

CHAPTER 34: FRANCHISE ORDINANCES

Section

34-101	Cable Services and Other Telecommunication Franchising Ordinance
34-102	Cable Franchise Agreement Ordinance
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Section 34-101 Cable Services and Other Telecommunication Franchising Ordinance

1. Definitions. For purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings set forth in this Section, unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number and words used in the singular number include the plural number.

A. Cable Services. "Cable services" as defined in the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984 and the Cable Television consumer Protection and Competition Act of 1992, and as may be further amended from time to time (the "Cable Act"). In the event that "cable services" is no longer defined in the Cable Act immediately prior to such term no longer being defined in the Cable Act or such definition otherwise becoming inapplicable.

8. Cable System. "Cable System" as defined in the Cable Act.

C. City of Danielsville.

D. City Council. City Council of the City and its designee or any successor thereto.

E. Franchise. An initial authorization, or renewal or approval of transfer thereof, issued by the city, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise, which authorizes the occupation and the use of the Streets to provide Telecommunications Services.

F. Grantee. The legal entity to which is granted the right, authority and responsibility to construct, install, operate and maintain a system of equipment as necessary to furnish, supply and distribute cable or telecommunications services or both, to inhabitants within the franchise area.

G. May. Is permissive.

H. Ordinance. This Ordinance and all modifications and amendments thereto.

I. Person. Means any individual or any association, firm, partnership, joint venture, corporation or other legally recognized entity, whether for profit or not for profit, but shall not mean the city.

J. Shall. Is mandatory, not merely directive.

K. Streets. The surface of, as well as spaces above and below, any and all streets, alleyways, avenues, highways, boulevards, driveways, bridges, tunnels, parks, parkways, public grounds or waters, and other public right-of-way within belonging to the city.

L. Telecommunications Services. The receipt and/or distribution, through any means, including, without limitations, coaxial cable, optical fiber, or satellite or microwave transmission, of one or more audio, voice or data signals. Telecommunications Services includes both Cable Services and noncable telecommunications services.

2. Granting Authority and Franchising Procedure.

- A. No person shall provide Cable Services or operate a Cable System without a Franchise granted in accordance with the provisions of this Ordinance and no person shall use or occupy the Streets to provide any Telecommunications service other than Cable Services without a franchise granted in accordance with the provisions of this Ordinance.
- B. The City Council may grant one or more Franchises in accordance with this Ordinance, provided that the City Council reserves the right to modify any provision of this Ordinance by amendment hereof.
- C. The grant of any Franchise shall be made by adoption of a separate ordinance by the City Council and shall be on such terms and conditions as may be specified in said separate ordinance and/or a franchise agreement between the city and the franchise.
- D. Any Franchise granted shall be nonexclusive. The city specifically reserves the right to grant, at any time, such additional Franchises as it deems appropriate and or itself engage in the provision of telecommunication services.
- E. A Franchise may be granted for all or any defined portion of the city and for all or less than all Telecommunication Services, and for Telecommunication Services for all or less than all purposes.
- F. The grant of Franchises by the city shall be subject to the provisions of applicable law, such as the provisions in the Communications Act of 1934, as amended, governing cable television franchises and renewals thereof.

3. Franchise Applications.

A Applications for Franchises shall be submitted in such form and be issued on such terms and conditions as the City Council may determine, subject to applicable law.

- B. Any application for a Franchise shall contain and/or require the following information with respect to the proposed Franchise and such other information as the City Council shall deem necessary or appropriate:
- (1) Applicant's name, address, telephone number, and federal employer identification number or social security number; copy of applicant's corporate charter or partnership agreement as applicable; and any trade names (and registrations) used by applicant;
 - (2) A detailed statement of the corporation or business entity organization of the applicant, including but not limited to the following, and to whatever extent required by the city;
 - a. The names and the residence and business addresses of all officers and directors of the applicant;
 - b. The names, residence, and business address of all persons and entities having any share of the ownership of the applicant and the respective ownership share of each person or entity;
 - c. The names and addresses of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity, including but not limited to telecommunications or cable systems owned or controlled by the applicant, its parent, and subsidiary, and the areas served thereby;

- d. A detailed and complete financial statement of the applicant, certified by an independent certified public accountant, for the fiscal year immediately preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the lending institution or funding source, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed telecommunications or Cable System in the city, or a statement from a independent certified public accountant certifying that the applicant has available sufficient free, net, and uncommitted cash resources to construct and operate the proposed cable or telecommunications system in the city;
 - e. A detailed financial plan (pro forma) describing for each year of the franchise, projected numbers of subscribers, rates, all revenues, operating expenses, capital expenditures, depreciation schedules, income statements, and a sources and uses of funds statement; and
 - f. A statement identifying, by place and date, any other cable system or Telecommunication franchise(s) awarded to the applicant, its parent or subsidiary; the status of said franchise(s) with respect to completion thereof; the total cost of completion of such franchised cable or Telecommunication system(s); and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof;
- (3) A detailed description of the proposed plan of operation of the applicant which shall include, but is not limited to, the following:
- a. A description of the Cable Services and any other Telecommunications Services proposed to be provided;
 - b. A detailed map indicating all areas proposed to be served, and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be serviced.
 - c. A statement or schedule setting forth all proposed classifications or rates and charges to be made against subscribers and all rates and charges as to each of said classifications, including installation charges, cable service charges, and any other Telecommunications service charges;
 - d. A detailed, informative and referenced statement describing the actual equipment and operational standards proposed by the applicant;
 - e. A copy of the form of any agreement, undertaking, or other instrument proposed to be entered into between the applicant and any subscriber to Cable or Telecommunication Services; and
 - f. A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any person, firm, or corporation which materially relate or pertain to or depend upon the application and the granting of the franchise;
- (4) A copy of any agreement covering the franchise area, if existing between the applicant and any utility providing for the use of any facilities of the utility, including but not limited to poles, lines, or conduits; and

- (5) Any other details, statements, supplementary information, or references pertinent to the subject matter of such application which shall be required or requested by the Council or by any of the provision of law.

C. Non-Refundable Application Fees for New Franchise. No application for a new franchise shall be considered without payment by the applicant of application fees as provided in this Section. If a franchise is granted, application fees will not be deemed a credit towards any other fees or sums due by the Grantee. If an application is denied, the application fee will not be refunded.

- (1) Purpose of Application Fees. The application fees provided by this section will serve to cover the direct and indirect costs incurred by the city in processing the application, evaluating the applicant, and granting a franchise, and shall include, but not be limited to, administrative, engineering, publication, legal, and consultant's expenses.

- (2) Application Fee. The applicant will be expected to pay the reasonable costs of the city in evaluating the application. Notwithstanding any other requirement of this ordinance, each applicant must furnish with its proposal a non-refundable application in the amount of One Thousand Dollars (\$1,000.00) by certified check or cashier's check made payable to the City of Danielsville.

4. Responsibilities of the Applicant. It shall be the responsibility of each applicant for a franchise to comply with all applicable laws, ordinances, resolutions, rules, regulations, and other directives of the city and any federal, state, or local governmental authority having jurisdiction.

5. Public Availability of Applications. To the extent determined by the City Council, applications for Franchises, including any additions, modifications or amendments thereto, shall be available for public inspection at the designated city office during normal business hours.

6. Evaluation Criteria. In making any determination hereunder as to any application for a Franchise, the City Council may consider such factors as it deems appropriate and in the public interest, including without limitation:

A The adequacy of the proposed compensation to be paid to the city, including the value of any facilities and Telecommunications Services offered by the applicant to the city;

B. The legal financial, technical and other appropriate qualifications of the applicant;

C. The ability of the applicant to maintain the property of the city in good condition throughout the term of the Franchise;

D. The value and the efficiency to the city and its residents of the Cable Services and other Telecommunication Services to be provided, including the type of Telecommunications Services to be provided, as well as alternatives to those Services and services that may be precluded by the grant of the Franchise;

E. The willingness and ability of the applicant to meet construction and physical requirements and to abide by all purpose and policy conditions, limitation, and requirements with respect to the Franchise; and;

F. Any other public interest factors or considerations deemed pertinent by the city for safeguarding the interest of the city and the public.

7. Procedure for Consideration of and Action on Applications.

A The city may make such investigations and take or authorize the taking of such other steps as the City Council deems necessary or appropriate to consider and act on applications for Franchises and determine whether a Franchise should be granted to an applicant, and may require the applicant to

Furnish additional information and data for this purpose. In considering applications, the City Council may seek advice from other city officials or bodies as it may establish or determine appropriate, or from the public, and may request the preparation of one or more reports to be submitted to the City Council, which may include recommendations with respect to such applications.

- B. If the City Council, after considering such information as it determines to be appropriate, elects to further consider one or more application(s), fixing and setting forth a day, when and where any Persons having any interest therein or objections thereto may file written comments and appear before the City Council and be heard, and providing notice of such public hearing(s) in accordance with applicable law.
- C. The City Council may authorize negotiations between city officials and applicants to determine whether the city and such applicants are able to reach agreement on the terms of the proposed Franchise.
- D. Upon completion of the steps deemed appropriate by the City Council, the City Council may grant the Franchise, and may specify the conditions under which the Franchise is granted. Alternatively, the city may reject any and all applications from whatever source and whenever received except that a franchising authority may not grant an exclusive franchise and may not unreasonably refuse to award an additional competitive franchise. The city also reserves the right to waive any and all requirements when it determines that the best interests of the city may be served thereby and may, if it so desires, request new or additional proposals.

8. Terms and Conditions of Franchise.

A The terms and conditions applicable to any Franchise granted pursuant to this Ordinance shall be set forth in a separate ordinance granting the Franchise or in a separate written agreement. Such separate ordinance or written agreement, among other things, shall address the following subjects:

- (1) The term of the Franchise;
- (2) The Franchise area and the Cable Services and other Telecommunication Services, and purposes of such other Telecommunication Services, if any, which are the subject of the Franchise.
- (3) The compensation to be paid to the city, which may include the payment of fees or the provision of facilities or services, or both;
- (4) The circumstances upon which the Franchise may be terminated or cancelled;
- (5) The mechanisms, such as performance bonds, security funds or letters of credit, to be put in place to ensure the performance of the Franchisee's obligations under the Franchise;
- (6) The city's right to inspect the facilities and records of the Franchisee;
- (7) Insurance and indemnification requirements applicable to the Franchise;
- (8) The obligation of the Franchise to maintain complete and accurate books of account and records, and the city's inspection rights with respect thereto;
- (9) Provisions to ensure quality workmanship and construction methods;
- (10) Provisions to ensure that the Franchise will comply with all applicable city, state and federal laws, regulations, rules and policies, including, without limitation, those related to employment, purchasing and investigations;
- (11) Provisions to ensure adequate oversight and regulation of the Franchise by the city;

- (12) Provisions to restrict the assignment or other transfer of the Franchise without the prior written consent of the city;
- (13) Remedies available to the city to protect the city's interest in the event of the Franchisee's failure to comply with terms and conditions of the Franchise;
- (14) Provisions to ensure that the Franchisee will obtain all necessary licenses and permits from, and comply with, all laws, regulations, rules and policies of any governmental body having jurisdiction over the franchisee, including the Federal Communications Commission;
- (15) Provisions to ensure that the Franchisee will protect the property of the city and the delivery of public services from damage or interruption of operations resulting from the construction, operation, maintenance, repair or removal of improvements related to the Franchise;
- (16) Provisions designed to minimize the extent to which the public use of the Streets of the city are disrupted in connection with the construction of improvements relating to the Franchise;
- (17) Such other provisions as the city determines are necessary or appropriate in furtherance of the public interest.

9. Severability. If any section, subsection, sentence, clause, phrase or other portion of this Ordinance is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

10. Delegation. Consistent with applicable law, the City Council shall have the right to delegate and redelegate, and to revoke any such delegation or redelegation, from time to time, any of its rights and obligations under this Ordinance to anybody, organization or official. Any such delegation, redelegation or revocation, no matter how often made, shall not be deemed an amendment to this Ordinance or to require the consent of any applicant for a Franchise or Franchisee. The City Council may also establish and appoint one or more advisory boards, with such duration and such number of members as the City Council shall determine, to advise it on such of the matters which are the subject of the Ordinance.

This Ordinance shall not be retroactively applied to franchises for Cable Services and other Telecommunication Services existing on the effective date of this Ordinance.

(Effective December 4, 1995.)

Section 34-102 Cable Franchise Agreement Ordinance

*Amended (12/6/05)
(see Attached pages)*
✓ X2 *see Amendment
(2/5/07)*

This Franchise Agreement (the "Franchise") is between the City of Danielsville, (hereinafter referred to as "Franchising Authority") and TCI Cablevision of Georgia, Inc., (hereinafter referred to as "Grantee").

The Franchising Authority, having determined that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction and operation of a cable system on the terms set forth herein.

1. Terms. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the singular number, and words in the singular number include the plural number:

A Basic Cable. The lowest priced tier of service that includes the retransmission of local broadcast television signals.

Ordinance No. **156**

AN ORDINANCE TO AMEND THE CABLE FRANCHISE AGREEMENT ORDINANCE OF THE CITY OF DANIELSVILLE, GEORGIA

THE COUNCIL OF THE CITY OF DANIELSVILLE HEREBY ORDAINS THAT:

WHEREAS, the Mayor and City Council have determined that it is in the best interests of and consistent with the convenience and necessity of the City of Danielsville to amend Chapter 34- 102 of its city code regarding extension of the term of the Cable Franchise Agreement of the City of Danielsville, the following action is taken:

THEREFORE, the Mayor and City Council ordain as follows: Section 1.

THE CODE OF THE CITY OF DANIELSVILLE, GEORGIA, IS HEREBY AMENDED BY ADDING A NEW SECTION SECTION 34-102-36 TO READ AS FOLLOWS:

Section 2

Section 34-102 Cable Franchise Agreement Ordinances

36. The term of the Danielsville Cable Franchise Agreement shall be extended for a term of one years from December 14, 2005, and shall expire on December 14, 2006, unless renewed as provided by law and this Ordinance .

Section 3 Liability

Neither the approval of any action under the provisions of this ordinance, nor the compliance with provisions of this ordinance, shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Mayor or City Council for damage to any person or property.

Section 4 Conflicts between Specific and General Provisions.

Where there is an apparent conflict in this Ordinance between specific and general provisions, it is the intention hereof that the specific shall control.

Section 5 Severability.

If any section, provision, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not

been included herein.


Section 6 Repeal of Conflicting Provisions.

All ordinances or parts of ordinances in conflict with this ordinance, and not preserved hereby, are hereby repealed.


Section 7 Effective Date

This Ordinance shall become effective immediately after its passage and approval in the manner prescribed by law.


Passed and approved this 5 day of December, 2002., at a meeting of the Mayor and Council of the City of Danielsville, Georgia.


Glenn Cross, Mayor, City of Danielsville

Attest:


Michelle Dills, City Clerk
[CITY SEAL]

Approved as to Legal Form:


Victor Y. Johnson, City Attorney
Graham Law Firm, LLC

application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

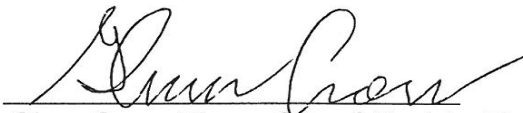
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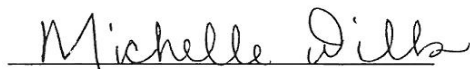
This Ordinance shall become effective immediately after its passage and approval in the manner prescribed by law.

Passed and approved this 5 day of February, 2001., at a meeting of the Mayor and Council of the City of Danielsville, Georgia.




Glenn Cross, Mayor, City of Danielsville

Attest:



Michelle Dills, City Clerk
[CITY SEAL]

Approved as to Legal Form:



Victor Y. Johnson, City Attorney
Graham Law Firm, LLC

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- B. Cable Act. Collectively means the Cable Communications Policy Act of 1984, and the Cable Television Consumer Protection and Competition Act of 1992, as amended.
- C. Cable Service.
- (1) The one-way transmission to Subscribers of video programming or other programming service, and
 - (2) Subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.
- D. Cable System. A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include
- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
 - (2) A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;
 - (3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of §621(c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly to subscribers; or
 - (4) Any facilities of any electric utility used solely for operating its electric utility systems.
- E. FCC. Federal Communications Commission, or successor governmental entity thereto.
- F. Franchise. Initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorized construction and operation of the Cable System.
- G. Franchising Authority. The City of Danielsville or the lawful successor, transferee, or assignee thereof.
- H. Grantee. TCI Cablevision of Georgia, Inc., or the lawful successor, transferee, or assignee thereof.
- I. Gross Revenues. Any revenue received by the Grantee from the operation of the Cable System in the Service Area, provided, however, that such phrase shall not include any fees or taxes which are imposed directly or indirectly on any Subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency. In addition, Gross Revenues shall not include franchise fees.
- J. Person. An individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- K. Public Way. The surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any

easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing and operating the Grantee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the cable system.

- L. Service Area. The present municipal boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.
 - M. Subscriber. A person or user of the Cable System who lawfully receives communications and other services therefrom with the Grantee's express permission.
2. Grant. The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct, operate and maintain a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System.
 3. Term. The Franchise granted hereunder shall be for an initial term of ten (10) years commencing on the effective date of the Franchise set forth below, unless otherwise lawfully terminated in accordance with the terms of this Franchise.
 4. Conditions of Street Occupancy. All transmission and distribution structures, poles, other lines, and equipment installed or erected by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.
 5. Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.
 6. Relocation at Request of the Franchising Authority. Upon its receipt of reasonable advance notice, not to be less than five (5) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the Franchising Authority; but, the Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any person using such street, easement, or right-of-way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall make application for such funds on behalf of the Grantee.
 7. Relocation at Request of Third Party. The Grantee shall, on the request of any person holding a building moving permit issued by the Franchising Authority, temporarily raise or lower its wires to permit the moving of such building, provided:
 - A. The expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such payment in advance; and
 - B. The Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary wire changes.

8. Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment. The Grantee shall reasonably compensate the Franchising Authority for any damages caused by such trimming, or shall in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the Cable System undertaken by the Grantee. Such replacement shall satisfy any and all obligations the Grantee may have to the Franchising Authority pursuant to the terms of this Section.
9. Safety Requirements. Construction, installation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations and the National Electric Safety Code. The Cable System shall not unreasonably endanger or interfere with the safety of persons or property in the Service Area.
10. Aerial and Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In those areas of the Service Area where the transmission or distribution facilities of the respective public utilities providing telephone communications, and electric services are both aerial and underground, the Grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities or any part thereof, aerially or underground. Nothing contained in this Section shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers) amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this Section, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this Franchise, the Grantee shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.
11. Required Extensions of Service. The Cable System, as constructed as of the date of the passage and final adoption of this Franchise, substantially complies with the material provisions hereof. Whenever the Grantee shall receive a request for service from at least twenty-five (25) residences within 5280 cable-bearing strand feet (one cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to said subscribers for Cable System extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the Cable System, or as provided for under Paragraph 12 of this Franchise.
12. Subscriber Charges for Extensions of Service. No Subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a Subscriber's request to locate his cable drop underground, existence of more than one hundred twenty-five (125) feet of distance from distribution cable to connection of service to Subscribers, or a density of less than twenty-five (25) residences per 5280 cable bearing strand feet (one cable mile) of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and Subscribers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 5280 cable-bearing strand feet (one cable mile) of its trunks or distribution cable, and whose denominator equals twenty-five (25) residences. Subscribers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance.
13. Service to Public Buildings. The Grantee shall, upon request, provide without charge, one outlet of Basic Service to those Franchising Authority offices, fire station(s), police station(s), and public school building(s) that are passed by its Cable System. The outlets of Basic Service shall not be used to distribute or sell

services in or throughout such buildings, nor shall such outlets be located in areas open to the public'. Users of such outlets shall hold the Grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. The Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said buildings or premises exceeds or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of one hundred twenty-five (125) cable feet. If additional outlets of Basic Service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials.

14. Emergency Use. In the case of any emergency or disaster, the Grantee shall, upon request of the Franchising Authority, make available its facilities for the Franchising or disaster period. Except to the extent expressly prohibited by law, the Franchising Authority shall hold the Grantee, its employees, officers, directors, and assigns, harmless from any claims arising out of the emergency use of its facilities by the Franchising Authority, including, but not limited to, reasonable attorneys' fees and costs.

15. Franchise Fee.

A The Grantee shall pay to the Franchising Authority a franchise fee equal to five percent (5%) of Gross Revenues (as defined in Paragraph 1 of this Franchise) received by the Grantee from the operation of the Cable System on an annual basis; provided, however, that the Grantee may credit against any such payments:

- (1) Any tax, fee, or assessment of any kind imposed by the Franchising Authority or other governmental entity on a cable operator, or Subscriber, or both, solely because of their status as such;
- (2) Any tax, fee or assessment of general applicability which is unduly discriminatory against cable operators or Subscribers (including any such tax, fee, or assessment imposed, both on utilities and cable operators and their services), and
- (3) Any other special tax, assessment, or fee such as a business occupation, and entertainment tax; provided, however, that notwithstanding the preceding provision, the Grantee may not credit against payment of the franchise fee any amount of the "non-refundable" franchise application fee provided for by the city's Cable and Telecommunications Services Ordinance. For the purpose of this Section, the twelve (12) month period applicable under this Franchise for the computation of the franchise fee shall be a calendar year, unless otherwise agreed to in writing by the Franchising Authority and the Grantee. The franchise fee payment shall be due and payable ninety (90) days after the close of the preceding calendar year. Each payment shall be accompanied by a brief report from a representative of the Grantee showing the basis for the computation.

B. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due. Unless within three (3) years from and after such payment due date the Franchising Authority initiates a lawsuit for recovery of such franchise fees in a court of competent jurisdiction, such recovery shall be barred and the Franchising Authority shall be stopped from asserting any claims whatsoever against the Grantee relating to any such alleged deficiencies.

16. Rates and Charges. The Franchising Authority may regulate rates for the provision of Basic Cable and equipment as expressly permitted by applicable law.

17. Renewal of Franchise. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

In addition to the procedures set forth in said Section 626(a) of the Cable Act, the Franchising Authority agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interest, as well as, the past performance of the Grantee under the then current Franchise term. The Franchising Authority further agrees that such a preliminary assessment shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal under Section 626(b) of the Cable Act and complete renewal of this Franchise prior to expiration of its term. Notwithstanding anything to the contrary set forth in this Section, the Grantee and the Franchising Authority agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment, the Franchising Authority and the Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof. The Grantee and the Franchising Authority consider the terms set forth in this Section to be consistent with the express provisions of Section 626 of the Cable Act.

18. Conditions of Sale. If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable system or by its actions lawfully effects a transfer of ownership of the Cable system to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the Franchise, at the Grantee's request, which shall be made in its sole discretion, the Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable system to a qualified third party. The Franchising Authority further agrees that during such a period of time, it shall authorize the Grantee to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the Franchising Authority, the Grantee and the Franchising Authority may avail themselves of any Grantee's continued operation of its Cable system during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

19. Transfer of Franchise. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to any entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable system in order to secure indebtedness. Within thirty (30) days of receiving the request for transfer, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Franchising Authority shall be deemed given.

20. Testing for Compliance. The Franchising Authority may perform technical tests of the Cable System during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the unreasonably interfere with the normal business operations of the Grantee or the Cable System in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable state or federal laws. Except in emergency circumstances, such tests may be undertaken only after giving the Grantee reasonable notice thereof, not to be less than two (2) business days, and providing a representative of the Grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the Grantee. In the event that such testing demonstrates that the Grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the Franchising Authority. Except in emergency circumstances, the Franchising Authority agrees that such testing shall be undertaken no more than once a year, and that the results thereof shall be made available to the Grantee.

21. Books and Records. The Grantee agrees that the Franchising Authority upon reasonable notice to the Grantee may review such of its books and records at the Grantee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.
22. Insurance Requirements. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Comprehensive General Liability Insurance in the amount of One Million Dollars (\$1,000,000.00) combined single limit for bodily injury, and property damage. The Grantee shall provide a Certificate of Insurance designating the Franchising Authority as an additional insured. Such insurance shall be non-cancellable except upon thirty (30) days prior written notice to the Franchising Authority.
23. Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable system, including, but not limited to, reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a claim or action pursuant to this Section. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority.
24. Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.
25. Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in Paragraph 23 to:
 - A. Respond to the Franchising Authority, contesting the assertion of noncompliance, or to
 - B. Cure such default, or
 - C. In the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.
26. Public Hearing. In the event that the Grantee fails to respond to the notice described in Paragraph 23 pursuant to the procedures set forth in Paragraph 24, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to 24(C) above, the Franchising Authority shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority which is scheduled at a time which is no less than five (5) business days therefrom. The Franchising Authority shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with an opportunity to be heard.
27. Enforcement. Subject to applicable federal and state law, in the event the Franchising Grantee is in default of any provision of this Franchise, the Franchising Authority may:
 - A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages;
 - B. Commence an action at law for monetary damages or seek other equitable relief; or

- C. In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the following:

The Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set for the exact nature of the noncompliance. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a response satisfactory from the Grantee, it may then seek termination of the Franchise at a public meeting. The Franchising Authority shall cause to be served upon the Grantee, at least ten (10) days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to request such termination.

At the designated meeting, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the Franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority "de nova" and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the Franchising Authority.

The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Franchising Authority's rights under this Franchise in lieu of revocation of this Franchise.

28. Impossibility of Performance. The Grantee shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating there to, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.
29. Actions of Parties. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.
30. Equal Protection. In the event the Franchising Authority enters into a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than the Grantee to enter into the Franchising Authority's streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted in unfair competitive advantage over another, and to provide all parties equal protection under the law.
31. Notice. Unless expressly otherwise agreed between the parties, every notice or response required by the Franchise is to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid.

The notices or responses to the Franchising Authority shall be addressed as follows: City of

Danielsville
City Hall
Court House Square Danielsville, Georgia 30683

The notices or responses to the Grantee shall be addressed as follows :

TCI Cablevision of Georgia, Inc. 495 Hawthorne Street, Suite 102
Athens, GA 30606-2574
Attention: General Manager

With a copy to:

TCI Southeast, Inc.
Attn: Director of Franchising 2204 Lakeshore Drive, Suite 325
Birmingham, AL 35209

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other.

32. Descriptive Headings. The captions to Paragraphs contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.
33. Severability. If any sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise, or any renewal or renewals thereof.
34. Effective Date. The effective date of this Franchise is December 14, 1995 pursuant to the provisions of applicable law. This franchise shall expire on December 14, 2005, unless extended by the mutual agreement of the parties.
35. Transfer of a Cable Television Franchise from TCI Cablevision of Georgia, Inc. To Brenmor Cable Partners, L.P.

Whereas , TCI Cablevision of Georgia, Inc., a Georgia corporation ("Franchisee"), owns, operates, and maintains a cable television system ("System") in the City of Danielsville, Georgia (the " Franchising Authority") , pursuant to the Franchise granted under a Franchise Agreement dated December 14, 1995 (the "Franchise"); and

Whereas, Franchisee, as the current authorized holder of the Franchise, has advised the Franchising Authority that it has entered into an agreement to assign and transfer all of the assets of the System, including all right, title, interest and obligations of the Franchisee under the Franchise, to Brenmor Cable Partners, L.P., a California limited partnership ("Brenmor"), subject to, among other conditions, any required approval of the Franchising Authority with respect thereto; and

Whereas, Franchisee and Brenmor have requested consent by the Franchising Authority to the assignment and transfer of all substantially all of the assets of the System, including the Franchise, to Brenmor in accordance with the requirements of the Franchising Authority with respect thereto; and

Whereas, the Franchising Authority has found Brenmor to be legally, technically and financially qualified to own and operate the System in accordance with the Franchise; and

Whereas, the Franchising Authority deems that is necessary and appropriate that approval of said transfer to Brenmor be granted;

Now, Therefore, Be It Resolved by the City Council of the City of Danielsville, Georgia, as follows:

A Franchising Authority hereby approves of and consents to the transfer and assignment of the assets of the System and the Franchise to Brenmor its successors and assigns, including all rights, title, interest, and obligations under the Franchise, subject to applicable federal and state law, relating to the period from and after the closing of the transaction (the "Closing").

- B. The consents and approvals hereby granted are given pursuant to the Franchise and are permitted by law, and shall be contingent upon and take effect only on and after the date of Closing. The consents and approvals hereby given do not constitute, and shall not be construed to constitute, a waiver of any rights or obligations of any Franchisee under the Franchise.
- C. Franchising Authority confirms that, as of the date of this Resolution:
 - (1) The Franchise was properly granted;
 - (2) The Franchise is valid and will remain in full force and effect until its expiration on December 14, 2005, subject to the option of the Franchisee to renew the Franchise as provided in Section 4.3 of the Franchise;
 - (3) Franchisee is recognized as the present validly authorized holder and owner of the Franchise;
 - (4) No actions or proceedings will be instituted against Brenmor arising out of any acts or omissions of Franchisee prior to the Closing;
 - (5) The Franchise supersedes all other agreements between Franchisee and Franchising Authority;
 - (6) The Franchise represents the entire understanding of the parties and Franchisee has made no commitments and owes no obligations to the Franchising Authority other than those specifically stated in the Franchise;
 - (7) Franchisee is materially in compliance with the provisions of the Franchise and there are no material unfulfilled commitments of Franchisee under the Franchise; and
 - (8) There exists no known fact or circumstance which constitutes or which, with the passage of time or the giving of notice or both, would constitute a default or breach under the Franchise, or would allow the Franchising Authority to cancel or terminate the rights thereunder except upon the expiration of the full term thereof.
- D. Brenmor may, during the remaining Franchise term, transfer and assign the Franchise to any entity owned or controlled by, controlling or under common control with, InterMedia Partners, a California Limited Partnership ("InterMedia") or any affiliate thereof, upon notice to Franchising Authority, describing the entity in sufficient detail to satisfy the Franchising Authority that the transfer and assignment meet the requirements of this Section.

Section 34-103 Georgia Power Company Franchise Ordinance

Ordinance granting permission and consent to Georgia Power Company, its successors, lessees and assigns, to occupy the streets and public places of the City of Danielsville, Georgia. In constructing, maintaining, operating and extending poles, lines, cables, equipment, and other apparatus for transmitting and distributing electricity, and for other purposes.

- 1. Be it ordained by the governing authority of the City of Danielsville (hereafter referred to as the "City"), that the authority, right, permission and consent are hereby granted to Georgia Power Company, its successors, lessees and assigns (hereafter referred to as the "Company"), for a period of thirty-five (35) years, to occupy and use the streets, alleys and public places of the city within the present and future limits of the said city as

from time to time the Company may deem proper or necessary for the overhead or underground construction, maintenance, operation and extension of poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections and other apparatus for the business and purpose of transmitting, conveying, conducting, using, supplying and distributing electricity for light, heat, power and other purposes for which electric current may be or become useful or practicable for public or private use, and to re-enter upon such streets, alleys and public places from time to time as it may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of the Company, to insure safe and efficient service.

- 2 Be it further ordained that the rights, permission and consents herein contained are made for the following considerations and upon the following terms and conditions, to-wit:

A The Company shall pay into the treasury of the city (a) on or before the first day of March 1976 a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential and commercial rate schedules (as prescribed by the Georgia Public Service Commission) within the corporate limits of the city during the year 1975 and four percent (4%) of the gross sales of electric energy to customers served under industrial rate schedules (as so prescribed) within the corporate limits of the city during the period July 1- December 31, 1975, and (b) on or before the first day of March of each year thereafter during the term of this franchise a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential, commercial and industrial rate schedules (as so prescribed) within the corporate limits of the city during the preceding calendar year, on condition that, in the event the city shall grant to any other entity the right to use and occupy its streets for like purposes, such use and occupancy shall be upon the same terms and conditions as those herein contained, including the payment provisions hereof.

- B. The amount, if any, of any tax, fee, charge or imposition of any kind required, demanded or exacted by the city on any account, other than ad valorem taxes on property and license taxes on the sale of home appliances, shall operate to reduce to that extent the amount due from the percentage of gross sales above provided for.
- C. The Company shall fully protect, indemnify and save harmless the city from all damages to person or property caused by the construction, maintenance, operation or extension of poles, wires or other apparatus, or conditions of streets, alleys or public places resulting therefrom, for which the said city would otherwise be liable.
- D. The Company shall, in constructing, maintaining, operating and extending its poles, wires and other apparatus, submit and be subject to all reasonable exercises of the police power by the city. Nothing contained herein, however, shall require the Company to surrender or limit its property rights created hereby without due process of law, including adequate compensation, for any other purpose at the instance of the city or for any purpose at the instance of any other entity, private or governmental.

- 3 Be it further ordained that the Company shall, within ninety (90) days from the approval of this ordinance, file its written acceptance of the same with the Clerk of said city, so as to form a contract between the parties.
- 4 Be it further ordained that upon such acceptance all laws and ordinances, and all agreements between the parties, in conflict herewith be and the same shall thereupon stand repealed and terminated, respectively.

Adopted November 4, 1975.

Section 34-104 Atlanta Gas Light Company Franchise Ordinance

1. The exclusive right is hereby granted to the Grantee, its successors and assigns, to lay, construct, extend, maintain, renew, replace and repair gas pipes, valves, manholes, service boxes, posts, lamps, structures, appliances and all appurtenances and appendages under, along, through and across and streets, avenues, roads, public highways, alleys, lanes, ways, parks and other public places within the territorial limits of the city, and to use and occupy the said streets, avenues, roads, public highways, alleys, lanes, ways, parks and other

public places for the purpose of therein laying, constructing, extending, maintaining, renewing, replacing and repairing mains, pipes, valves, manholes, service boxes, posts, lamps, structures, appliances and all appurtenances and appendages thereto, used and useful for the manufacture, transmission, distribution and sale of gas within and through the present or future territorial limits of the city, such exclusive right, when exercised as herein provided, to continue for thirty (30) years after date of approval of this ordinance.

2. Grantee shall be entitled to charge for gas furnished by its such rates as are prescribed by the Public Service Commission or other lawful regulatory body of the State of Georgia.
3. Grantee hereby agrees and covenants, for an in consideration of the rights and privileges herein granted to it, to pay within sixty (60) days following the end of each quarterly period of the city three percent (3%) of the gas sales receipts received by Grantee from customers served under all rate schedules except for interruptible rate schedules or special contracts as defined and approved by the Georgia Public Service Commission (or any successor State regulatory group) within the territorial limits of the city during the preceding quarterly period.

It is provided, however, that should the city require Grantee to pay any license fee or tax, excise tax, indirect tax, occupation tax, franchise tax, privilege tax, regulation charge or related fees, taxes or charges, excepting ad valorem taxes and business license taxes for appliance sales, the aggregate amount of such fees, taxes and charges shall be deducted in full by Grantee from the quarterly payment or payments subsequently accruing to the city. The quarterly periods for which such payments shall be made shall commence upon the first day of the month immediately following proper adoption, acceptance and effectiveness of this franchise ordinance. The Mayor and Council of the city through its authorized representative or representatives shall have the right to inspect and audit the books and records of Grantee for the purpose of determining the amount of its revenues received from the sale of gas as set forth above within said territorial limits.

4. All rights herein granted and authorized shall be subject to and governed only by this ordinance; provided, however, that the city expressly reserves unto itself all of its police power to adopt general ordinances necessary to protect the safety and welfare of the general public in relation to the rights hereby granted not inconsistent with the provisions of this ordinance.
5. Grantee upon making an opening upon any of the streets, avenues, roads, public highways, alleys, lanes, ways, parks and other public places in the city, for the purpose of laying, repairing or maintaining gas mains, shall use due care and caution to prevent injury to persons, and shall replace and restore all public ways to their former condition as nearly as practicable, and within a reasonable time, and shall not unnecessarily obstruct or impede traffic upon the streets, avenues, roads, public highways, alleys, lanes, ways, parks and other places of said city.
6. Grantee shall save and keep harmless the city from any and all liability by reason of damage or injury to any person or persons whomsoever, on account of negligence of the Grantee in the installation, maintenance and repair of its mains and pipe lines along said streets, avenues, roads, public highways, alleys, lanes, ways, parks and other public places in the city provided the Grantee shall have been notified in writing of any claim against the city on account thereof and shall have been given ample opportunity to defend the same.
7. This ordinance, after its passage according to law, in writing duly filed with the City Clerk, shall be effective and in full force after the date of acceptance by Atlanta Gas Light Company.
8. Unless one hundred twenty (120) days written notice is given by one party to the other prior to the expiration of this agreement, this franchise shall be considered as renewed and binding in all its provisions for ten (10) years after such expiration and this franchise shall so continue in operation and effect for a further and second term of ten (10) years unless such notice be given by either party prior to the expiration of the first such renewed term.

9. Definitions:

A Base Year. The fiscal year ending September 30, 1998.

- B. Base Year Franchise Fee Factor. The total franchise fees paid during the base year divided by the Design Day Capacity as recorded by the Company on the last day of the Base Year.
- C. Design Day Capacity. The sum of the individual capacity in dekatherms (Dt) attributable to all firm customers located within the city limits of the City, as of the last day of the previous fiscal year.
- D. Firm Customers. All residential and business customers who purchase gas service that ordinarily is not subject to interruption or curtailment.
- E. Fiscal Year. The 12 months ending September 30, of each year.
- F. Inflation Index. The percentage change in the Customer Price Index for all Urban Consumers as published by the Bureau of Labor Statistics, or any successor index, for the period from September 30, 1997, to the beginning of the then current fiscal year. The percentage shall be reduced by any productivity factor adjustment for the same time period determined by the Georgia Public Service Commission for the Company.

- 10. Franchise Fee. The total dollar amount of franchise fees paid by the Company to the City shall be calculated as follows:

The current Fiscal Year total franchise fee shall equal the product of the Design Day Capacity and the current franchise fee factor. The current franchise fee factor shall be equal to the product of the Base Year Franchise Fee Factor and one plus the Inflation Index expressed as a decimal to three significant digits.

$$FFc = FFFby \times (1 + (CPI - PFA)) \times DDCc$$

Where Ffc = Total franchise fees due the city for the current Fiscal Year

FFFby = the Base Year Franchise Fee Factor

CPI - PFA = the Inflation Index based on the cumulative change in the Consumer Price Index less the productivity factor adjustment determined by the Georgia Public Service Commission.

DDCc = the Design Day Capacity as of the last day of the previous fiscal year.

FFFby = FFby / DDCby where

FFby = the total franchise fees paid in the Base Year

and DDCby = the Design Day Capacity of the Base Year.

- 11. Responsibility for Payment of Franchise Fee. The Company as the holder of the franchise privilege hereunder is responsible for the payment of all franchise fees payable hereunder, and shall file such reports and returns as required by the franchise ordinance as modified by this Amendment. In addition, the Company shall report annually the names of all Gas marketers for which Company is transporting natural gas on the distribution system within the city.

The franchise fee payments required hereunder shall be in lieu of any franchise fee license fee, occupation tax or other payment for use of the rights of way by the company for the provision of gas service, but shall not prohibit imposition of a license fee or an occupation tax on gas marketers.

- 12. Quarterly Payments. Effective for the Fiscal Year 1999, and for each Fiscal Year thereafter during the term of the franchise ordinance, the Company shall remit to the City quarterly franchise fee installments. The installments shall equal to one-fourth (1/4) of the total annual franchise fee calculated in accordance with this ordinance.

The quarterly payment is due and payable on or before the 30th day following the last day of each calendar quarter.

- 13. Annual Return. The Company shall file a return with its first quarterly installment in each Fiscal Year showing the details of the calculation of the annual franchise fee.
- 14. Delay of Inflation Adjustment. Notwithstanding any other provision in this ordinance, any inflation adjustments shall be made to the franchise fee only when the Company changes its rates.

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15. Conflicts. In the event of a conflict between this ordinance and the original franchise dated June 20, 1964 and renewed February 7, 1994, this ordinance shall control. All terms, conditions and stipulations contained in such franchise ordinance shall remain in full force and effect to the extent that they do not conflict with this ordinance.

(Effective 2/7/94 and amended 10/14/98)

Amended 2/7/05
(see attached pages)

Amended 7/11/05
(see attached pages)

