

Chapter A172

CABLE TELEVISION FRANCHISE

An AGREEMENT Made -By and Between-

THE TOWN OF GROTTUES, Rockingham County, a municipal corporation organized and existing under the laws of the State of Virginia, hereinafter referred to as "FRANCHISOR,"

-and-

VALLEY CABLEVISION, d.b.a. Adelphia Cable Communications, a corporation organized and existing under the laws of the State of Delaware with its principal office in Coudersport, Potter County, Pennsylvania; hereinafter referred to as "FRANCHISEE," shall read as follows:

In consideration of the terms and conditions hereinafter set forth, the parties hereto intending to be legally bound, hereby do mutually agree as follows:

1. FRANCHISOR hereby grants to FRANCHISEE a non-exclusive franchise to engage in the business of transmitting, retransmitting and distributing cable television and other communication signals to subscribers for hire by means of a coaxial cable system or otherwise, together with the accompanying right and privilege to use and occupy the streets, ways, alleys and other property of the FRANCHISOR for the purpose of installing, constructing, maintaining and operating upon, through, along, under, over and across such streets, alleys, highways, sidewalks, bridges, tunnels, public ways and public places such wires, cables, crossarms, guys and apparatus (hereinafter referred to as "facilities") as may be reasonably necessary for FRANCHISEE to carry out its business, subject, nevertheless, to the terms and conditions set forth.

2. The poles and posts used for FRANCHISEE'S distribution system shall be those erected by it and/or those erected and maintained by other persons, firms or corporations at the time maintaining poles or posts within FRANCHISOR limits, when and where practicable, providing mutually satisfactory contractual arrangements can be entered into with said persons, firms or corporations. FRANCHISOR shall not be responsible for obtaining any pole line agreement with various utility companies maintaining poles within FRANCHISOR limits.

3. FRANCHISEE'S transmission and distribution system, poles, wires and appurtenances shall be located, erected and maintained so that none of it shall endanger or interfere with the life of any person or remove or obstruct the free use of the streets, alleys, bridges or other public property. Construction and maintenance of the transmission distribution by items, including house connections, shall be in accordance with provisions of the National Electrical Safety Code, the National

Electrical Code, the National Board of Fire Underwriters and such reasonable applicable ordinances and regulations of FRANCHISOR affecting electrical installations which may be presently in effect or may be enacted by FRANCHISOR.

Installation and house drop hardware shall be uniform throughout FRANCHISOR limits, except that FRANCHISEE shall be free to change its hardware and installation procedure as the art progresses.

FRANCHISEE shall maintain its facilities and equipment in a state of good repair throughout the term of this agreement.

4. In the maintenance and operation of its communication transmission and distribution system in the streets, alleys and other public places and in the course of any new construction or addition to its facilities, FRANCHISEE shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or other public places made by FRANCHISEE in the course of its operation shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings and the bounds of which, during the periods of dusk and darkness, shall be clearly marked by warning lights. Any opening made in the streets, alleys and sidewalks or any other public places shall be replaced promptly to same condition or better than existing at time of said opening.

5. In the event that at any time during the period of this franchise FRANCHISOR shall lawfully elect to alter or change the grade of any street, alley or other public way, FRANCHISEE, upon reasonable notice by FRANCHISOR, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes and other fixtures and shall be reimbursed to the same extent as are other utility companies.

6. FRANCHISEE shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant, main or sewer, 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 in such a manner as not to interfere with the usual travel on said streets, alleys and public ways.

7. FRANCHISEE, shall on the request of any person holding a building moving permit issued by FRANCHISOR, 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 FRANCHISEE shall have the authority to require such payment in advance. FRANCHISEE shall be given no less than forty-eight hours advance notice to arrange for such temporary wire changes.

8. FRANCHISEE shall maintain its attachments in a manner that will not interfere with the use of said poles by the FRANCHISOR.

9. FRANCHISEE shall furnish, free of charge, outside connections and standard service to all public and parochial schools, the City Building, the Police Station, the Fire Station and the Rescue Squad, located in front of existing cable plant.

10. The permission herein granted shall continue for a term of ten (10) years.

11. FRANCHISEE'S distribution system shall conform to the requirements of the Federal Communications Commission, particularly with respect to freedom from spurious radiation.

12. The right is hereby reserved by FRANCHISOR and FRANCHISEE to mutually agree to adopt, in addition to the provisions herein contained, such additional reasonable provisions as they shall find necessary.

13. FRANCHISOR shall have the right to supervise all construction or installation work performed subject to the provisions of this ordinance and to compliance with governing ordinances.

14. FRANCHISOR reserves the right to order the service discontinued in the event of an emergency.

15. FRANCHISOR shall have the right to use any closed circuit broadcasting capability of the FRANCHISEE in the event of an emergency, however said use is to be in conjunction with any other municipal government having the same rights with respect to the FRANCHISEE'S facilities.

16. FRANCHISEE shall defend, indemnify and hold the FRANCHISOR harmless at all times during the term of the license granted under this Agreement and against all claims for injury or damages to persons or property both real and personal caused by the construction, erection, operation and maintenance of any structure, equipment, appliance or products authorized or used pursuant to authority of this license, provided, however, that FRANCHISEE shall not defend, indemnify or hold FRANCHISOR harmless for any negligent, willful or malicious act or omission on the part of the FRANCHISOR, its agents, employees or licensees. FRANCHISEE shall carry public liability insurance to protect the parties hereto. The amounts of such insurance against liability due to physical damages to property shall not be less than five hundred thousand dollars (\$500,000.) as to any one accident. The amount of insurance carried by FRANCHISEE for liability due to bodily injury or death shall not be less than one million dollars (\$1,000,000.) as to any one person. All insurance required shall remain in full force for the life of this Agreement.

17. FRANCHISEE shall in the ordinary course of business upon request submit to the FRANCHISOR copies of all correspondence or other information between FRANCHISEE and any state or Federal regulatory agency which may or does modify any of the contractual obligations of the FRANCHISEE and the FRANCHISOR under this franchise. The FRANCHISEE shall provide to the Town a summary of the gross annual revenues used to calculate franchise fees for the calendar year. Such statement will be provided within sixty (60) days following the end of the calendar year.

18. The right is hereby reserved to the Town or the Town Council to adopt, in addition to the provision contained herein as in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power; provided

that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

The Town shall have the right to inspect the books, records, maps, plans, and other like material of the FRANCHISEE, necessary to insure compliance with this franchise, at any time during normal business hours.

The Town shall have the right, during the life of this Franchise, to install and maintain free of charge upon the poles of the grantee any wire and pole fixtures necessary for a police alarm system, on the condition that such wire and pole fixtures do not interfere with the CATV operations of the FRANCHISEE.

19. The FRANCHISEE shall upon request file with the Town Clerk true and accurate maps or plats of all existing and proposed installations.

The FRANCHISEE shall keep on file with the Town Clerk a current list of its shareholders and bondholders.

20. FRANCHISEE shall pay to the FRANCHISOR as a franchise fee and in lieu of any merchants tax or license fee, a sum equal to four percent (4%) of the annual gross revenues of the company, as they pertain to the Town of Grottoes.

"Gross Revenues" means all Subscriber Service revenues derived from the provision of Cable Service, including monthly fees charged to Subscribers for Basic Service; monthly fees charged to subscribers for any optional service; pay-per-view fees; FM service fees; commercial service fees, premium service fees; and monthly fees charged to subscribers for any tier of Service other than Basic Service. This sum shall be the basis for computing the fee imposed in this section of the Agreement. Items to be deducted in computing Gross Revenues include, without limitation, any taxes furnished by the Company which are imposed upon the company or upon any subscriber or user by the state, county, City or other governmental unit or revenue from subscribers designated by the Company as payment of its franchise fee obligation.

Franchise fees shall be computed semi-annually for the preceding six (6) months, and payments shall be due and payable no later than ninety (90) days after the end of the period for which payment is intended.

The franchise fee shall not appear on the customer's bill.

21. An amount equal to the amount of franchise fees that would have been due for the period from the expiration of the old franchise agreement and the effective date of this agreement shall be computed and due and payable by the FRANCHISEE at the time that FRANCHISEE makes its first payment to the Town under the provision of paragraph 20. Computation and payment shall be governed by, and made in accordance with, the provision of this agreement.

22. If FRANCHISEE shall fail to comply with any of the material provisions of this Agreement or default in any of its material obligations, except for causes beyond its reasonable control, and shall fail to correct the same within sixty (60) days after written notice from FRANCHISOR, FRANCHISOR shall have the

right to revoke this license and all rights of FRANCHISEE hereunder. Provided, however, that in the event the correction cannot be made within sixty (60) days, this right of termination shall not be effective as long as a written report from the FRANCHISEE outlining actions taken to correct the problem is submitted to and received by the FRANCHISOR every thirty (30) days beginning on the sixty-first (61st) day.

23. This Agreement shall not be sold, assigned or transferred, either in whole or in part, or leased or sublet in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any Person without approval of the FRANCHISOR which shall not be unreasonably withheld or delayed. The provisions of this section shall only apply to the sale or transfer of all or a majority of FRANCHISEE'S assets, merger (including any parent and its subsidiary corporation), consolidation, or sale or transfer of stock on FRANCHISEE so as to create a new controlling interest. The term "controlling interest" as used is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. For purposes of this Section, no assignment, transfer or sale shall occur when the agreement is transferred or sold to a company owned, managed or controlled by Adelphia Communications Corporation, any of its subsidiaries, John J. Rigas or any member transferred to a financial institution as security for refinancing purposes.

24. This Agreement constitutes the entire understanding between the parties and shall be binding upon the parties hereto, and no assignment or sublease will be permitted without written consent of both parties. This Agreement shall be binding upon the parties hereto, their respective assigns, transfers and successions.

25. If any section, sentence, clause, or phrase of this Agreement shall be held to be invalid or illegal, the invalidity or illegality thereof shall not affect the validity or legality of any other section, sentence, clause, or phrase of this Agreement.

26. This Agreement is non-exclusive. However, no multi-channel video provider shall have the right to provide any service upon terms more favorable or less burdensome than those applicable to the provisions of such service by the FRANCHISEE.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on their behalf by properly constituted officers, and their corporate seals, affixed hereto the day and year first above written.

ATTEST: ()

ATTEST: ()