

NOTICE OF MEETING
JOINT SUBCOMMITTEE ON CABLE TELEVISION

MEMBERS

SUPERVISOR ILLA COLLIN
SUPERVISOR TED SHEEDY
MAYOR PHILLIP ISENBERG
COUNCILMAN LLOYD CONNELLY
COUNCILMAN DOUGLAS POPE

NOTICE IS HEREBY GIVEN that the Joint Subcommittee on Cable Television will meet on Wednesday, October 7, 1981, at the hour of 4:00 p.m., in Hearing Room 2, 700 "H" Street, Sacramento California to discuss the following aspects of Cable Television:

REVIEW OF CHAPTER 1 THRU 4C

If there are any questions regarding this meeting, please contact the following:

WILLIAM FREEMAN
Assistant County Executive
(916) 440-5883

MAC MAILES
Assistant City Manager for Community Development
(916) 449-5704

LORRAINE MAGANA
City Clerk of the
City of Sacramento

10/2/81

NOTICE OF MEETING
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NOTICE IS HEREBY GIVEN that the Joint Subcommittee on Cable Television will meet on Wednesday, October 14, 1981, at the hour of 4:00 p.m., in Hearing Room 2, 700 "H" Street, Sacramento, California, to discuss the following aspects of Cable Television:

ORDINANCE ARTICLE 4C THROUGH 5B

and

DRAFT REQUEST FOR PROPOSALS

If there are any questions regarding this meeting, please contact the following:

WILLIAM FREEMAN, Assistant County Executive
Phone: (916) 440-5883

MAC MAILES, Assistant City Manager for Community Development
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LORRAINE MAGANA
City Clerk of the
City of Sacramento

COUNTY OF SACRAMENTO
CALIFORNIA

September 23, 1981

To: Joint Cable Sub-Committee
From: Assistant County Executive
Subject: SERVICE AREAS FOR INITIAL CATV FRANCHISE

RECOMMENDATION:

The staff recommends as follows:

- a. That the Joint Subcommittee adopt as the mandatory service area for the initial CATV Franchise that area identified by staff on the map to be presented during the meeting on September 23, 1981 (a small map is attached showing the general boundaries);
- b. That applicants for the Initial CATV Franchise be permitted to propose additional service areas outside the mandatory area, with design and service requirements which are lower than applicable within the mandatory service area, and at rates (installation and monthly) for Basic Service which may differ from those applicable within the mandatory area.

BACKGROUND

The March 1, 1981 Draft Ordinance did not establish a specific service area for the Initial CATV Franchise. Rather, interested applicants were directed to propose between one and ten geographic service areas within which service would be provided to all residential dwellings. The reasons for this approach were twofold.

First, the demographic characteristics of the County consist of areas of both high density and low density. To what extent areas of low density should be served involves economic considerations relating to allocation of financial resources, and ultimately, profit margins. The facts upon which these determinations are made could vary from applicant to applicant, based upon such factors as the type of system an applicant proposes, technical innovation, and other factors.

Second, one of the primary objectives of staff in formulating recommendations relating to these matters, was that service should be provided to the maximum number of City and unincorporated area residents practical. Subjecting formulation of the service areas to the competitive process constituted, in the view of staff, the best means of achieving that objective.

SERVICE AREAS FOR
INITIAL CATV FRANCHISE

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Early in the joint hearings of the City Council and the Board of Supervisors, staff recommended and the bodies adopted a change in the above approach. CTIC (our consultant) expressed concern that the multiple proposal of a variety of service areas would make bids by applicants extremely difficult to compare particularly the economic feasibility. For that reason, the bodies adopted an approach of defining a mandatory service area within which all dwelling units would be required to be served. The question of whether applicants should be entitled to propose additional discretionary service areas was left unanswered.

Staff approached formulation of the mandatory service area by requesting interested applicants to submit maps showing proposed mandatory areas. A map has been received from each of the following four companies: United, ATC, Teleprompter, and Warner-Amex. A map from a fifth interested operator has not yet been received, although one has been shown to staff. The sixth operator has not indicated a map will be provided. All of the maps received will be posted for review during the meeting on September 23, 1981.

A review has been requested from the County Planning Department for the purpose of identifying whether anticipated future short-term growth warrants the extension of boundaries of the mandatory service area into localities which are not shown by the maps. Planning staff will be available during the meeting on September 23, 1981 to answer any questions which may be asked. In addition a review of dwelling units by minor census zones has been done.

In view of the fact that three interested applicants proposed inclusion of Galt (as a separate island) within the mandatory service area and two did not, I appeared before the City Council of Galt on September 17, 1981 for the purpose of explaining to that body the most recent developments. At the conclusion of my presentation, the City Council expressed interest in continuing with the franchising process for the purpose of receiving whatever cable television service might be decided to be practical under the circumstances.

BASIS FOR RECOMMENDATIONS

1. Mandatory Service Area

The mandatory service area proposed by United and by the operator who has not yet submitted a map, are substantially broader than those suggested by the other three applicants.

The applicants expressed agreement that an appropriate criteria for formulation of the mandatory area would be identification of residential density at a ratio of approximately 40 dwelling units per street mile.

There are lower densities within the mandatory service areas suggested by all the applicants because the uniform service requirement to be applied to the mandatory service area precludes the carving out of islands. However, the above criteria is applied in defining the outer limits of the mandatory service area where densities diminish sharply.

Although suggested service areas varied among interested applicants, all applicants seemed comfortable with the mandatory service area proposed by ATC. In general, the County Planning Staff also confirmed the appropriateness of those boundaries with minor exceptions. The staff recommendation for the mandatory service area is basically the proposal contained on the map submitted by ATC with some minor modifications which will be explained during the September 23 meeting.

2. Bidding of Service Areas

The question of whether interested applicants should be permitted to propose additional service areas outside the mandated service area involves the following pragmatic considerations:

- a. Will issuance of a franchise under which less densely populated areas are served result in cross-subsidization which involves payment of higher service rates than would otherwise be paid by city and unincorporated residents in densely settled areas?
- b. Will establishment of an authority to propose additional service areas permit a divisive wedge to be driven in the bidding process which makes it more difficult for the City Council of Sacramento and Board of Supervisors to reach agreement upon selection of a single franchisee -- i.e., should some applicants not propose additional service areas and some applicants propose additional service areas within unincorporated area, would agreement upon a single franchisee be more difficult to reach?
- c. Most importantly -- should an important priority of the franchising process be the allocation of financial resources to service of less dense areas, as distinguished from other priorities such as access?

Cross-Subsidization. The cross-subsidization issue is one, roughly defined, which involves payment by residents in high density areas of increased service costs as a result of the inability of the rate structure in low density areas to support the cost of installation in those areas. The theory is that, particularly with a uniform rate structure, the overall rate will be higher than necessary if substantial investment is required to serve low density areas where the return cannot underwrite the cost of investment. For example, CTIC has estimated that the cost of installing a headend within Galt which would provide a service level equivalent to that within the mandatory service area could cost one million dollars or more. The cost of installing cable underground could range from \$30,000 to \$50,000 per linear mile. There are only about 2,000 residents within Galt. The same headend within a densely populated area could serve as many as 50,000 residents. Exactly what the break-even point regarding population density is with regard to these issues, however, is unknown by staff.

SERVICE AREAS FOR
INITIAL CATV FRANCHISE

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If the City and the County had elected to establish comprehensive rate regulation for all services provided through the cable television system, it is the opinion of staff that the cross-subsidization issue would be substantially more important than it actually is. Presumably, rate regulation would involve relegation of all service charges to a level minimally sufficient to permit a fair rate of return on investment. The process of arriving at appropriate service rate levels in relation to that issue would require, under a uniform rate requirement, an overall level of charges higher for service to sparsely populated regions than would be required for service exclusively to densely populated ones. Even under a variable rate structure based upon population density, higher rates could conceivably be required within the dense areas to compensate for costs of installation within sparsely populated ones if the sparsity of population would simply not support a rate structure high enough to underwrite all costs of serving the area.

However, the City and County have already elected not to either impose comprehensive rate control, or even permit interested applicants to propose such comprehensive regulation. The absence of mandatory rate regulation is based upon the constrictions of existing state law, and pending federal law. Denial to the interested operators of the opportunity to propose comprehensive rate regulation has been based upon other factors.

Those factors include, in part, the following considerations. Rate regulation of Basic Service achieves an important public purpose in insuring that all residents will be able to afford minimal service and benefits from the franchise. With the foregoing exception, the level of rates should be regulated by the market place. There is nothing inherently improper if large profits can be made by the franchisee. The promise of large profits is, perhaps, an appropriate inducement to encourage the magnitude of investment required to serve the Sacramento community. The operators have asserted that they should be allowed to establish a level of rates for all services (and if not all services, for all services other than Basic Service) which is consistent with what the market will bear.

The policy decisions which have already been made subject rates for Basic Service to the competitive process, in hopes that Basic Service will be offered as a loss leader. Rates for other services will be set in relation to the level consistent with maximum penetration (percentage of subscription). None of the operators have suggested that philanthropic considerations will play a role in the establishment of rates for other services. Profit maximization will be the predominant, if not the exclusive, consideration.

Under these circumstances, it can be expected that the rates for all services except Basic Service will be set at a level consistent with production of maximum income regardless of the nature, extent, or magnitude of investment. Within limits, the extent of investment required by the franchise terms will have a much greater impact upon the profits to be derived from exercise of the franchise than upon the rate structure.

SERVICE AREAS FOR
INITIAL CATV FRANCHISE

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Staff cannot predict what impact, if any, service of smaller populated areas will have on overall rates for Basic Service. There is an argument that there would be no impact at all, in view of the unlimited authority of the franchisee to charge what the traffic will bear for all other services. In addition, since the rate structure will be set at a level which maximizes income based upon considerations of supply and demand, the magnitude of investment in relation to profit or loss is a factor which should not be overlooked. Theoretically, investment could be required at a level which would prohibit realization of a profit because the overall level of rates will be based upon an inelastic demand and consequently the applicant would not propose to serve the areas. Our consultant has indicated that we can require the financial data necessary to assess this question. Therefore, this would be a quantifiable factor to be considered as part of the award process.

In conclusion, it is the staff position that the "cross-subsidization" issue in relation to extension of the cable television system into sparsely populated areas is one which could be severely both over-stated and over-estimated with respect to order of magnitude. It is the opinion of staff that the above recommendation allowing applicants to propose additional service areas with reduced service levels and rate variations could sufficiently neutralize the "cross-subsidization" issue and therefore warrants adoption.

Divisive Issue. Staff is of the view that there are significant benefits to the community inherent in issuance of a single, consolidated franchise by both the City of Sacramento and the County. It stands to reason that investment in special benefits to the community will be higher given the potential income to be derived from a single consolidated franchise, than they would be if each agency issued separate franchises.

Staff desires to avoid the injection of issues in the franchising process which risk frustration of the City Council and Board of Supervisors agreeing upon selection of a franchisee at the time of award. Inability of the two governing bodies to agree during the selection process would not be in the interest of either agency. Therefore, staff has no desire to create an environment in which divisiveness could lead to inability to agree.

However, it is the view of staff that the primary threat of divisiveness arising from bidding of additional service areas would grow out of the "cross-subsidization" threat. In view of the staff opinion (that the "cross-subsidization" threat is perhaps non-existent and at least over-stated in light of the policy decisions which have already been made) the bidding of additional service area is not viewed as a divisive issue.

Obviously, it is the governing bodies which must be the final judge of such considerations, and not staff. Should the governing bodies have a different view respecting the potential divisiveness of the staff recommendation, the recommendation should be rejected.

Service Objective. As discussed above, it is the view of staff that one of the primary objectives of the franchising process should be the provision of maximum service to all county residents practical. This objective results in the notion that at least some cost sharing in dense areas (whether within or outside incorporated localities) is permissible to achieve maximization of service, just as County-wide sharing of costs for benefits which may be provided to improve governmental operations, educational opportunity, or other public objectives is tolerable in order to achieve these objectives.

The more circumscribed the service area for the Initial CATV Franchise, the greater will be the pressure to authorize small, unrelated, community antenna systems within future pocket areas which develop during the fifteen year franchise term. County staff has already received inquiries from developers regarding their authority to establish community antenna systems within various subdivisions under development. Such pressure can be expected to continue. Therefore, it is the staff recommendation that an environment be created which makes it both economically feasible and desirable for the franchisee under the Initial CATV Franchise to expand its system into pocket areas during the term of the franchise. Such inducement should translate into a variable hardware, service, and rate structure in relation to densely and sparsely populated areas.

Policy decisions by the governing bodies have already resulted in the establishment of minimum standards of two 35 channel cables for the subscriber network, and one cable for the institutional network. Although one of the subscriber cables is permitted to be inoperative at the commencement of the franchise, it is not expected that any applicant will propose such initial inoperability.

Based upon discussions which staff has had with interested applicants, staff has concluded that it is not realistic or in the public interest to establish such a County-wide design standard for the Initial CATV Franchise. The high cost of such a minimally mandated system will restrict expansion of service, rather than encourage it.

Therefore, regardless of whether the specific staff recommendations relating to proposal of additional service areas are adopted, staff recommends that a dual design standard be established for densely versus sparsely populated residential areas. Similarly, staff recommends that applicants be authorized to vary Basic Service rates based upon population density. Such variances would, of course, be permitted only outside the mandated service area, and would be established for the purpose of encouraging the franchisee to serve emerging areas and thereby reduce the pressure to permit development of isolated community antenna systems which are neither compatible with the cable television system nor sufficiently sophisticated to permit reception of any of the services thereof.

Consistent with this approach, staff recommends that interested applicants be authorized to propose additional service areas under design standards which

SERVICE AREAS FOR
INITIAL CATV FRANCHISE

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would be based solely upon their proposals (without minimum standards), and at Basic Service rates for installation and service which are different from (and presumably higher than) those proposed within the mandatory service area. Such an approach would, for example, permit applicants to propose systems within outlying areas which include only a single subscriber cable carrying 35 channels and no institutional cable. The rate for Basic Service installation or service could be substantially higher than that applicable within the mandatory service area. CTIC has estimated, for purposes of illustration, that the cost of a headend to accommodate such a lessened design could be only \$500,000, as distinguished from the one million dollar or more cost of installing a headend to accommodate the design minimally required within the mandatory service area.

It is the view of staff that such variable design and rate criteria would eliminate whatever threat the "cross-subsidization" issue actually poses, and promote a primary purpose of franchising in achieving maximum residential service with a single, integrated system.

If this recommendation is rejected, staff alternatively recommends that the mandatory service area be expanded to an extent which approaches the one proposed by United (excluding Galt), and that the franchise area (i.e., the area within which extension is permitted but not required) for the Initial CATV Franchise area be narrowed to omit substantial sparsely populated regions of the unincorporated area. If an environment under which expansion of the initial franchisee's service into such areas is not to be established, the Board of Supervisors should reserve exclusive franchising authority (independent of the City) within such sparsely populated areas in order to respond to pressures to construct separate systems for developing subdivisions.

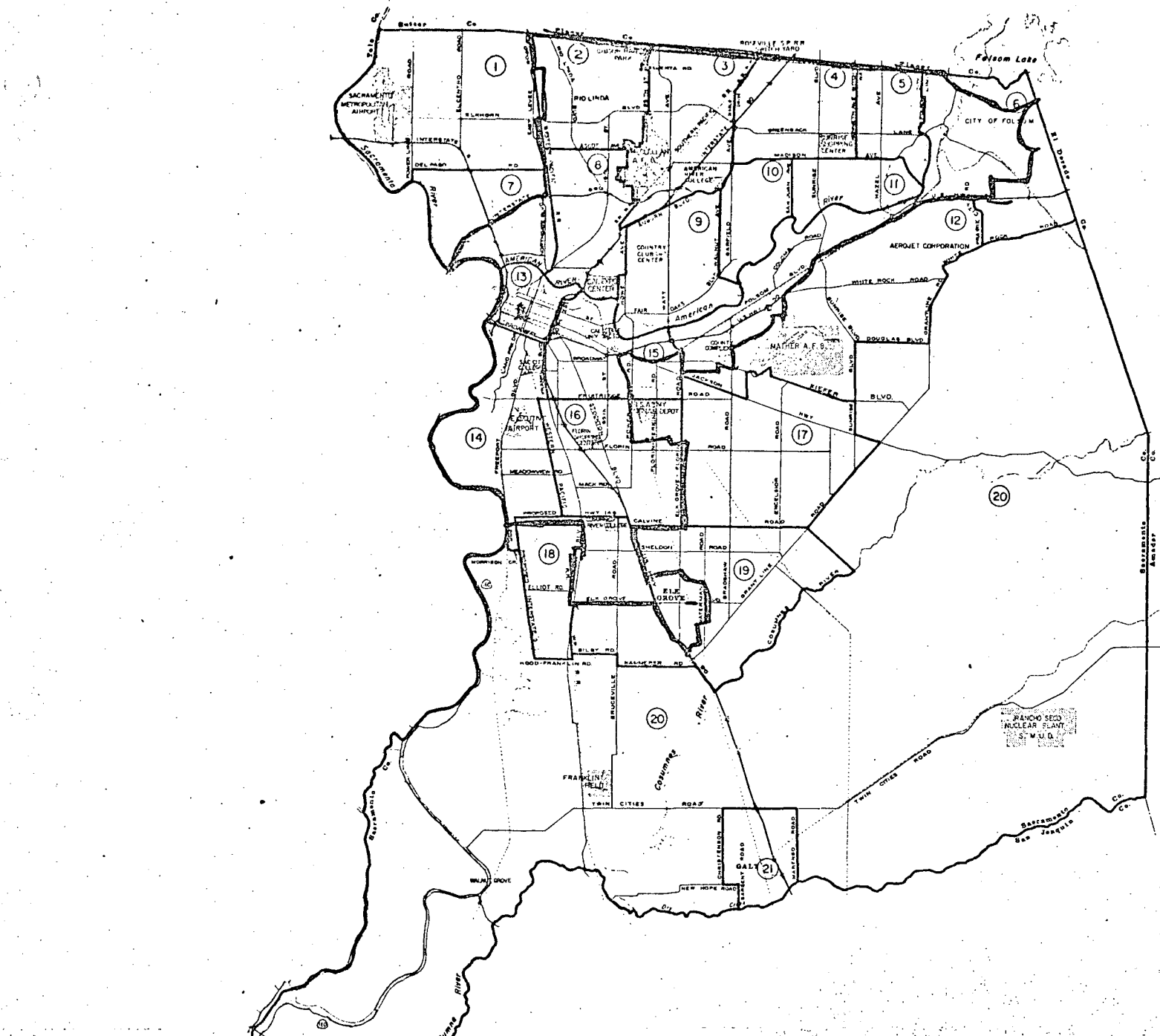
Respectfully submitted,



WILLIAM R. FREEMAN
Assistant County Executive

WRF:emw

23F-B6



**SACRAMENTO COUNTY, CALIFORNIA
COMMUNITY AREAS**

- | | |
|------------------------|---------------------------------|
| 1. NORTH NATOMAS | 12. RANCHO CORDOVA |
| 2. RIO LINDA - ELVERTA | 13. DOWNTOWN |
| 3. NORTH CENTRAL AREA | 14. LAND PARK-POCKET-MEADOWVIEW |
| 4. CITRUS HEIGHTS | 15. EAST CITY |
| 5. ORANGEVALE | 16. SOUTH SACRAMENTO |
| 6. FOLSOM AREA | 17. VINEYARD |
| 7. SOUTH NATOMAS | 18. LAGUNA CREEK |
| 8. NORTH SACRAMENTO | 19. ELK GROVE |
| 9. ARDEN-ARCADE | 20. RURAL SACRAMENTO COUNTY |
| 10. CARMICHAEL | 21. GALT |
| 11. FAIR OAKS | |

COUNTY OF SACRAMENTO
CALIFORNIA

September 23, 1981

To: Joint Cable Subcommittee
From: Assistant County Executive
Subject: RESOURCE ALLOCATIONS FOR COMMUNITY ACCESS

At the meeting on August 8, 1981, the subcommittee approved staff recommendations on channel allocations. The subcommittee also approved a staff suggestion that we address the question of additional resources that may be required to make access channels operable.

To understand the staff concerns, it might be helpful to review several general conclusions presented in prior reports dealing with community access:

1. Access is a broad concept that encompasses a wide variety of uses and users. At this point, some of the potential users are in better position to utilize cable because of experience, knowledge, and resources. Other possible users are just beginning to explore the communication potential of cable. The basic problem is that access is still an evolving concept and it will require time, effort, and resources to make it a reality that provides equitable treatment for all users.

2. Access has a significant price tag that, for the most part, will be paid directly or indirectly from the profits of the franchisee. Within limits, it is assumed that the cost of access will not raise subscriber rates since demand and not cost will be the primary determinant of price. The problem is determining where those limits are to make that assumption valid. The operator is in the best position to make that determination.

3. Access appears to be a significant public interest concern which the operators acknowledge in their proposals, but want to be able to control after the franchise is awarded in order to protect their ability to earn a fair profit. The problem is that any operator who is awarded the franchise may seek to eliminate or minimize access requirements if they seriously impede their ability to make a reasonable profit. We must, therefore, be realistic in identifying our needs, flexible in meeting changing needs, and diligent in requiring the franchise to honor commitments.

The primary concern is that the total cost of all the requested facilities, equipment, and staff for access will exceed the financial capabilities of the franchisee to provide these resources. If this happens, the applicants may be faced with one of two choices: 1) make overly optimistic subscriber penetra-

tion estimates in order to project adequate income to finance the resources proposed; or 2) make resource allocations on the basis of attracting political support.

The purpose of this report is to attempt to define this potential problem in more specific terms. Specific does not mean precise since we are still dealing with some degree of speculation. All resource requirements are not clearly identified, nor do we know what degree of financial commitment can be supported by a cable system here.

NEEDS

As indicated in previous reports, those groups with more knowledge and experience are better able to express their desires for resources. This fact is reflected in the following paragraphs which try to identify and quantify resource needs.

1. KVIE. Attachment 1 is a proposal from KVIE which indicates needs over and above just cable needs. This report, however, addresses only cable related requirements. A major need identified is 34,000 square feet of space. In discussions with them, the breakdown of the space is approximately 2/3 office and 1/3 technical. Based on their architect's estimate in 1981 dollars, the cost would be 22,667 square feet of office space at \$55 per square foot-- \$1,246,685; 11,333 square feet of technical space at \$105 per square foot-- \$1,189,965. In addition, the attachment identifies equipment needs of \$700,000 for distribution equipment, and \$1,300,000 for production equipment.

This brings the total to \$4,436,650. It should be noted that KVIE is not requesting that all this expense is to be financed by the franchisee. They are attempting to identify needs as part of a long-range planning process. Nonetheless, KVIE is a community user, and these are the needs that operators will address.

2. Education Consortium. Attachment 2 is a statement of needs from the Educational Consortium. In addition, a previous position paper included packages of production equipment with a cost estimate of \$60,000. The total estimate identified in the two documents is \$1,280,000. Like KVIE, this is an attempt to identify needs without regard to operator financing.

3. Public Access Sacramento. Attachment 3 is a position paper by this group. It is broader than just equipment needs and does not contain cost estimates. Based on information from proposals in other communities, a cost range for the items on page four would be at least one to two million dollars and possibly more.

4. Other Groups. Although there are no specific dollar requests, other groups such as the Health Consortium, or the religious community may want to be considered for specific facilities or equipment. Government agencies

constitute another possible special user category that should be considered separately. Again, figures are speculative but could approach one million dollars or more.

5. The Franchisee. The proposed ordinance requires the applicants to include proposals on local programming for which they would be responsible. Like any other user, the operator will need facilities, equipment, and staff. A significant amount of local programming will require a significant amount of resources.

6. Combining Resources. Although the needs are listed separately above, potentially there can be a combining and sharing of resources. In addition, some of the community access programming anticipated by groups may be proposed to be done by the operator. Either of these possibilities would reduce the total required resources, but that total would still be significant.

RESOURCES

As stated above, there is a practical limit to the resources a franchisee can commit for access. Attachment 4 is a copy of an article entitled "The Winning Combinations: What It Took to Win in Eight Big Cities". Although the information on access resources does not provide a clear and consistent indication of the actual dollar commitments, it does indicate a general magnitude of the commitments. Following is a brief summary of the information:

1. Fort Worth, Texas. The estimated system cost is \$50 million with 160,000 homes passed. The total commitment is not clear, but \$1,250,000 is listed for a community program complex, three mobile vans are listed with no figure, and \$100,000 is proposed for upgrading of existing educational teleproduction facilities.

2. Indianapolis, Indiana. The estimated system cost is \$24.3 million with 140,000 homes passed. The proposal includes four access studios and two mobile vans. A figure of \$850,000 is listed for community programming but it is unclear if that is the cost of the listed studios and vans.

3. New Orleans, Louisiana. The estimated system cost is \$61.5 million with 220,000 homes passed. There is an investment of \$3 million for local community programming needs and the indication that amount covers a satellite uplink, six local studios, one mobile van, 30 portable cameras, and grants.

4. Cincinnati, Ohio. The estimated system cost is \$38.2 million with 161,000 homes passed. There is no dollar figure for community use but the list includes shared use of their color studios at a telecommunications center, four color neighborhood studios, two color access originator studios at public facilities, and three mobile vans.

RESOURCE ALLOCATIONS
FOR COMMUNITY ACCESS

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5. Portland, Oregon. The estimated system cost is \$30 million with 120,000 homes passed. There is a \$400,000 commitment for equipment and facilities dedicated to community access but no breakdown of the figure.

6. Dallas, Texas. The estimated system cost is \$98.9 million with 400,000 homes passed. A total estimate of \$2,144,000 is given and the assumption is that is the cost for: five full color studios; five additional access centers; three color equipped mobile vans; 20 color portable packages; and 50 portable modulators.

7. Omaha, Nebraska. The estimated system cost is \$36.9 million with 125,000 homes passed. There is a \$1.8 million capital investment over a ten year period for local originator and access. The listed items are: one local originator studio; four access studios; two mobile vans; and \$251,000 to various institutions.

8. Pittsburgh, Pennsylvania. The estimated system cost is \$36.7 million with 181,000 homes passed. There is a figure of 3.32 million dollars indicated for studios and equipment. The breakdown of that figure is somewhat confusing but the list includes five color studios and two mobile vans.

In addition to the above information, one of the proposals for Denver, Colorado, indicates a 6 million dollar commitment including a telecommunications center, a mobile unit, and 26 studios and portable equipment locations. The estimated system cost is 100 million dollars.

CONCLUSIONS AND RECOMMENDATIONS

The above information does not provide precise answers to many questions, and therefore only qualified conclusions can be drawn. However, from the information it can be concluded that the franchisee will not be able to commit resources to meet all the perceived needs. In terms of needs, the identified items above with dollar figures listed total \$5,716,650 and there are other potential needs without cost estimates. When the applicants start costing out community access requirements, the total could approach a range of 8 to 9 million dollars. On the other hand, the resource commitments from the information available would be in the 3 to 6 million dollar range.

Although these are magnitude estimates, they do substantiate the prior staff concern that priorities might be required. The total potential resource requirements exceed the probable resource commitment. If we do not indicate priorities, the applicant must develop them. The public interest is better served and the applicants are treated more fairly if we establish the priorities.

Acknowledging the lack of precise information in this report, it is recommended that the Board and the City Council indicate some general priorities

to guide the applicants in developing their proposals. Following are specific recommendations for consideration by the subcommittee in formulating the priorities which should be included in the Request for Proposals.

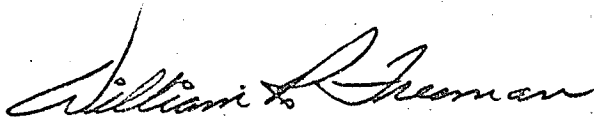
1. The community access resources should be allocated to provide well balanced and diversified local programming.

2. In order of relative importance, applicants should address the following categories of public access: educational uses particularly as they impact kindergarten through twelfth grade institutions; governmental uses particularly as they impact the delivery of governmental services; and non-governmental uses.

3. Preference will be given to proposals that are designed to make the most effective use of the resources committed to community programs. Applicants should not offer to provide resources that cannot be used effectively by any group, organization, or for the purpose intended.

4. Resource allocations that appear to be based on an attempt to attract the support of any specific organization or group will have a negative influence. Following are examples of suspected allocations that will be questioned: offers of channels to organizations that do not have the ability to program the channel; or disproportionate allocation of resources whether in equipment, facilities, or ongoing support.

Respectfully submitted,



WILLIAM R. FREEMAN
Assistant County Executive

WRF:emw

*Bill, Here is the
position paper which states our precise
cable needs. Kathleen*



CENTRAL CALIFORNIA EDUCATIONAL TELEVISION

REVISED CABLE PROPOSAL
TO THE
SACRAMENTO COUNTY BOARD OF SUPERVISORS
AND THE
SACRAMENTO CITY COUNCIL

January 15, 1981

In your files, you will find our original cable proposal to the County Board of Supervisors dated April 10, 1980. You should also have our August 29 letter to Ted Sheedy that contained some refinements to the proposal. During the past three months we have done further study. We re-evaluated our space needs, projected cable income and expenses for 5 years following the award of a franchise, developed a programming plan and worked with the Educational Consortium to develop a compatible approach to the city and county.

For the most part our additional research confirmed and substantiated our original expression of needs. Our original proposal expressed a need for 55,000 square feet of space to be constructed on our present Garden Highway site. We still need that amount of space for our planned broadcast and cable activities. However, with regard to what we expect to see included in the ordinances or request for proposals, we now are requesting 34,000 square feet. Further, we would eliminate reference to our Garden Highway site, since that ultimately may or may not be the best location.

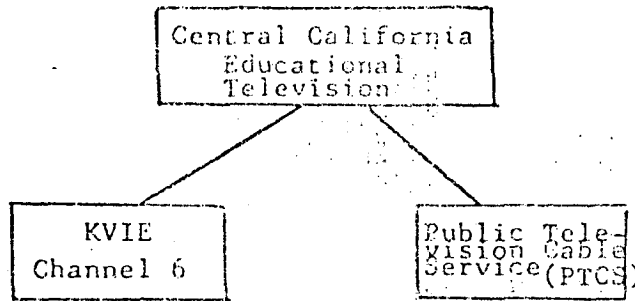
The 34,000 square feet of studio, technical and office space is what CCET would need for its cable-only activities if KVIE Channel 6 did not exist.

We still see the logic of combining CCET's broadcast and cable activities -- as well as other local cable origination functions -- in a joint telecommunications facility but we feel it would be best to identify CCET's cable-only needs for inclusion in the RFP.

As we developed our cable plans it became apparent that we needed to make a more definitive distinction between our broadcast activities and our cable activities.

To do that we now plan to establish a separate division of CCET for cable activities, called Public Television Cable Service (PTCS) once a franchise has been awarded.

ATTACHMENT 1



KVIE and PTCS would share technical staff and facilities but they would be administratively separate and strict cost accounting procedures would provide for fiscal separation. Under this plan KVIE, which will have less need for studio facilities than PTCS, would "rent" those facilities from PTCS for the 8-10 hours per week required for anticipated local broadcast production. (This does not represent a diminished commitment for local broadcast production on KVIE. Rather, it is a recognition that 5 channels of relatively inexpensive cable programming will include more local studio productions than one broadcast channel will.)

The balance of our proposal includes a request for four dedicated subscriber channels with interactive capacity on at least two of the channels, one interactive institutional channel, and a substantial share of the 5% franchise fee in return for the services we propose to deliver. The 34,000 square feet would include three studios built and equipped to standard broadcast specifications, and a five-channel cable distribution control room equipped to program the cable channels in a manner similar to broadcast programming. The rationale for requesting major resources in this manner is presented in our April 10, 1980 presentation and the subsequent August 29 letter to Ted Sheedy.

Enclosed is our State of the Station report to our 32,000 members that describes our anticipated use of cable and what we would expect to do with each of the five channels. Our plans for providing public service cable programming put a great deal of emphasis on local production, and interaction with the community, which requires the substantial investment in production facilities proposed here. Since a vast majority of what a cable system will offer subscribers is imported programming, we think it is appropriate to require the cable operator to provide the tools necessary to produce and distribute a substantial amount of local public service programming.

SUGGESTIONS FOR SPECIFIC WORDING
FOR CABLE REQUEST FOR PROPOSALS

January 15, 1981

While these suggestions relate only to provisions requested by Central California Educational Television, we urge the city and county to be equally specific in drafting the provisions for all other aspects of the request for proposals.

The June 1, 1980 draft of the "Joint Request for Proposals..." is used here as the context for CCET's recommendations.

On Page 16, under Services and System Design, include:

"Four residential subscriber channels with interactive capacity on at least two channels dedicated to Central California Educational Television".

"One institutional interactive channel dedicated to Central California Educational Television".

Strike the last paragraph on page 16 that begins: "Planned cooperation with television station KVIE..." and substitute the following paragraph:

"Provision for a minimum of 34,000 square feet of space and telecommunications facilities for use by Central California Educational Television. Such facility shall include a minimum of three studios, built to meet standard broadcast specifications, a cable distribution control room designed to program at least five cable channels in a manner similar to broadcast programming, a large community meeting room with provisions for video and audio teleconferencing, and other space and facilities necessary for television programming, production and distribution."

"A grant to Central California Educational Television to assist in acquiring the distribution equipment and part of the production equipment to be installed in the telecommunications facility listed above. The required equipment is illustrated by the following representative list. Dollars are included to illustrate the level of quality intended.

DISTRIBUTION SYSTEM -- \$700,000

Origination

- 1 Film Chain
- 3 Audio Cart Machines
- 17 Videocassette machines (3 per channel plus spares)

Audio and Video Monitoring Equipment

Processing and Distribution Equipment
(includes computer \$60,000)

Test Equipment

PRODUCTION EQUIPMENT -- \$1,300,000

Origination: 6 cameras, 3 audio & video switchers, 3 character
generators, 3 still frame storage systems

10 Videocassette machines

Audio & video monitoring equipment

Processing, Distribution & Internal Communications Systems

Test Equipment

Lighting

Prompting Systems

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WILLIAM L. CUNNINGHAM
Superintendent

September 2, 1981

Mr. William R. Freeman
Assistant County Executive
700 H Street, Room 7650
Sacramento, CA 95814

Dear Bill:

As suggested, the following is a response by the Educational Consortium on Instructional Television indicating the requirements for studios and related equipment.

We would like to reiterate that in the judgment of the Educational Consortium, an interactive system is still the most viable plan for effective educational use of cable television, as outlined in our previous proposal, and this submission is not intended to be a substitute to that proposal.

Following is our proposal for the facilities and equipment for an Educational/Instructional Cable Telecommunication Center:

We propose that the franchisee would lease for the length of the franchise an existing school site with a multipurpose room and the following minimum requirements:

1. The multipurpose room would be of no less than 2500 square feet.
2. Twelve to fourteen classrooms of 900 square feet each.
3. Air conditioning.
4. Adequate parking.
5. Noise suppression in studios.

More specifically, we are proposing the following:

1. One major color studio (multipurpose room) including post-production facilities. Estimated cost - \$800,000 plus installation.

ATTACHMENT 2

Mr. William R. Freeman
Assistant County Executive

- 2 -

September 2, 1981

2. Two video-equipped classrooms. Estimated cost - \$60,000 each plus installation.
3. Two wired interactive classrooms (Stanford/Chico model). Estimated cost - \$100,000 each plus installation.
4. One telecine master control distribution center. Estimated cost - \$100,000.

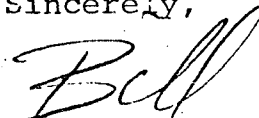
In addition, we would recommend that classrooms be remodeled for the following purposes:

- a. Storage.
- b. Graphics (adjacent to photographic facility).
- c. Shop (maintenance).
- d. Adequate office facilities.
- e. Photographic facility.
- f. Two tape-storage rooms.
- g. Viewing room.
- h. Conference room.

Bill, it would be our proposal once this is in place that a Joint Powers Agreement would be established representative of all parties involved in the Educational Consortium to draft governance provisions for the Educational/Instructional Cable Telecommunication Center. This seems to us to be the next step in this process, and if the City Council and the Board of Supervisors feel it's appropriate, we can initiate that in the very near future.

Let me reiterate that the above proposal is not intended to pre-empt our original proposal which you have in hand, but is simply a supplement to that proposal. This has the support of all members of the Educational Consortium.

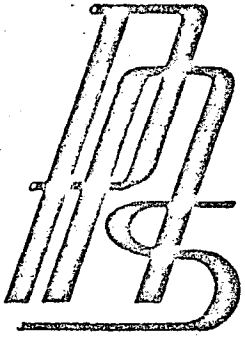
Sincerely,



William L. Cunningham
County Superintendent

WLC:mh

cc: Educational Consortium members



PUBLIC ACCESS SACRAMENTO

Mailing Address: 3333 Parks Lane, Carmichael, CA 95608

POSITION PAPER

Public Access Sacramento is a broad-based coalition of individuals and representatives of organizations working on behalf of community interests. This coalition intends to promote and assure the following objectives:

1. To define the concept of community access to cable television;
2. To examine the necessary components to guarantee its success;
3. To suggest ways to develop quality programming and encourage community involvement; and
4. To support public access for community groups and private citizens.

The members of this coalition strongly feel that cable television has tremendous potential other than that of an entertainment medium. Public access provides a communication network. It is not only a means by which members of the community express themselves, it is also the means by which information and ideas flow throughout the community. Interaction among segments of the community which, otherwise, might not occur will be possible.

After extensive research, including interviews with individuals active in the field of community access, it has become apparent that local access will be an "all or nothing" proposition. If it is done correctly, with professional assistance and commitment, it will be possible to generate sufficient audience interest to support continued production. Moreover, if the general public has a positive experience the first time they watch local access, they will develop attitudes that will assure continued success. It is imperative that the necessary components, to guarantee its success, are available from the first day of service.

In addition to designated channels for access and equipment which will allow production of quality programming, the critical components for successful community access include a qualified staff, outreach and training programs for potential volunteer producers and, most importantly, some provision for an ongoing funding base.

Our research also indicates that community-controlled, as opposed to cable-controlled, public access is much more likely to reflect the needs, interests, and desires of the community. A responsive, flexible organizational structure, which appears to be successful in other communities, is a nonprofit public access corporation.

An access corporation offers certain advantages over other forms of access administration:

--A community which has more direct control of access is better able to oversee the cable operator's commitment to promises made in the franchising process.

--The corporation's distance from both local government and the cable operator make it less susceptible to changing political pressures as well as First Amendment concerns related to government control.

--Community participation in an access corporation also results in a better understanding of the operator's commitment and how a cable system functions. With increased awareness, the community will be able to make appropriate demands of the cable operator.

--A nonprofit entity will attract grants, donations and other resources which might not be available to a government or private commercial operation.

--The community control and participation possible through an access corporation permit programming development which serves the community's needs rather than the needs or desires of a cable operator or local officials.

Therefore, Public Access Sacramento recommends the formation of a permanent, independent, nonprofit corporation to protect and manage the cable resources for the good of the community. It is also recommended that this public access corporation be structured, so that its members are representative of the Sacramento community. To facilitate cooperation and communication, the Sacramento Metropolitan Commission Officer and a representative of the cable company should be included as ex-officio members of the corporation. The access corporation should have the following responsibilities:

- Establish and administer policies and procedures governing the use of the public access channels and production facilities.
- Assess community needs and promote development of community access programming to meet those needs.
- Allocate channel space, facilities and resources.
- Develop funding sources and budget revenues.
- Promote community awareness of public access.

The public access corporation should be activated with sufficient lead time in order to plan for the use of production facilities.

Regarding the availability of public access channels, Public Access Sacramento recommends:

- The franchisee provide a minimum of two 24 hour channels dedicated to public access and an additional channel(s) as warranted, one channel to be available from the first day of service, and the additional channel(s) as needed.
- Access channels be available on the basic tier of service.

--Channels dedicated to public access be used solely for public access, and those channels should occupy fixed positions on the dial.

With respect to the availability of production equipment and support services, it is the position of Public Access Sacramento that:

--The franchisee provide a separate and independent, fully equipped color studio constructed to enable preparation of simultaneous live and/or taped programming and allow audience participation.

--In addition to the main studio, the franchisee provide smaller public access centers placed throughout the franchised area.

--An appropriate mix of fixed and portable equipment be available including a fully equipped mobile van with a microwave link to the studio. Satellite up-link and downlink capabilities be available from the public access studio.

--The cable operator, who owns the public access equipment, maintain all equipment and public access studios and centers. Equipment be periodically replaced as technology evolves. Specific plans for the provision of equipment be subject to review and renegotiation by the Cable Commission and the public access corporation.

--The franchisee provide necessary support services including, but not limited to, consultation, management, training, production and technical assistance.

--The franchisee publicize access programs in its printed or televised program guide(s).

--Regarding public access financing, Public Access Sacramento recommends that:

--The franchise provide long-term funding for public access with an adequate portion of the franchise fee payable to the independent nonprofit access corporation commencing with system operation and continuing for the duration of the franchise.

--The franchise provide sufficient seed money per year to be used for access development, start-up and the access corporation's operating expenses.

In conclusion, the cable field is too new to forecast the full range of needs for public access at this time. Enormous possibilities exist and no options should be precluded by an inflexible and unresponsive cable system.

Public Access Sacramento appreciates the careful attention the City and County are giving to this issue.

The Winning Combinations: What It Took To Win In Eight Big Cities

All has been far from quiet on the cable franchising front over the past few months. Of the top 30 markets around the country, comprising almost 41 million television households (54 percent of all television households in the U.S.), 11 major cities are currently involved in the intense process of awarding cable franchises, with the right to wire several hundred thousand homes in each city at stake. Tampa, Miami, Tucson, Milwaukee, Chicago, Sacramento, Baltimore, New York, Boston and Detroit are among the unwired cities looking at or in the midst of intense franchising activity.

As they prepare their plans to release RFPs, and hold public hearings and city council meetings on the question of cable, most of these cities are no doubt trying to learn as many lessons as possible from the encounters of their predecessors. Over the last few months, eight large cities, from Dallas to Portland, awarded cable franchises passing 1.5 million homes. The winning MSOs will spend approximately \$376 million to build those systems, requiring 11,200 total plant miles.

While the business side of the franchising process flourished, the public relations side died. Several major awards were countered by petitions for referendums, lawsuits and even FBI investigations.

At the moment, the FBI is investigating franchise activity in Houston, New Orleans and the Detroit suburbs. And just three months ago, a Federal Grand Jury in Houston found the city, its mayor and a local cable company guilty of conspiring to limit competition and

violate antitrust laws. Damages awarded were to the tune of \$6.8 million.

Such newspapers as the *Minneapolis Star*, *Los Angeles Times*, *Washington Post* and *Boston Globe* have devoted considerable space to feature coverage of cable franchising around the country. And on the eve of the NCTA convention in Los Angeles, *NBC Magazine* with David Brinkley is tentatively set to give television viewers an investigative report on recent wire wars.

The focus of these and other reports is the improprieties and politics associated with franchising. A common target is normally the controversial "rent-a-citizen" or "rent-an-institution" technique of recruiting influential groups onto the team of a cable company bidding for a particular city. In all but one of the recent awards, the city government has awarded its franchise to a company with some form of local ownership in its proposal.

Many have been wounded over the last few months as cable franchise wars engulf new cities. What follows is the battle report of winners and casualties of the eight major awards.

Fort Worth, Texas

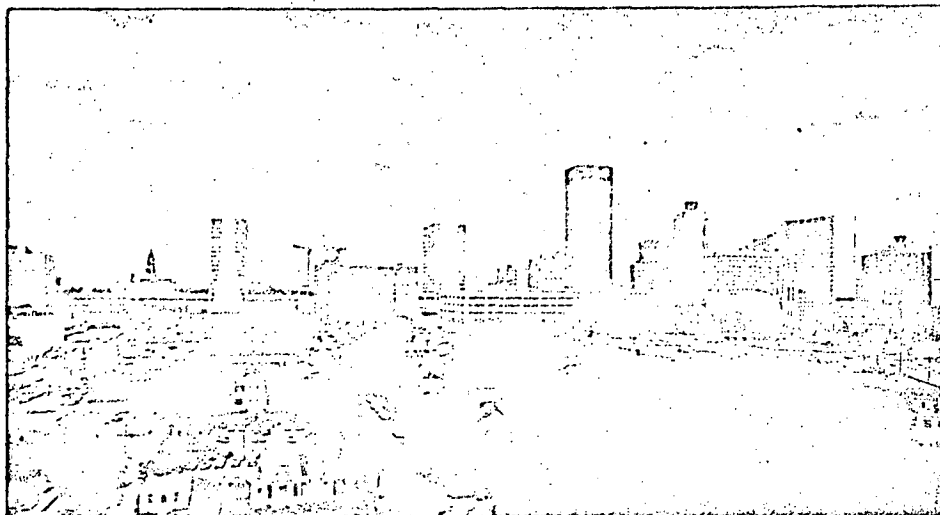
Rebounding off a tough loss to Warner Amex Cable Communications in the competition for the Dallas franchise, Sammons Communications won the right last month to wire the city of Fort Worth, one of the last remaining franchises in the Dallas-Fort Worth Metroplex.

Seven applicants submitted bids for

"Panther City," including McLean-Hunter, Metrovision, Citizens Cable Corp., United and Telecommunications Inc. In the end, the battle was between two companies, Storer Cable of Fort Worth and Sammons. After clawing its way to the top, Storer's dream of wiring one of the Lone Star State's best cable markets was shot down by a six-to-three city council vote favoring the Sammons proposal. Storer is the most successful franchisor in the Metroplex region.

Suspect in the franchising process was the city itself. Months before the RFP was issued, the city gave notice to the cable industry that its process was going to be unique. The council publicly discouraged local ownership as a means of influencing the award. Nevertheless, it was Sammons, a company stacked with influential local investors, that won. Sammons' local investor group is Metroplex Cable Television, Inc., of Fort Worth, made up of 14 local investors that own 40 percent of the Sammons franchise. Leading the team of local investors (14 percent interest apiece) are Taylor Gandy, a prominent local attorney and former two-term city councilman, and Clif Overcash, former mayor of Fort Worth (1975-1977). There are also six local black leaders who own a piece of the action.

Storer supporters were dismayed and confused by the city council vote favoring Sammons. Storer officials, under the impression that local programming was high on the city's list of priorities, planned to contribute \$500,000 for development of local programming, versus Sammons



\$75,000 gift. Councilman Burt Williams, a member of a three-man study group which recommended both companies, says he was concerned that Storer's donation would eventually be reflected in higher rates that would be to the disadvantage of his low income constituency. The real decisions and debates about who is awarded the franchise frequently occur right before the council voting. "The politicking going on before the vote was like watching a bunch of turkeys in a rainstorm," said one city official. Weathering the storm, Sammons will build a dual trunk (one trunk initially activated), 440 MHz interactive system using Tocom 55 Plus equipment.

It took a while for Sammons executives to recover from the loss to Warner Amex in Dallas. But nothing makes

franchising executives forget faster than a quick victory in another city. Sammons Vice President Bill Strange, commenting after the Fort Worth City Council vote, said, "I don't even think about Dallas anymore."

According to Harold Horn of Cable Television Information Center (the city's consultant) the 15-year Fort Worth contract will be worth \$500 million in gross revenues and \$90 million in profits (plus depreciation) to Sammons. However, the system will not be profitable until the sixth year of operation, Strange said.

Indianapolis, Indiana

Before 1980, American Television and Communications (Time Inc.'s MSO subsidiary) was considered the most successful cable franchisor in the

industry. Several weeks ago, ATC moved into first place in terms of total subscribers, but has not had the same success of late in winning major market franchises.

The company's recent victory in Indianapolis could mark a resurgence of that pre-1980 franchise magic. ATC won the Indianapolis franchise in February, staving off a powerful challenge from Indianapolis Cablevision, a local company.

The city council voted 16-13 in favor of ATC's local subsidiary, American Cablevision of Indianapolis, which is 20 percent owned by 25 local investors. The Indianapolis competition truly was a battle among local investors.

Indianapolis Cablevision, which already held the franchise for the county, is a joint venture between

City	Date Awarded	Company Awarded Franchise	Estimated Cost	Total Miles of Plant	Homes Passed	Type of System	Channel Capacity
Fort Worth, Texas	Mar. 1981	Sammons Communications, Inc. of Fort Worth, Texas	\$50 million	1,430	160,000	440 MHz dual trunk interactive system (one "shadow trunk" not initially activated)	61 channels (institutional network included in system design)
Service Offerings	Inducements Offered By Winning Applicant	Franchise Pro-Payment Fees	Projected Cash Flow In Five Years	Ownership			
Tier I 20 channels \$3.95	<ul style="list-style-type: none"> ■ \$1.25 million for community program complex with central production center to be housed at Will Rogers Coliseum ■ Three mobile vans ■ \$75,000 annually for community programming ■ \$50,000 for internship program ■ \$100,000 to upgrade existing educational tele production facilities 	None	\$3,985,000	60 percent owned by Sammons and 40 percent owned by 14 local investors			
Tier II 41 channels \$5.95							
HBO \$6.95							
Showtime \$6.95							
GalaVision \$6.95							
HTN \$6.95							
Tier III 54 channels \$7.95							
Bravo \$5.95							
Cinemax \$7.95							
The Movie Channel ... \$8.95							
Tier IV 54 channels plus interactive and text services \$10.95							

Wabash Cablevision (one-third ownership) and several prominent local businessmen. Some of the local investors of the bid on the city were the company's president, Joseph Dawson, a real estate developer; Tom Binford, chairman of Indiana National Corp.; then-Lt. Governor-elect, John Mutz, and Dr. Frank Lloyd, chairman of the Midwest National Bank, to name a few.

Among those at bat for ATC were Carl Dortch, retired president of the Indiana Chamber of Commerce; Otto Frenzel III, chairman of the Merchants National Bank, and two state senators, Julia Carson and William Crawford.

Under state law, the Board of Public

Works has sole responsibility to draw up a franchise contract. Several months before the award, the board recommended the ATC proposal over three other applicants—United Cable TV, Indy Cable Television Corporation and Indianapolis Cablevision.

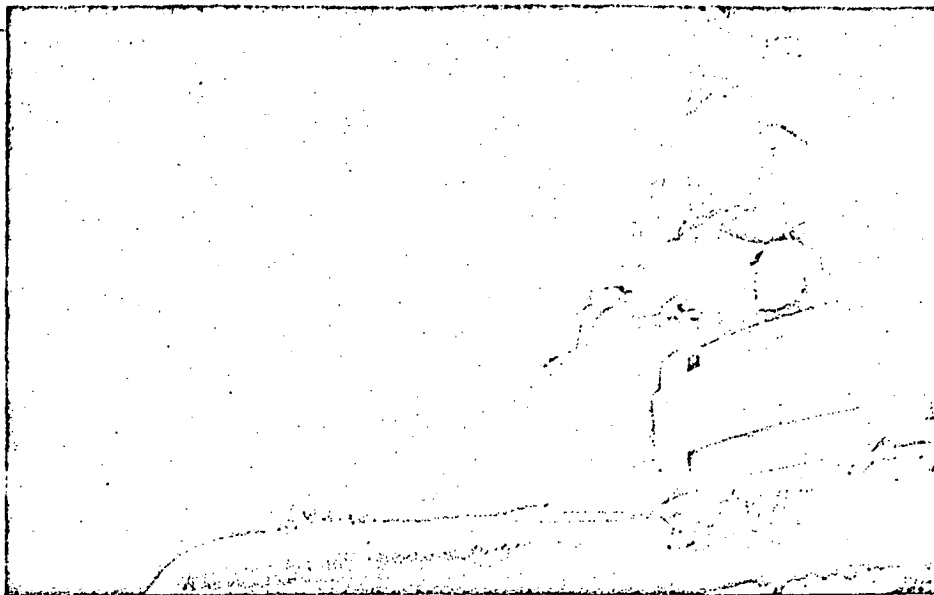
According to the board's point system, the ATC proposal ranked only three points higher than the Indianapolis Cablevision bid. Because the difference was so small (added to the fact that the ATC recommendation passed by only a three-to-two margin), the city council decided by a 17-12 vote to send the Indianapolis Cablevision bid back to the board for reconsideration. The

Board voted 5-0 to recommend the Indianapolis proposal together with ATC's.

Despite all the political maneuvering by Indianapolis Cablevision, the council awarded ATC the franchise. The MSO may have been a stranger to the Indianapolis area, but the company's parent, Time Inc., was not. Inland Container Corporation, a manufacturer of corrugated boxes, completed its second full year as a subsidiary of Time Inc. in 1980. Inland, with revenues reaching \$579 million and operating profits in the \$53-million range, has many friends in the Indianapolis area.

ATC's new 1,059-mile system will

City	Date Awarded	Company Awarded Franchise	Estimated Cost	Total Miles of Plant	Homes Passed	Type of System	Channel Capacity
Indianapolis, Indiana	Feb. 1981	American Cablevision of Indianapolis, Inc. (ATC)	\$24.3 million	1,052	140,000	330 MHz single trunk interactive system	42 channels (institutional network included in system design)
Service Offerings		Inducements Offered By Winning Applicant		Franchise Pre-Payment Fees		Projected Cash Flow In Five Years	Ownership
Single level basic service with 42 channels		<input checked="" type="checkbox"/> \$850,000 estimated for community programming (joint venture with minority entrepreneurs)		None		\$3,530,000	80 percent owned by ATC and 20 percent by 25 local investors
HBO		<input checked="" type="checkbox"/> Four access studios					
Showtime		<input checked="" type="checkbox"/> Two mobile vans					
Cinemax		<input checked="" type="checkbox"/> Eight access channels					
HTN							



pass 140,000 homes and will cost \$24.3 million to build. The system will be a single trunk, 330 MHz plant, offering one level of basic service for \$6.50 per month. Under the city's contract, rates will be frozen for three years. As part of the franchise award, ATC will contribute \$850,000 for community programming. A company spokesman told *CableVision*, "We have not selected the equipment to be used in the system yet. We have narrowed the

field of suppliers down to Scientific-Atlanta and RCA."

New Orleans, Louisiana

Last December, the New Orleans city council awarded the city's cable franchise to Cox Cable by a dramatic four-to-three vote. Just three months later, the city's franchise process became tainted when council President Joseph Giarrusso announced he had

requested an FBI investigation of all companies involved in the competition.

Giarrusso made his request after he and two members of his staff were interviewed by agents investigating alleged improprieties connected with the award. Rumors about the investigation have run rampant through the industry, but to date no facts or charges of wrongdoing have surfaced. Some industry experts speculate that a complaint was filed by a disgruntled competitor for the franchise.

Even without an FBI investigation, the New Orleans franchise competition would have made news throughout the cable industry, since the city became the first major municipality since dual plant became part of the bidding wars to award a cable franchise to a company offering significantly less video channel capacity than many of its competitors.

Offering to build a single trunk, 400 MHz system with 54 channels, Cox Cable won the franchise over eight other applicants: American Cablevision of New Orleans Inc., (a subsidiary of American Television and Communications); Cable Consultants Inc.; Greater New Orleans Community Cablevision

City	Date Awarded	Company Awarded Franchise	Estimated Cost	Total Miles of Plant	Homes Passed	Type of System	Channel Capacity
New Orleans, Louisiana	Dec. 1980	Cox Cable TV of New Orleans, Inc.	\$61.5 million	4,740	220,000	400 MHz single trunk interactive system (INDAX)	54 channels (institutional network included in system design)
Service Offerings		Inducements Offered By Winning Applicant	Franchise Pre-Payment Fees	Projected Cash Flow In Five Years		Ownership	
50 channels	\$7.95	<ul style="list-style-type: none"> ■ For local TV station WYES-TV a satellite uplink with income from its use and two cable channels ■ Six local studios ■ One mobile van ■ 30 portable cameras ■ \$200,000 in grants for local programming (\$3 million invested for local community programming needs) 	None	\$16,704,000		80 percent owned by Cox and 20 percent owned by 13 local investors	
108 channels with INDAX (54 data channels)							
INDAX	\$11.95						
HBO	\$7.95						
Showtime	\$7.95						
GalaVision	\$7.95						
Cinemax	\$7.95						
The Movie Channel	\$7.95						
HTN	\$3.95						

Inc.; New Orleans Telecommunication (a subsidiary of Tele-Communications Inc.); Storer Cable TV of New Orleans Inc.; Teleprompter of New Orleans Inc., and WSMB Cable Communications Systems Inc.

City consultant Carl Pilnick (president of Telecommunications Management Corp.) ranked Cox, Storer and ATC as the three top applicants. ATC and Storer both proposed a dual trunk-network, with both trunks activated initially, providing up to 84-channel

the Times-Picayune. Several Cox investors are friends of former Housing and Urban Development Secretary Moon Landrieu, who is also a former mayor of New Orleans. In the Cox group are former City Chief Administrative Officer Richard Kernion, developer Glancy Dupepe and prominent architect Arthur Q. Davis.

Industry observers rated Cox, American and TCI (ranked fifth by Pilnick) as the leading contenders before the council vote because of their

ship. While not mandating local ownership, the city's cable ordinance emphasized that no franchise would be awarded to a company unless the applicant provided meaningful minority involvement. Cox is 20 percent owned by 14 local investors. Approximately 35 percent of the Cox group are minority investors, representing seven percent of the total stock.

Cox intends to spend \$61.5 million to build the 220,000-home system. The Atlanta-based MSO intends to hook up 58,000 subscribers in the first six months of the franchise by tapping into its existing cable systems in the surrounding suburbs.

Cincinnati, Ohio

Cable industry psychologists say it was in November, when Cincinnati's city council awarded Warner Amex its cable franchise, that executives representing rival companies began to wonder what it is that Warner knows about putting together franchise proposals in big markets that they don't.

It is understandable why those executives went for the analyst's chair. Already, with Dallas and Pittsburgh under its belt, plus its victory in Cincinnati, Warner Amex was threatening to turn the franchise wars into a rout.

Competing against Warner Amex for the 161,000-home Cincinnati franchise were ATC, Teleprompter, Metrovision, Cablecom and Cincinnati Cablevision. All but Cablecom had some form of local ownership arrangement. But the real battle for the franchise was between ATC and Warner. ATC's subsidiary (Queen City Cablevision) put together an impressive list of influential local shareholders. Warner's local ownership (rent-an-institution) arrangement turned

downstream capacity. At a city council meeting last December, Philip Ciaccio recommended Cox be awarded the franchise. During the pressure-packed setting, the first six councilpeople split their votes, three for Cox, three against. Councilman John Singleton cast the tie-breaking vote, awarding the franchise to Cox.

Local stockholders for the other applicants nicknamed Cox the "Landrieu company" according to one local paper,

strong lineup of local investors. American was 50 percent owned by ATC and 50 percent owned by 24 local investors. Telecommunications was 50 percent owned (through a holding company) by TCI and 50 percent owned by a local group called Louisiana Investors Group Cable Television (68 percent) and seven other general partners (32 percent).

Every company bidding in New Orleans had some form of local owner-

City	Date Awarded	Company Awarded franchise	Estimated Cost	Total Miles of Plant	Homes Passed	Type of System	Channel Capacity	
Cincinnati, Ohio	Nov. 1980	Warner Amex Cable Communications of Cincinnati, Inc.	\$38.2 million	1,525	161,000	354 MHz dual trunk interactive system (QUBE)	138 channels (institutional network included in system design)	
Service Offerings		Inducements Offered By Winning Applicant	Franchise Pro-Payment Fees	Projected Cash Flow In Five Years		Ownership		
Tier I Economy Service		<ul style="list-style-type: none"> ■ Shared use of three full color studios at Crosley Telecommunication Center WCI-TV Channel 48 ■ Four full color neighborhood access studios ■ Two color access origination studios at Cincinnati's main public library branch and at the University of Cincinnati ■ Three mobile vans 	None	\$5,965,000		80 percent owned by Warner Amex and 20 percent owned by 21 local organizations and institutions		
24 channels								\$3.95
Take 2*								\$3.95
Tier II Basic Service								
42 channels		\$6.95						
The Movie Channel		\$6.75						
HBO		\$7.00						
Tier III QUBE								
60 channels		\$9.45						
Tier IV QUBE								
Interactive plus 86 channels (26 channels reserved for future use)		\$10.45						

(*Take 2 no longer exists and is normally replaced by Cincinnati)

over 20 percent of the system to a variety of local institutions, including several universities, charitable organizations and the local school board.

Local ownership was a hot topic during the franchise struggle. When the council finally met to vote on the award, Councilperson Guy Guckenberger made a motion that all proposals be dismissed because of local ownership.

A local ATC representative made a last ditch effort to raise questions about the propriety of the city's decision. At the last public hearing, where council was to vote on the official confirmation of the contract to Warner, Nelson Schwab, Jr., chief counsel for ATC's subsidiary, gave certain councilpeople a packet containing an unsigned memo. The memo suggested that Councilman

later, Warner Amex announced the formation of a new cable programming network (Alpha Repertory Television Service) under a joint-venture agreement with American Broadcasting Company." The memo stated that ABC was represented by a Denver-based consulting firm in which Arnold Bortz's brother was a principal. The memo ended with two questions; "One, is the report true? If so, why was this information withheld from the public?"

Both Bortz and ABC's Video President Herb Granath denounced the accusations made in the anonymous memo as being completely without merit. Granath said that the agreement between Warner Amex Satellite Entertainment Company (WASEC) and ABC was reached months before the award. In addition, Bortz's brother (Paul) had no relation with Warner Amex Cable, just with WASEC.

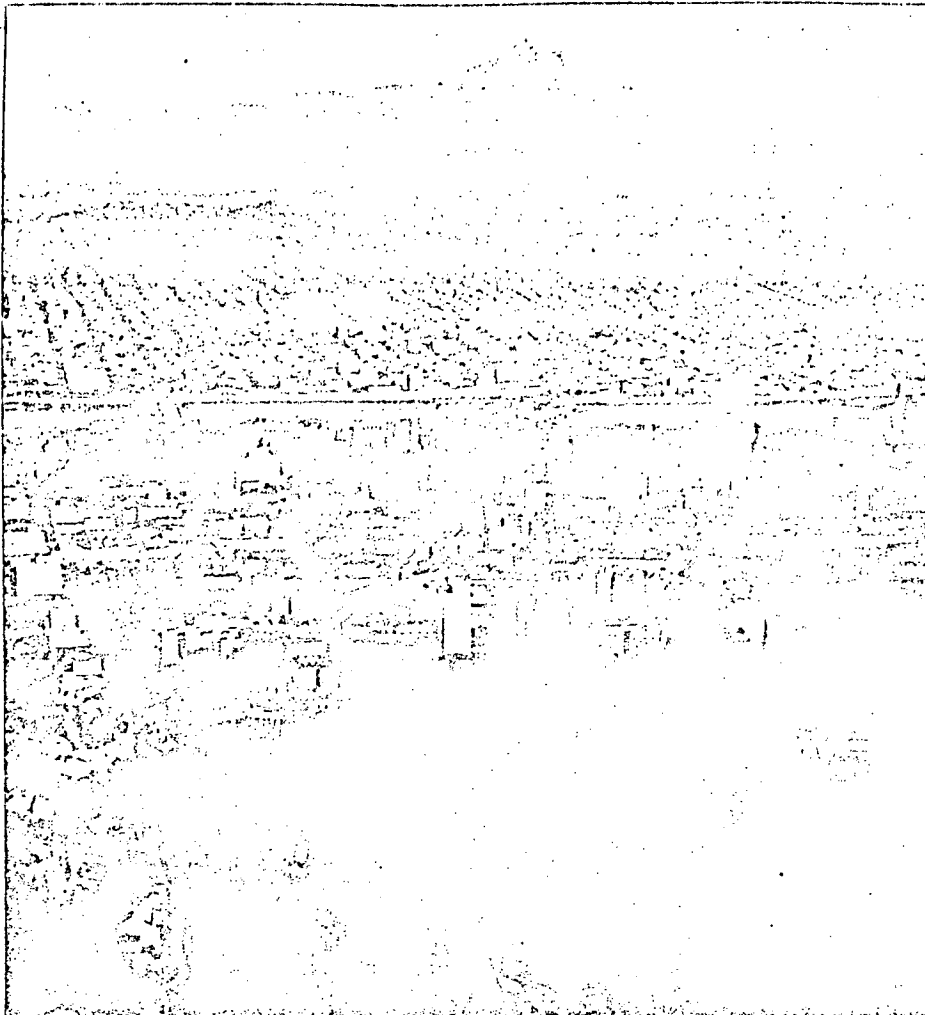
ATC President Trygve Myhren indicated that the memo was distributed without corporate authorization from the MSO. Schwab, the author of the memo, said there was nothing anonymous or underhanded about the memo or the questions raised. "I just wanted some answers," he said.

The memo had no effect on the council, which voted seven-to-two in favor to confirm the award of the franchise to Warner. Warner's \$38.2-million, 1,525-mile system in the city is not the only Warner system in the Cincinnati area. Warner also has the franchise contract for the 195,000 homes in the city's suburbs (Greater Cincinnati). Earlier this month, Warner launched the first 60 channel QUBE system. Much of the QUBE interactive

The council, which more than a year ago in preparing its RFP agreed not to discourage local participation, voted five-to-four to defeat Guckenberger's motion. The council then voted to award the franchise to Warner.

Arnold Bortz, a Warner Amex supporter, had a conflict of interest in the matter.

The memo read in part: "On November 26, 1980, city council by a five-to-four vote confirmed its selection of Warner Amex. Less than one week



programming and some locally originated programming will be shared between the city and the suburbs.

Portland, Oregon

American cable operators stood up and took notice last October when Canadian-based Rogers Cablesystems

(then Canadian Cablesystems) crossed the finish line first in the competition to wire the city of Portland.

In a unanimous 5-0 city council vote, the city designated Cablesystems Pacific, a limited partnership, 50 percent owned by Rogers Cablesystems and 50 percent owned by 41 local

investors, as the company it would negotiate with for the city's 120,000-home franchise.

The Canadians had some tough competition for the franchise. Other applicants included Cox Cable of Portland, Inc., Storer Communications of Portland, and Liberty Communications.

Liberty, a Portland-based company, has a franchise contract for 25 percent of the city's dwelling units in the West Side. The RFP called for a city-wide franchise. Eventually, the city could force Liberty to sell its franchise to the winner of the area-wide competition.

Portland city officials, who had been looking at cable for years, issued a demanding RFP. The city wanted a "total communication" network, placing heavy emphasis on local programming and interactive technology. The franchise war came down to a fist fight between Liberty and Cablesystems, with Liberty going so far as to create an anti-Canadian advertising campaign in the local papers.

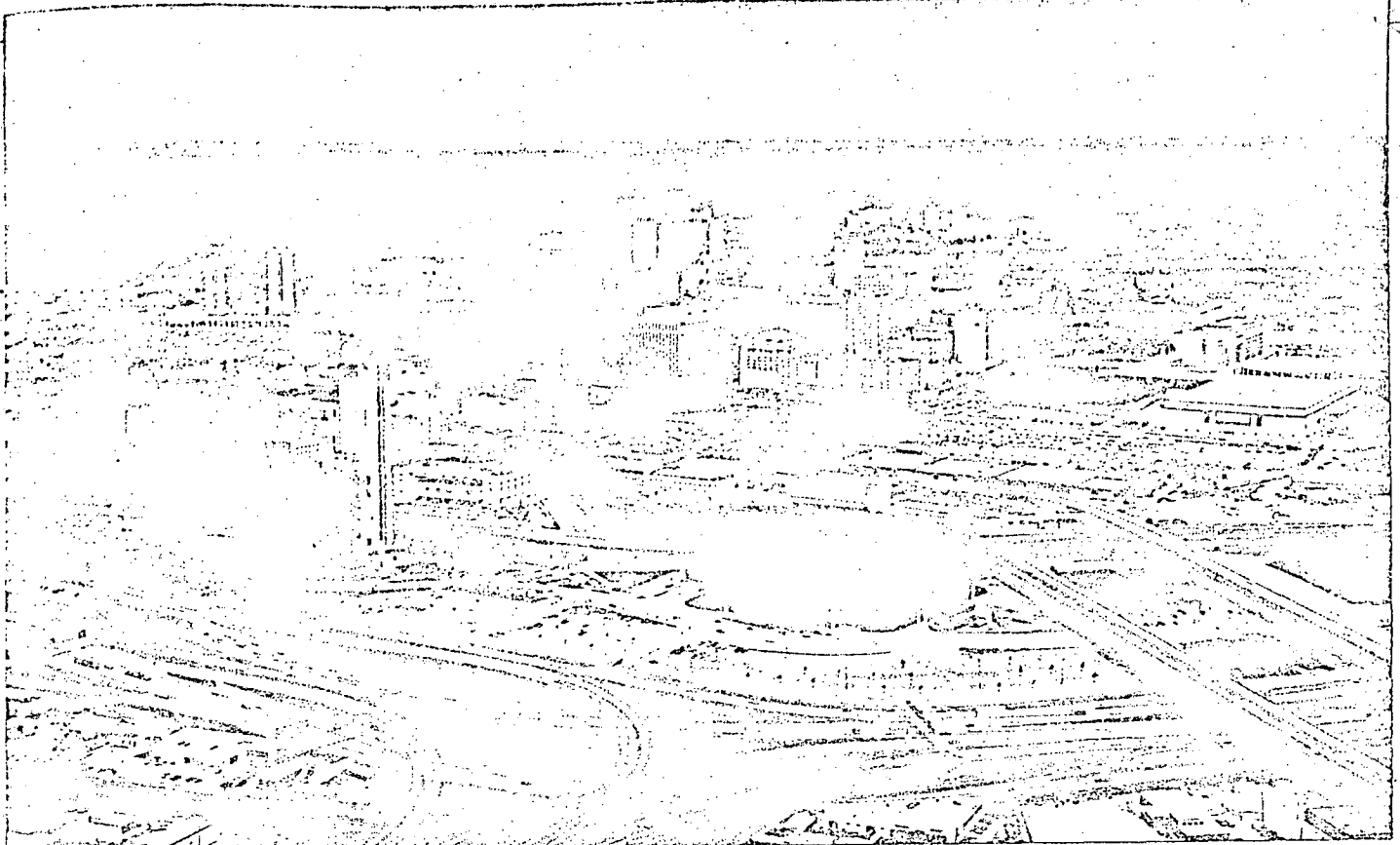
Industry sources attribute Cablesystems' success in Portland to the company's local ownership package. According to one writer, the Canadians "out-localized" Liberty with their 41 local participants.

Going into the council vote, Cablesystems had to be ranked the favorite, with Liberty running a close second.

A turning point in the competition occurred right before the council voted, when Commissioner Midred Schwab got a commitment from Cablesystems to

(Continued on page 321)

City	Date Awarded	Company Awarded Franchise	Estimated Cost	Total Miles of Plant	Homes Passed	Type of System	Channel Capacity		
Portland, Oregon	Oct. 1980	Cablesystems Pacific (Rogers Cablesystems)	\$30 million	1,130	120,000	324 MHz (spaced for 400 MHz) triple trunk interactive system	108 channels (institutional network included in system design)		
Service Offerings		Inducements Offered By Winning Applicant		Franchise Pro-Payment Fees		Projected Cash Flow In Five Years			
Tier I		<ul style="list-style-type: none"> ■ \$400,000 in equipment and facilities dedicated to community access ■ \$2.7 million in operating support over ten years above and beyond franchise fee 		\$330,000		\$1,464,000		50 percent owned by Rogers Cablesystems and 50 percent owned by 41 local investors	
5 access channels Basic Service Free									
Tier II									
21-channels "Thrifty" service \$3.95									
HFN \$3.95									
Tier III									
40 channels \$7.95									
Showtime \$7.50									
HBO \$7.50									
Tier IV									
57 channels expandable interactive \$10.45									
The Movie Channel ... \$7.50									
Tier V									
80 channels interactive plus (to be determined)									



(Continued from page 316)

keep to its proposed "worst instance" rate structure for ten years. None of the other three companies agreed to Schwab's request.

For an estimated \$30 million, the Canadians intend to build a 108-channel, triple trunk 324-MHz system. Almost \$400,000 in equipment and facilities will be dedicated for community programming, with approximately \$2.7 million in operating support over the ten-year contract.

It had been rumored that Liberty was organizing a campaign to force the council's franchise decision to a referendum. But in a strange turn of events, Liberty and Cablesystems,

which attacked each other viciously during the franchise competition, in February announced they had reached a service agreement.

Under the peace terms, Liberty removed its objections to granting the franchise to Cablesystems, adding that it would do all it could to enable the Canadians to initiate construction. The agreement also said that the two companies would share some existing facilities and possibly franchise jointly in some of the unincorporated suburban areas. Commissioner Schwab commented, "I appreciate the mature sense of public responsibility demonstrated by this understanding, which I hope will make the best talents of two highly respected

cable companies available to all our citizens at the least possible cost."

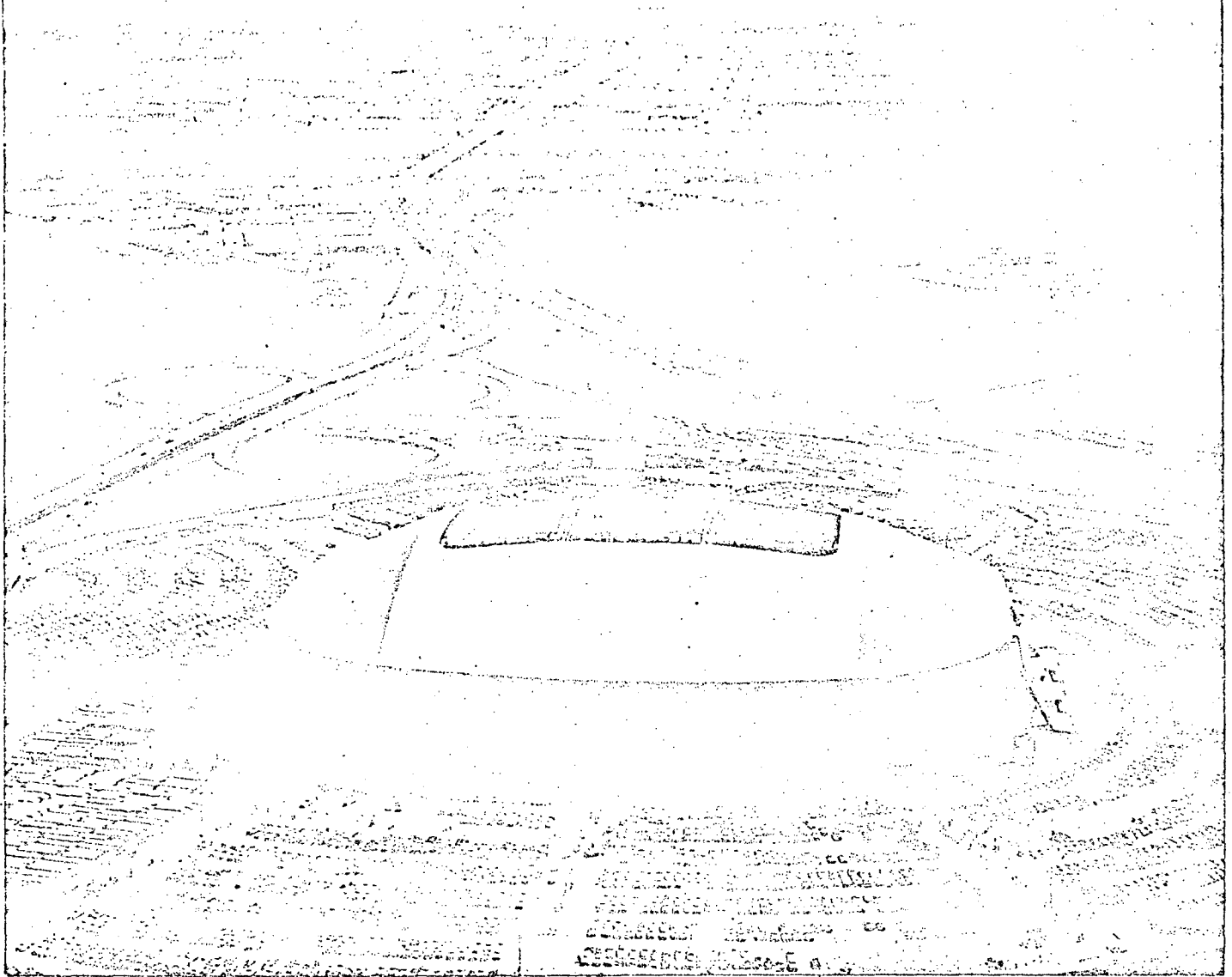
During the competition, the Canadians reportedly made overtures to Liberty management about a possible buy-out. Some observers speculate that the new Liberty-Cablesystems agreement could culminate in that type of relationship.

Dallas, Texas

"I'm glad it's over," was all Tom James, a Dallas city official, could say about his experience with cable television franchising. The Dallas City Council took great pains to insulate itself from the political pressures associated with the franchise process by relying heavily on the recommendations

City	Date Awarded	Company Awarded Franchise	Estimated Cost	Total Miles of Plant	Homes Passed	Type of System	Channel Capacity
Dallas, Texas	Oct. 1980	Warner-Amex Cable Communications of Dallas, Inc.	\$98.9 million	2,360	400,000	354 MHz dual cable, triple trunk interactive system (QUBB)	100 channels (institutional network included in system design)

Service Offerings	Inducements Offered By Winning Applicant	Franchise Pre-Payment Fees	Projected Cash Flow In Five Years	Ownership
Tier I Economy Service 24 channels \$2.95 Family Feature \$4.95 GalaVision \$4.95	<input checked="" type="checkbox"/> Estimated \$2,144,000 <input checked="" type="checkbox"/> Five full color studios <input checked="" type="checkbox"/> Five additional access centers <input checked="" type="checkbox"/> Three color equipped mobile vans <input checked="" type="checkbox"/> 20 color portable packages <input checked="" type="checkbox"/> 50 portable modulators for origination of programming from any location connected with the institutional loop	None	\$13,824,000	100 percent owned by Warner-Amex
Tier II Full Service 48 channels \$7.50 The Movie Channel \$7.45 Showtime \$7.45				
Tier III Super Service QUBB 80 channels \$9.95 (plus offerings of Tiers I & II)				



of its consultant, Cable Television Information Center, and the city's public utility staff.

But it all went for naught. The Dallas franchise fire burned right through the council's insulation, turning the competition into one of the worst political battles in modern franchising history. The applicants for the city's franchise were Storer, ATC, United, Cox, Sammons and Warner Amex. CHC opened the door for political considerations in its final report, when Harold Horn said that Warner, technically, had the best proposal among the six applicants but that home-town Sammons Communication deserved "serious consideration" because of the low rates offered.

From that point on, the city council could avoid the cable issue no longer. Council reached its decision after four

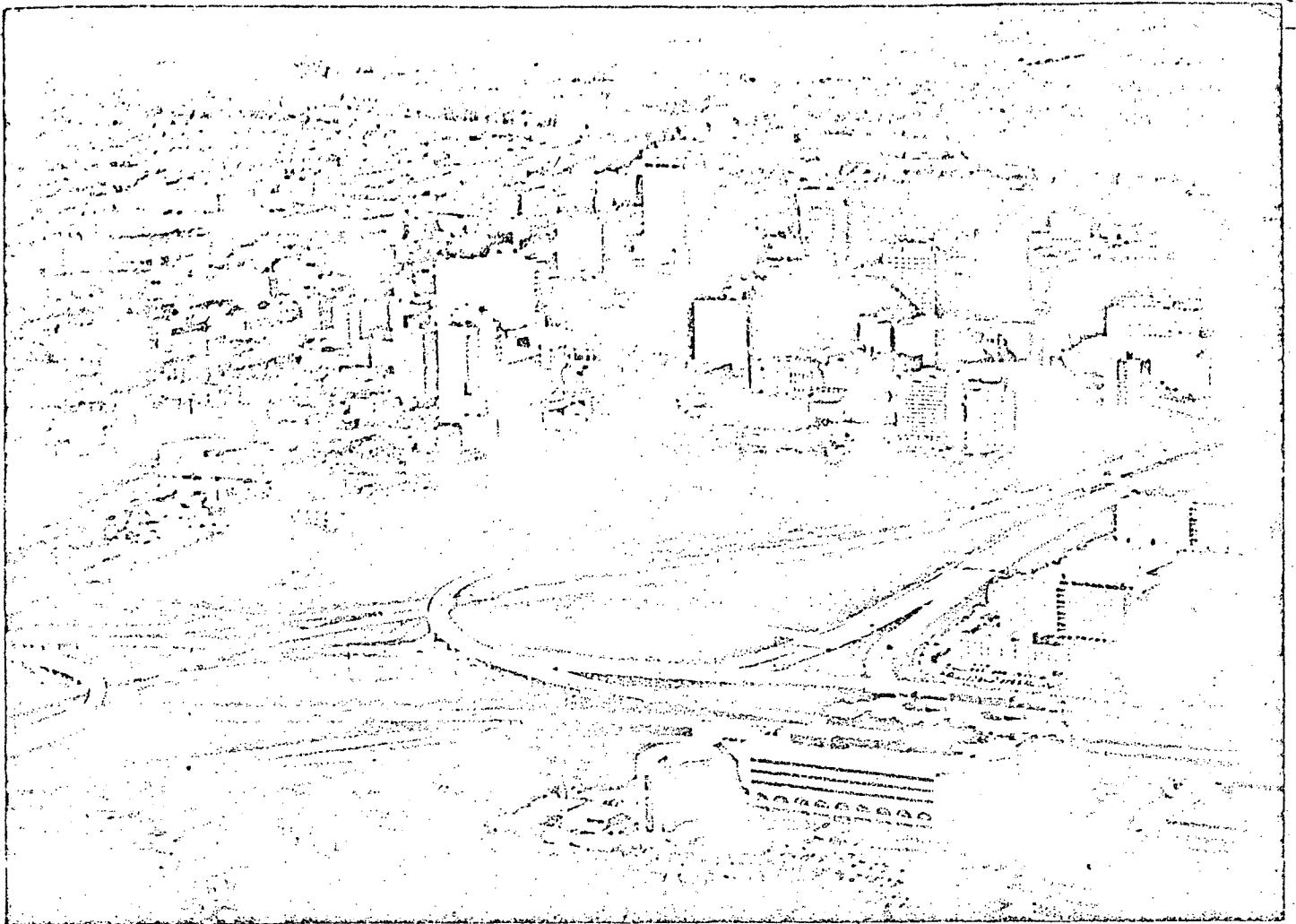
rounds of voting in late October. On the fourth ballot, Warner was awarded the franchise by an eight-to-two council vote. Commenting on the vote, Councilman Steve Bartlett said, "There were some very tough moments in our deliberations. We have a lot of respect for Sammons as a good Dallas company. But as a majority, we felt the franchise should be granted to whichever company presented the best proposal, without regard to where their headquarters are."

Several weeks after the vote, a North Dallas couple, Cherre and Scott Felton, submitted signatures of more than 2,500 qualified Dallas voters to City Hall. Under a 67-year-old state law, any opponent to a city council decision needed only 500 signatures to force a referendum.

Scorned Sammons officials and a

local participant in ATC's bid for the city were tagged by local media as the driving forces behind the referendum campaign. Voter turnout on April 4, 1981, was light, with 41,642 voters casting their ballots in favor of the Warner Amex award and 14,169 voting against it. "It was an overwhelming display of common sense," said Gustave Hauser, chief executive officer of Warner Amex.

Several weeks before the Dallas referendum, the Fort Worth city council was scheduled to make its franchise award. Sammons was the leading contestant. Many believe that the outcome of the Fort Worth competition had a direct effect on what was to transpire next in Dallas. Sammons won in Fort Worth. Had the company lost, some speculate Sammons would have mounted a meaningful media campaign



to convince Dallas voters to overturn the city's franchise decision. Warner's media campaign, using TV and local press to urge voters to support the council's decision, went virtually unopposed.

Because of the unpleasant experience in Dallas, state legislators were motivated to change the 67-year-old state law concerning challenges to a city council decision. Today, in order to

bring a council decision to referendum, petitions with signatures representing ten percent of the qualified voters who voted in the last general election are required.

Warner intends to build a \$98.9-million, dual-cable, 354-MHz system which will eventually pass 400,000 homes when completed. The system requires 2,350 miles of cable plant and will have a capacity of 100 channels.

Omaha, Nebraska

Of late, Cox Cable has been the only company giving Warner a run for the money and cable homes in the major markets. In Omaha, Cox outlasted Warner Amex, United, Heritage, ATC and Cablecom for the city's cable franchise.

On August 19, 1980, Omaha city officials awarded their franchise to the

City	Date Awarded	Company Awarded Franchise	Estimated Cost	Total Miles of Plant	Homes Passed	Type of System	Channel Capacity
Omaha, Nebraska	Sept. 1980	Cox Cable TV of Omaha, Inc.	\$36.9 million	1,095	125,000	440 MHz dual trunk	108 channels (institutional network included in system design)

Service Offerings	Inducements Offered By Winning Applicant	Franchise Pro-Payment Fees	Projected Cash Flow In Five Years	Ownership
Tier I 17 channels Free	<ul style="list-style-type: none"> ■ One local origination studio ■ Four access studios ■ Two mobile vans ■ Capital investment over ten year period for local origination and access production facilities totals \$1.8 million ■ \$251,000 in production to various colleges, universities, and hospitals throughout Omaha (Cox will also commit a ten year local origination budget of \$5.4 million) 	None	\$5,854,000	80 percent owned by Cox and 20 percent owned by eight local investors
Tier II 28 channels \$5.95 Show time \$6.95 HBO \$6.95 Cinemax \$6.95				
Tier III 54 channels \$7.95 plus premium selections				
Tier IV 54 channel plus 12 test service \$8.50				
Tier V 54 channels plus 54 test services plus interactive services \$10.95				

Atlanta-based MSO by a vote of five to nothing, with two abstentions. And unlike cities that awarded franchises over the last year, Omaha's construction plans have not been hampered by referendum, litigation or other tactics designed to slow down completion of the system.

Development plans for construction of Cox's system are on target, and completion of the approximately 1,100 miles of plant is expected within 34 months. Cox will build a dual trunk, 400-MHz, 108-channel system to serve Omaha's 125,000 households. The system will cost about \$36.9 million to construct.

A highlight of the Cox bid was the INDAX interactive package. Cox originally planned to use TOCOM's 55 Plus equipment for INDAX. Just recently, however, Cox signed a contract with Oak Industries for delivery of an adapted version of Oak's Dimension II interactive equipment. As a result, Oak will supply the converters and software for Cox's two-way interactive systems for Omaha as well as New Orleans.

"The deal is worth upwards of \$15 million, and looking at the Omaha and New Orleans markets, the deal could be worth \$40 million," said Gary Tjaden, vice president of engineering and technology for Cox. The MSO had gone as far as to place an order with TOCOM for 10,000 units of the 55

Plus equipment for Omaha. When asked why Oak got the nod over TOCOM, Cox's Tjaden said, "They just offered us a better deal in the process of negotiating and working out the design of the system."

Cox is offering five tiers of service ranging from 17 channels at no monthly charge to a \$10.95 top tier that will feature a wide array of pay TV offerings, plus Cox's two-way interactive Indax system.

Among the eight major franchises covered here, only Cablesystems Pacific in Portland and Cox in Omaha offer a free basic package. Cablesystems is offering five access channels free on its first tier. Cox has 17 basic channels to give away to subscribers. The "free" service package is predominantly "must carry" local signals and access programming.

In Omaha, Cox has committed capital investment in the \$1.8-million range for equipment and facilities over a ten year period for local origination and access programming. It has promised approximately \$251,000 in program development funds for various colleges, universities and hospitals.

Pittsburgh, Pennsylvania

It is in the city of three rivers that Warner Amex gave birth to the "rent-an-institution" approach to local ownership that carried them to victory here and later in Cincinnati. On January

30, 1980, the Pittsburgh city council voted 8-1 to award its franchise contract to Warner over several other applicants, including Teleprompter, ATC and Telecommunications Inc.

Several companies concentrated on mustering political clout in the city by signing up powerful individual local investors. On the other hand, Warner decided to distribute 20 percent ownership of its system among 17 different minority organizations.

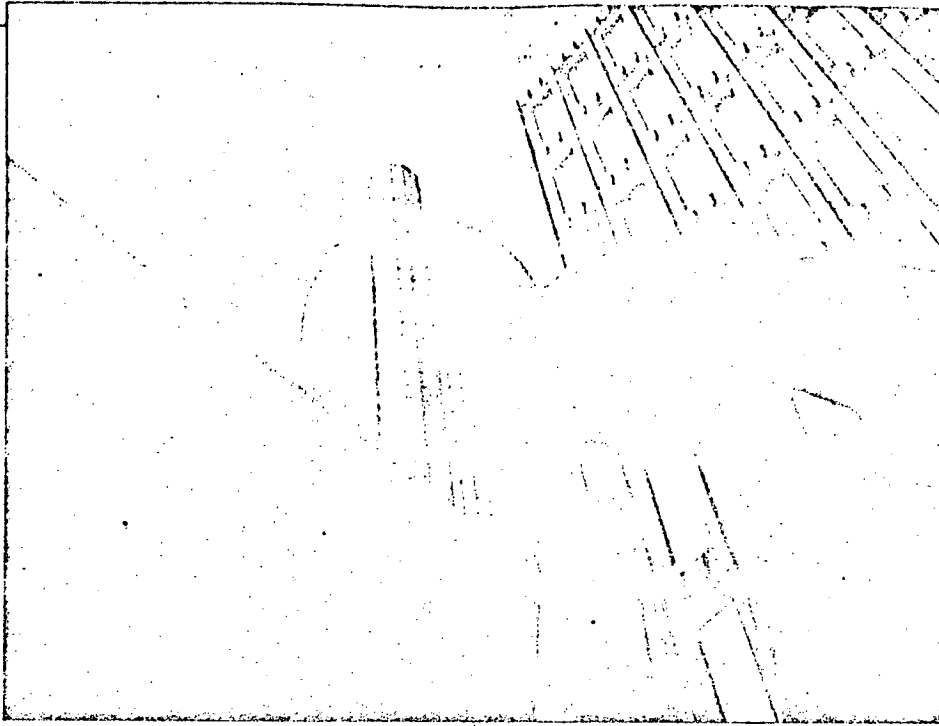
The strategy was good enough to help Warner win the favor of the city council, but not of some of its competitors. Several months after the award, Three Rivers Cablevision (a subsidiary of ATC) filed suit in Federal District Court against the city of Pittsburgh, the city council, the mayor and Warner Amex Cable Corp., claiming that Warner was awarded the franchise despite material deficiencies in its bid, "as a result of a preconceived and unlawful preference."

While attorneys for both companies were out obtaining depositions from city officials, Warner proceeded with its construction schedule. On December 31, 1980, Warner activated the first subscribers, almost one year after the award of the franchise.

Before U.S. District Court Judge Gustave Diamond could pound his gavel and begin hearing arguments in the case, ATC and Warner announced that they had reached an out-of-court

City	Date Awarded	Company Awarded Franchise	Estimated Cost	Total Miles of Plant	Homes Passed	Type of System	Channel Capacity
Pittsburgh, Pennsylvania	Jan. 1980	Warner Amex Cable	\$36.7 million	700	181,000	354 MHz dual cable, triple trunk interactive system (QUBE)	78 channels (institutional network included in system design)
Service Offerings		Inducements Offered By Winning Applicant	Franchise Pre-Payment Fees	Projected Cash Flow In Five Years	Ownership		
Tier I 17 channels (converter provided)	\$5.35	<ul style="list-style-type: none"> ■ (\$3.32 million for studios and equipment) ■ \$1.16 million for exclusive community use 	None	\$6,910,000	80 percent owned by Warner Amex and 20 percent owned by 17 Pittsburgh minority organizations		
Tier II 22 channels Take 2*	\$5.45 \$3.95	<ul style="list-style-type: none"> ■ \$236,000 for equipment and servicing a government TV studio facility located in the City County building ■ \$200,000 grants made to the city to be used at its discretion in achieving goals of community communications 					
Tier III 32 channels The Movie Channel	\$6.45 N.A.	<ul style="list-style-type: none"> ■ \$165,000 in Honorarium for assistance in presenting community programming ■ Two mobile vans 					
Tier IV 50 channels HBO The Movie Channel	\$7.45 \$6.95 N.A.	<ul style="list-style-type: none"> ■ Warner will provide Christian Associates of Western Pennsylvania with a full time channel and over \$60,000 in equipment for use in the production of local religious programming ■ Senior citizens receive 15 percent discount of cable services 					
Tier V QUBE 60 channels variable pricing for pay-per-view programs and events; plus pay selections	\$9.45						

(* Take 2 no longer exists and is normally replaced by Comcast)



settlement. The only stumbling block turned out to be the signing of release forms by city councilpeople guaranteeing they would not file any lawsuits against ATC. Some councilpeople had threatened retaliatory legal action against ATC. It is estimated that between 20 and 30 depositions were

taken. Legal fees and other expenses for both companies could reach \$450,000 each.

Just when Warner thought it was home free, another legal obstacle appeared. The American Civil Liberties Union, representing three persons, filed suit against the city of Pittsburgh,

seeking to void the contract between the city and Warner. The ACLU claims the franchise contract is unconstitutional, because it violates the separation of church and state. The contract provides that Warner give Christian Associates of Western Pennsylvania a full-time channel, along with over \$60,000 in equipment for use in the production of local religious programming.

The ACLU alleges that the association discriminates against certain groups, excluding them from membership. Christian Associates represents 22 church bodies, comprising 2,260 congregations in nine counties. Its membership includes the Roman Catholic Church, Orthodox Christians, and Protestant organizations.

While the court ponders this new cable-related legal problem, Warner will continue building its triple-trunk 354-MHz interactive system. The system will eventually pass 131,000 homes at a cost of \$36.7 million. Warner's system, which offers five tiers of service, will have a 78-channel capacity plus QUBE, Warner's two-way interactive system.

—Hugh Panero

COUNTY OF SACRAMENTO
SACRAMENTO

September 23, 1981

To: Members, Joint Sub-Committee
From: Assistant County Executive
Subject: PREVAILING WAGE RATES

Attached is proposed ordinance language on prevailing wage rates. I did not receive any input or response from Tom Kenny. (Attached are copies of letters sent to him.) The operators have not seen the draft in time to submit written responses, but the concept met their general approval. (United objects to inclusion of any language.) We will have to inform you of any other problems that arise prior to the meeting.

Also attached is a letter from the state relative to their determining rates. To the best of my knowledge the crafts in which we are interested are not in the state statute. Consequently, the state cannot provide us assistance.



WILLIAM R. FREEMAN
Assistant County Executive

CABLE TELEVISION ORDINANCE
PREVAILING RATE PROVISIONS
FOR
CABLE TELEVISION OPERATORS

 PREVAILING RATE PROGRAM. The purposes of this Section through Section , below, are to insure that workers engaged in the initial construction of Cable Television Systems and in the ongoing installation, maintenance, repair, extension, re-construction and subsequent construction of such Systems are compensated during the term of each Franchise at not less than prevailing rates as defined by Section , and to establish self enforcing mechanisms to insure compliance with such requirements.

 PREVAILING RATE STANDARD. The compensation for workers engaged in the initial construction of Cable Television Systems and in the installation, maintenance, repair, extension, re-construction and subsequent construction of such Systems shall in each instance be not less than the prevailing rate for comparable service in other employment associated with initial construction, installation, maintenance, repair, extension, re-construction and subsequent construction of cable systems within the counties of Los Angeles, San Diego, Orange, San Bernadino, Santa Clara, Sacramento (other than the Franchisee in connection with whom the prevailing rate is to be paid), San Francisco (City and County), Riverside, Contra Costa, and San Mateo, whenever such prevailing rate can be ascertained within such counties.

 METHOD OF DETERMINATION. Whenever under Section , below, a prevailing rate is required to be ascertained, the Board of Directors of the Cable Television Commission shall appoint a person or firm to conduct a prevailing rate study and determine the prevailing rates. The person or firm appointed shall not be an officer, agent, employee or representative of the Franchisee, the Cities, the County, the Commission or any labor union or organization, and the Board of Directors shall be the sole judge of the qualifications of the appointee. All compensation and costs payable to the appointee for services rendered shall be paid by the Franchisee. The Board of Directors may, prior to execution of any contract by which the appointee is retained to render services, require the Franchisee to deposit a sum equal to the reasonably estimated cost of compensating the appointee for the services to be rendered.

The appointee shall identify the jobs and positions with respect to which the prevailing rate determination will be applicable. The Franchisee shall provide all data and information requested by the appointee including, but not limited to, data relating to job titles, job descriptions, work functions, and rates of compensation, and shall, upon request, admit the appointee to the inspection of records and job sites as necessary to allow the appointee to make such personal examination as

the appointee desires. The appointee shall conduct a survey of rates of compensation in connection with the initial construction, installation, maintenance, repair, extension, re-construction and subsequent construction associated with cable systems within the Counties identified by Section _____, above.

Not later than ninety (90) calendar days following the date of the contract by which the appointee is retained, the appointee shall arrive at prevailing rate determinations based upon the survey and the appointee's analysis, without hearings, and shall prepare and file with the Clerk of the Board of Directors of the Commission and with the Franchisee a written report which contains the following information:

- a. The methodology utilized in conducting the survey;
- b. The methodology utilized in arriving at prevailing rate determinations;
- c. The types of compensation, in addition to salary, considered in arriving at the prevailing rate determinations;
- d. With respect to prevailing rate determinations in connection with initial construction, installation, maintenance, repair, extension; re-construction or subsequent construction of a Cable Television System to be performed by the Franchisee through independent contracts, a list of all crafts and other jobs associated therewith, together with the determined prevailing rates therefore;
- e. With respect to prevailing rate determinations in connection with initial construction, installation, maintenance, repair, extension, re-construction or subsequent construction of a Cable Television System to be performed by the Franchisee through its own personnel, the following:
 - (1) The job titles of the Franchisee with respect to which a prevailing rate could not be ascertained within the Counties, and the reasons why;
 - (2) The prevailing rate for each job title of the Franchisee for which a prevailing rate could be ascertained within the Counties;
 - (3) A list of those job titles of the Franchisee with respect to which compensation paid by the Franchisee equals or exceeds the determined prevailing rate; and
 - (4) A list of those job titles of the Franchisee, if any, with respect to which compensation paid by the Franchisee is lower than the determined prevailing rate, together with the amount of difference or differences between the determined prevailing rate and actual compensation paid for each job title.

3

All investigations, analysis and surveys undertaken by an appointee shall be performed independently, and the appointee shall not receive or consider any opinions, argument, claims, suggestions, or other persuasion concerning such matters or the prevailing rate determination from the Franchisee, interested workers, or labor unions or organizations. All compensation data received by an appointee from the Franchisee and others shall be held by the appointee in strict confidence, and shall not be subject to disclosure to either the Franchisee, the Commission, the Cities, the County, interested workers, any labor union or organization, or any member of the public.

Any and all determinations made by an appointee, whether or not appearing in the written report, and including, but not limited to, all decisions concerning comparability of services or the absence of comparability, decisions relating to whether a prevailing rate can be ascertained, and decisions concerning the amounts of prevailing rates, shall be final, conclusive, and not subject to judicial review as to the Franchisee, the Cities, the County, the Commission, interested workers, labor unions or organizations or any other interested party; provided that the function performed by the appointee and determinations made shall not be deemed to constitute an arbitration, nor shall the appointee be deemed to be an arbitrator, within the meaning of the provisions of this Chapter. The determinations by the appointee shall be judicially enforceable in the manner prescribed by Section _____, below.

FREQUENCY OF DETERMINATIONS. A report pertaining to prevailing rates respecting initial construction of the Cable Television System under the Initial CATV Franchise shall be filed by an appointee with the Clerk and the Franchisee not later than thirty (30) calendar days following the date of filing of the certificate of acceptance of that Franchise. Notwithstanding the provisions of Section _____, above, the appointee may be appointed and retained by the Governing Body of the County, and the Governing Body shall be vested with all rights, powers and duties connected with the selection, appointment and retention of the appointee as are otherwise vested in the Board of Directors of the Cable Television Commission.

Not later than each March 1 during the term of a Franchise, the Board of Directors of the Commission shall select, appoint and retain an appointee whose responsibility it shall be to analyze, investigate and survey rates of compensation and make prevailing rate determinations in connection with workers engaged in initial construction, installation, maintenance, repair, extension, re-construction and subsequent construction of Cable Television Systems, whether such workers are employed by the Franchisee or general contractor or sub-contractor or other contractor engaged by the Franchisee to perform such functions.

PREVAILING RATE OBLIGATIONS. With respect to each contract issued by a Franchisee for work involving the initial construction,

installation, maintenance, repair, extension, re-construction or subsequent construction of the Cable Television System, the Franchisee shall include within the contract prevailing rate data from the latest report filed by an appointee for all workers performing services in connection with such initial construction, installation, maintenance, repair, extension, re-construction or subsequent construction and require that such workers be compensated in accordance with such data, and in accordance with prevailing rate determinations contained in any subsequent report filed during the term of the contract from and after the date of filing of such report. Any call for bids with respect to such a contract, shall contain notice of such requirements. Any such contract shall also include a provision making the contractor and any sub-contractor under him liable for the difference between actual compensation paid to the workers and the determined prevailing rates.

Each Franchisee shall, from and after the date of filing of each report containing prevailing rate determinations by an appointee, increase the compensation of any of its workers who engage in initial construction, installation, maintenance, repair, extension, re-construction or subsequent construction of the Cable Television System by an amount necessary to provide compensation which equals the prevailing rate for the job title shown in the report.

ENFORCEMENT. Any worker who has rendered services in connection with the initial construction, installation, maintenance, repair, extension, re-construction or subsequent construction of a Cable Television System and any labor union which represents members who perform services of the same general type as that performed by such workers, shall be vested with standing to maintain an action for the recovery of the difference between compensation actually paid for services rendered and prevailing rates stated in a report filed by an appointee. The Franchisee, contractor and sub-contractor, if any, shall be jointly and severally liable for any such damages.

Any employee of a Franchisee who, subsequent to the filing with the Franchisee of a written report by an appointee determining a prevailing rate for that employee, has been compensated by the Franchisee in an amount or amounts less than such prevailing rate, and any labor union which represents members performing services of the same general type as such an employee, shall be vested with standing to maintain an action against the Franchisee for the recovery of any such difference between amounts of compensation actually paid by the Franchisee and the determined prevailing rate.

COUNTY OF SACRAMENTO
OFFICE OF THE COUNTY EXECUTIVE



BRIAN H. RICHTER
COUNTY EXECUTIVE

July 21, 1981

Mr. Thomas Kenny
Sacramento Central Labor Council
Post Office Box 162038
Sacramento, CA 95816

Dear Mr. Kenny:

This is a follow-up to the direction of the Board of Supervisors and the Sacramento City Council to include a prevailing wage rate provision in the cable television ordinance. Since your proposal was verbal, we need to develop more specific information.

The first item is to determine which specific jobs will be covered. It appeared that more than one union was interested in this subject. Consequently, I am requesting the assistance of the Central Labor Council to develop the list of jobs that the unions propose to be included under the prevailing wage provision. I will be asking the potential operators for a similar list.

In addition, I would be interested in your proposals on the total process of establishing and administering prevailing wage rates. This includes:

1. Rate Determination. To the extent possible, we would utilize rates established by the state. However, in those cases where the state does not have the information, what process would you propose to develop rates?

2. Application. While it is clear that the requirement would apply to the franchisee and any contractors working for the franchisee, questions may arise concerning work performed by a subdivision developer that ultimately may benefit the franchisee. This could include common trenching for all utilities or installation of conduit for later wiring. What specific application criteria would you propose?

3. Administration. Based on the experience of the unions, what steps are required for enforcement and what is the best method of administering those steps?

4. Penalties. Again based on your experience, what would you propose as an effective method of assessing penalties for violation?

If there are any other aspects we should address, please let me know. I would like to complete work on this portion of the cable project and therefore need your written comments as soon as possible. If there are problems or you have questions, please give me a call on 440-5883.

Very truly yours,



WILLIAM R. FREEMAN
Assistant County Executive

WRF:emw

COUNTY OF SACRAMENTO
OFFICE OF THE COUNTY EXECUTIVE



BRIAN H. RICHTER
COUNTY EXECUTIVE

September 11, 1981

Mr. Thomas Kenny
Sacramento Central
Labor Council
Post Office Box 162038
Sacramento, CA 95816

Dear Mr. Kenny:

Re: Prevailing Rate Requirements - Cable Television Ordinance

By letter dated July 21, 1981, I sought your views concerning a variety of questions requiring resolution in connection with the establishment of prevailing rate requirements for construction and maintenance of cable television systems. Having received no response, and in light of the pressure to move forward with completion of the cable television ordinance, discussions have been conducted with operators for the purpose of formulating prevailing rate terms for the ordinance.

Enclosed herewith is a copy of a draft of prevailing rate provisions in connection with cable television system construction and maintenance. The enclosed draft represents, in general, an approach to the prevailing rate issues proposed by cable operators interested in applying for the franchise.

The principal features of the enclosed draft are summarized as follows:

- a. Exclusive reliance in ascertaining prevailing rates is placed upon the preparation of periodic surveys and reports by an independent expert appointed by the Cable Television Commission. I have encountered difficulty verifying with the State that the Director of Industrial Relations has either established prevailing rates for the various crafts which will be utilized in construction and maintenance of a cable television system, or would be willing to do so.
- b. The type of work to which the prevailing rate requirements would apply would be limited to initial construction of the Cable Television System, and maintenance, repair, extension, re-construction and subsequent construction thereof. Such is a rather vague standard. However, it will need to suffice in the absence of affirmative suggestions by either you or a consensual proposal by operators interested in applying for the franchise.
- c. The geographical areas within which the surveys of prevailing rates are to be made consist of ten metropolitan counties.

September 11, 1981

- d. The exclusive employment with respect to which prevailing rate data is to be derived, is that associated with the initial construction, installation, maintenance, repair, extension, re-construction and subsequent construction of cable systems within the ten metropolitan counties.

The substantive contents of the enclosed draft are scheduled for consideration during a meeting of the subcommittee of the Sacramento City Council and Board of Supervisors to be held at 4:00 p.m. on Wednesday, September 23, 1981, in Hearing Room Two, adjacent to the Board of Supervisors Chambers. To date, the subcommittee has declined to receive oral comments during their meetings upon materials submitted for their review. Rather, the subcommittee has requested that written comments be filed for their review not later than the Friday preceding the date of the meeting.

Therefore, should you desire to make any criticisms, suggestions, or other comments concerning the enclosed draft, they should be made in writing and received by me not later than 12:00 noon on Friday, September 18, 1981.

As always, I will be happy to discuss these matters with you personally should you so desire.

Very truly yours,



WILLIAM R. FREEMAN
Assistant County Executive

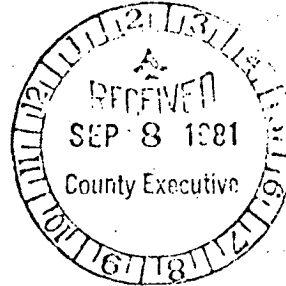
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Attachment

cc: All interested cable operators

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF LABOR STATISTICS AND RESEARCH

455 GOLDEN GATE AVENUE
SAN FRANCISCOADDRESS REPLY TO:
P. O. BOX 603
SAN FRANCISCO, CALIF. 94101

September 3, 1981

Mr. William R. Freeman, Assistant
County Executive
County of Sacramento
700 H Street
Sacramento, CA 95814

Dear Mr. Freeman:

This is in reply to your letter of August 24, 1981 in which you requested assistance in establishing a prevailing wage rate for a cable television franchise.

In your letter, you asked:

1. Is it possible to obtain information relative to the specific duties included in the classifications for which you provide prevailing rate figures?

Answer: Yes, the Dictionary of Occupational Titles (DOT) provides descriptive information concerning most jobs in the American economy. Copies may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402. Your local library may also have a copy.

If you cannot find the occupational information you need in the DOT you should contact the State Employment Development Department.

2. Will you develop rates for classifications not currently covered?

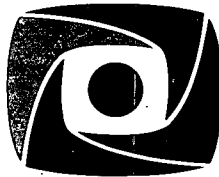
Answer: We will only determine the prevailing wage rate for crafts covered under the State public works statute.

Enclosed for your convenience is a copy of our booklet, Payment of Prevailing Wages. Section 16011, page 20, defines the term "prevailing rate" as used by the Director in issuing prevailing wage determinations.

Sincerely,

Sara Behman
Chief

Encl.



**united
cable television
of sacramento, inc.**

A Subsidiary of United Cable Television Corporation

September 18, 1981

TO: Subcommittee of Governing Bodies on Cable Television

FROM: Suzanne M. Wood/Mary Lou Wright

Mary Lou Wright

SUBJECT: Prevailing Wage Rates

POSITION: United Cable Television Corporation opposes the imposition of additional prevailing wage rate regulation because such a concept would ultimately be detrimental to Sacramento community interests.

COMMENT: Any provision which artificially establishes a prevailing wage by definition erodes the employer-employee relationship. While United acknowledges the concern of the governing bodies in the area of employment, we feel that the other provisions of the ordinance adequately address the problem, albeit indirectly, without the drawbacks inherent in the concept of prevailing wage rates.

In order to attract competent workers, the operator will have to offer a competitive wage; otherwise, the system will not be built adequately, nor on time, and the ordinance already provides very specific and significant penalties for such a breach. Further, it is in the operator's best interest to offer the wages and benefits necessary to attract the quality of employee critical to the completion and operation of the system.

In addition, we have serious reservations about the wisdom of having an element as intrinsic to the employer-employee relationship as the wage rate determined by an entity answerable neither to management nor labor and devoid of any interest in the welfare of either. While a fair wage is a very desirable goal, we feel that the concept of a prevailing wage rate is not a good avenue for achieving that goal.

Finally, from the standpoint of subscribers, the cost of the annual study as well as the cost of the wages themselves are, of necessity, reflected in the rates charged. The present provisions define no costs or constraints on the annual study or in any resulting escalation of the wage rate.

For the above reason, United urges the governing bodies not to include the provisions pertaining to prevailing wage rates in the proposed ordinance.

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