

ORDINANCE NO. 97-04

CHAPTER XI

FRANCHISES

ARTICLE 1

Adoption of All Existing and
Hereinafter Granted Franchises

BE IT ORDAINED by the Board of City Commissioners of the City of Hazen, North Dakota, that Article 1, Chapter XI be amended and readopted as follows:

11.0101 FRANCHISES ADOPTED

Hereby adopted by reference are the following franchises enacted and granted by prior ordinances of the City of Hazen:

1. Unnumbered Ordinance to Montana-Dakota Utilities Company adopted April 20, 1979, pertaining to street lighting and having an initial term of 10 years and yearly thereafter.
2. Unnumbered Ordinance to Montana-Dakota Utilities Company, adopted April 13, 1992, for a term of 20 years.
3. Ordinance No. 11.0104 to Midcontinent Cable Systems Co. of North Dakota, adopted December 29, 1986, for a term of 15 years.
4. Ordinance No. 96-01 to West River Telecommunications Cooperative, adopted April 22, 1996, for a term of 20 years.
5. Ordianace No. 96-02 to Oliver-Mercer Electric Cooperative Inc., adopted April 22, 1996, for a term of 20 years.

11.0102 COPIES OF ABOVE FRANCHISES

Copies of the above franchises will be retained by the Hazen City Auditor in a separate file.

11.0103 DURATION OF FRANCHISES

Each franchise granted by the City of Hazen will expire and terminate according to the franchise terms, which may not exceed twenty (20) years

11.0104 ADDITIONAL FRANCHISES

Additional franchises may be granted by the City of Hazen and copies of additional franchise ordinances will be retained by the City Auditor pursuant to Section 11.0102.

11.105 CONTINUING AUTHORITY

No franchise granted may be exclusive or irrevocable and each franchise is subject to the regulatory authority of the City of Hazen.

First Reading: 12-29-97

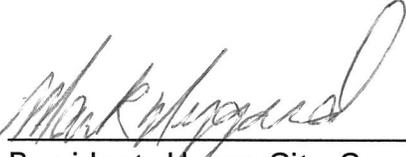
Roll Call: 5 aye
0 nay
0 absent

Second Reading: 1-12-98

Roll Call: 4 aye
0 nay
1 absent

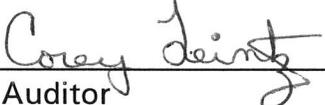
Final Passage: 1-12-98

Published: not required



President, Hazen City Commission

ATTEST:



Hazen City Auditor

RESOLUTION NO. 2000-01

**RESOLUTION OF THE CITY OF HAZEN
APPROVING AN ASSIGNMENT OF THE
CABLE TELEVISION FRANCHISE
FROM MIDCONTINENT CABLE SYSTEMS CO. OF NORTH DAKOTA
TO MIDCONTINENT COMMUNICATIONS**

WHEREAS, Midcontinent Cable Systems Co. of North Dakota (“Franchisee”) owns, operates, and maintains a cable television system (“System”) in the City of Hazen (“Franchising Authority”) pursuant to a cable television franchise (the “Franchise”) and Franchisee is the current authorized holder of the Franchise; and

WHEREAS, Franchisee and Midcontinent Communications (“Transferee”) are parties to an Asset Contribution Agreement, pursuant to which the System and the Franchise ultimately will be transferred to Transferee (“Transaction”); and

WHEREAS, pursuant to the proposed Transaction, Franchisee and various affiliated entities (the “TCI Parties” or “MCC Parties”) which own and operate cable television systems will first take certain internal restructuring steps, including contribution of certain cable system assets (including franchises), to TCI Midcontinent, LLC (“TCI LLC”) or Midcontinent Communications Investor, LLC (“MCI LLC”). As part of the Transaction, TCI LLC or MCI LLC will then contribute assets relating to such Systems and related obligations to Transferee which will hold the Franchise and will own and operate the System; and

WHEREAS, Franchisee and Transferee have requested consent by the Franchise Authority to the Transaction in accordance with the requirements of the Franchise and have filed a complete FCC Form 394 with the Franchise Authority; and

WHEREAS, the Franchise Authority has investigated the qualifications of Transferee and finds it to be a suitable Transferee;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF HAZEN AS FOLLOWS:

- Section 1.** The Franchise Authority consents to the Transaction, and any intermediate assignment of the Franchise to an affiliate of Franchisee as necessary to effect the Transaction, in accordance with the terms of the Franchise.
- Section 2.** The transfer and assignment of the Franchise to Midcontinent Communications and the assumption by Midcontinent Communications of the obligations of Franchisee under the Franchise which accrue from and after the Closing Date shall be contingent upon and take effect only on the Closing Date.
- Section 3.** The Franchise Authority confirms that (a) the Franchise was properly granted or transferred to Franchisee, (b) the Franchise is currently in full force and effect subject to options in the Franchise, if any, to extend such term, (c) the Franchise supersedes all other agreements between the Franchise Authority and the

Franchisee, (d) the Franchise represents the entire understanding of the Franchise Authority and the Franchisee and Franchisee has no obligations to the Franchise Authority other than those specifically stated in the Franchise, and (e) Franchisee is materially in compliance with the provisions of the Franchise and to the knowledge of the Franchise Authority, no fact or circumstance exists which constitutes or which, with the passage of time or the giving of notice or both, would constitute a material default or breach under the Franchise or would allow the Franchise Authority to cancel or terminate the rights under the Franchise.

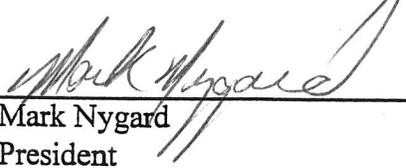
Section 4. Midcontinent Communications may transfer and assign the Franchise or control related thereto to any entity, directly or indirectly, owned or controlled by, controlling or under common control by Transferee, upon notice to the Franchising Authority of any such transfer, the Franchising Authority hereby consents to and approves the assignment, mortgage, pledge or other encumbrance, if any, of the Franchise, System, or assets relating thereto, or the interests in the permitted holder thereof, as collateral for a loan.

Section 5. This Resolution shall be deemed effective as of the date of its passage.

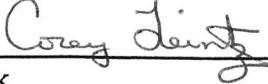
Section 6. This Franchise Authority releases Franchisee, effective upon the Closing Date, from all obligations and liabilities under the Franchise that accrue on and after the Closing Date; provided that Transferee will be responsible for any obligations and liabilities under the Franchise that accrue on and after the Closing Date.

Section 7. This Resolution will have the force of a continuing agreement with Transferee, and Franchise Authority will not amend or otherwise alter this Resolution without the consent of Transferee

PASSED, ADOPTED, AND APPROVED BY THE CITY OF HAZEN THIS 10th DAY OF JANUARY, 2000.

By: 
Mark Nygard
President

The undersigned, being the duly appointed, qualified, and acting Clerk of the City of Hazen, hereby certifies that the foregoing Resolution No. 00-01 is a true, correct, and accurate copy of Resolution No. 00-01 duly and lawfully passed and adopted by the City of Hazen on the 10th day of January, 2000.


Clerk

ORDINANCE NO. 01-11.0104

CHAPTER XI
FRANCHISES
MIDCONTINENT COMMUNICATIONS

BE IT ORDAINED by the Board of City Commissioners of the City of Hazen, North Dakota, that Chapter XI of the Hazen City Ordinances be amended and reenacted and approved in the form attached:

First Reading: February 5, 2001 Roll Call: 3 aye
 0 nay
 2 absent

Second Reading: February 20, 2001 Roll Call: 4 aye
 0 nay
 1 absent

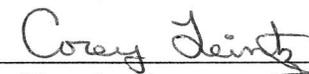
Effective Date: February 20, 2001

Published: not required



Mark Nygard, Hazen City Commission
Pres.

ATTEST:



Hazen City Auditor

ORDINANCE NO. 01-11.0104 (Replaces former Ordinance No. 11.0104)

AN ORDINANCE GRANTING TO MIDCONTINENT COMMUNICATIONS THE NONEXCLUSIVE RIGHT TO ERECT, MAINTAIN AND OPERATE IN, UNDER, OVER, ALONG, ACROSS THE PRESENT AND FUTURE STREETS, LANES, AVENUES, SIDEWALKS, ALLEYS, BRIDGES, HIGHWAYS, EASEMENTS DEDICATED FOR COMPATIBLE USES AND OTHER PUBLIC PLACES IN THE CITY OF HAZEN, NORTH DAKOTA, AND THE SUBSEQUENT ADDITIONS THERETO, TOWERS, POLES, LINES, CABLES, WIRES, MANHOLES, AND ALL OTHER FIXTURES AND EQUIPMENT NECESSARY FOR THE MAINTENANCE AND OPERATION IN THE CITY OF A CABLE TELEVISION SYSTEM, FOR THE PURPOSE OF TRANSMISSION AND DISTRIBUTION OF AUDIO, VISUAL, ELECTRONIC AND ELECTRICAL SIGNALS, AND OTHER ELECTRONIC IMPULSES IN ORDER TO FURNISH TELEVISION AND RADIO PROGRAMS AND VARIOUS OTHER COMMUNICATION SERVICES TO THE PUBLIC, FOR A PERIOD OF FIFTEEN (15) YEARS, REGULATING THE SAME, AND PROVIDING COMPENSATION TO THE CITY.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HAZEN, NORTH DAKOTA.

ARTICLE 1. STATEMENT OF PURPOSE

The purpose of this Ordinance is to effectuate the City's renewal of a franchise to Company on the 20th day of February, 2001, and to establish the terms and conditions governing the franchise and regulation thereof.

ARTICLE 2. SHORT TITLE

This Ordinance is to be known and cited as the "City of Hazen Midcontinent Communications Ordinance," hereinafter in this document referred to as "Ordinance."

ARTICLE 3. DEFINITIONS

For the purposes of this Ordinance, the following terms, phrases, words, and their derivations have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall", "must", and "will" are mandatory and "may" is permissive; words not defined will be given their common and ordinary meaning.

3.01 "Basic Cable Service" means the service tier that includes the retransmission of local broadcast signals.

3.02 "Channel" means a portion of the electromagnetic Frequency spectrum that is used in a cable system and is capable of delivering a television channel (as television channel is defined by FCC regulation).

3.03 "City" is the City of Hazen, North Dakota.

3.04 "Commission" is the City Commission of Hazen, North Dakota.

3.05 "Cable Television System" or "Cable System" is a system utilizing certain electronic and other components which deliver to subscribing members of the public various communications services.

3.06 "Cable Television Reception Service" means the delivery by the Company to television receivers (or any other suitable type of electronic terminal or receiver) of the electronic signals and other communications services carried over said system.

3.07 "FCC" means Federal Communications Commission.

3.08 "Franchise" means the rights and obligations extended by City to Company herein.

3.09 "Company" is Midcontinent Communications or anyone who succeeds Midcontinent Communications in accordance with the provision of this Ordinance.

3.10 "Ordinance" means this Ordinance (found in Chapter XI) of the Ordinances of the City of Hazen.

3.11 "Person" is any person, firm, partnership, association, corporation or organization of any kind and any other legally recognized entity.

3.12 "Public Property" means any real property owned by City or any other governmental unit, other than a street.

3.13 "Street" means the surface of and the space above and below any public street, road, cartway, highway, freeway, lane, path, public way, alley, court, sidewalk, boulevard, parkway, drive, or any easement or right-of-way now or hereafter held by City or any easements for compatible uses within the City.

3.14 "Subscribers" are those persons contracting to receive cable television reception services furnished under this Ordinance by Company.

3.15 "Winter" means the time period from November 15 to April 15.

ARTICLE 4. GRANT OF NON-EXCLUSIVE AUTHORITY

4.01 There is hereby granted by the City to the Company, and to its successors, assigns or designees, the non-exclusive right to erect, maintain and operate in, under, over, along, across and upon the present and future streets, lanes, avenues, sidewalks, alleys, bridges, highways, easements dedicated for compatible uses and other public places in the City of Hazen, North Dakota, and subsequent additions thereto, towers, poles, lines, cables, wires, manholes and all other fixtures and equipment necessary for the maintenance and operation in the City of a cable television system, for the purpose of transmission and distribution of audio, visual, electronic and electric impulses in order to furnish television and radio programs and various other communications services to the public for a period of fifteen (15) years, commencing from and after the effective date of this Ordinance.

ARTICLE 5. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

5.01 The Company shall, during the term hereof, except in those areas which have been preempted by the Cable Communications Policy Act of 1984, as amended, or The Telecommunications Act of 1996, as amended, or which are regulated by the Federal Communications Commission, be subject to all lawful exercise of the regulating and police powers of the City and the State of North Dakota.

5.02 Company shall obtain any required permit from the proper City authority before commencing any construction or alteration of the system, specifically including the opening or disturbance of any street, sidewalk, driveway, or public place. No charge will be assessed to Company in obtaining any required permit.

All wires, conduits, cable and other property and facilities of Company must be located, constructed, installed or maintained in compliance with applicable codes. City has the right to inspect all construction or installation work performed subject to the provisions of the Franchise and to make such tests as it finds necessary to ensure compliance with the terms of the Franchise and pertinent provisions of law or ordinances that are applicable thereto.

ARTICLE 6. TERRITORIAL AREA INVOLVED

6.01 This Ordinance relates to the present territorial limits of the City and to any area annexed thereto during the term of this Ordinance. Company is not obligated to extend service beyond the existing system where it is not economically feasible to do so, except upon payment by the person requesting service of the capital costs incurred by the Company in bringing service to such site. Company shall evaluate each such request for service and file with the City

Auditor a copy of its proposal for furnishing service and the terms for repayment of the cost of furnishing such service. Company may, but is not required to, serve areas or individual homes adjoining, but outside the City limits, that may be served from its existing facilities. Company may negotiate directly with such customers the amount to be charged for the bringing of the service to the customer.

ARTICLE 7. LIABILITY AND INDEMNIFICATION

A. Company shall, at all times, keep in effect the following types of insurance coverage:

(1) Workmen's Compensation upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the City of Hazen, North Dakota.

(2) Property damage liability insurance to the extent of Two Hundred Fifty Thousand Dollars (\$250,000.00) as to each occurrence and Two Hundred Fifty Thousand Dollars (\$250,000.00) aggregate, and personal injury liability insurance to the extent of Five Hundred Thousand Dollars (\$500,000.00) as to each occurrence and Five Hundred Thousand Dollars (\$500,000.00) aggregate. Excess bodily injury and property damage of One Million Dollars (\$1,000,000.00) each occurrence and One Million Dollars (\$1,000,000.00) aggregate. Automobile bodily injury and property damage liability combined One Million Dollars (\$1,000,000.00) each occurrence.

B. Company shall indemnify, protect, defend, and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any Workmen's Compensation law which may arise out of their erection, maintenance, use or removal of said attachments or poles within the City, or by any other act of Company, its agents or employees. Company shall carry insurance in the above described amounts to protect the parties hereto from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Company shall also carry such insurance as it deems necessary to protect it from all claims under the Workmen's Compensation laws in effect that may be applicable to Company. All insurance required must be and remain in full force and effect for the entire life of the rights granted hereunder and all insurance policies for the insurance coverage required under A(2) above must name the City as an additional insured. Insurance certificates evidencing such insurance coverage must be deposited with and kept on file by the City.

C. These damages or penalties include, but are not limited to, damages arising out of copyright, infringements, and all other damages arising out of the installation, operation or maintenance of the Cable Television System authorized

herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Ordinance.

ARTICLE 8. GENERAL SYSTEM SPECIFICATIONS

8.01 The facilities used by the Company must have a minimum capacity of 35 channels. In addition, Company agrees to complete an upgrade to the facilities no later than 18 months from the date of this Franchise, wherein the upgraded services are to be at least comparable to those offered by Company to other similar size communities within a 50 mile radius.

ARTICLE 9. TECHNICAL STANDARDS

9.01 Grantee shall be governed by technical standards established by the FCC.

9.02 Company's methods and schedules for testing the System must be in compliance with the reasonable standards accepted in the industry.

9.03 The system must produce, to the extent allowable, a signal at each subscriber's home or place of business that is materially undistorted and free from ghost images, without material degradation of color fidelity. System must also produce a sound signal that is materially undistorted. Company, at its own expense, shall install and maintain the system so as not to interfere with any subscriber's receipt of local broadcast stations.

ARTICLE 10. OPERATION AND MAINTENANCE OF SYSTEM

10.01 The Company shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest possible time. Such interruptions, insofar as possible, should be preceded by notice and occur only during periods of minimum use of the system. A record must be maintained for all service interruptions and said record must, upon reasonable notice, be made available to the City Auditor.

10.02 A toll-free or collect telephone number for the reception of complaints must be provided to subscribers and Company shall maintain a repair service capable of responding to subscriber complaints, billing requests, or requests for service within 24 hours exclusive of Sundays and holidays, after receipt of the complaint or request. Company shall investigate and resolve all complaints regarding quality of service, equipment malfunction, billing disputes and other matters pursuant to the procedure set forth in this Ordinance. Company will bear the costs included in making such repairs, adjustments or installations unless Company deems such repairs necessary due to gross neglect or abuse by the subscriber. All costs for repairs necessary due to gross neglect or abuse by

the subscriber will be borne by the subscriber. Service requests involving a loss of service affecting more than one subscriber on the same feeder line will be dealt with as soon as possible. All other complaints relating to service will be, if possible, rectified within one (1) day, exclusive of Sundays and holidays. In the event a subscriber is without service, maintenance calls must be made, if practicable, seven days a week. For purposes of this Article, "without service" means a material and substantial degradation throughout the basic cable service, or in one or more premium services.

10.03 Company shall maintain at least one serviceman residing within the vicinity of the City of Hazen.

10.04 Company shall furnish each subscriber at the time service is installed, written instructions that clearly set forth procedures, for making inquiries or complaints, including the name, address and telephone number of the office to which such inquiries or complaints are addressed.

10.05 All cables which are initially installed on the ground must be buried within 45 days, except for those lines laid in the winter which must be buried within 45 days from May 15. Installation of main cables will be buried at depths between 24 inches and 36 inches. Drop lines into homes must be buried at a minimum depth of 12 inches.

ARTICLE 11. SERVICE TO SCHOOLS AND CITY

11.01 The Company shall, subject to the line extension provisions of Article 6.01, provide basic cable service at no cost to public and private schools within the City, at one terminal junction of each school building, for educational purposes upon request of the school system.

11.02 Company shall, subject to the line extension provisions of Article 6.01, also provide to the City without charge, at one City-owned building other than a hospital, nursing home, apartment or building at the airport, to be selected by the Commission of Hazen, one junction terminal to said building and shall also furnish to the building, without charge, basic cable service to all sets connected within such building to the terminal junction. Pursuant to this provision, free service is currently provided to the City Fire Hall.

11.03 The Company shall allocate one channel to the City as a public, educational or governmental access channel. Until such time as the City files a written request with the company for full-time use of the channel, Company shall have the right to use that portion of the channel capacity that is not being used by the City. Company shall have a reasonable period of time after notification to vacate its use of the channel. Company shall assist the City in obtaining the necessary licenses and frequency clearance to enable the City to use said channel.

Company agrees to provide City, as soon hereafter as feasible, the basic equipment needed for the operation of the community access channel, which will become the City's equipment. "Equipment" does not include camera nor microphone equipment. Company will install the equipment and train operators. The City agrees to indemnify Company for damages to Company resulting from misuse of the equipment. City agrees to indemnify Company against copyright and intellectual property licensing fees incurred by City or users in operation of the community access channel. City warrants that no community access programming will knowingly be obscene or libelous and agrees to indemnify Company for actual damages from the airing of such obscene or libelous material.

ARTICLE 12. EMERGENCY USE OF FACILITIES

12.01 In the case of any emergency or disaster, the Company shall, upon request of the City Commission, make available its facilities to the City for emergency use during the emergency or disaster. If the City wishes to operate a Civil Emergency Alert System on a plan that is mutually acceptable to the City and Company and provides Company with the necessary equipment for such system, Company will permit the system to be used on the cable system.

ARTICLE 13. SAFETY REQUIREMENTS

13.01 The Company shall, at all times, employ the standard of care attendant to the risks involved and shall use and maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries or nuisances to the public.

ARTICLE 14. LIMITATIONS ON RIGHTS GRANTED

14.01 All transmission and distribution structures, lines and equipment erected by the Company within the City must be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places, and said facilities must be removed by Company, at Company's expense, whenever the City Street Commissioner or Engineer reasonably finds that the same restrict or obstruct the operation or location of any future streets or public places in the City of Hazen, North Dakota.

14.02 Construction and maintenance of the transmission distribution system must 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 the City of Hazen, North Dakota, affecting electrical installation, which may be presently in effect, or changed by future ordinances.

14.03 In case of disturbance of any street, sidewalk, alley, public way, or paved area, the Company shall, at its own cost and expense and in manner approved by the City Street Commissioner or Engineer, promptly replace and restore such street, sidewalk, alley, public way, or paved areas in as good a condition as before the work involving such disturbance was done.

14.04 If at any time during the period of this Ordinance the City lawfully elects to alter or change the grade of any street, sidewalk, alley, or other public way, the Company, upon reasonable notice by the City, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

14.05 The Company shall, on the request of any person holding a building moving permit issued by the City or any person who wishes to remove trees or structures from their property, temporarily raise or lower its wires to permit the moving of buildings or tree removal. The expense of such temporary removal or raising or lowering of wires must be paid by the person requesting the same, and the Company has the authority to require such payment in advance. The Company should be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

14.06 Nothing contained in the Franchise is to be deemed to empower or authorize Company to cut or trim any trees, ornamental or otherwise, in any of the streets, alleys or public highways, and all trimming of trees must be done pursuant to Chapter XXII of the Hazen City Ordinances.

14.07 Company shall, at its expense, within the time schedule required by the City, protect, support, temporarily disconnect, relocate on the same street, alley or public place, or remove from the street, alley or public place, any property of Company when required by the City by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other types of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity, or other structure of public improvement; provided, however, that Company will in all cases have the privileges and be subject to the obligations to abandon any property of Company in place as hereinafter provided.

14.08 In all sections of the City where the City designates an area where all presently above ground services are to be placed underground, the Company shall place its wires underground on the same time schedule and on the same conditions that are applicable to the providers of other above ground services in the designated areas.

14.09. In the event that the use of any part of the system is discontinued for any reason for a continuous period of twelve (12) months, or in the event such system or property has been installed in any street or public place without complying with the requirements of this Ordinance, or the rights granted hereunder have been terminated, cancelled or have expired, Company shall, subject to the rights of the City to acquire or transfer the system as specified in Article 18.01, promptly remove from the streets, or public places all such property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal, Company shall promptly restore the street or other area form which such property has been removed to a condition satisfactory to the City, at Company's expense.

14.10 Any property of Company to be abandoned in place must be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Company in place, Company shall submit to the City an instrument, to be approved by the City, transferring to the City the ownership of such property.

14.11 Nothing in the Franchise may be construed to prevent City from constructing sewers, grading, paving, repairing and/or altering any street, or laying down, repairing or removing water mains, or constructing or establishing any other public work. All such work will be done, insofar as practicable, in such manner as not to obstruct, injure or prevent the free use and operation of the poles, wires, conduits, conductors, pipes or appurtenances of Company. The City will not be responsible for any damages caused to Company or to Company's facilities, and Company shall hold City harmless from all claims, damages, and costs, including attorney's fees, that City may incur as the result of any damages to Company's facilities.

14.12 If any property of Company herein interferes with the construction or repair of any street or improvement, thirty (30) days notice must be given to Company by City and all such poles, wires, conduits, or other appliances and facilities must be removed or replaced by Company in a manner as directed by the City so that the same does not interfere with the said public work of City, and the removal or replacement will be at the expense of Company herein.

ARTICLE 15. OWNERSHIP AND REMOVAL OF FACILITIES

Except as otherwise agreed in writing at the time of installation, all cable and passive equipment for cable television reception service installed by Company at a subscriber's location remain the property of Company and Company has the right to remove said cable and equipment. Company has the right, at any time, to disclaim any further ownership rights to the interior wiring and specified equipment and fittings at a subscriber's residence or other building by giving written notice to the subscriber. Once such a notice is given, the interior wiring and any equipment

or fitting specified in the notice will become the property of the subscriber without any payment obligations on the part of the subscriber. Provided, however, that Company has the right, as long as it is providing service to the premises, to use said interior wiring and specified equipment without charge. Upon termination of service to a subscriber, the Company shall, upon the subscriber's request and subject to FCC regulations, promptly remove all its above ground facilities and equipment that are external to the building.

ARTICLE 16. ASSIGNMENT OF ORDINANCE

16.01 The Company cannot assign this Ordinance to another person without prior approval of the City Commission, which approval will not be unreasonably withheld.

ARTICLE 17. PAYMENT TO THE CITY

17.01 During the term of the rights granted hereunder, and as long as the Company operates said system, the Company shall pay, as compensation to the City, a sum equal to three percent (3%) of the annual total gross receipts of the cable system. "Gross Receipts" consists of those revenues derived from the monthly service charges paid by subscribers for basic cable service and premium pay services, such as Showtime. Gross receipts does not include revenues received as installation charges, leased channel fees, fees for reconnections, inspections, repairs or modifications of any installation, or any other charges for services provided by Company to subscribers and all State and Federal taxes relating thereto, including the fee imposed by this section.

17.02 The payments that Company makes to the City are in lieu of any occupation tax, license tax, or similar levy by the City and will be paid on a monthly basis based on the preceding years gross subscriber revenues. Upon completion of Company's audit, Company shall pay to the City within 15 days, the balance due, if any, for the operating year covered by the audit as shown by the statement of Company's auditor.

This amount payable by the Company to the City is the sole amount payable for all of its rights under this Ordinance including, but not limited to, the use of the streets and other facilities of the City in the operation of the Cable System and for the municipal supervision thereof and is in lieu of any other occupational tax.

17.03 Notwithstanding the annual gross receipts fee or tax payable hereunder, if the Company is legally obligated to collect or pay any sales tax or other taxes, the Company has the right to charge the subscribers an additional amount equal to such tax.

17.04 No acceptance of any payment may be construed as an accord that the amount paid is in fact the correct amount, nor may acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable under the provisions of this Ordinance. The Company's gross receipts as defined in Article 17.01 and its subscriber records are subject to audit and recomputation by the City.

17.05 Such payment to the City may be re-negotiated by the parties at any time.

ARTICLE 18. DURATION AND RENEWAL OF ORDINANCE

18.01 The rights granted to Company herein will, except as provided in this Section, terminate fifteen (15) years from the effective date of this Ordinance which Ordinance is subject to renewal pursuant to the provisions of the Cable Communications Policy Act of 1984, as amended, applicable to new ordinances that are in the nature of a franchise. Pending final completion of renewal proceedings, this Ordinance will remain in effect even if the original fifteen (15) year term has expired. If this Ordinance is not renewed, or it is revoked for cause by the City, the transfer of Grantee's system is to be governed by Section 627 of the Cable Communications Policy Act of 1984, as amended.

ARTICLE 19. ERECTION, REMOVAL AND COMMON USE OF POLES

19.01 No poles or other wire-holding structures may be erected by the Company without prior approval of the designated representative of the City Commission with regard to locations, height, type or any other pertinent aspect, which approval may not be unreasonably withheld. However, no locations of any pole or wire-holding structure of the Company is a vested interest and such poles or structures must be removed or modified by the Company at its own expense whenever the City Commission or its designated representative determines that the public convenience would be enhanced thereby.

19.02 Where poles or other wire-holding structures already existing in use in serving the City are available for use by Company, but it does not make arrangements for such use, the City Commission may require the Company to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the Company are just and reasonable.

19.03 Where the City or a public utility serving the City desires to make use of poles or other wire-holding structures of the Company but agreement therefore with the Company cannot be reached, the City Commission may require the Company to permit such use for such consideration as is just and reasonable

and upon such terms as the Commission determines the use would enhance the public convenience and would not unduly interfere with the Company's operations.

ARTICLES 20. RATES

20.01 Company shall at all times maintain on file with the City Auditor a schedule setting forth all rates and charges to be made to subscribers for basic CATV service, including installation charges.

20.02 During the term hereof, Company shall comply with the rate regulation rules of the Federal Communications Commission.

20.03 The Company has the right to pass along to subscribers state and local sales taxes.

20.04 The monthly rate set forth in subsection 1 above is payable in advance.

20.05 The Company shall not discriminate in rates between customers of the same category except to the extent permitted by the Cable Communications Policy Act of 1984, as amended, The Telecommunications Act of 1996, as amended, and Federal Communications Commission regulations.

ARTICLE 21. MISCELLANEOUS AND SPECIAL PROVISIONS FOR THE CITY OF HAZEN

21.01 Company's technical ability, financial condition and legal qualifications, were considered and approved by the Commission in a full public proceeding which afforded reasonable notice and a reasonable opportunity to be heard.

21.02 Company currently does not collect nor distribute consumer data. Company agrees to notify the City, in advance, should this policy change. City retains the right to limit distribution of consumer data.

21.03 Company agrees to allow City to provide billing inserts to Company on request and on limited occasions. Company retains the right to control size and weight restrictions on the inserts.

21.04 Company agrees to provide City an annual report of donations and activities of Company in the City.

ARTICLE 22. MODIFICATION OF OBLIGATIONS

22.01 In addition to any other remedies provided by law or regulation, Company's obligations under this Ordinance may be modified, at its request, in accordance with Section 625 of Cable Communications Policy Act of 1984, as it now exists, or as hereafter amended. The terms of this agreement may be modified following negotiations between City and Company. All modifications must be mutually agreed upon and in writing to be effective.

ARTICLE 23. SEVERABILITY

23.01 City's Right to Revoke. City reserves the right, in its sole discretion, to terminate and cancel the Franchise and all rights and privileges of the Franchise in the event:

- A. Company violates any material provision of the Franchise;
- B. Company practices any fraud or deceit upon City;
- C. Company is adjudged bankrupt; or
- D. Company misrepresents a material fact in the application for, negotiation of or administration of the Franchise.

23.02 Procedures for Revocation and Termination.

A. City shall provide Company with a written notice of the cause for termination and its intention to terminate the Franchise and shall allow the Company a minimum of thirty (30) days after service of the notice in which to correct the violation.

B. Company must be provided with an opportunity to be heard at a public hearing before the City Commission prior to the termination of the Franchise. The City will hear any persons interested therein, and determine whether or not any failure, refusal or neglect to correct the violation by the Company was without reasonable cause.

C. If such failure, refusal or neglect by Company to comply within such time was with reasonable cause, City shall direct Company to comply within such time and manner and upon such terms and conditions as are reasonable.

D. If City determines such failure, refusal or neglect by Company was without reasonable cause, then City may, by Resolution, declare that the Franchise of Company will be terminated unless there is compliance by Company within a reasonable period as City may establish.

ARTICLE 24. FORECLOSURE AND RECEIVERSHIP

24.01 Foreclosure. Upon the foreclosure or other judicial sale of all or a part of System, Company shall notify City of this fact and such notification will be treated as a notification that a change in control of Company has taken place, and the provisions of the Franchise governing the consent to transfer or change in ownership will apply without regard to how such transfer or change in ownership occurred.

24.02 Receivership.

A. City has the right to cancel this Franchise one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of company, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship has been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

(1) Within one hundred twenty (120) days after his election or appointment, such receiver or trustee has fully complied with all the provisions of the Franchise and remedied all defaults thereunder; and

(2) Such receiver or trustee, within said one hundred twenty (120) days, has executed an agreement duly approved by the Court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of the Franchise.

B. In the case of a foreclosure or other judicial sale of the plant, property and equipment of the Company, or any part thereof, city may serve notice of termination upon the Company and the successful bidder at such sale, in which event the Franchise herein granted and all rights and privileges of the Company hereunder will cease and terminate thirty (30) days after service of such notice, unless:

(1) City has approved the transfer of this Franchise; and

(2) The successful bidder has covenanted and agreed with City to assume and be bound by all the terms and conditions of this Franchise.

ARTICLE 25. SEVERABILITY

25.01 If any Section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, or is superseded or preempted by Federal Communications Commission regulation, that portion will be deemed a separate, distinct and

independent provision and the holding will not affect the validity of the remaining portions thereof.

ARTICLE 26. PUBLICATION

The Company shall assume the cost of any required publication of this Ordinance.

ARTICLE 27. WRITTEN NOTICE

27.01 All notices, reports or demands required to be given in writing under the Franchise will be deemed to be given when delivered personally to any officer of Company or City, or when forty-eight (48) hours have elapsed after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid, addressed to the party to which notice is being given, as follows:

If to Company: Midcontinent Communications
410 S. Phillips
Sioux Falls, SD 57117

If to City: City Auditor
PO Box 707
Hazen, ND 58545

The addresses may be changed by either party upon notice to the other party given as provided in this section.

ARTICLE 28. EQUAL PROTECTION

28.01 If the City enters into a franchise, permit, license authorization, or other agreement of any kind with any other person or entity other than the Company to enter into the City's public rights of way or utility easements for the purpose of constructing or operating a Cable System or providing cable or other telecommunications service to any part of the City, the material provisions thereof must be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competition advantage over another, and to provide all parties equal protection under the law.

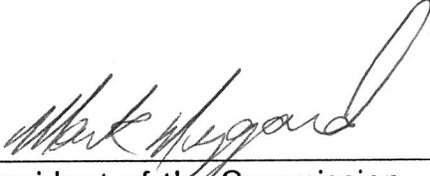
ARTICLE 29. ORDINANCE REPEAL

29.01 All Ordinances, or parts of Ordinances in conflict herewith are hereby repealed.

FIRST READING: February 5, 2001 SECOND READING: February 20, 2001

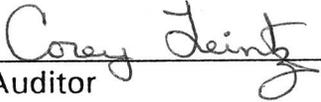
ADOPTED: February 20, 2001 EFFECTIVE DATE: February 20, 2001

(Replaces Ordinance expiring January 6, 2002)



President of the Commission

ATTEST:



City Auditor