

ORDINANCE NO. 83-036

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

March 22, 1983

AN ORDINANCE AMENDING THE CABLE TELEVISION ORDINANCE CONTAINED IN THE SACRAMENTO CITY CODE RELATING TO PROCEDURES PRECEDENT TO ISSUANCE OF FRANCHISES, AND DECLARING THIS ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1

Section 20.214 contained in subchapter 3 of Chapter 20 of the Sacramento City Code is hereby amended to read as follows:

20.214 TENTATIVE AND FINAL SELECTION PROCEDURES. The Board of Directors of the Cable Television Commission shall tentatively select all franchisees for franchises issued pursuant to the provisions of this chapter, except the franchisee for the initial CATV franchise. Prior to tentative selection, the Board shall conduct a public hearing for the purpose of receiving presentations from the applicants and comments from the public. Notice of the hearing shall be given in the manner prescribed by Section 20.024 in subchapter 1, and mailed to the applicants.

Between the date of tentative selection of a franchisee and approval of the resolution offering the franchise, the governing bodies of the City and County of Sacramento, or subcommittees thereof, sitting jointly with respect to the initial CATV franchise, and the Board of Directors of the Commission, or a subcommittee thereof, with respect to any other franchise, shall conduct a public hearing for the purpose of receiving comments from proposed recipients of services, resources or benefits in relation to the determinations required by Section 20.344 in Article 4-a of subchapter 4. Notice of the hearing shall be given in the manner prescribed by Section 20.024 in subchapter 1, and mailed to the tentative selectee and all proposed recipients as identified in the application by the tentative selectee and pursuant to the provisions of said Section 20.344.

With respect to the initial CATV franchise, the tentative selection shall not become final until the governing bodies of the City and County of Sacramento have approved identical resolutions offering the franchise. The resolution offering the franchise approved by the governing bodies shall be adopted without change by the Board of Directors of the Commission pursuant to Section 20.218, below. The Board of Directors shall not be authorized to

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adopt a resolution offering the initial CATV franchise unless such resolution has been approved in advance by said governing bodies.

With respect to any franchise issued pursuant to the provisions of this chapter other than the initial CATV franchise, the tentative selection of the franchisee shall not become final until the Board of Directors of the Commission adopts the resolution offering the franchise pursuant to Section 20.218, below.

If a tentative selection has not been made within nine (9) months following the deadline for submission of applications established by a request for proposals, all applications shall be deemed rejected, and no franchise shall be issued pursuant to that request for proposals.

At any time prior to adoption of the resolution offering the franchise pursuant to Section 20.218, below, either the governing body of the City or County of Sacramento with respect to the initial CATV franchise, or the Board of Directors of the Commission with respect to any other franchise to be issued under this chapter, may reject the tentative selectee. In the event of such rejection, all applications for the franchise shall be deemed to have been rejected, and no franchise shall be issued pursuant to the request for proposals by which the applications were solicited.

Except as hereinafter provided, if the resolution offering the franchise has not been adopted within six (6) months following the date of tentative selection of a franchisee, the tentative selectee shall be deemed to have been rejected, all applications for the franchise shall be deemed to have been rejected, and no franchise shall be issued pursuant to the request for proposals by which the applications were solicited. Notwithstanding any provisions within this chapter to the contrary, any resolution offering the initial CATV franchise to the tentative selectee who submitted an application for the initial CATV franchise on March 15, 1982, pursuant to that request for proposals adopted by the governing body of the County on November 24, 1981, by Resolution No. 81-1298 and also adopted by the Cities of Sacramento, Folsom and Galt, may be adopted on or before May 27, 1983. If the resolution offering the initial CATV franchise pursuant to said request for proposals has not been adopted on or before May 27, 1983, the tentative selectee shall be deemed to have been rejected, all applications for that franchise shall be deemed to have been rejected, and no franchise shall be issued pursuant to that request for proposals.

SECTION 2

This is an emergency ordinance to take effect immediately. The facts constituting the emergency are as follows: The County and the Cities of Sacramento, Folsom and Galt enacted companion ordinances as evidenced by Chapter 20 of the Sacramento City Code

and the request for proposals identified in the amendment to Section 20.214 upon the assumption that various regulatory, enforcement and remedy provisions contained in the ordinance designed to promote and protect the public health, safety and welfare and that promises of services, financial grants, and other resources for the benefit of the community contained in the application filed by the franchisee would be legally enforceable and binding upon the franchisee. Under Section 20.214 in its pre-amended form, all applications for the initial CATV franchise submitted pursuant to the above-referenced request for proposals will be rejected unless the resolution offering the franchise is adopted by March 27, 1983.

It has recently been learned that proposed legislation introduced in the Congress of the United States deregulating cable television services has a high probability of being passed by Congress and becoming law. This proposed legislation, identified as Senate Bill 66 and known as the "Goldwater bill" would apply retroactively to any franchise issued during 1983, and would make many of the regulatory, enforcement and remedy provisions of the ordinance and of the promises contained in the application by the tentative selectee and intended to be embodied in the resolution offering the franchise legally enforceable. The legislation would, if enacted, literally emasculate the assumptions under which the governing bodies elected as a matter of policy to franchise cable television, and nullify provisions which those bodies have adopted to safeguard the health, safety and welfare, as well as invalidate the enforceability of promises made by the tentative selectee upon which choice of the selectee from among other competitors was based.

The governing bodies and Board of Directors of the Commission require extensive time to examine the legal effects of the proposed legislation in relation to the franchise scheduled for issuance, and to examine and re-evaluate the policy determinations which have previously been made in relation to franchising, in advance of irrevocably committing the Sacramento community to franchising under the system heretofore adopted. Preservation of available options, and prevention of the potential waste of the large expenditures which have been made in analyzing and reviewing the applications which have been received and preparing the resolution offering the franchise, dictate that the deadline for adoption of the resolution offering the franchise be extended from March 27 through May 27, 1983, in order to allow issuance of a franchise to the tentative selectee, should that determination be deemed most appropriate after the review, analysis and re-examination have been completed.

ENACTED: MAR 22 1983
EFFECTIVE: MAR 22 1983


MAYOR

ATTEST:


CITY CLERK

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