

ORDINANCE NO. 2010-03

ORDINANCE OF COALDALE BOROUGH AUTHORIZING THE EXECUTION OF A CABLE FRANCHISE AGREEMENT BETWEEN THE BOROUGH AND BLUE RIDGE CABLE TECHNOLOGIES, INC.

WHEREAS, pursuant to Title VI of the Communications Act (see 47 U.S.C. § 601 *et seq.*), the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, the regulations of the Federal Communications Commission and Pennsylvania law, Coaldale Borough in Schuylkill County is authorized to grant franchises to construct, operate and maintain a cable system utilizing public rights-of-way and properties within the Borough's jurisdiction; and

WHEREAS, the Borough wishes to grant a non-exclusive franchise Blue Ridge Cable Technologies, Inc. to construct, install, maintain, extend, and operate a cable system in the Borough; and

WHEREAS, the Borough desires to protect and manage the public rights-of-way, require high standards of customer service, receive financial compensation for Blue Ridge Cable Technologies, Inc.'s use of the public rights-of-way as provided by federal law, obtain complimentary services for its public buildings, establish certain reporting requirements, and provide for the future cable-related needs of its residents; and

WHEREAS, the Borough has determined Blue Ridge Cable Technologies, Inc. to be financially, technically and legally qualified to operate the cable system to provide cable services; and

WHEREAS, the Borough has determined that the public interest would be served by granting a franchise to Blue Ridge Cable Technologies, Inc. according to the terms and conditions contained in the franchise agreement negotiated with representatives of Blue Ridge Cable Technologies, Inc.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Borough Council of Coaldale Borough as follows:

SECTION 1. GRANT OF FRANCHISE; EXECUTION OF FRANCHISE AGREEMENT

The Borough hereby grants Blue Ridge Cable Technologies, Inc. a non-exclusive cable franchise subject to and in accordance with the terms and conditions of the Cable Franchise Agreement between the Borough and Blue Ridge Cable Technologies, Inc. . A copy of the Blue Ridge Franchise Agreement which is attached hereto and made a part hereof as Exhibit "A".

SECTION 2. OTHER FRANCHISES UNAFFECTED

Nothing in this Ordinance, including the Blue Ridge Franchise Agreement, shall alter the terms of any other franchise, franchise agreement or franchise license previously granted by the Borough which shall remain in effect according to their particular terms and conditions.

SECTION 3. TERM OF FRANCHISE

The effective date of this franchise agreement shall be June 10, 2010 and shall continue in force and effect for a term of Seven (7) years from the above established effective date. At least Six (6) months prior to the end of the Seven (7) year term, the Borough shall meet with the Company to discuss a possible renewal of this Non-Exclusive Franchise Agreement.

SECTION 4. TERRITORY

Upon the annexation of any territory to the Borough, the portion of any said utility that may be located or operated within said territory, upon the streets, alleys or public ways thereof, shall thereafter be subject to all the terms of this franchise as though it were an extension made thereunder.

SECTION 5. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Company shall, at all times during the life of this franchise, be subject to all lawful exercise of the police power by the Borough, and to such reasonable regulations as the Borough shall hereafter by resolution or ordinance provide.

SECTION 6. LIABILITY OF COMPANY

Company shall indemnify and save the Borough and its agents and employees harmless from all and any claims for personal injuries or property damages, and any other claims and costs, including attorneys' fees, expenses of investigation and litigation of claims and suits thereon which may arise from the installation and/or operation of Company's television antenna system or any equipment of the Company. In case suit shall be filed against the Borough, either independently or jointly with said Company, to recover for any said claim or damages, said Company, upon notice to it by said Borough, shall defend said Borough, its agents and employees, against said action, and in the event of a final judgment being obtained against said Borough, either independently or jointly with said Company, the said Company will pay said judgment and all costs and hold the Borough harmless therefrom. For this purpose Company shall carry and at all times maintain or file with the Secretary of the Borough of Coaldale and at all times keep in force, a liability policy or policies in the name of Company and the Borough as their respective interests may appear, insuring Company and the Borough against any and all liability arising from the installation and/or operation of said system, which policy or policies shall be approved by the Solicitor of the Borough. Such liability policy or policies shall be in the sum of the following: Products/Completed Operation Limit of One Million Dollars (\$1,000,000), Personal and Advertising Limit of One Million Dollars (\$1,000,000) and Each Occurrence Limit of One Million Dollars (\$1,000,000). Such policy or policies of insurance shall be issued by a company licensed to do business in the Commonwealth of Pennsylvania. The Company shall also carry workers' compensation coverage for all of its employees, subject to, and in the amount required by the state statutory limits, and shall submit to the Secretary of the Borough a certificate of insurance showing the workers' compensation coverage in effect.

SECTION 7. PAYMENT TO THE BOROUGH

The Company shall annually pay a franchise fee to the Borough during the life of this franchise, said fee to be 5 percent (5%) of the gross annual receipts of the Company arising within the Borough from monthly subscriber television service charges only; said fee being for the regulation and privilege

of using the streets and alleys of the Borough for the operation of its system. The franchise fee shall be due and payable on the first day of April of each and every year hereafter. The franchise fee shall be passed through to the subscribers as permitted by Law.

The Company further agrees to provide service under this agreement at no charge to the Borough and its emergency service providers, provided it is within service area of its Cable TV System.

SECTION 8. SERVICE STANDARDS

The Company shall during the continuance of this franchise provide facilities and service sufficient to meet the needs of the subscribers, and shall maintain its facilities and service up to date and in keeping with technical progress. The system shall be installed and maintained in accordance with good engineering practices, and Federal Communications Commission regulations. All construction must be done in a good and workmanlike manner free of obvious defects which may be a hazard to life and limb, and in conformance with the standards as set forth in the National Electric Safety Code.

a. Notice of Interruption for Repairs. Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the Company shall do so at such time as shall cause the least amount of inconvenience to its customers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its customers.

b. Continuous Service. Company service shall be daily during the regular telecast operating hours of the stations whose TV broadcasts are being transmitted.

c. Non-discrimination of Service. The Company shall serve any person residing in or owning property in the Borough desiring service who shall pay the charges set forth in Company policy.

d. Interference. The Company shall at all times operate the community system so as not to adversely affect or interfere with existing radio and television reception and shall prevent radiation from Company's cables to antennas located in Borough.

e. The Company shall immediately investigate and resolve all service complaints and equipment malfunctions. The Company shall maintain a local business office for these purposes where a complete tariff governing the service to customers is on file. Said tariff shall also be on file with the Secretary of each municipality.

SECTION 9. TRANSFER OF FRANCHISE

The Company shall not sell, transfer, or assign this franchise nor shall its owners transfer majority ownership of their stock of said Company, unless to one of its wholly owned subsidiaries, without the approval of Council which said approval will not be unreasonably withheld. Provided, further that no sale or transfer shall be effective until the vendee, assignee or lessee has filed with the Borough Secretary, an instrument accepting the terms of the franchise and agreeing to perform all the conditions thereof.

SECTION 10. CONDITIONS ON STREET OCCUPANCY

a. Use. All transmission and distribution structures, lines and equipment erected by the Company within the Borough shall be located with the approval of Council and shall 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 the streets, alleys or other public ways and places. Upon request, the Company shall furnish the Borough with a map showing the pole line system in sufficient detail to assure the Borough of being currently advised as to the location of the cables of the system. It shall be the responsibility of the Company to keep the Borough advised of any and all changes and additions and removals in the system, except for the individual subscriber's connection wires.

b. Restoration. In case of any disturbance of pavement, sidewalk, driveway, or other surfacing the Company shall, at its own cost and expense and in a manner approved by Council, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced and shall maintain the restoration in improved condition for one year.

c. Relocation. In the event that at any time during this franchise the Borough shall lawfully elect to alter or change the location or grade of any street, alley or other public way or if in the opinion of Council a pole or pole line interferes with the necessary convenience of the Borough or a property owner, then, upon reasonable notice by the Borough the Company shall remove, relay and relocate its poles, wires and cables or other television fixtures at its own expense.

d. Placement of Fixtures. It is to be the general policy of the Borough and it is understood by Company that where distribution lines are to be installed along any public street the same shall preferably be attached to existing utility poles rather than to additional poles placed by Company, and that where poles are to be placed in alleys, the same shall be located whenever possible on the same side of the alley as existing utility poles. It is understood and agreed that this restriction and limitation shall extend to any and all streets within the limits of the Borough, even though some of said streets may be part of the state highway system, special exception or exceptions may be granted to Company by Council upon written application to it by Company, but said exceptions shall be for good cause shown and in the sole discretion of Council.

Before Company sets poles or constructs any structure on Borough property it shall file with the Borough detailed specifications showing the exact location, height and dimensions of the poles or structures to be erected. The poles or structures shall not be erected thereafter until such specifications shall be approved in writing by Council and the Pennsylvania Department of Transportation has issued a license when and if required. All wires, cables and other overhead equipment shall be at such minimum heights as are or may be required of telephone or power lines by the Public Utility Commission of Pennsylvania or the Pennsylvania Department of Transportation.

Where Council of the Borough are uncertain as to the exact location of the limits of the right-of-way of any street or alley, then in their discretion they may require the same to be surveyed by a surveyor selected by them, the cost of said survey to be paid by Company.

e. Tree Trimming. The Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Borough so as to prevent the branches

of such trees from coming in contact with wires and cables of the Company, all trimming to be done under the supervision and direction of Council and at the expense of the Company.

f. Use of poles and fixtures. The Company agrees that it will furnish a copy of any contract entered into with any utility for the use of their poles by the Company and setting forth the terms, conditions and duration of said contract. The Company agrees that the copy of the aforementioned contract will be filed with the Secretary of the Borough prior to starting any installation of wires and other facilities on the Borough streets under this franchise.

g. Removal of Wires and Installation from Borough Streets. The Company shall, on request of any subscriber, promptly remove all wires and installations from the premises of such subscriber.

h. Removal of Wires, Poles and Installations from Borough Streets. The Company shall remove or cause to be removed from the streets, alleys and public ways of the Borough of Coaldale and from all public property all of the wires, poles and installations of any kind or nature whatsoever which have been installed under the authority of this franchise upon the termination of this franchise, the cessation of operation under this franchise by the Company, its successors or assigns, for any reason whatsoever, or the forfeiture of this franchise under the provisions herein.

SECTION 11. REPORTS REQUIRED

For the purpose of administering this Ordinance, the Company shall:

a. Keep and render its books and records in a manner which will permit the drawing off of a detailed financial statement therefrom clearly disclosing the amount of rentals received by the Company in arriving at the determination of the gross receipts rental as heretofore set forth.

b. Within sixty (60) days after the close of its annual fiscal year, the Company shall file with the Borough a verified statement of the income received from rentals in the Borough for the preceding fiscal year. The fiscal year of the Company shall be December 31st and shall not be changed without the approval of Council.

SECTION 12. INSPECTION OF BOOKS

Council, their Treasurer, Solicitor, auditors or accountant shall have the right at reasonable times to inspect the books and records of the Company for the purpose of verifying the statement of rentals received.

SECTION 13. FORFEITURE

Council may at any time declare a forfeiture of this grant for violation or default by the Company of the terms thereof, provided that none of the terms of this grant shall be deemed to be violated so as to permit such forfeiture unless the Company shall first be given notice by the Borough of such violation or default and of the attempt to declare a forfeiture and thereafter if such violation or default shall continue for a period of more than ninety (90) days all the rights and privileges of said company under the provisions of this Ordinance may be forthwith declared forfeited and revoked. If any action shall be instituted and prosecuted directly or indirectly by the Company, or by its

stockholders, or creditors, to set aside or have declared void any terms of this grant, the whole of this grant may be thereupon forfeited and annulled at the option of Council, to be expressed by Ordinance. Provided, however, the Company shall not be deemed to be in default for performance of any provision of this grant, nor shall forfeiture be invoked for any violation or failure to perform any provision hereof due to strikes, lockouts, insurrections, acts of God, or any cause beyond the control of the Company.

SECTION 14. **MANNER OF GIVING NOTICES**

Whenever, by the terms of this Agreement, notice is required to be given by the Borough to the Company, it may be given by delivering to an officer of Company a paper writing thereof during the ordinary business hours at the principal office of the Company. Whenever the Company is required to give notice to the Borough it shall do so by leaving or delivering a paper writing thereof at the office of the Secretary of the Borough during ordinary business hours.

SECTION 15. **SEVERABILITY**

Should any section or part of any section of this Agreement, for any reason, be declared void or invalid, the remainder of said Agreement shall not be affected thereby.

SECTION 16. **ACCEPTANCE OF FRANCHISE**

This grant is made upon the express condition that the Company within thirty (30) days after this Agreement takes effect and becomes operative, shall file with the Secretary of the Borough a written acceptance of the same, and when this Agreement shall have been accepted by the Company, such acceptance shall constitute a contract between the Borough and the Company for all uses, services and purposes set forth in this Agreement and the Company by its acceptance of the provisions of this Agreement binds itself to provide the necessary television antenna system and to establish, operate and maintain the local television antenna contemplated in this Agreement, continuing without substantial interruption except for causes beyond its control until the expiration of the term of this grant. In the event that said Company fails to file said written acceptance within the time hereinbefore specified, this grant, together with any rights or liabilities arising out of the proposal heretofore made for the furnishing of an adequate television antenna system for the benefit of inhabitants of said Borough, and the acceptance of such proposal by the Borough, shall be of no effect and void.

SECTION 17. **CONSTRUCTION**

(a) CATV service under this franchise shall be provided at normal installation and monthly service rates to an individual customer whose point of connection is located within One Hundred Fifty (150') Feet on in-place distribution cable.

(b) Company, at its cost, shall make an extension from its existing cable plant where the number of customers per linear mile exceeds twenty (20) customers per mile. For the purpose of this paragraph, a customer is a household that has committed in writing to purchase services from Company.

SECTION 18. LEVEL PLAYING FIELD

In the event that Coaldale Borough grants one (1) or more franchise(s) or similar authorization(s), for the construction, operation and maintenance of any communication facility which shall offer services substantially equivalent to services offered by Company, it shall not make the grant on more favorable or less burdensome terms. If the Company finds that the agreement granting other franchise(s) contain provisions imposing lesser obligations on the additional franchise thereof than are imposed by the provisions of this Agreement, the Company may petition Coaldale Borough for a modification of this Agreement. The Company shall be entitled, with respect to said lesser obligations to such modifications(s) of this agreement as may be determined to be necessary to insure fair and equal treatment by this agreement and said other agreements. In the event that a non-franchised multi-channel video programmer/distributor provides service to residents of the Coaldale Borough, the Company shall have a right to request Franchise Agreement amendments that relieve the Company of regulatory burdens that create a competitive disadvantage to the Company. In requesting amendments, the Company shall file a petition seeking to amend the franchise. Such petition shall: i) indicate the presence of a non-franchised competitor(s); ii) identify the basis for Company's belief that certain provisions of the Franchise Agreement place Company at a competitive disadvantage; iii) identify the regulatory burdens to be amended or repealed in order to eliminate the competitive disadvantage. Coaldale Borough shall not unreasonably withhold granting the Company's petition and so amending the Franchise Agreement.

SECTION 19. OWNERSHIP AND USE OF CATV SYSTEM

Company shall have the unrestricted right and availability to utilize the Cable Television System for telecommunication purposes other than cable television service, including but not limited to data, void and message transmission so long as said uses do not unduly interfere with the cable television service being provided to Subscribers.

ENACTED AND ORDAINED this 13th day of July, 2010.

BOROUGH OF COALDALE

BY: Susan Solt
Susan Solt, President

ATTEST:

Louise Lill
Louise Lill, Secretary

Richard Corkery
Richard Corkery, Mayor

NON-EXCLUSIVE FRANCHISE AGREEMENT

Agreement made this ^{10th} day of *June* 2010, between the **BOROUGH OF COALDALE**, a Borough of the second class, County of Schuylkill and Commonwealth of Pennsylvania (hereinafter referred to as the "Borough")

A
N
D

BLUE RIDGE CABLE TECHNOLOGIES, INC., (hereinafter referred to as "BLUE RIDGE").

SECTION 1. DEFINITIONS

- a. "Cable Television System" (CATV) shall mean an arrangement or combination of apparatus designed to receive, transmit, amplify and distribute television, radio, satellite signals and electronic communications and, for consideration, are delivered to subscribers.
- b. "Borough" is the Borough of Coaldale, Schuylkill County, Pennsylvania.
- c. "Company" is Blue Ridge Cable Technologies, Inc., the grantee of rights under this franchise.
- d. "Council" is the governing body of the Borough of Coaldale, Schuylkill County, Pennsylvania.
- e. "Streets" shall mean and include all public streets, ways, alleys, and parkways owned by or under the jurisdiction of the Borough of Coaldale.
- f. "Person" and "applicant" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

SECTION 2. NON-EXCLUSIVE FRANCHISE

There is hereby granted by the Borough to the Company a non-exclusive franchise to construct a Cable Television system (CATV) as may be prescribed or permitted by the Federal Communications Commission and to use poles, wires, conduits and appurtenances under, along, across or upon any or all public streets, ways, alleys or parkways, as the same now or may hereafter exist with the Borough of Coaldale and within the boundaries of the said Coaldale Borough as the same may hereafter be extended for transmitting and distributing signals for communication purposes, namely to produce reproduction of sights and sound in combination to

the residents of the Borough of Coaldale, upon the terms and conditions and subject to the limitations herein set forth.

SECTION 3. TERM OF FRANCHISE

The effective date of this franchise agreement shall be June 10, 2010 and shall continue in force and effect for a term of Seven (7) years from the above established effective date. At least Six (6) months prior to the end of the Seven (7) year term, the Borough shall meet with the Company to discuss a possible renewal of this Non-Exclusive Franchise Agreement.

SECTION 4. TERRITORY

Upon the annexation of any territory to the Borough, the portion of any said utility that may be located or operated within said territory, upon the streets, alleys or public ways thereof, shall thereafter be subject to all the terms of this franchise as though it were an extension made thereunder.

SECTION 5. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Company shall, at all times during the life of this franchise, be subject to all lawful exercise of the police power by the Borough, and to such reasonable regulations as the Borough shall hereafter by resolution or ordinance provide.

SECTION 6. LIABILITY OF COMPANY

Company shall indemnify and save the Borough and its agents and employees harmless from all and any claims for personal injuries or property damages, and any other claims and costs, including attorneys' fees, expenses of investigation and litigation of claims and suits thereon which may arise from the installation and/or operation of Company's television antenna system or any equipment of the Company. In case suit shall be filed against the Borough, either independently or jointly with said Company, to recover for any said claim or damages, said Company, upon notice to it by said Borough, shall defend said Borough, its agents and employees, against said action, and in the event of a final judgment being obtained against said Borough, either independently or jointly with said Company, the said Company will pay said judgment and all costs and hold the Borough harmless therefrom. For this purpose Company shall carry and at all times maintain or file with the Secretary of the Borough of Coaldale and at all times keep in force, a liability policy or policies in the name of Company and the Borough as their respective interests may appear, insuring Company and the Borough against any and all liability arising from the installation and/or operation of said system, which policy or policies shall be approved by the Solicitor of the Borough. Such liability policy or policies shall be in the sum of the following: Products/Completed Operation Limit of One Million Dollars (\$1,000,000), Personal and Advertising Limit of One Million Dollars (\$1,000,000) and Each Occurrence Limit of One Million Dollars (\$1,000,000). Such policy or policies of insurance shall be issued by a company licensed to do business in the Commonwealth of Pennsylvania. The Company shall also carry workers' compensation coverage for all of its employees, subject to, and in the amount

required by the state statutory limits, and shall submit to the Secretary of the Borough a certificate of insurance showing the workers' compensation coverage in effect.

SECTION 7. PAYMENT TO THE BOROUGH

The Company shall annually pay a franchise fee to the Borough during the life of this franchise, said fee to be 5 percent (5%) of the gross annual receipts of the Company arising within the Borough from monthly subscriber television service charges only; said fee being for the regulation and privilege of using the streets and alleys of the Borough for the operation of its system. The franchise fee shall be due and payable on the first day of April of each and every year hereafter. The franchise fee shall be passed through to the subscribers as permitted by Law.

The Company further agrees to provide service under this agreement at no charge to the Borough and its emergency service providers, provided it is within service area of its Cable TV System.

SECTION 8. SERVICE STANDARDS

The Company shall during the continuance of this franchise provide facilities and service sufficient to meet the needs of the subscribers, and shall maintain its facilities and service up to date and in keeping with technical progress. The system shall be installed and maintained in accordance with good engineering practices, and Federal Communications Commission regulations. All construction must be done in a good and workmanlike manner free of obvious defects which may be a hazard to life and limb, and in conformance with the standards as set forth in the National Electric Safety Code.

a. Notice of Interruption for Repairs. Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the Company shall do so at such time as shall cause the least amount of inconvenience to its customers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its customers.

b. Continuous Service. Company service shall be daily during the regular telecast operating hours of the stations whose TV broadcasts are being transmitted.

c. Non-discrimination of Service. The Company shall serve any person residing in or owning property in the Borough desiring service who shall pay the charges set forth in Company policy.

d. Interference. The Company shall at all times operate the community system so as not to adversely affect or interfere with existing radio and television reception and shall prevent radiation from Company's cables to antennas located in the Borough.

e. The Company shall immediately investigate and resolve all service complaints and equipment malfunctions. The Company shall maintain a local business office for these

purposes where a complete tariff governing the service to customers is on file. Said tariff shall also be on file with the Secretary of each municipality.

SECTION 9. TRANSFER OF FRANCHISE

The Company shall not sell, transfer, or assign this franchise nor shall its owners transfer majority ownership of their stock of said Company, unless to one of its wholly owned subsidiaries, without the approval of Council which said approval will not be unreasonably withheld. Provided, further that no sale or transfer shall be effective until the vendee, assignee or lessee has filed with the Borough Secretary, an instrument accepting the terms of the franchise and agreeing to perform all the conditions thereof.

SECTION 10. CONDITIONS ON STREET OCCUPANCY

a. Use. All transmission and distribution structures, lines and equipment erected by the Company within the Borough shall be located with the approval of Council and shall 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 the streets, alleys or other public ways and places. Upon request, the Company shall furnish the Borough with a map showing the pole line system in sufficient detail to assure the Borough of being currently advised as to the location of the cables of the system. It shall be the responsibility of the Company to keep the Borough advised of any and all changes and additions and removals in the system, except for the individual subscriber's connection wires.

b. Restoration. In case of any disturbance of pavement, sidewalk, driveway, or other surfacing the Company shall, at its own cost and expense and in a manner approved by Council, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced and shall maintain the restoration in improved condition for one year.

c. Relocation. In the event that at any time during this franchise the Borough shall lawfully elect to alter or change the location or grade of any street, alley or other public way or if in the opinion of Council a pole or pole line interferes with the necessary convenience of the Borough or a property owner, then, upon reasonable notice by the Borough the Company shall remove, relay and relocate its poles, wires and cables or other television fixtures at its own expense.

d. Placement of Fixtures. It is to be the general policy of the Borough and it is understood by Company that where distribution lines are to be installed along any public street the same shall preferably be attached to existing utility poles rather than to additional poles placed by Company, and that where poles are to be placed in alleys, the same shall be located whenever possible on the same side of the alley as existing utility poles. It is understood and agreed that this restriction and limitation shall extend to any and all streets within the limits of the Borough, even though some of said streets may be part of the state highway system, special

exception or exceptions may be granted to Company by Council upon written application to it by Company, but said exceptions shall be for good cause shown and in the sole discretion of Council.

Before Company sets poles or constructs any structure on Borough property it shall file with the Borough detailed specifications showing the exact location, height and dimensions of the poles or structures to be erected. The poles or structures shall not be erected thereafter until such specifications shall be approved in writing by Council and the Pennsylvania Department of Transportation has issued a license when and if required. All wires, cables and other overhead equipment shall be at such minimum heights as are or may be required of telephone or power lines by the Public Utility Commission of Pennsylvania or the Pennsylvania Department of Transportation.

Where Council of the Borough are uncertain as to the exact location of the limits of the right-of-way of any street or alley, then in their discretion they may require the same to be surveyed by a surveyor selected by them, the cost of said survey to be paid by Company.

e. Tree Trimming. The Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Borough so as to prevent the branches of such trees from coming in contact with wires and cables of the Company, all trimming to be done under the supervision and direction of Council and at the expense of the Company.

f. Use of poles and fixtures. The Company agrees that it will furnish a copy of any contract entered into with any utility for the use of their poles by the Company and setting forth the terms, conditions and duration of said contract. The Company agrees that the copy of the aforementioned contract will be filed with the Secretary of the Borough prior to starting any installation of wires and other facilities on the Borough streets under this franchise.

g. Removal of Wires and Installation from Borough Streets. The Company shall, on request of any subscriber, promptly remove all wires and installations from the premises of such subscriber.

h. Removal of Wires, Poles and Installations from Borough Streets. The Company shall remove or cause to be removed from the streets, alleys and public ways of the Borough of Coaldale and from all public property all of the wires, poles and installations of any kind or nature whatsoever which have been installed under the authority of this franchise upon the termination of this franchise, the cessation of operation under this franchise by the Company, its successors or assigns, for any reason whatsoever, or the forfeiture of this franchise under the provisions herein.

SECTION 11. REPORTS REQUIRED

For the purpose of administering this Ordinance, the Company shall:

a. Keep and render its books and records in a manner which will permit the drawing off of a detailed financial statement therefrom clearly disclosing the amount of rentals received by the Company in arriving at the determination of the gross receipts rental as heretofore set forth.

b. Within sixty (60) days after the close of its annual fiscal year, the Company shall file with the Borough a verified statement of the income received from rentals in the Borough for the preceding fiscal year. The fiscal year of the Company shall be December 31st and shall not be changed without the approval of Council.

SECTION 12. INSPECTION OF BOOKS

Council, their Treasurer, Solicitor, auditors or accountant shall have the right at reasonable times to inspect the books and records of the Company for the purpose of verifying the statement of rentals received.

SECTION 13. FORFEITURE

Council may at any time declare a forfeiture of this grant for violation or default by the Company of the terms thereof, provided that none of the terms of this grant shall be deemed to be violated so as to permit such forfeiture unless the Company shall first be given notice by the Borough of such violation or default and of the attempt to declare a forfeiture and thereafter if such violation or default shall continue for a period of more than ninety (90) days all the rights and privileges of said company under the provisions of this Ordinance may be forthwith declared forfeited and revoked. If any action shall be instituted and prosecuted directly or indirectly by the Company, or by its stockholders, or creditors, to set aside or have declared void any terms of this grant, the whole of this grant may be thereupon forfeited and annulled at the option of Council, to be expressed by Ordinance. Provided, however, the Company shall not be deemed to be in default for performance of any provision of this grant, nor shall forfeiture be invoked for any violation or failure to perform any provision hereof due to strikes, lockouts, insurrections, acts of God, or any cause beyond the control of the Company.

SECTION 14. MANNER OF GIVING NOTICES

Whenever, by the terms of this Agreement, notice is required to be given by the Borough to the Company, it may be given by delivering to an officer of Company a paper writing thereof during the ordinary business hours at the principal office of the Company. Whenever the Company is required to give notice to the Borough it shall do so by leaving or delivering a paper writing thereof at the office of the Secretary of the Borough during ordinary business hours.

SECTION 15. SEVERABILITY

Should any section or part of any section of this Agreement, for any reason, be declared void or invalid, the remainder of said Agreement shall not be affected thereby.

SECTION 16. **ACCEPTANCE OF FRANCHISE**

This grant is made upon the express condition that the Company within thirty (30) days after this Agreement takes effect and becomes operative, shall file with the Secretary of the Borough a written acceptance of the same, and when this Agreement shall have been accepted by the Company, such acceptance shall constitute a contract between the Borough and the Company for all uses, services and purposes set forth in this Agreement and the Company by its acceptance of the provisions of this Agreement binds itself to provide the necessary television antenna system and to establish, operate and maintain the local television antenna contemplated in this Agreement, continuing without substantial interruption except for causes beyond its control until the expiration of the term of this grant. In the event that said Company fails to file said written acceptance within the time hereinbefore specified, this grant, together with any rights or liabilities arising out of the proposal heretofore made for the furnishing of an adequate television antenna system for the benefit of inhabitants of said Borough, and the acceptance of such proposal by the Borough, shall be of no effect and void.

SECTION 17. **CONSTRUCTION**

(a) CATV service under this franchise shall be provided at normal installation and monthly service rates to an individual customer whose point of connection is located within One Hundred Fifty (150') Feet on in-place distribution cable.

(b) Company, at its cost, shall make an extension from its existing cable plant where the number of customers per linear mile exceeds twenty (20) customers per mile. For the purpose of this paragraph, a customer is a household that has committed in writing to purchase services from Company.

SECTION 18. **LEVEL PLAYING FIELD**

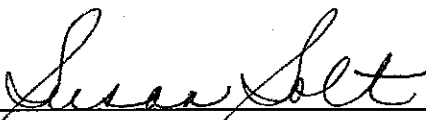
In the event that Coaldale Borough grants one (1) or more franchise(s) or similar authorization(s), for the construction, operation and maintenance of any communication facility which shall offer services substantially equivalent to services offered by Company, it shall not make the grant on more favorable or less burdensome terms. If the Company finds that the agreement granting other franchise(s) contain provisions imposing lesser obligations on the additional franchise thereof than are imposed by the provisions of this Agreement, the Company may petition Coaldale Borough for a modification of this Agreement. The Company shall be entitled, with respect to said lesser obligations to such modifications(s) of this agreement as may be determined to be necessary to insure fair and equal treatment by this agreement and said other agreements. In the event that a non-franchised multi-channel video programmer/distributor provides service to residents of Coaldale Borough, the Company shall have a right to request Franchise Agreement amendments that relieve the Company of regulatory burdens that create a competitive disadvantage to the Company. In requesting amendments, the Company shall file a petition seeking to amend the franchise. Such petition shall: i) indicate the presence of a non-franchised competitor(s); ii) identify the basis for Company's belief that certain provisions of the Franchise Agreement place Company at a competitive disadvantage; iii) identify the regulatory

burdens to be amended or repealed in order to eliminate the competitive disadvantage. Coaldale Borough shall not unreasonably withhold granting the Company's petition and so amending the Franchise Agreement.

SECTION 19. OWNERSHIP AND USE OF CATV SYSTEM

Company shall have the unrestricted right and availability to utilize the Cable Television System for telecommunication purposes other than cable television service, including but not limited to data, voice and message transmission so long as said uses do not unduly interfere with the cable television service being provided to Subscribers.

BOROUGH OF COALDALE

BY: 
Susan Solt, President


ATTEST:


Louise Lill, Secretary


Richard Corkery, Mayor

BLUE RIDGE CABLE TECHNOLOGIES, INC.

Date: 6-8-2010


President