

October 18, 1993

Introduced by: Sims

Proposed No.: 93-707

ORDINANCE NO.

11075

AN ORDINANCE relating to cable communications, amending the process for granting franchise renewals to cable television systems, amending the process for regulating the rates of such systems, amending Ordinance No. 10159, Sections 8 and 16, and K.C.C. 6.27A.060 and .140.

PREAMBLE:

Due to the federal government's enactment of the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. 521, et. seq., the county's cable ordinance is no longer consistent with federal law.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 10159, Section 8 and K.C.C. 6.27A.060 are hereby amended

to read as follows:

A. Franchises may be renewed using either the formal process specified in the Cable Act and in subsection B of this section or the informal process specified in subsection C of this section.

B. The following procedure shall be used for all formal renewals effected under the Cable Act:

1. During the six-month period which begins with the thirty-sixth month prior to the expiration of a franchise, the county may on its own initiative, and shall at the request of the franchisee, commence proceedings which afford the public in the franchise area appropriate notice and participation to identify the future cable-related community needs and interests and to review the franchisee's performance under the franchise.

2. Upon completion of the proceeding, the franchisee may, on its own initiative or at the request of the county, submit a proposal for renewal (~~application~~). All such (~~applications~~) proposals must meet the requirements of this chapter. If the county requests a renewal proposal, it shall establish a date when the renewal proposal shall be due, which shall not be less than thirty (30) days after the request is made.

3. Upon submittal of a completed (~~application~~) proposal for renewal by the due date, the county shall notify the public of the (~~application~~) proposal and, during the four (4) month period which begins (~~on the completion of any proceedings under subsection B.1.~~) on the date of submission of the cable operator's proposal pursuant to subsection (b)(2), the county shall issue a preliminary assessment that the franchise should not be renewed or the county shall grant the renewal. The county's failure to make a preliminary assessment or to

1 grant the renewal within the four (4) month period shall be deemed to be a preliminary
2 assessment that the franchise should not be renewed and shall entitle the franchisee to the
3 procedure set out in subparagraph 4.

4 4. Whenever a preliminary assessment is made that a franchisee should not be
5 renewed, the county may on its own initiative, and shall at the request of the franchisee,
6 commence an administrative proceeding by the King County hearing examiner pursuant to
7 K.C.C. 20.24.080 A.19, after providing notice to the public and the franchisee, to consider
8 whether:

9 a. the franchisee has substantially complied with the material terms of the
10 existing franchise and with applicable law;

11 b. the quality of the franchisee's service, including signal quality, response to
12 consumer complaints, and billing practices, but without regard to the mix, quality, or level of
13 cable services or other services provided over the system, has been reasonable in light of
14 community needs;

15 c. the franchisee has the financial, legal, and technical ability to provide the
16 services, facilities, and equipment as set forth in the franchisee's proposal; and

17 d. the franchisee's proposal is reasonable to meet the future cable-related
18 community needs and interests, taking into account the cost of meeting such needs and
19 interests.

20 The franchisee and the cable office shall be afforded fair opportunity for full
21 participation in the proceeding. At the completion of the proceeding, the county shall issue
22 a written decision granting or denying the renewal based upon the record of such
23 proceeding, and transmit a copy to the franchisee.

24 5. Any denial of a renewal shall be based on one or more adverse findings made
25 with respect to the factors described in subparagraphs a. through d. of subsection B.4.,
26 pursuant to the record of proceeding under that subsection. The county may not base a
27 denial of renewal on conditions listed in subparagraphs a or b of subsection B.4. unless the
28 county has provided the franchisee with notice and the opportunity to cure, or in any case in
29 which it is documented that the county has waived its right to object, or has effectively
30 acquiesced.

31 6. Any franchisee whose renewal proposal has been denied by a final decision of
32 the county made pursuant to subsection B. or has been adversely affected by a failure of the
33 county to act in accordance with the procedural requirements of subsection B. may appeal
34 such final decision or failure pursuant to the provisions of the Cable Act.

1 C. Notwithstanding the provisions of subsection B., a franchisee may submit an
2 informal renewal application pursuant to this subsection at any time. The following
3 procedure shall be used for all informal renewal applications:

4 1. A franchisee may submit a renewal application meeting the requirements of
5 this ordinance. Submission of a renewal application in accordance with this subsection shall
6 not invoke the formal application process contained in subsection B.

7 2. Upon submittal of a completed application, the county shall notify the public of
8 the application and solicit public comments.

9 3. After receiving the public comments and completing any other review, the
10 county shall either deny or grant the renewal. In determining whether to grant or deny the
11 renewal, the county may consider whether:

12 a. the franchisee has the technical, legal, and financial ability to provide the
13 services, facilities, and equipment as set forth in the franchisee's proposal;

14 b. the franchisee has substantially complied with the material terms of the
15 existing franchise and with applicable law;

16 c. the quality of the franchisee's service, including signal quality, response to
17 consumer complaints, billing practices, service mix, or service level, has been reasonable in
18 light of community needs;

19 d. the franchisee's proposal is reasonable to meet the future cable-related
20 community needs and interests, taking into account the cost of meeting such needs and
21 interests; and

22 e. such other factors consistent with the intent of this ordinance and the Cable
23 Act.

24 4. The denial of a renewal pursuant to this subsection shall not affect action on a
25 renewal application that is submitted in accordance with subsection B.

26 SECTION 2. Ordinance 10159, Section 16 and K.C.C. 6.27A.140 are hereby
27 amended to read as follows:

28 A. A franchisee must charge uniform prices throughout (~~its franchise area for~~
29 ~~basic cable service~~) the geographic area in which cable service is provided over its cable
30 system, except that different rates may be offered to commercial rate subscribers, and
31 provided further that reduced rates may be offered to:

32 1. new subscribers,

33 2. subscribers adding a service that they have not previously received, or

34 3. disabled, senior citizens, low income or bulk rate subscribers.

1 To the extent provided by federal law, ((A)) a franchisee may change its rates and
2 charges ((following)) only if it has given a minimum of thirty (30) calendar days prior written
3 notice to subscribers and the cable office.

4 B. ~~((The county expressly reserves the right, subject to the provisions of state and~~
5 ~~federal law, to regulate subscriber rates.)) The county may regulate rates except to the
6 extent it is prohibited from doing so by state or federal law. Any regulated rate shall be
7 adopted by ordinance and shall be processed in accordance with the provisions of section
8 20.24.070 of the King County code. The Cable Office shall promptly notify the hearing
9 examiner of any proposed rate changes. The director of the Department of Executive
10 Administration is authorized to issue an order to toll the effective date of proposed rates in
11 accordance with the provisions of the FCC rules and to take any other action necessary to
12 implement rate regulation. The director of the Department of Executive Administration shall
13 adopt rules governing the regulation of rates that:~~

14 1. are consistent with the FCC's regulations,

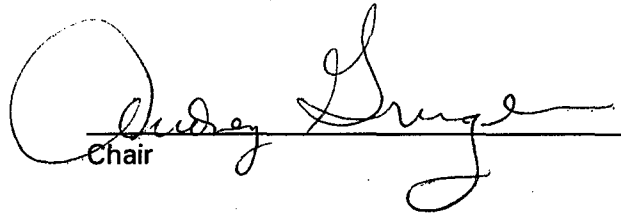
15 2. provide a reasonable opportunity for consideration of the views of interested
16 parties, and

17 3. establish procedures analogous to those set forth by the FCC governing
18 requests that proprietary information produced in the course of a rate proceeding be treated
19 as confidential, to the extent permitted by law.

20 INTRODUCED AND READ for the first time this 20th day of September
21 19 93.

22 PASSED this 18th day of October, 19 93.


23 KING COUNTY COUNCIL
24 KING COUNTY, WASHINGTON

25 
26 Chair

27 ATTEST:

28 
29 Clerk of the Council

30 APPROVED this 29th day of OCTOBER, 19 93.

31 
32 King County Executive