

ORDINANCE NO. 450.1

AN ORDINANCE AUTHORIZING THE GRANTING OF A NONEXCLUSIVE FRANCHISE TO ERECT, CONSTRUCT, MAINTAIN AND OPERATE COMMUNITY ANTENNA TELEVISION SYSTEM FACILITIES, AND ADDITIONS THERETO, IN UNDER, OVER, ALONG, ACROSS AND UPON THE HIGHWAYS, PUBLIC WAYS, BRIDGES AND OTHER PUBLIC PLACES IN PULASKI COUNTY, KENTUCKY, FOR THE PURPOSE OF TRANSMISSION AND DISTRIBUTION OF CABLE TELEVISION IMPULSES AND TELEVISION ENERGY TO THE INHABITANTS OF PULASKI COUNTY, KENTUCKY, REGULATING THE SAME, AND FOR OTHER PURPOSES.

WHEREAS, Pulaski County, Kentucky desires to grant, in accordance with sections 163 and 164 of the Constitution of the Commonwealth of Kentucky, a nonexclusive franchise for the erection, construction, maintenance and operation of a community antenna television ("CATV") system in the northern section of Pulaski County, Kentucky, as shown by the attached map; identified as Exhibit I.

WHEREAS, the Fiscal Court of Pulaski County, Kentucky deems the granting of such CATV system franchises to be necessary for the benefit of the public health, safety, and welfare of the inhabitants of Pulaski County, Kentucky;

BE IT ORDAINED by Pulaski County, Kentucky as follows:

SECTION I

Upon the conditions herein set forth and in accordance with sections 163 and 164 of the Constitution of the Commonwealth of Kentucky, Pulaski County, Kentucky shall grant to a grantee to be designated, by ordinance of Pulaski County, Kentucky, (the "Grantee"), a non-exclusive franchise to erect, construct,

maintain, and operate CATV transmission and service distribution facilities including, but not limited to, the erection of poles, cables, wires and other appurtenances and additions thereto in, over, under, along, across and upon the highways, public ways, bridges and other public places in Pulaski County, Kentucky, for the purpose of transmission and distribution by cable of television impulses and television energy to the inhabitants of Pulaski County, Kentucky in all forms, in accordance with the laws and regulations of the United States and the Commonwealth of Kentucky, and the ordinances of Pulaski County, Kentucky (being referred to hereinafter as a "Nonexclusive Franchise").

#### SECTION II

Upon the adoption of this ordinance and in accordance with section 164 of the Constitution of the Commonwealth of Kentucky, the Fiscal Court of Pulaski County, Kentucky shall: (1) duly advertise for bids for a Nonexclusive Franchise, directing that all bids be submitted to the Fiscal Court of Pulaski County, Kentucky no later than 4:30 P.M. October 11, 1988; (2) publicly receive bids for a Nonexclusive Franchise; and (3) award a Nonexclusive Franchise to the highest and best bidder, taking into consideration all factors held relevant thereto under the law of the Commonwealth of Kentucky; provided, however, that the Fiscal Court of Pulaski County, Kentucky expressly reserves

the right to: (a) reject any or all bids for a Nonexclusive Franchise; and (b) withhold the granting of any Nonexclusive Franchise. The Pulaski County Clerk is hereby ordered and directed to duly advertise in accordance with the requirements of the law of the Commonwealth of Kentucky for bids for a Nonexclusive Franchise. Such advertisement shall provide that all bids shall contain the following information and provisions: (a) a schedule of the rates to be initially charged for services offered; (b) a provision that the CATV system shall have a minimum channel capacity of thirty-five (35) channels; and (c) the percent of gross annual receipts from subscribers which shall be paid annually during the term of the franchise as consideration for the franchise; (d) unless exempted by KRS 96.020 (2), each bidder shall deposit with bid, cash or certified check equal to five percent (5%) of the fair estimated cost of the plant required to render the service and to execute bond equal to one-fourth (1/4) of the estimated cost of the plant within thirty (30) days of the successful bid, conditioned to be enforceable encase the successful bidder fails, within a reasonable time, to establish a suitable plant for rendering the service in the manner set forth in the terms of sale, Subject to the penalties for failure as set forth in KRS 96.020; (e) service shall be required in all areas of the city limits of each street or road having twenty (20) or more homes per contiguous mile of

line or to any subscriber where service to said subscriber would require extension no more than five hundred (500) feet of line from existing service.

### SECTION III

The poles used for the CATV transmission and distribution system shall be those of the Kentucky Utilities Company, South Kentucky Rural Electric Cooperative, General Telephone Company of The South, and any utility company which own or shall control poles located in Pulaski County, Kentucky, provided that mutually satisfactory agreements can be entered into with the aforesaid companies. All highways and public ways that may be disturbed or damaged in the construction of the CATV system shall be promptly repaired by any such Grantee at its own expenses and to the satisfaction of Pulaski County, Kentucky, provided, however, that if such repairs are not made by such Grantee, Pulaski County, Kentucky shall, after reasonable notice to such Grantee, make such repairs as it deems necessary and charge the same to the Grantee.

### SECTION IV

The CATV transmission and distribution system, poles, wires and appurtenances shall be located, erected, set, constructed and maintained so as not to endanger or interfere with the lives of any person, damage any property, public or

private, or to interfere with any improvements Pulaski County, Kentucky may deem proper to make, or to hinder unnecessarily or obstruct the free use of the streets, alleys, bridges or other public places or property.

Construction, maintenance, and operation of the CATV system, including connections made to the CATV system to provide service to subscribers, shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Code of the National Board of Fire Underwriters and such applicable ordinances and regulations of Pulaski County, Kentucky affecting electrical installation which may be presently in effect or which may be enacted. The operation of the CATV system shall conform to all rules and regulations of the Federal Communications Commission applicable thereto.

SECTION V

The Grantee shall be subject to all ordinances now in force or that may be hereafter passed relative to the use of highways, public ways, bridges and public places of the Pulaski County, Kentucky.

SECTION VI

The Grantee shall hold Pulaski County, Kentucky safe and harmless from all damages or claims for damages arising by reason

of negligence in the construction or maintenance or operation of the CATV system. The Grantee shall maintain public liability insurance indemnifying all loss, damage or destruction of property to the extent of \$50,000.00 and to any one person, city agency or board in the amount of \$300,000.00 and to two (2) or more persons, city agencies or boards in the amount of \$300,000.00 as to any one accident from which bodily injury may occur.

#### SECTION VII

In consideration of the granting of a Nonexclusive Franchise, the Grantee shall pay to Pulaski County, Kentucky as a tax and as compensation for the rights and privileges enjoyed hereunder the sum of ~~Three~~ percent (3%) of such Grantee's annual gross revenue paid by its subscribers from its CATV system residing in the northern part of Pulaski County, Kentucky shown by the attached map, identified as Exhibit I hereto. Said tax shall be in lieu of all other fees or taxes including occupation, license, excise and special taxes or fees of any nature, whatsoever, except municipal ad valorem taxes on Grantee's property located with the northern part of Pulaski County, Kentucky. Nonpayment of the above tax shall terminate this Nonexclusive Franchise after sixty (60) days written notification that said tax is due and has not paid.

#### SECTION VIII

Each Nonexclusive Franchise shall be for a term of twenty (20) years from the date of the granting of each such Nonexclusive Franchise and shall cease at the expiration of such term.

#### SECTION IX

Grantee shall comply with the provisions of the Cable Communications Policy Act of 1984. To the extent that any provision set forth in this or any ordinance regarding said Nonexclusive Franchise or in the accepted bid for the Nonexclusive Franchise is inconsistent with the Cable Communications Policy Act of 1984, the provisions of the Cable Communications Policy Act Control. The franchise shall provide from modification of the franchise requirements during the term of said franchise for the purposes and to the extent provided in Section 625 of the aforesaid act.

#### SECTION X

The Grantees shall be required to serve all areas within the northern part of Pulaski County, Kentucky on each street or road having twenty (20) homes or more per contiguous mile of line or to any subscriber where service to said subscriber would require extension of no more than five hundred (500) feet of line from existing service.

SECTION XI

The Grantee shall provide free service to any county Fire Department or other county office within the area served with one (1) outlet to each of the said locations.

SECTION XII

In the event that Grantee desires mortgage the CATV system to obtain funds for its expansion, modification or improvement, or any prospective purchaser thereof proposes to mortgage said system for the purposes aforesaid or, in the event of a change of ownership, the Grantee, or its successors and assigns, desire to sell and transfer franchise granted herein as a part of said sale, said Grantee, prospective owner or assignee may mortgage, sell and assign the franchise herein provided that written notice of the proposed mortgaging, selling, transferring or assigning of said franchise is given not less than twenty (20) days prior to the date that said act is to occur.

SECTION XIII

The Grantee shall reimburse Pulaski County, Kentucky for the costs of publishing this ordinance and for the advertising provided for in Section II of this ordinance.

SECTION XIV

This ordinance shall be enacted upon its second reading of the Fiscal Court of Pulaski County, Kentucky and shall become

effective upon its publication one (1) time in the Commonwealth Journal, a newspaper of general circulation in Pulaski County, Kentucky and the Pulaski County Clerk is hereby ordered and directed to cause a copy of this ordinance to be so published. After a first reading on 9-14- 1988, this ordinance was duly adopted following a second reading, this 28 day of September, 1988, upon a motion of Mag. Wiles, seconded, by Mag. Hansford and a unanimous roll call vote as follows:

|                  |   |               |
|------------------|---|---------------|
| <u>McClendon</u> | , | <u>Hargis</u> |
| <u>Floyd</u>     | , | <u>Jasper</u> |
| <u>Hansford</u>  | , | <u>Wiles</u>  |

ATTEST:

Willard Hansford  
PULASKI COUNTY CLERK, KY.

Dancee Bushman  
COUNTY JUDGE EXECUTIVE,  
PULASKI COUNTY, KY.

The outside boundaries of the territory covered by this franchise are

described as follows:

All of Pulaski County, Kentucky, lying north of the boundary line hereinafter set out, which runs as follows:

Starting at a point near the western boundary line of Pulaski County, Kentucky, and Kentucky Highway #30, which is 1000 feet south of Kentucky Highway #80 at the intersection of Kentucky Highway #80 and the Casey County line; thence continuing an eastwardly direction 1000 feet south of and parallel to Kentucky Highway #80 to Lee's Ford Dock; thence from Lee's Ford Dock in a straight line to the intersection of Allen's Branch and old U. S. Highway #27, south of Somerset, Kentucky; thence in a northwardly direction and continuing around and binding upon the present Somerset City Limits to the intersection of Sherman and Garrett Streets, in what is now known as White City; thence in a straight line in an eastwardly direction to its intersection with Roy Thompson's southeast property line on the west side of Rush Branch Road; thence continuing in a straight line in an eastwardly direction to the Pitman Creek bridge at Ruth, Kentucky; thence in a straight line in a northeastwardly direction to a point 1000 feet south of the intersection of East Kentucky Highway #80 and the Rockcastle County, Kentucky, line.

For plat of same, see Plat Book 18, Page 11, Pulaski County Court Clerk's Office, Kentucky.

The abovedescribed area and map of same attached hereto as Exhibit "1A" shall be deemed amended to delete therefrom any areas which have become a part of the City of Somerset since 1968 and which may have heretofore been included in a franchise issued by the City of Somerset or which may hereafter be included by virtue of now being a part of the City of Somerset.

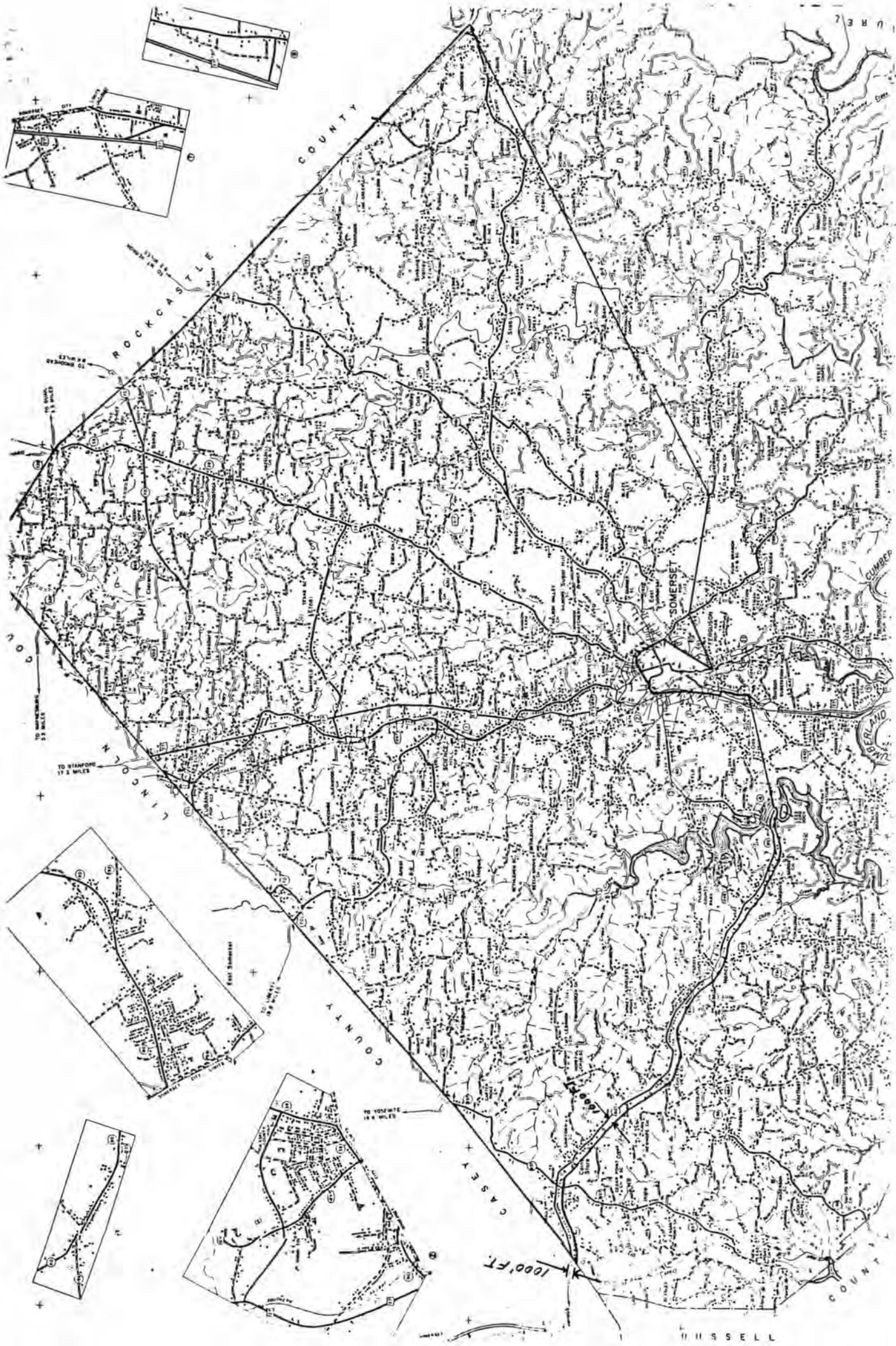


EXHIBIT "IA"

HISSELL