) days from the date of its passage, PROVIDED THAT, notwithstanding the foregoing, these amendments, and each of them, shall not take effect unless and until they have theretofore been approved by the United States District Court for the Eastern District of California so as to include these amendments within the scope of its permanent injunction in that certain case entitled *Pacific West Cable Company v. City of Sacramento, et al.*, No. CIV S 83-1034-MLS. If the aforementioned Court shall not have approved these amendments within one hundred eighty (180) days from the date hereof, this Ordinance shall be null, void and of no effect. It shall be published once with the names of the members of the City Council voting for and against the same, said publication to be made in a newspaper of general circulation published in the City of Sacramento.

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ON A MOTION by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing ordinance was passed and adopted by the City Council of the City of Sacramento, California at a regular meeting thereof this \_\_\_\_\_ day of \_\_\_\_\_, 1988, by the following vote to wit:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Anne Rudin, Mayor

Attested By:

\_\_\_\_\_  
City Clerk

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 20.5 OF THE SACRAMENTO CITY CODE REGARDING PERFORMANCE BONDING REQUIREMENTS OF CABLE TELEVISION LICENSES, CONSOLIDATION OF CERTAIN CABLE TELEVISION LICENSES AND CERTAIN OTHER TECHNICAL CORRECTIONS.

THE CITY COUNCIL OF THE CITY OF SACRAMENTO, STATE OF CALIFORNIA, DOES ORDAIN AS FOLLOWS:

Section 1. Section 20.5.601 is hereby added to Chapter 20.5 to read as follows:

20.5.601 ALTERNATIVE BONDING AND SECURITY. Notwithstanding the provisions of Section 20.5.600 above, a Licensee may elect and provide the performance bond and security deposit required by Sections 20.700 and 20.702 of Chapter 20 as to any License or Licenses in lieu and instead of the requirements of Section 20.5.600. Upon the proper posting of such alternative bond and security deposit, the Commission shall return performance bonds previously provided for such License or Licenses pursuant to the provisions of this Chapter. Any election by a Licensee pursuant to this Section shall not be deemed to impose or create any obligation or requirement upon the Licensee to comply with any of the provisions of Chapter 20 other than 20.700 and 20.702.

Section 2. Section 20.5.105 is hereby added to Chapter 20.5 to read as follows:

20.5.105 CONSOLIDATION AND REISSUANCE OF LICENSES. Upon the request of any Licensee, the Commission shall consolidate any designated Licenses theretofore issued to said Licensee into a single License having a remaining term equal to the longest remaining term of any License consolidated therein; provided that (1) all areas contained within a consolidated License shall be deemed a single License Area for purposes of determinations required by Sub-Chapter 4, (2) the date of issuance of the consolidated License for purposes of the duty to report pursuant to Section 20.5.304 shall be deemed to be the earliest date of issuance of any License consolidated therein, (3) the Licensee shall have submitted a consolidated schedule of construction established pursuant to Section 20.5.102 (h) as to the

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 20.5 OF THE SACRAMENTO CITY CODE REGARDING PERFORMANCE BONDING REQUIREMENTS OF CABLE TELEVISION LICENSES, CONSOLIDATION OF CERTAIN CABLE TELEVISION LICENSES AND CERTAIN OTHER TECHNICAL CORRECTIONS.

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Section 2. Section 20.5.105 is hereby added to Chapter 20.5 to read as follows:

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Licenses to be consolidated shall have been issued to the same Licensee, and (6) no License(s) theretofore issued to the Licensee, or any affiliate, subsidiary or parent of the Licensee or any other person or entity in which the Licensee has a financial interest or which has a financial interest in the Licensee shall be in default as of the date of the application for consolidation as to any provision of this Chapter or as to any provision of any License issued pursuant to this Chapter. For purposes of determination of default pursuant to the foregoing sentence, no License which has been surrendered for cancellation shall be considered to be such a default.

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Section 4. Section 20.5.014(i) of Chapter 20.5 is hereby amended to read as follows:

i. "Streets" shall mean the surface of and the space above and below any street, road, highway, freeway, utility right-of-way or any other easement which now or hereafter exists for the provision of public or quasi-public services to residential or other properties, and in which the County and the Cities is expressly or impliedly authorized or empowered to permit use for the installation and operation of a Cable Television System.

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20.5.107 UNIVERSAL SERVICE. Any Cable Television System licensed pursuant to the provisions of this Chapter shall provide equal and uniform cable television service, subject only to a reasonable construction schedule established by the applicant pursuant to Section 20.5.102 (h) above, to all Dwelling Units within the License Area defined by the applicant.

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Section 9. Section 20.5.308 (f) of Chapter 20.5 is hereby amended to read as follows:

f. Delays occasioned by the customary and usual time required to obtain approval to attach lines to poles owned by private or public utilities or in the attaching of cable to the poles; provided that if a Licensee submits all plans and documentation required by private or public utility in connection with the approval to

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attach lines to poles, any time consumed by such approval process which is longer than one hundred fifty (150) calendar days following the submission of all necessary plans and documentation shall be deemed to excuse the Licensee from any violations which are proximately caused by such delay in excess of one hundred fifty (150) calendar days.

Section 10. The second paragraph of Section 20.5.314 of Chapter 20.5 is hereby amended to read as follows:

The County and Cities shall be authorized to establish special fees payable by a Licensee to defray the costs incurred by the Department of the Public Works of the respective agencies in supervising and regulating the installation of a Cable Television System within the Streets of the respective agencies. The respective Directors of Public Works of the County and Cities shall be authorized to formulate reasonable schedules for installation of a Cable Television System within the Streets of the respective agencies for the purpose of adequate restoration and repair of the Streets, and a Licensee and its officers, agents, contractors and subcontractors shall comply with any and all such schedules.

Section 11. Section 20.5.606 of Chapter 20.5 is hereby amended to read as follows:

20.5.606 WAIVER OF SUBROGATION. Each Licensee shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against the County, Cities, Cable Television Commission and in their capacities as such the officers, agents, and employees thereof in connection with any damage covered by any policy, whether for nonpayment or premium, or otherwise, and whether at the request of the Licensee or for other reasons, except after thirty (30) calendar days advance written notice mailed by the insurer to the Clerk of the Board of Directors of the Sacramento Metropolitan Cable Television Commission, and that such notice shall be transmitted postage prepaid, with return receipt requested, and addressed to the Clerk at 1010 8th Street, Sacramento, California 95814.

Section 12. This Ordinance was introduced and the title thereof read at the regular meeting of the City Council on \_\_\_\_\_, 1988 and \_\_\_\_\_, 1988. This Ordinance shall

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take effect and be in full force on and after thirty (30) days from the date of its passage, PROVIDED THAT, notwithstanding the foregoing, these amendments, and each of them, shall not take effect unless and until they have theretofore been approved by the United States District Court for the Eastern District of California so as to include these amendments within the scope of its permanent injunction in that certain case entitled *Pacific West Cable Company v. City of Sacramento, et al.*, No. CIV S 83-1034-MLS. If the aforementioned Court shall not have approved these amendments within one hundred eighty (180) days from the date hereof, this Ordinance shall be null, void and of no effect. It shall be published once with the names of the members of the City Council voting for and against the same, said publication to be made in a newspaper of general circulation published in the City of Sacramento.

ON A MOTION by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing ordinance was passed and adopted by the City Council of the City of Sacramento, California at a regular meeting thereof this \_\_\_\_\_ day of \_\_\_\_\_, 1988, by the following vote to wit:

Ayes:  
Noes:  
Absent:

\_\_\_\_\_  
Anne Rudin, Mayor

Attested By:

\_\_\_\_\_  
City Clerk