

ORDINANCE NO. 1025

AN ORDINANCE GRANTING TO GT INC., A CORPORATION, THE RIGHT, PRIVILEGE AND FRANCHISE TO CONSTRUCT AND OPERATE A COMMUNITY ANTENNA AND CLOSED-CIRCUIT ELECTRONICS SYSTEM WITHIN THE CORPORATE LIMITS OF THE CITY OF PRICHARD, ALABAMA, AND TO USE AND OCCUPY THE STREETS, ALLEYS AND OTHER PLACES OF SAID CITY FOR SUCH PURPOSE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRICHARD, ALABAMA, AS FOLLOWS:

SECTION 1. Definitions. For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (a) "City" is the City of Prichard, Alabama.
- (b) "Company" is GT, Inc., the Grantee of rights under this franchise.
- (c) "Council" is the City Council of the City of Prichard, Alabama.
- (d) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

SECTION 2. Grant of Authority. There is hereby granted by the City to the Company the right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the City of a community television system for the interception, sale and distribution of television signals and other incidental services upon the terms and conditions herein contained.

SECTION 3. Non-exclusive Grant. The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth, shall not be exclusive, and the City reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person at any time during the period of this franchise.

SECTION 4. Installation of System.

(a) The rights conferred herein by this Ordinance from the Company are conditioned upon the Company being able to first negotiate, within a reasonable time, joint-use contracts with public utilities for the use of the utility poles of such utilities for the purposes and businesses of the Company.

(b) Wherever Grantee uses existing utility poles of other utilities, no additional map showing location of such poles shall be required; however, wherever the Company is to erect and maintain its own poles, the Company shall be required to locate the said poles with the written approval of the City, or its designated agent;

and upon obtaining the City's approval, the Company shall file with the City a map showing the location of such additional poles, showing where CATV facilities depart from existing poles, facilities and lines, and showing where such new facilities reconnect with existing utility poles.

(c) Said CATV shall be located, erected, and maintained so as not to endanger or interfere with the lives of persons or to interfere with new improvements the City may deem proper to make, and so as not to unnecessarily hinder or obstruct the free use of the streets; removal of poles to avoid such interference, hindrance or obstruction will be at the Company's sole expense.

(d) Construction and maintenance of CATV shall be in accordance with the provisions of the National Electrical Code of the National Board of Fire Underwriters, and such applicable Ordinances and regulations of the City of Prichard, Alabama, affecting electrical installation which may be presently in effect or may be enacted by the City Council of the City of Prichard, Alabama.

(e) All installation of equipment shall be of a permanent nature, durable, and installed with good engineering practices, and of sufficient height to comply with the existing City regulations, Ordinances and State laws, so as not to interfere unnecessarily in any manner with the right of the public or individual property owners, and so as not to interfere unnecessarily with travel and use of public places by the public; and during the construction, repair or removal thereof, shall not unnecessarily obstruct or impede traffic.

(f) The Company shall, at all times during the life of this franchise, be subject to all lawful exercise of the police power by the City and to such reasonable regulation as the City shall hereafter by resolution or Ordinance provide.

SECTION 5. Company Liability - Indemnification and Insurance Requirements. It is expressly understood and agreed by and between the Company and the City, that the Company shall indemnify, protect and save harmless the City from all claims, demands, actions, judgments, costs, expenses and liabilities of every kind and nature which may arise or result directly or indirectly from the Company's construction, operation or maintenance of its system and the exercise of the rights granted hereunder. The Company shall carry insurance with a company qualified to do business in Alabama, acceptable to the City, to protect the parties hereto from and against any and all such claims, demands, actions, judgments, costs, expenses and liabilities, with minimum policy limits of Twenty Five Thousand and No/100 (\$25,000.00) Dollars for property damage; One Hundred Thousand and No/100 (\$100,000.00) Dollars for personal injury or death to any one person; and Three Hundred Thousand and No/100 (\$300,000.00) Dollars for personal injuries or death arising out of any one accident, evidence thereof to be filed in the office of the City Clerk and maintained continually during the exercise of the rights granted under this franchise.

SECTION 6. Service Standards and Requirements.

(a) The CATV system shall be installed and maintained in accordance with the highest and best accepted standards of the industry, to the effect that subscribers shall receive the highest accepted service. In determining the satisfactory extent of such standards, the following will apply: (1) The system shall be installed using all-band equipment capable of passing the entire VHF and FM spectrum, and it shall have the further capability of converting UHF for distribution to subscribers on the VHF band. (2) The system, as installed, shall be capable of passing standard color TV signals without the introduction of noticeable effects on color fidelity and intelligence. (3) The system and all equipment shall be designed and rated for 24-hour per day continuous operation. (4) The CATV system shall be installed, maintained and operated so as to faithfully reproduce throughout the entire system the TV picture received at the antenna site.

(b) It shall be the duty and obligation of the Company to carry all the transmissions of television stations located within Mobile County, Alabama.

SECTION 7. Free Service. The Company will furnish, without any installation or connection charge, and without any monthly fee or service charge the outside hookup of the antenna system to the Prichard City Hall, and for educational use, to all the public schools that are now or hereafter located within the corporate limits of the City of Prichard, Alabama.

SECTION 8. Restrictions.

(a) There shall be no advertising originated by the Company or at the Company studio, the only advertising allowed being that transmitted by the television and radio stations and networks carried on the cable.

(b) The Company shall not engage in the business of selling or servicing television sets within the City during the life of this franchise.

(c) In no event shall the Company allow its cable or other operation to interfere with the television reception to persons not served by the cable, nor shall the Company interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the City.

SECTION 9. Notice of Interruption for Repairs. Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the Company shall do so at such time as will cause the least amount of inconvenience to its customers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its customers.

SECTION 10. Conditions on Street Occupancy.

(a) All transmission and distribution structures, lines and equipment erected by the Company within the City shall be so located

as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.

(b) In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Company shall, at its own cost and expense, and in a manner approved by the City, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced.

(c) In the event that at any time during the period of this franchise the City shall lawfully elect to alter, or change the grade of any street, alley or other public way, the Company, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(d) The Company shall not place poles or other fixtures where the same will interfere with any gas, sewer, electric or telephone fixture, water hydrant, or main, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then and in such a manner as not to interfere with the usual travel on said streets, alleys and public ways.

(e) The Company shall, on request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires, shall be paid by the person requesting the same, and the Company shall have the authority to require such payment in advance. The Company shall be given not less than 48 hours advance notice to arrange for such temporary wire changes.

(f) The Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company, all trimming to be done under the supervision and direction of the City and at the expense of the Company.

SECTION 11. Preferential or Discriminatory Practices Prohibited- Maximum Rates Fixed.

(a) The Company shall not, as to rates, charges, service facilities, rules, or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in this franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules as to which any customer coming within such classification would be entitled.

(b) All rates and charges by the Company shall be fair, reasonable, just and uniform and a scale of the rates and charges shall be filed with the City.

(c) The Company will make a connection charge to each subscriber not to exceed \$ 20.00 per connection, and a monthly service charge not to exceed \$ 5.00 per month for each subscriber service connection maintained.

(d) The Company shall have the right to revise its schedule of charges for cause, subject to the approval of the City Council of the City of Prichard, Alabama. The Company shall file its proposed schedule of revised charges with the City Clerk and a supporting statement in justification. If the Council takes no action to disapprove the proposed revision, it shall become automatically effective thirty (30) days after its filing.

SECTION 12. Approval of Transfer. The Company shall not sell or transfer its plant or system to another, nor transfer any rights under this franchise to another, without Council approval, and no approved transfer shall be effective until the vendee, assignee, or lessee shall have filed in the office of the City Clerk an instrument, duly executed, reciting the fact of said sale, assignment or lease, accepting the terms of the franchise, and agreeing to perform all the conditions thereof.

SECTION 13. Payment to City. The Company shall pay to the City, in addition to any and all privilege licenses, and other charges hereafter levied by the City, a sum equal to three (3%) per cent of the annual gross operating revenues taken and received by it on all retail sales of television signals within the City, payable on or before the 10th day of January of each year for the preceding calendar year. An annual summary report showing gross revenue received by the Company from its operations within the City during the preceding year and such other information as the City shall request with respect to properties and expenses related to the Company's service within the City shall be furnished on or before January 10 of each such year.

SECTION 14. Term of Franchise. The franchise and rights herein granted shall take effect and be in force from and after the effective date hereof, as required by law, and continue in force and effect for a term of twenty (20) years; provided, however, at the election of the Council, this franchise may be revoked and deemed null and void if construction of the system is not commenced within eighteen (18) months from the final approval hereof. This franchise is also revokable by action of the Council upon finding that the conditions of this franchise Ordinance are not being complied with, such revocation to be preceded by a hearing thereon, after notice in person, or by publication for one time in a newspaper published in Prichard, Alabama, at least ten (10) days before the date of such hearing to the Company.

SECTION 15. Separability. If any Section, Sub-Section, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall not be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion hereof.

SECTION 16. Publication. This Ordinance shall be in full force and effect upon its adoption and publication as provided by law, which publication shall be at the expense of the Company.

Adopted this 17th day of May, 1965.

APPROVED:

Mayor

ATTEST:

Bernice H. Gentry
City Clerk