

ORDINANCE NO. 26

AN ORDINANCE of The Town of Mardela Springs, a municipal corporation of the State of Maryland, granting to General Television of Maryland, Inc., a Maryland corporation, its successors and assigns, a non-exclusive franchise to erect, maintain and operate transmission and distribution facilities and additions thereto in, under, over, along, across and upon the streets, lanes, avenues, alleys, bridges, highways and other public places in The Town of Mardela Springs, a municipal corporation of the State of Maryland, and subsequent additions and annexations thereto, for the purpose of transmission by cable and distribution of television impulses and television energy for sale within said municipal corporation and other purposes.

WHEREAS, The Town of Mardela Springs, a municipal corporation of the State of Maryland, is empowered by its Charter to grant franchises to public utility companies; and

WHEREAS, General Television of Maryland, Inc., a Maryland corporation, is now furnishing cable television service within Wicomico County, Maryland; and

WHEREAS, the Commissioners of Mardela Springs are desirous of having such service available within the Town limits of Mardela Springs.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Commissioners of Mardela Springs, a municipal corporation of the State of Maryland, that:

Section 1. (a) In consideration of the faithful performance and observance of the conditions, restrictions and reservations hereinafter specified, a non-exclusive franchise is hereby granted to General Television of Maryland, Inc., its successors and assigns, hereinafter called the "Grantee", to erect, maintain and operate for a period of ten (10) years, beginning on the date of final passage of this Ordinance, an audio and television transmission and distribution system and its necessary facilities and additions thereto in, under, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges and other public places in Mardela Springs, and subsequent additions and annexations thereto, for the purpose of transmission and

distribution of audio and television impulses and energy in accordance with the laws and regulations of the United States of America and the State of Maryland, and the Ordinances and regulations of Mardela Springs.

(b) In addition to any conditions which may be specified elsewhere in this Ordinance, the granting of this franchise is conditioned upon the Grantee diligently pursuing all required permits and commencing construction promptly upon obtaining the same. Grantee shall, within ninety (90) days after obtaining all such permits, complete construction of a system capable of providing at once nineteen (19) channels with at least thirty-six (36) total channel capacity.

Section 2. Whenever used in this Ordinance, the words "audio" and "television" shall mean a system for simultaneous transmission of audio signals and transient visual images or the separate transmission of either of them by means of electrical impulses.

Section 3. The poles and posts used for the Grantee's distribution system shall be those erected by the Grantee and/or those erected and maintained by the Chesapeake and Potomac Telephone Co., and/or Delmarva Power & Light Company, and/or such other person, firm or corporation at the time maintaining poles or posts within the corporate limits, when and where practicable, providing mutually satisfactory rental agreements can be entered into with said Corporation.

Section 4. The Grantee's transmission and distribution system, poles, wire and appurtenances shall be located, erected and maintained so that none of it shall endanger or interfere with the lives of persons, or interfere with any improvements Mardela Springs may deem proper to make or hinder unnecessarily or obstruct the free use of the streets, alleys, bridges or other public property.

Construction and maintenance of the transmission-distribution system, including house connections, shall be in accordance with the provisions of the National Electrical

Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters and such applicable Ordinances and regulations of Mardela Springs affecting electrical installations which may be presently in effect or may be enacted by the Commissioners of Mardela Springs.

Installation and house drop hardware shall be uniform throughout Mardela Springs, except that the Grantee shall be free to change its hardware and installation procedure as the art progresses.

Section 5. In the maintenance and operation of its cable television 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, the Grantee 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 the Grantee in the course of its operations, shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which during periods of dusk and darkness shall be clearly designated by red warning lights.

Whenever the Grantee shall take up or disturb any pavement, sidewalk or other improvement of any street, avenue, alley or other public place, the same shall be replaced and the surface restored in as nearly as possible the same condition as before entry within forty-eight (48) hours after completion of the Grantee's work. Upon failure of the Grantee to make such restoration within such time, or to begin such restoration within such time, Mardela Springs may after giving written notices, cause the proper restoration to be made, including the removal of excess dirt, and the reasonable expense of same shall be paid by the Grantee upon demand by Mardela Springs.

The Grantee shall at all times comply with any and all rules and regulations which Mardela Springs has made or may make applying to the public generally with reference to the

excavations in streets and other public places, not inconsistent with their use for the purposes contemplated by this franchise.

Section 6. If the Grantee shall maintain its attachments on poles that Mardela Springs now uses, or has been authorized by other franchises now in force or hereafter enacted to use, it will not unreasonably interfere with the use of such poles by Mardela Springs.

Section 7. The Grantee shall have the right to prescribe reasonable service rules and regulations for the conduct of its business not inconsistent with the provisions of this Ordinance, and a copy of such service rules and regulations shall be kept on file at all times with the Town Secretary. Its customer service agreement shall provide for continuity of maintenance system service to customers of Grantee at all hours during which television programs are available through the facilities of the Grantee. Changes in the service agreement herein referred to shall be made by Grantee only after written notice to its subscribers, and said service agreement shall contain a provision substantially as follows:

"The subscriber understands that in providing television cable service (Grantee) is making use of the public rights of way within Mardela Springs, and that the continued use of these public rights of way is in no way guaranteed. In the event the continued use of such rights of way is denied (Grantee) for any reason, (Grantee) will make every reasonable effort to provide service over alternate routes. Subscriber agrees that he will make no claim nor undertake any action against Mardela Springs, its officers or employees, if the service to be provided by (Grantee) hereunder is interrupted or discontinued."

Section 8. The Grantee's signal quality and distribution system shall conform to the technical requirements of the Federal Communications Commission, particularly with respect to spurious radiation.

For the purpose of implementing the terms of this Section, the Grantee shall provide, without charge, adequate test equipment to perform periodic tests to determine whether such standards are being complied with and shall cooperate with Mardela Springs or its official representatives in conducting such tests.

Section 9. Upon the termination of this franchise, the Grantee shall remove its posts, poles, television transmission and distribution system and other appurtenances from the streets, lanes, sidewalks, highways, alleys, bridges and other public places in Mardela Springs and shall restore such streets, lanes, highways, sidewalks, alleys, bridges, and other public places to as nearly as possible their original condition.

Upon adoption of this Ordinance by Mardela Springs and the acceptance by Grantee of its terms and conditions as provided for hereinafter, Grantee shall file with Mardela Springs a bond in the penalty of Ten Thousand Dollars (\$10,000.00), with good and sufficient corporate surety. Said bond shall run to Mardela Springs, but is intended for the benefit of all persons contracting with Grantee shall well and truly observe, fulfill and perform each and every term and condition of this franchise.

Section 10. The Grantee shall indemnify and hold Mardela Springs harmless at all times during the term of this grant from 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 franchise.

The Grantee shall carry insurance in such form as shall be approved by the Town Attorney of Mardela Springs to protect Mardela Springs and itself from and against any and all claims

for injury or damages to persons or property, both real and personal, caused by the construction, erection, operation, or maintenance of any structure, equipment, appliance or products authorized or used pursuant to authority of this franchise, and the amount of such insurance against liability due to damage to property shall not be less than One Hundred Thousand Dollars (\$100,000.00), as to any one person, and Two Hundred Thousand Dollars (\$200,000.00), as to any one accident, and against liability due to injury or death of persons, One Hundred Thousand Dollars (\$100,000.00), as to any one person, and Three Hundred Thousand Dollars (\$300,000.00), as to any one accident.

The Grantee, upon receipt of due notice in writing from Mardela Springs shall defend at its own expense any action or proceedings against Mardela Springs in which it is claimed that the injury or damage arose from the Grantee's activities in the operation of its cable television system.

Section 11. If the Grantee shall fail to comply with any of the material provisions of this franchise, or default in any of its material obligations, except for causes beyond the reasonable control of the Grantee, and shall fail, within one hundred twenty (120) days after written notice from Mardela Springs to correct such default or noncompliance, the Commissioners shall have the right, after a hearing affording due process, to revoke this franchise and all rights of the Grantee hereunder.

Section 12. Should any section, clause or provision of this franchise be declared invalid by a Court of record, same shall not affect the validity of the franchise as a whole or any part thereof, other than the part so declared invalid.

Section 13. This franchise shall be non-exclusive between Mardela Springs, a municipal corporation of the State of Maryland, and the Grantee, and shall take effect and be in force for ten (10) years from the date of final passage hereof, and following acceptance of its terms in writing by the Grantee or its assigns. The franchise hereby granted shall not be assignable without the written consent of the Commissioners of

Mardela Springs. At the expiration of the original term hereof, Grantee shall have the right and option to renew this franchise for an additional period of ten (10) years on the same terms and conditions herein set forth.

Section 14. The Grantee shall pay to Mardela Springs during the life of said franchise and at the times hereinafter specified, a sum equal to five percent (5%) of the gross annual receipts of Grantee arising from the sale of cable service to customers within the corporate limits of Mardela Springs, a municipal corporation; provided, however, that only regular periodic service charges, not including any state or federal taxes levied upon such service and any regulatory fee imposed by the Federal Communications Commission or others, will be considered in computing said sum and that original installation charges, reconnection charges, and charges made for inspection, repair, replacement or modification of installations shall not be considered in computing said sum.

The Grantee shall file with the Secretary of Mardela Springs, within ninety (90) days after expiration of any calendar year during which this franchise is in force, a verified statement showing in appropriate detail the total gross receipts as defined above of Grantee during the preceding calendar year derived from the sale of cable service to customers within the corporate limits of Mardela Springs. It shall be the duty of Grantee to pay to Mardela Springs, within thirty (30) days after the time for filing such statements, the specified sum for the calendar year covered by such statement. Any neglect, refusal or omission by Grantee to file such statement or to pay such sum at the times and in such amounts hereinabove provided shall be grounds for the declaration of a forfeiture of this franchise, and of all rights hereunder.

The above Ordinance was introduced and read to the Commissioners of the Town of Mardela Springs, a municipal corporation of the State of Maryland, at a meeting held on this 19<sup>th</sup> day of September, 1988, and finally passed at a meeting held on the

19<sup>th</sup> day of September, 1988, having been published as required by law in the meantime.

WITNESS:

Shirley M. Bailey  
Secretary

W. B. Co. Co.  
President  
The Commissioners of The Town  
of Mardela Springs

I hereby certify the above is a true and exact copy of Ordinance No. 26.

The Town of Mardela Springs

Shirley M. Bailey  
Secretary

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