

SPECIAL MEETING CITY COUNCIL SACRAMENTO

MARCH 16, 1981

MONDAY

6:30 p.m.

I HEREBY CALL a Special Meeting of the Sacramento City Council on Monday, March 16, 1981, at the hour of 6:30 p.m., to be held at:

CITY COUNCIL CHAMBER
SECOND FLOOR, 915 I STREET
SACRAMENTO, CALIFORNIA

to meet in Joint Session with the following:

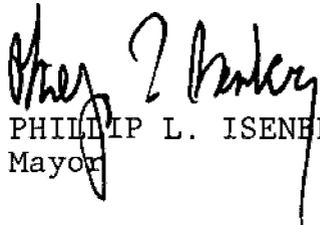
SACRAMENTO COUNTY BOARD OF SUPERVISORS

for the purpose of conducting a hearing and to consider and act upon the following:

CABLE T.V. - DRAFT ORDINANCE

1. Chapter 4B - Construction and Extension
or System Use of Streets
2. Chapter 4C - Services

ISSUED: This Tenth Day of March, 1981


PHILLIP L. ISENBERG
Mayor

ATTEST:


LORRAINE MAGANA
City Clerk

AGENDA/SYNOPSIS

Cable Television

Meeting Date MARCH 16, 1981; 6:30 PM
 Location: City Hall, 915 I Street, 2nd Floor, Council Chambers

VOTING RECORD LEGEND:

VOTING RECORD REFLECTS FINAL VOTE OF COUNCIL.

MOV: MOVED ABST: ABSTAIN
 SEC: SECOND ABS: ABSENT
 M — MAYOR ISENBERG
 D1 — ROBERTS D5 — THOMPSON
 D2 — FISHER D6 — CONNELLY
 D3 — POPE D7 — HOEBER
 D4 — RUDIN D8 — ROBIE

SYNOPSIS OF THE SPECIAL MEETING OF THE SACRAMENTO CITY COUNCIL AND THE SACRAMENTO COUNTY BOARD OF SUPERVISORS ON THE ISSUE OF CABLE TELEVISION AND THE PROPOSED CABLE TELEVISION ORDINANCE.

CABLE TELEVISION HEARING

1. The Cable Partnership Model.
2. Service Area Report. Motion: Approve staff recommendation for subcommittee but delay appointment of members until 3-23-81.
3. Regulation of Service Report.
 A. Prepare language on alternatives relating to regulation and what other cities are doing.
4. Chapters 4B and 4C to be reviewed 3-23-81 and request preparation of policy issues contained therein. (Isenberg)
5. Revised Time Schedule on Hearings, etc. due 3-23-81.
6. Issues dealing with Affirmative Action to be dealt with on 3-30-81. (Thompson)
7. Request that draft language be prepared re Cable T.V. Commission's ability to release channels pursuant to motion adopted 3-3-81 (Connelly)

RECOMMENDATIONS OF STAFF/AGENCY	COUNCIL ACTION	VOTING RECORD
	DISCUSSED	
	APPROV. STAFF REC. FOR SUB-COMMITTEE BUT DELAY APPT. OF MBRS. UNTIL 3-23-81	COUNCIL MOV: D7 SEC: D4 AYES: UNANIMOUS ABS: D5, M SUPERVISORS MOV: JOHNSON SEC: COLLIN AYES: UNANIMOUS ABS: SHEEDY SMOLEY
	REFERRED TO CITY/COUNTY STAFF	BY CONSENSUS
	REFERRED TO CITY/COUNTY STAFF	BY CONSENSUS
	REFERRED TO CITY/COUNTY STAFF	BY CONSENSUS
	REFERRED TO CITY/COUNTY STAFF	BY CONSENSUS
	REFERRED TO CITY/COUNTY STAFF	BY CONSENSUS



OFFICE OF THE CITY CLERK
915 I STREET
CITY HALL ROOM 203

SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 448-6429

SPECIAL CABLE TV
MEETING SYNOPSIS

COUNTY OF SACRAMENTO
CALIFORNIA

March 16, 1981

To: Board of Supervisors
Sacramento City Council

From: Assistant County Executive

Subject: CABLE TELEVISION SERVICE AREAS

INTRODUCTION

This is a special report dealing with a major aspect of the cable television franchise--definition of service areas. This subject is related to two issues raised in the public hearings: 1) equal service coverage; and 2) cross-subsidization of installation costs. There are two elements of this problem: 1) defining initial service areas; and 2) developing line extension policies. There are two alternative approaches: 1) let the operator define; or 2) we must define. The conclusion is that we should define the service areas and the recommendation is that a subcommittee of the Board and Council be formed to develop specific recommendations.

ISSUES

The first issue is that of equal service coverage. More specifically, the concerns expressed dealt with the problems of guaranteeing service to areas of lower density or areas with low income residents. The question was whether these areas would be ignored or bypassed originally with the franchisee concentrating on potentially more lucrative neighborhoods. The response to these concerns is that service will be offered as cable is laid and that the cable will be laid in the form of spokes emanating from a hub, and that subscriber penetration may be higher in lower income areas. While the responses may be valid, there is no guarantee of equal coverage without some specific requirements.

The second issue is the question of cross-subsidization of initial installation costs between areas with significant variations in density. Although this has been raised as an issue between the city and the unincorporated area, it goes beyond that and involves urban, suburban, and rural densities. Perhaps even more significant is the difference in cost between overhead and underground installations. Other differences may involve access from alleys or rear easements as opposed to access from the street differences relating to commercial areas and services to apartments or condominiums. In any case, a choice must be made between attempting to achieve total and precise equity or developing a method of recovering installation costs which is reasonably fair.

Even if we develop a reasonable solution, we may be precluded from regulating rates to ensure its application.

ELEMENTS

Drawing boundaries not only defines the initial areas to be served, but also creates the need for some policies in terms of extending service beyond these boundaries. The basic question for establishing the initial boundaries is what is an appropriate density to use as a base. The consultant has suggested that it is economically feasible to set the base at 32 subscribers per cable mile. While this number (or some other number) sounds precise, questions can be raised concerning how cable miles are actually measured, and how we treat developing areas as opposed to areas totally developed.

Once the boundaries are drawn, the question becomes how are subscribers (existing as well as future) to be served who live beyond those boundaries. This includes isolated homes that may be just beyond the boundaries as well as future developments that meet the densities prescribed for the initial service areas. Such future developments may or may not be reachable by existing trunk cables which are limited by the number of amplifiers that can be used, thereby raising further questions of subsidization.

Another consideration is whether the service areas are to be used for the subscriber network only, or will also limit the extent of the institutional network.

ALTERNATIVES

There are two basic alternatives: 1) we allow the operator to define the initial service areas and the line extension policies; or 2) we define them. The draft ordinance currently under review provides that the applicants propose both these items which means we would compare the proposals in the evaluation process. The relevant sections of the ordinance are found in Article 4b beginning on page 42 of the draft and include the following section headings: Service Areas; Construction Schedule; Future Developments Within Service Areas; Line Extensions; Other Provisions; and New Subdivisions Beyond Service Areas. Briefly summarized, these sections: require 100% service within the service areas defined by the operator; require automatic extension within prescribed distances; and require new subdivisions to be treated like areas within the service areas. The operator is free to offer line extension policies that would provide greater service.

The rationale behind this approach was to obtain the greatest initial service through the operators' competitive proposals. The disadvantage that the consultant has identified is that this would produce different bases for capital requirements and would make meaningful comparison impossible.

The other alternative is for us to define initial service areas, and basic line extension policies including charges for extension. This will require detailed review of street mileage, miles of underground and overhead utilities, and population densities (present and projected). In addition, relatively valid information must be developed regarding installation costs. All this information must be reviewed, minimum service densities set, the question of rates (whether connection or monthly services) charged to recover the capital costs must be addressed, and finally specific boundaries must be drawn.

The advantage to this approach is that we decide now on answers to the questions of who will receive service and the general degree of subsidization. In addition the evaluation of the proposals will be facilitated. The problem with this approach is that it will require time and effort to define the boundaries and the line extension policies. As a starting point, we do have a previous report prepared by the consulting engineering firm of Hammett and Edison for the joint cable committee that existed in the early 1970's. Pertinent sections of that report are included as an attachment to this report.

CONCLUSIONS AND RECOMMENDATIONS

This report raises more questions than it answers. However, based on the information that has been presented to date, the conclusion is that the best alternative is for us to define the service areas and have all proposals consistent on this aspect. Because of the issues raised, and because of the impact of the decisions, it appears appropriate for this subject to be referred to a joint sub-committee for review and recommendations to the Board and the Council. It is therefore recommended that a four person sub-committee be appointed to be made up of the following representatives:

1. One Council person representing the downtown area;
2. One Council person representing a suburban area;
3. The Supervisor from the fourth district representing the unincorporated suburban area; and
4. The Supervisor from the fifth district representing the three other cities, suburban areas, and rural areas.

APPENDIX D

CABLE SERVICE CRITERIA

Need for Service Criteria

The cost of providing cable service to individual subscribers varies with the residential density. The questions of when low-density areas are to be wired and who bears the added cost have received little attention from franchising authorities in the past. Historically, cable television companies have chosen to serve the built-up neighborhoods within franchise boundaries, avoiding sparsely-settled areas and isolated homes. Under these conditions, comparison of competing franchise applications is difficult because the construction plans and service policies of each applicant will probably be either different or unknown. Any requirement that the system operator provide service to all within the entire franchise area at the same charge is clearly unfair to the operator or to the residents of the more heavily built-up area where the installation cost per subscriber is relatively low. Without a policy as to connection charges and rates that is fair, unambiguous, and easily understood, many individual complaints and requests for service would be taken to the local governments for consideration and resolution on a case-by-case basis, a time-consuming process. Specific service criteria should be established for Sacramento prior to the solicitation of franchise proposals.

Some Current Proposals

To facilitate the expansion of cable television service into sparsely-populated areas, U.S. Representative Robert Tiernan (D-R.I.) is proposing a bill to empower the Department of Housing and Urban Development to grant low-interest, long-term loans to cable television systems passing no more than 70 homes per cable mile. ^{1/} (The term "cable mile" is assumed to mean strand mile. A strand mile is defined as one mile of cable-bearing messenger strand.) This proposal seems to be fairly generous considering that the national average is only 68 homes per strand mile. ^{2/}

Many cable systems have a policy of serving all homes meeting a specified strand density. (The strand density is the number of dwelling units passed per strand mile.) The system cost per home passed is closely related to the strand density and rises rapidly as the strand density decreases. A specific example of such a service policy is the model ordinance offered by Storer Broadcasting Company which provides that service need not be offered in those areas of a city where the population density is less

^{1/} Television Digest, October 9, 1972, p. 6.

^{2/} Broadcasting, November 27, 1972, p. 51.

than 50 dwellings per linear mile. A variation of this policy is to specify a minimum number of subscribers, rather than dwellings, passed per strand mile.

The FCC is considering a proposal to require cable systems to serve all areas within franchise boundaries containing at least 60 subscribers per strand mile.^{3/} This proposal seems to be fairly innocuous when compared to the national average of 37 subscribers per strand mile; however, the proposal is an indication that some guidelines are needed.

Public Utility Service Criteria

Public utilities such as Pacific Telephone and the Sacramento Municipal Utilities District (SMUD) have basic policies of providing service wherever requested within their jurisdictions. Because of loan commitments to REA, SMUD is obliged to serve all customers at a standard rate. This policy is adequate for the power industry because only one-third of their investment is in the distribution system, the remaining two-thirds being in the power generating plants themselves. Pacific Telephone has established a basic rate area within which they provide service to all customers at standard rates. Customers residing outside the area are charged an additional monthly rate of \$0.65 (for a private line) for each quarter mile of airline distance from the basic rate area. In addition, Pacific Telephone defines special rate areas as areas within which concentrations of customers outside the basic rate area are served. The customers within a special rate area pay an additional monthly charge, but it is not based upon mileage from the basic rate area. Most of the Sacramento metropolitan area under consideration in this report falls into the basic rate areas of Pacific Telephone, Roseville Telephone Company, or Delta Telephone and Telegraph Company.

Two important differences between the public utilities and a cable television system must be considered in any comparison of service policies. First, cable television is not a public necessity as are the utilities. The installation of a cable plant does not insure that virtually every home passed will become a customer. Furthermore, there is no guarantee of a return on the investment; disconnect rates are sensitive to economic conditions, and the financial risks are much greater than for long-established power and telephone utilities. Second, the technology of cable television is changing rapidly, with attendant high risk of plant obsolescence. Power service can be provided to an isolated customer with the almost certain knowledge that the distribution lines will remain useful for many years; however, early obsolescence of cable television systems through advancing technology seriously limits the time over which the investment can be recovered.

^{3/} Television Digest, loc. cit.

The present utility policies cannot be adopted directly for cable television. However, because the concept of basic rate areas with special rates for service outside the basic area has proven to be workable in the electric power and telephone industries, such a policy is recommended for any Sacramento cable system.

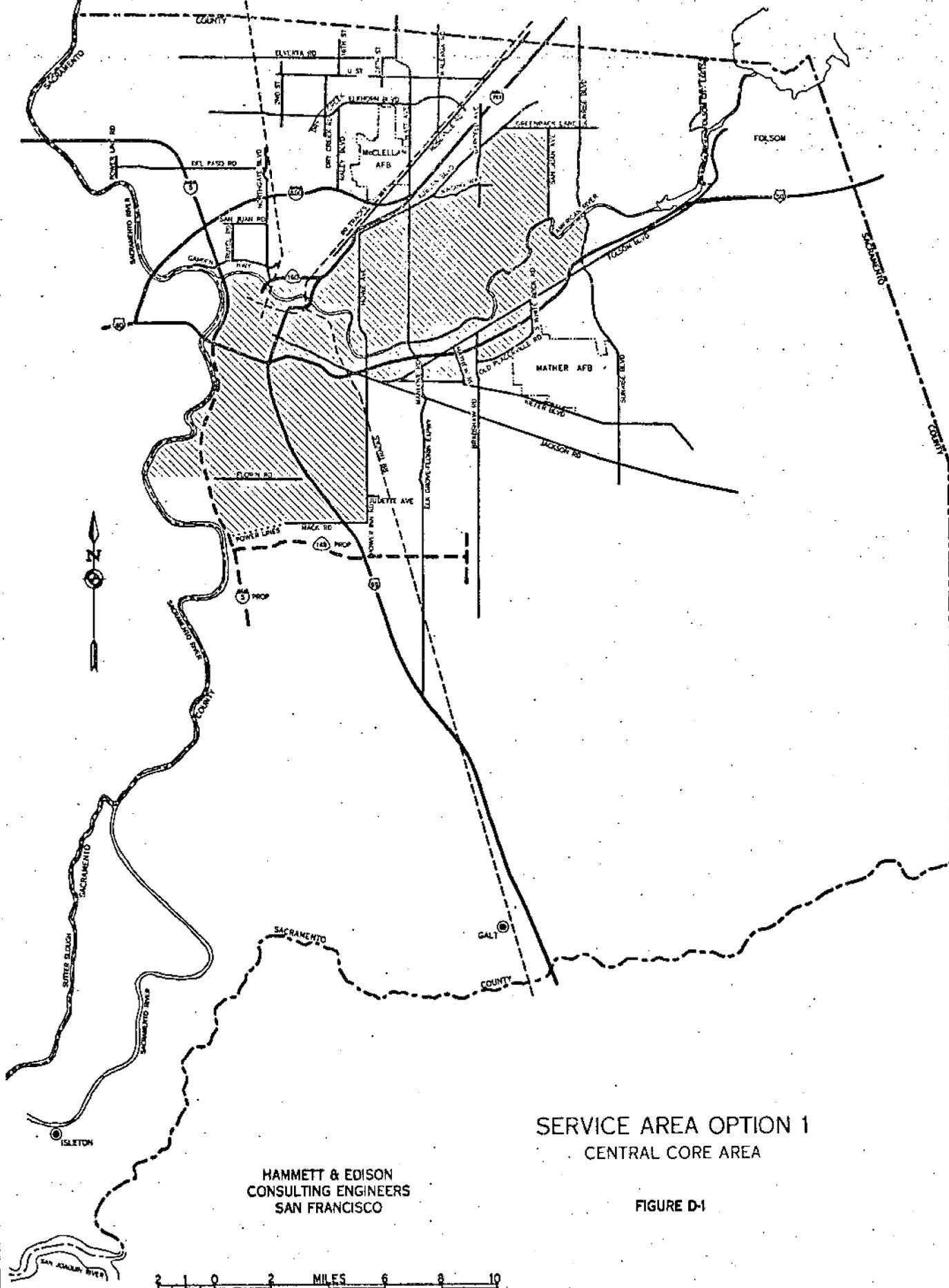
Basic Service Area

The central core of the Sacramento metropolitan area contains over 130,000 dwellings that could be offered service by a cable television system. This core area has been used in this study as the basis for determining the effect of extending service to areas of lesser density.

The exact number of strand miles required to serve the Sacramento area can be determined only after a detailed system design is completed by the successful franchise applicant. A commonly used method to estimate strand miles in the cable television industry is to assume strand will be required along 70% to 80% of the street miles within the area. There are 3,149 miles of streets and roads within the County of Sacramento; however, due to the large sparsely populated areas, this total figure is of little use. Fortunately, a detailed survey of the area was made in 1968 by the Sacramento Regional Area Planning Commission and has been used to obtain estimates of homes per street mile in specific areas in sufficient detail to be of value to this study.

Using the estimated strand densities thus obtained for specific areas throughout the City and County, the minimum service area was defined as shown in Figure D-1. This area contains 133,047 dwelling units and could be served with an average density of 126 homes per strand mile. Using cost estimates developed for the recommended dual-cable distribution system, this density would represent an average capital investment of \$180 per subscriber, assuming that 50% of the homes passed would subscribe. (This investment is for the distribution system only.) With this assumed capital investment as a base, it is obvious that small numbers of isolated subscribers could be added without greatly changing the average cost. For instance, adding five subscribers at a density of only one home per strand mile would change the total system capital investment by less than one dollar per subscriber. This averaging is useful to allow low-density pockets within the basic area to be included for administrative convenience. However, when extending boundaries to serve outlying areas, the density of the added area is more critical.

To facilitate the choice of the recommended basic service area, a set of service area options was assumed for the Sacramento metropolitan area. The areas added in each option were chosen to include areas of similar density. The service area options are illustrated in Figures D-1 through D-5.

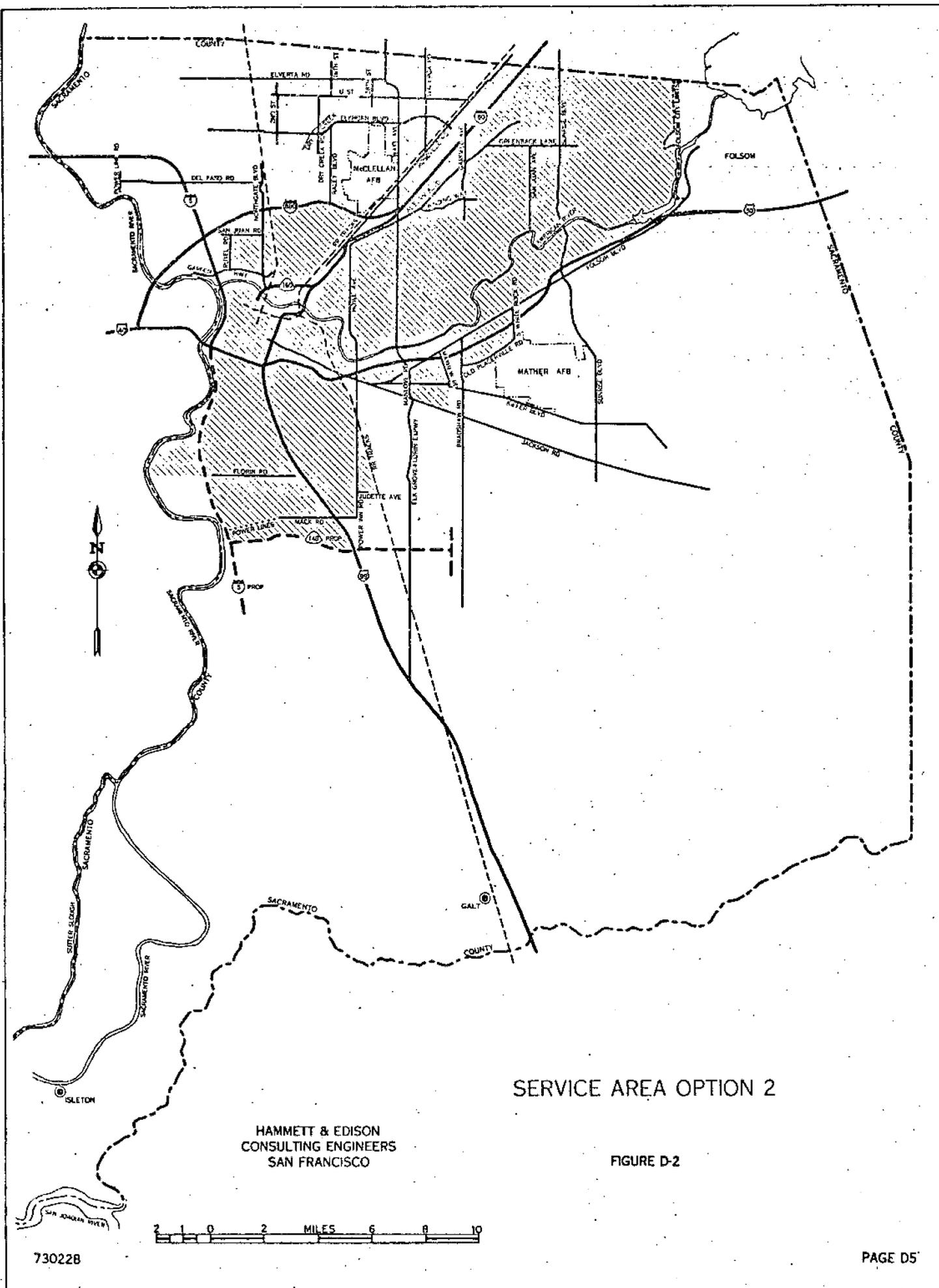


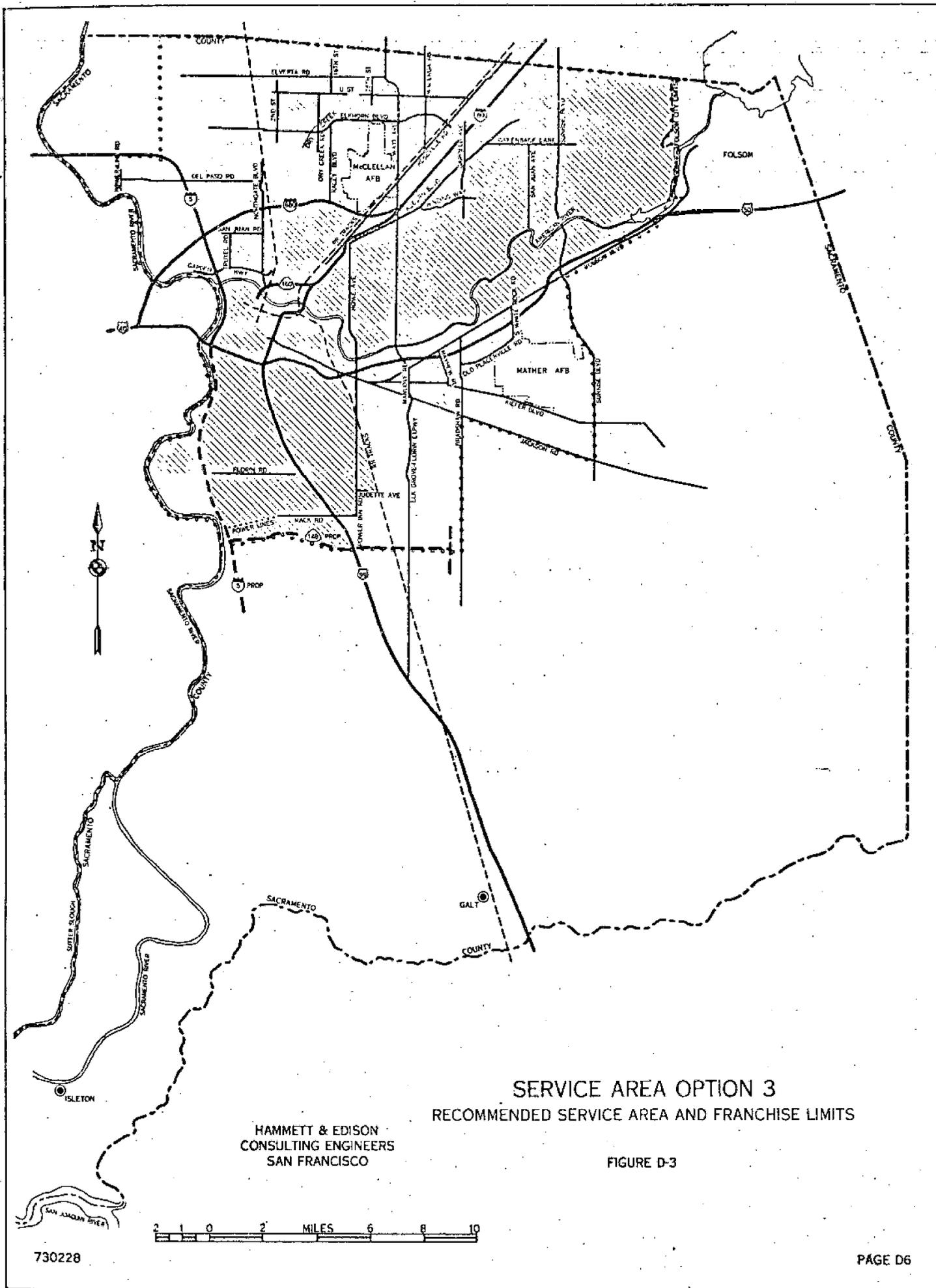
SERVICE AREA OPTION 1
CENTRAL CORE AREA

HAMMETT & EDISON
CONSULTING ENGINEERS
SAN FRANCISCO

FIGURE D-1



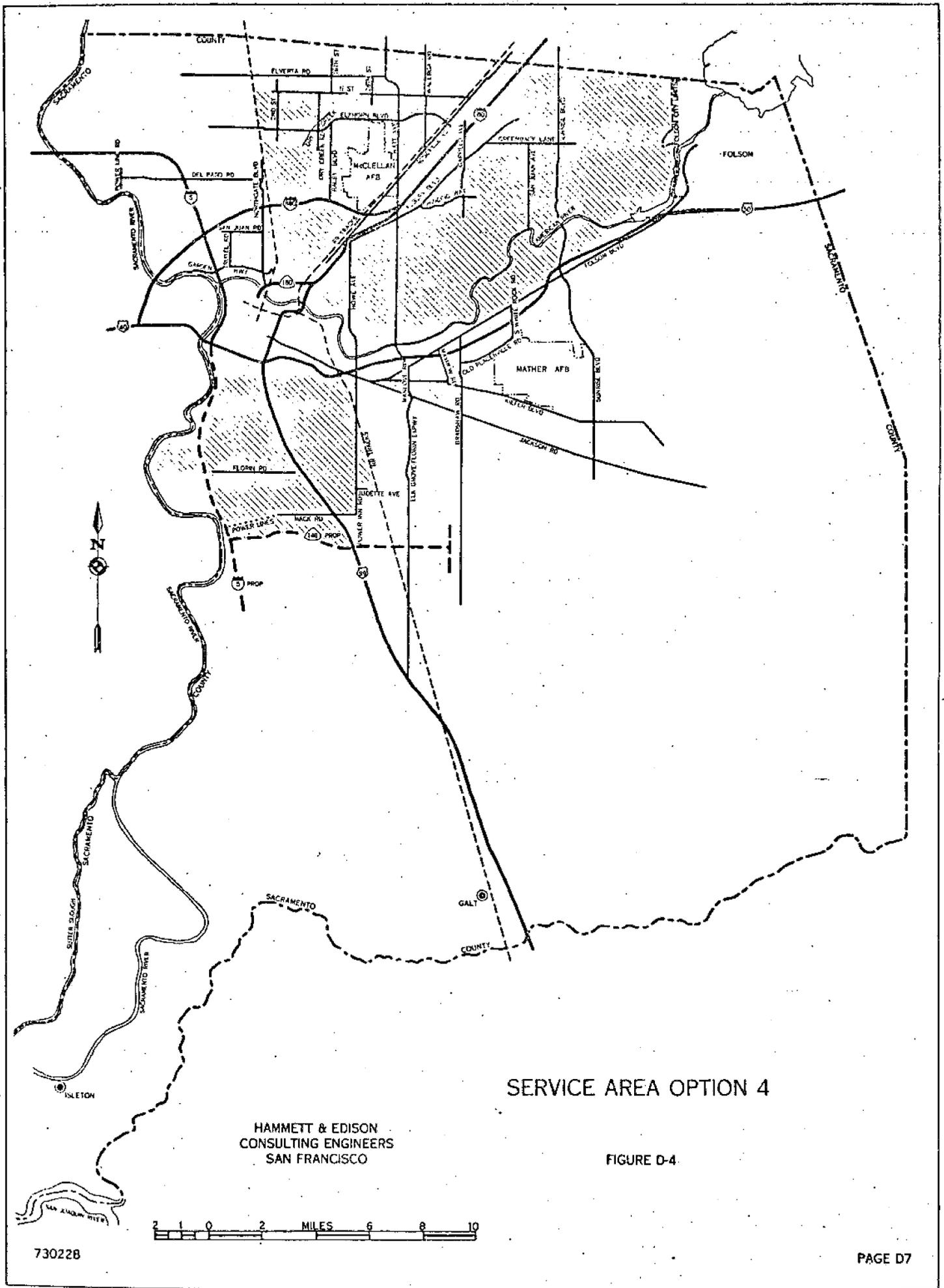




SERVICE AREA OPTION 3
RECOMMENDED SERVICE AREA AND FRANCHISE LIMITS

HAMMETT & EDISON
 CONSULTING ENGINEERS
 SAN FRANCISCO

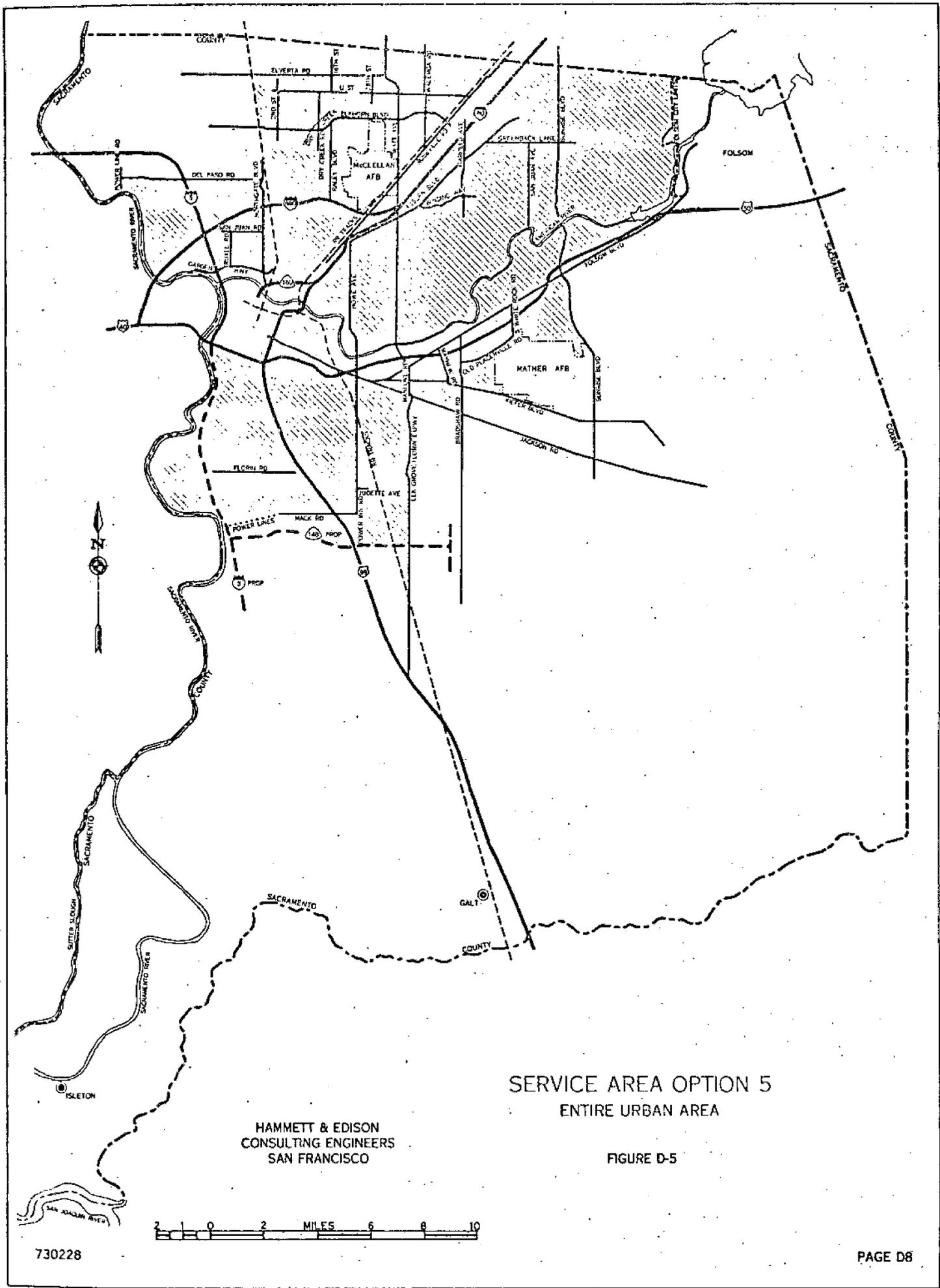
FIGURE D-3



SERVICE AREA OPTION 4

HAMMETT & EDISON
CONSULTING ENGINEERS
SAN FRANCISCO

FIGURE D-4



SERVICE AREA OPTION 5
ENTIRE URBAN AREA

HAMMETT & EDISON
CONSULTING ENGINEERS
SAN FRANCISCO

FIGURE D-5

Following is a summary of the effects of the various options. ^{4/}

Map Reference Figure	Added Area		Total Basic Service Area	
	Average Density (Homes/strand mile)	Average Investment (Dollars/subscriber)	Average Density (Homes/strand mile)	Average Investment (Dollars/subscriber)
D-1	--	--	126	180
D-2	100	212	119	188
D-3	70	277	118	189
D-4	40	440	114	194
D-5	17	952	107	203

Since the FCC will probably require service to be extended to contiguous areas containing at least 70 dwellings per strand mile, the area outlined in Figure D-2 should be considered the minimum service area for any joint City/County system. (The average density shown in the table is greater than this minimum due to higher densities of the remaining portions of the added area.) The small change in cost to add the Rio Linda area as shown in Figure D-3 illustrates the effect of the recommended policy of serving groups of dwellings that can be served with a density of at least 50 homes per strand mile. The cost per subscriber to wire an area containing only 50 homes per strand mile is approximately twice the average cost in the basic area. Fifty homes per strand mile has been found by the cable industry to be a reasonable minimum density to serve.

Figure D-4 illustrates a slightly expanded area which could be chosen for administrative convenience. For this addition the capital cost would be approximately \$900,000 to add 3,118 homes to the system. This corresponds to an incremental increase in capital cost of \$5 per basic area subscriber.

Figure D-5 is included to demonstrate the cost of serving the entire urban area. Although the average density is still over 100 homes per strand mile, the basic area is supporting extensions into areas that average only 17 homes per strand mile with a resultant investment of almost \$1,000 per subscriber.

On the basis of these service area comparisons for Sacramento, and experience with other franchises, it is recommended that the area within the dotted red line in Figure D-3 be designated as the franchise area, and that the shaded area in Figure D-3 be designated as the basic rate area in which all homes and businesses are to be served at standard rates. Extensions beyond the basic rate area

^{4/} Many simplifications were necessary to compare service areas on the basis of density. Normally, the construction costs per mile would decrease as plant was extended to sparse areas; however, operational and maintenance costs per subscriber, which were neglected in this comparison, would tend to increase. These costs are for the distribution system only and are based on 50% subscriber saturation.

should also be provided at no increase in rates where the density is at least 50 dwelling units per strand mile. Any trunk cable required to connect any group to the closest boundary of the basic rate area should be included in the density calculation.

Extensions serving areas with densities of fewer than 50 dwellings per mile warrant special rates. For any extensions into areas of low density the cable operator should recover the additional costs of construction through increased installation charges and fees. It is recommended that the cost to be recovered be established as the difference between the actual cost per subscriber and the corresponding cost per subscriber if the extension serves 25 subscribers per strand mile. On this basis, areas containing fewer than 50 dwellings per mile can still be wired without charge if the saturation is sufficiently in excess of 50%. Six months after construction should be sufficient time to establish the short-term saturation at which time the original subscribers could be given a rebate if the saturation had increased substantially.

To avoid situations of homes being isolated due to a boundary established for administrative convenience or clarity, it is recommended that dwellings within 300 feet (airline distance) of a rate area be served at the standard rates of that area. Any isolated dwelling unit not meeting this criteria should be offered service; however, the additional cost of such service over the cost of service in the basic rate area should be paid by the user in the form of additional installation and monthly fees.

Any dwelling unit more than 150 feet from a public right-of-way or easement should be required to pay the additional drop cost over the cost of a standard 150-foot drop.

The additional charges for special rate areas and isolated dwellings should be standardized and made a part of the rate structure.

Underground Developments

The additional cost per subscriber required to underground the cable system in new areas will affect the average system cost in the same way as serving sparsely populated areas. There is a wide variation in undergrounding costs, depending upon cost-sharing agreements with the utilities and the physical nature of the area where the undergrounding is to take place. For a typical suburban dual cable system, the premium for underground as opposed to overhead installation may range between \$10,000 and \$20,000 per mile of cable plant. Often significant cost savings cannot be achieved through cooperation with other utilities if the cable company is required to share the cost of a trench considerably larger than required for cable alone.

For the cable television investment per subscriber to remain approximately equal for new underground areas, it is recommended that in new developments the cost of placing the underground conduit

(but not the cable) be borne by the developer and be passed on to the property owners who will enjoy the benefits of the underground utilities. Such a policy would also avoid the scheduling problems that have occurred when the cable company has not been notified sufficiently in advance that a given portion of utility trench was ready for conduit. Once the developer has installed the conduit, the cable company could install the cable and the electronic equipment at some future time, depending upon its own construction schedule and on the housing density of the area to be served.

In an effort to reduce the disruption caused by undergrounding in established areas, some municipalities have required a single trench to be used by all services. Because cable service is not a required utility and because there are possible inequities in the manner in which undergrounding costs are divided among the various parties, it is desirable, when the cable system must pay all of its own cost of undergrounding, that the cable system be free to utilize its own separate trench if desired.

The additional cost of underground subscriber drops could be recovered through premium installation fees in underground areas. Because the benefit accrues to that subscriber and not to the system as a whole, the cable company should be free to charge such a premium consistent with the actual increased costs if it chooses.

Commercial Outlets and Multiple Users

Because it is often more expensive to provide service to commercial areas than to residential areas (because of low subscription rates and low densities in commercial areas), the fees for commercial service should be established on a separate basis from that for residential service.

Multiple users are defined as multiple residential or commercial units contained within a common building under independent ownership or management. Examples of facilities containing multiple users are apartments, shopping centers, hotels, and motels. Service to multiple users can be provided either through connection to an existing master antenna television system (MATV), or by means of wiring installed by the cable operator; however, because it is technologically inadvisable for the cable systems serving large apartments, condominiums, hotels, and motels to be under separate control, it is recommended that independent ownership of MATV systems be avoided wherever legally possible. The quality of service suffers when independently-owned MATV systems are not properly maintained, and the user is uncertain where to complain when service is unsatisfactory. Furthermore, there is no assurance that the subscribers on independent MATV systems will have access to the services provided to other subscribers since the MATV system may not be capable of carrying extra channels or the nontelevision services carried by the outside system. The current position of the FCC is that any cable system in any facility which is independently owned or independently managed is an MATV system. However, further rulemaking is expected to bring the larger MATV systems within the definition of a cable system and thus put them under the jurisdiction of the FCC cable television rules.

The initial cost of providing service to a multiple user may be lower than for the rest of the system if the cable is designed into the building. On the other hand, considering the construction techniques used in many modern buildings, the cost of installation after building completion may be higher than for individual dwellings. Unless the service is wholesaled to the apartment owner on a per-subscriber basis, the cost of operations is normal since the same service calls and billing procedures are required for any subscriber. It is obviously somewhat cheaper to serve an existing MATV system if there is a single drop to the building and if the subscribers are not permitted to call the cable company when problems arise. The question of whether fees should be lower for multiple users is primarily one of policy. It is suggested that special fee schedules be established for multiple users of five or more outlets per building.

APPENDIX J

SUGGESTED FRANCHISE PROVISIONS

This appendix discusses factors, falling outside the scope of the technical specifications of Appendix H, which should be considered in the formulation of any cable television franchise agreement for Sacramento. These factors are largely policy matters which should be considered by the CATV Study Committee and made part of the franchise agreement to assist both Sacramento and the franchise grantee in abiding by the terms and intent of the agreement. Although stated in positive terms, the following are intended only to serve as guidelines in preparation of franchise terms for Sacramento.

1.0 Service Policies

- 1.1 Franchise Boundaries. All dwellings within the franchise boundaries established by the City and County of Sacramento shall be offered services in accordance with the conditions stated herein. (Map or description of the franchise boundary should be referenced.)
- 1.2 Basic Service Area. All dwellings within the basic service area established by the City and County of Sacramento shall be offered full cable services at established standard subscriber rates. Dwellings no more than 300 feet beyond the basic service area boundaries shall be offered full services at standard rates. (Map or description of basic service area should be referenced.)
- 1.3 Isolated Developments. Any development or group of homes outside the basic service area which can be served with a density of 50 homes passed per strand mile shall be offered service at the standard rates of the basic service area. Any development not meeting this density requirement shall be offered service at a premium rate reflecting the increased cost of serving the area. The amount to be recovered in premium rates shall be the difference between the actual installation cost per subscriber and the installation cost per subscriber if the same extension serves 25 subscribers per strand mile. All cable required to connect the extension to the basic service area shall be included in the determination of strand density. Dwellings no more than 300 feet beyond the boundaries of this isolated service area shall be offered full service at standard rates.
- 1.4 Isolated Subscribers. Any isolated dwelling more than 300 feet from a service area shall be charged a premium installation fee for the distance exceeding 300 feet and the grantee shall have the right to advance payment for such an installation. If any additional dwelling units

are subsequently connected to the system using this same cable extension there shall be a partial return of installation fees. Any dwelling more than 150 feet from a public right-of-way shall be required to pay the additional cost over the cost of a standard 150-foot drop.

- 1.5 Construction Schedule. The grantee shall make application to the FCC for a Certificate of Compliance within 6 months of the granting of the franchise. The grantee shall accomplish significant construction within one year after receiving FCC certification, and shall thereafter equitably and reasonably extend energized trunk cable to at least one third of the basic service area each year.
- 1.6 New Developments. New housing developments outside of the basic service area shall be served under the provisions for isolated developments. As the development becomes more fully occupied or if for any other reason the plant density of the development increases, the premium rates shall be reduced to reflect this change. These rates shall be reviewed on a yearly basis. As an alternative method, the cost of installation for new developments not meeting the density criteria may be borne in whole or part by the housing developer. The details of all such agreements shall be provided to the City and County of Sacramento.
- 1.7 Undergrounding of System. The cable system shall be placed underground where telephone and power lines are underground. The grantee shall replace aerial facilities with underground facilities in cooperation with similar programs of the telephone and power utilities. At no time shall the cable system be the only aerial facilities. Where undergrounding is required, the grantee shall have the option of sharing or not sharing utility trenches.
- 1.8 Underground Subscriber Drops. The grantee shall be free to recover the additional cost of underground subscriber drops over the cost of aerial drops by means of premium installation fees.
- 1.9 MATV Systems. The cable system shall not be connected to any MATV system not meeting the technical performance requirements for the cable system.

2.0 Customer Relations

- 2.1 Construction Notification. The grantee shall provide direct notification to all property owners when any cable plant construction commences on private property or on adjacent right of way or easements.

COUNTY OF SACRAMENTO

Inter-Department Correspondence

Date March 13, 1981

To : Governing Bodies
City and County of Sacramento

From : L. B. ELAM
County Counsel

Subject : Cable Television - Regulation of Services by the Franchisee
Joint Cable Television Meetings - March 16, 1981

The purpose of this memorandum is to attempt to summarize and explain issues and alternatives pertinent to the question of the regulatory authority over services to be provided by a Cable Television Franchisee.

Consideration is being given to a franchise which could require the operator to install 50 to 100 more channels. Two-way communication is contemplated as a feature of any system installed.

Services which are known and predicted with assurance will be provided by an operator include a "basic service" package which provides conventional television entertainment, paid movies and perhaps sporting and other telecasts, and various special entertainment programs made possible by Satellite Reception. In addition, so-called community or public access reception will be made available. It is foreseeable that the operator will provide burglar alarm services. With the exception of burglar alarm services, the foregoing entertainment features are generally similar to those which have been available through cable in the past.

We are told, however, that advancing technology promises an array of new cable services within and without the field of entertainment which have heretofore been unknown. Indeed, considerations arguing for high channel capacity are founded upon the notion that any system constructed today should be capable of delivering the multitude of services which may become available in the near future.

The question which this paper addresses is what role, if any, the issuing authority should reserve for the purpose of monitoring and regulating services provided through the cable during the term of the franchise. Consideration of the provisions of Article 4-c of the draft Ordinance, is the most appropriate time to deal with this question.

As has been repeatedly emphasized during the hearings, a Cable Television Franchise is both a contract and a regulatory instrument. The difficulty is that no one really knows where contractual rights under such an instrument commence and end or where regulatory rights commence and end, unless answers to those questions are spelled out in the instrument itself. If they are not, a franchisee may argue with persuasive force that the contractual entitlement of the franchise permits initiation of any service in whatever manner the franchisee may elect, except as specifically limited by the instrument.

Regulatory Approaches

The following are three examples of approaches to the regulation of services.

Portland Ordinance.

Portland issued a franchise in December, 1980, to Cablesystems Pacific, a partnership. The ordinance specifically identified telecommunication services which the franchisee was required to provide as identified in its proposal. A copy of the description of services is attached.

The ordinance does not, however, purport to limit the nature or types of services which the franchisee would be permitted to provide in addition to those required. Full regulatory authority is reserved over all rates or charges which the franchisee might levy for any service which it elects to provide. There is a reserved power to regulate respecting "privacy and property rights of private citizens". However, no general regulatory authority is reserved.

Finally, the ordinance makes it clear that the police powers in the franchising authority may be exercised in relation to the franchise operations only in a manner affecting "matters of general concern and not merely existing contractual rights of Grantee". Nowhere within the ordinance is there an identification of what the franchisee's "contractual rights" are.

Consultant's Approach.

The ordinance presented by the County's consultant adopts a somewhat similar approach. There are specific regulatory provisions concerning protection of the right of privacy, quality and continuity of service, etc. An authority to regulate rates and charges for all services provided by a franchisee to the extent consistent with FCC regulations, is reserved. With the foregoing exceptions, however,

no limitation or reserved regulatory authority is imposed with respect to the nature, types, form or manner of providing any services which the franchisee may choose to render.

In addition, the ordinance provides that the police power of the franchising authority may be applied to the franchisee only with respect to laws "of general application in the jurisdiction" and which do not apply "exclusively" to the franchisee.

In each instance, the above described ordinances recognize the contractual rights of the franchisee in relation to the regulation of services. In the Portland instance, regulatory control is denied with respect to contractual rights, and what those contractual rights might be is left to conjecture and future resolution. The consultant's ordinance more clearly resolves the issue by reserving no regulatory authority respecting services (with the exceptions noted), and prohibiting future ordinance regulations from being applied exclusively to the franchisee.

Draft Ordinance Under Consideration.

This ordinance would resolve such issues differently.

The ordinance would require the franchisee to provide "basic service" as defined, within Service Areas and by times certain. However, the ordinance would neither specifically forbid nor require the provision by the franchisee of other services. In effect, by its silence, the ordinance, in a manner similar to the two described above, would allow the franchisee to provide any service which it, in its discretion, should choose to render.

However, in contrast to the two ordinances described above, the ordinance would reserve broad authority in the Commission to regulate any services which are rendered. The section entitled "Cable Television Services" on Page 60, would require any service provided by a franchisee to promote the public convenience and not be detrimental to the health, safety or welfare. The section entitled "Commission Powers" on Page 66 would empower the Commission to enact regulations implementing the general restrictions set forth in all preceding sections within Article 4-c, including the requirements relating to services.

In addition, the sections entitled "Ordinances - Police Powers" and "Amendments" on Page 9 of the ordinance would reserve full future regulatory authority under the police power with respect to "vested rights". Unlike the Portland ordinance, the "vested rights" are

defined. In essence, they are the contractual rights conferred upon the franchisee by the ordinance. Thus, the section entitled "Vested Rights" on Page 10, would make it clear that the franchisee's contractual entitlement in relation to the provision of services is limited to "basic service". The "vested" or contractual rights in relation to "basic services" are further spelled out by section reference in the various subdivisions of the section entitled "Vested Rights".

In summary, the ordinance contains a reservation of a broad range of regulatory authority which might be exercised in relation to potential services provided by a franchisee.

Operator's Preferences

In private conversations between staff and the operators and in public comments by some of the operators, it has been made clear that the operators object to the regulatory approach of the Draft Ordinance. They would prefer a regulatory framework relating to the question of future services similar to the approach adopted by the consultant's ordinance, except with respect to the control which that ordinance confers over rates.

Their preference rests upon the following premises. There has been significant discussion of requiring installation of a Cable Television System with a high degree of capacity. The cost of such an installation would exceed \$50 million. The investment is of private capital.

Such an investment should command the right, free from broad and undefined potential regulatory restraint, to operate the system, including identification of the nature, extent, form and manner of services to be provided, consistent with market demands and the business judgment of the franchisee. If regulatory authority is to be reserved, it should be specific in terms of subject matter and scope. It should be a relatively simple task for franchising authorities to decide right now specifically what they would like to regulate, how they would like to regulate it, and to write it that way. In that manner all can know what the potential limitations can lawfully be. A broad reservation of regulatory authority flies in the face of congressional and state trends to "deregulate" (i.e., the deregulation of airlines, deregulation of cable television rates, etc.). A contrary approach may place the franchisee at the mercy of potentially arbitrary, capricious and unreasonable restrictions by local public officials. If there is to be a reserved regulatory authority, let it be exercised at the state level by the legislature.

Considerations

The following is a nonexclusive list of factors which the governing bodies may want to consider in deciding whether any regulatory authority whatsoever should be reserved, and if so, what the form thereof should be.

a. Perhaps the regulatory authority reserved in respect to specific subjects in Article 4-c is sufficient to protect the public interest without the more generalized reservation to which concern by the operators is addressed. For example, there is specifically reserved regulatory authority respecting such potential problems as audio and video quality, maintenance and repair, continuity of service, and privacy. (See Pgs. 59-65). It may be difficult at this time to conceive what else the franchising authority might need to regulate. Therefore, it may be unnecessary to reserve further authority.

b. On the other hand, a new and relatively undefined generation of cable services are apparently in the wings. The operators are not prepared to identify specifically the types of services which they might desire to provide during a fifteen year franchise term. Without knowing what services might be provided and something about their form and manner of provision, it is difficult to predict exactly what types of regulatory authority future officials might feel they need to exercise. During the nineteenth century, it would have been exceedingly difficult to draft regulations governing the take off and landing of aircraft at airports, or even to predict the necessity of such regulations.

c. Whereas the Portland and Consultant's Ordinances reserve broad rate control authority, the Draft Ordinance provides for rate regulation only in relation to "Basic Service". By virtue of Section 53066.1 of the Government Code, any rate regulation must result from a voluntary waiver by the franchisee. It is assumed that operators would not provide a waiver which would vest the issuing authority with jurisdiction to regulate rates for all services which may be provided.

d. The approaches to regulation identified in the three ordinances discussed above are not the only ones which may be available. For example, one approach might be to require the successful bidder to list the services which are desired to be provided, identify those services specifically in the resolution issuing the franchise, and reserve general regulatory authority as to ones not specified.

March 13, 1981

The so-called "banking" of channels suggested by the Mayor involves the potential for regulation of the type discussed in this memorandum in a unique form. If surplus channels should be reserved to the franchising authority to be released to a franchisee upon request, the decision respecting each release would undoubtedly involve consideration by the franchising authority of the reason for the franchisee's request for the channel, the manner in which the service would be provided, and whether the service would be in the public interest.

e. In the final analysis, the services provided will be by virtue of a right conferred upon the franchisee to use public rights of way. What, if any, regulatory authority should be reserved is a policy determination which must turn, at least in part, upon the measure of responsibility for supervision which the governing bodies determine granting of that right requires.



L. B. ELAM
County Counsel

LBE:ph

Section 6. SERVICE REQUIREMENTS

- 6.1 General Provision. Except as otherwise provided herein, the Grantee shall meet or exceed those service requirements set out in this franchise and in addition shall meet or exceed those service requirements set out in the Proposal. The Grantee shall meet the service requirements regardless of whether assumptions contained in the Proposal prove to be correct. If the Grantee wishes to make a substantial deviation from the service requirements, the Grantee first shall obtain approval thereof by an ordinance passed by the City Council. The Grantee may make insubstantial deviations from the service requirements without such prior approval; but in the event of insubstantial deviations, the Grantor may require strict compliance with the service requirements by an ordinance passed by the City Council. The reference to specific portions of the Proposal in Section 6.2 hereof shall not relieve the Grantee from the obligation to meet other service requirements provided for in this franchise or in the Proposal but not referred to herein.
- 6.2 Specific Provisions. Except as otherwise provided herein, the Grantee shall meet or exceed service requirements which include without limitation the following:
- (a) The Marketing Plan requirements set out at Section 4, pages 4-1 through 4-6, of the Proposal, including exhibits.
 - (b) The Personnel requirements set out at Section 4 Financial Projections, 6 and 7 Payroll, pages 1 through 4, of the Proposal.
 - (c) The Service Area, Extension, and Connection Policy requirements set out at Section 5 of the Proposal.
 - (d) The System Design and Channel Capacity requirements set out at Section 7 of the Proposal.
 - (e) The Channel Usage requirements set out at Section 11 of the Proposal.
 - (f) The Entertainment Services requirements set out at Section 12 of the Proposal.
 - (g) The Community Access requirements set out at Section 13 of the Proposal.
 - (h) The Interactive Services requirements set out at Section 14 of the Proposal.
 - (i) The Institutional Services requirements set out at Section 15 of the Proposal.
 - (j) In addition to other tiers of services, a Tier II A-Lifeline Service, which shall consist of the Tier II-Thrifty Service

plus any or all Alarm Services as set out at Section 14, pages 14-5 and 14-6 of the Proposal.

- (k) Upon request by the Grantor, the Grantee shall submit plans with projected costs and revenues for the installation of a satellite uplink for intercity teleconferencing. If so ordered by resolution of the Council and upon an affirmative finding in the resolution that such an installation will produce sufficient revenues to offset the cost of its installation and operation, the Grantee will provide the uplink.
- (l) At any time after January 1, 1986, if so ordered by resolution of the City Council, activation of a 400 MHz capacity in those portions of the system initially designed for such activation.
- (m) If so ordered by resolution of the City Council, the making of all adjustments necessary to make the system conform to any federally adopted teletext standard. Upon request by the Grantor, the Grantee shall submit plans for such adjustments, with projected costs.
- (n) Cooperative participation in feasibility studies for a Northeast Area Performing Arts Center, in conjunction with the Grantee's communication center facilities or access studios or other agreed upon alternatives, provided that any plans for a Center shall be compatible with the primary function of the Grantee's facilities and shall meet the same construction timetable as that established for the Grantee's system in the Proposal.
- (o) The inclusion in Tier II of its residential service of all television broadcast signals, whether VHF or UHF, originating within 35 miles of the City.
- (p) The providing to residential subscribers at a reasonable cost of a lockout device for community access channels and channels as to which the Grantee has delegated programming to third parties, provided that a device that does not impede delivery of adjacent channels is reasonably available.
- (q) The minimum five channels reserved for community access shall remain reserved for community access for five years from the date of completion of the basic trunk line of the residential subscriber network. At any time, during or after that five-year period, the City Council, by ordinance, may require the Grantee to provide one additional community access channel each time it occurs that for six consecutive weeks 80% of the community access channels are being used

80% of the week days during any consecutive three-hour period. This requirement shall apply until an additional community access channel would result in the number of community access channels exceeding 15% of the total number of downstream channels available for all residential subscriber network programming. At any time following the period of five years from the date of completion of the basic trunk line of the residential subscriber network, the Grantee shall have the right to reduce by one the number of community access channels each time it occurs that during any six consecutive weeks from September to May the level of programming is lower than the 80% level described above provided that if such reduction had occurred prior to that six-week period, the level of community access programming during the six weeks would have been lower than the 80% level described above. This right of the Grantee shall apply until the number of community access channels is reduced to four. For the purposes of computing level of access usage, any fraction of a channel or day shall count as 1 channel or day if the fraction is .5 or greater, otherwise it shall count as no channel or day.

Section 7. CONSTRUCTION AND EXTENSION SCHEDULES

- 7.1 General Provision. Except as otherwise provided herein, the Grantee shall meet or exceed those construction and extension schedules set out in this franchise and in addition shall meet or exceed those construction and extension schedules set out in the Proposal. The Grantee shall meet the construction and extension schedules regardless of whether assumptions contained in the Proposal prove to be correct. If the Grantee wishes to make a substantial deviation from the construction and extension schedules, the Grantee first shall obtain approval thereof by an ordinance passed by the City Council. The Grantee may make insubstantial deviations from the construction and extension schedules without such prior approval; but in the event of insubstantial deviations, the Grantee may require strict compliance with the construction and extension schedules by an ordinance passed by the City Council. The reference to specific portions of the Proposal in Section 7.2 hereof shall not relieve the Grantee from the obligation to meet other construction and extension schedules provided for in this franchise or in the Proposal but not referred to herein. The Grantee shall provide the Grantor construction status information when (not more often than quarterly) and to the degree of detail requested by the Grantor to assist the Grantor in determining whether the Grantee has complied with the requirements of this franchise including without limitation the requirements regarding construction and future extensions. The Grantee shall provide the Grantor a detailed briefing of the construction plan including PERT charts and schedules of all construction activities, as described in

Section 6 of the Proposal, prior to commencement of construction.

7.2 Specific Provisions. Except as otherwise provided herein, the Grantee shall meet or exceed construction and extension schedules which include without limitation the following:

- (a) The capital investment in the cable communications system of \$40 million, whether internally or externally generated, of which approximately \$33.6 million shall be for the home entertainment system, \$3.4 million for the institutional system, \$1.7 million for the home interactive system, and \$1.3 million for the community access system.
- (b) The Service Area, Extension, and Connection schedules set out at Section 5 of the Proposal.
- (c) Construction as set out at Section 7 of the Proposal.
- (d) Construction of additional institutional trunks described at Section 11, page 11-9, of the Proposal if so ordered by Resolution of the City Council, subject to the Grantee's ability to charge rates sufficient to cover the cost of the construction and operation and maintenance of the service.
- (e) All antennas and towers shall be designed and constructed to withstand a minimum of one inch radial ice load at a minimum of 100 miles per hour sustained wind loading.
- (f) All aerial subscriber drops exposed to the elements shall be of the messenger type.
- (g) All underground trunk, including feeder cable, shall be installed in three-inch conduit. The Grantee may request a waiver of this provision by the Grantor on a case by case basis.

7.3 Completion Criteria. System construction completion, for purposes of this Section and Section 9.2, shall include without limitation the following:

- (a) Complete activation of the proposed approximately 940 route miles of dual cable residential subscriber network as described in the Proposal, both aerial and underground. The initial system capacity and capability shall be as set out in Sections 7, 8, 9, and 10 of the Proposal.
- (b) Complete activation of the proposed approximately 230 route miles of institutional subscriber network as described in the Proposal, both aerial and underground. The initial system capacity and capability shall be as set out in Sections 7, 8, 9, and 10 of the Proposal.

County of Sacramento
California

March 16, 1981

To: Members, Sacramento City Council
Members, Sacramento County Board of Supervisors

From: William R. Freeman
Assistant County Executive

Subject: STATUS REPORT ON CABLE CONCERNS

The Sacramento City Council Cable Workshops (which extended from late October through early December 1980) resulted in an extensive list of items that require further information or consideration. The purpose of this report is to briefly indicate the status of each of these items. To facilitate response, some of the concerns have been grouped under a general issue heading. Status responses fall within one of three categories: the item has or will be addressed in either the ordinance or the RFP; the item will be the subject of a separate report back; or the item needs to be reviewed to either clarify or to confirm the intent to pursue the item.

1. COMMUNITY ACCESS. This item was the subject of an issue paper included in the workbooks. It is covered in the draft ordinance, but will be a subject of a separate future report.

2. RATE REGULATION. This item was also included as an issue paper. Specific concerns raised by the Council included: a rate for basic service; a possibility of a differential installation rate within the city and the unincorporated area; and bulk rates. The question of payment for basic service is related to community access and will be covered in the separate report. Differential rates for installation within the city and unincorporated area is included as an item of discussion in defining service areas, which is also the subject of a separate report. Bulk rates have not been included in the ordinance but the RFP will ask for a bulk rate policy and pricing structure. The problem is enforcement of any rate structure.

3. CONTROL PROVISIONS OF FRANCHISE. This item also was included as an issue paper. Council concerns included: the need to be able to modify the franchise in response to changes in laws or regulations; adequate remedies if the franchisee does not perform; an equitable construction schedule; the need to establish minimums and maximums in areas where performance must be measured; provisions that would permit and encourage a franchisee to exceed minimum technical standards set by F.C.C.; and the need for the establishment and enforcement of service policies. The ordinance addresses these concerns. The provision dealing with the changes in law is in Chapter 1 and has been identified as an area requiring further review. Chapter 4 deals with what the system will provide and Chapter 5 contains the remedies for failure to meet system requirements. County Counsel has prepared a separate report on regulation to be considered along with Article 4c of the ordinance.

4. CONTROL OF OPERATION OF THE SYSTEM. Several approaches to the control of channel usage have been suggested. The ordinance proposes that the Commission control all access channels. This will be covered further in a separate report on community access. It has been suggested that the operator be required to sell channels to other operators. We do not plan to pursue this alternative without further policy direction. Specific direction has been given to consider a banking concept where all unused channels would be under the control of the Commission. This matter will be included in a separate report. Other areas of concern included access regulations, censorship, equal time provisions, and one particular point of view being advocated by a cable owner. These matters are covered in the draft ordinance.

5. SYSTEM OWNERSHIP. Two basic concerns are: how important is local ownership and should we require minority ownership as a part of local ownership; and whether we should require that all ownership should be acquired at full value. The importance of local ownership should be addressed in the RFP. The whole question of minority ownership will be addressed in a separate report.

6. OTHER CONCERNS. Following is a list of specific items that do not fit within any general category.

- a. Question. Can we charge operator for specific costs in addition to the five percent franchise fee?

Response. The ordinance provides for individual jurisdictions to establish fees for permits. This matter will be considered in a separate report.

- b. Concern. How should media cross-ownership be addressed?

Response. The ordinance requires disclosure of media cross-ownership. Whether or not this is a factor in the award needs to be addressed in the RFP.

- c. Request. A list of service capabilities which other cable television operators provide.

Response. Some sort of representative list can and will be prepared. It will not cover every service of every system.

- d. Question. Should we consider having the proposals include three distinct systems: community-wide; unincorporated area only; and city only?

Response. Staff is proceeding on the basis that we will be asking for a community-wide system only.

- e. Concern. Do we need specific language on an institutional network?

Response. The intention is to provide in the RFP a statement of our interest in an institutional network but not a requirement.

- f. Concern. The need for a specific criteria on which to evaluate proposals.

Response. This would be included in the RFP but will require policy direction in terms of the more critical areas to be evaluated.

- g. Concern. We need to compile a needs assessment list for the community and from city and county departments.

Response. A seminar is being planned. It should be made clear that the needs will only be general at this point and will change over the life of the franchise. Although the cable system will be capable of meeting most of the needs, there is still the question of the cost of the hardware that is required to utilize the system.

- h. Concern. Should language of some type be included in subject of Lobbying.

Response. Staff is proceeding on the basis that no specific provisions are to be included in the ordinance and that this is a matter for individual resolution by each elected official.

- i. Direction. Language is to be included in the ordinance which prohibits the franchisee from engaging in any anti-competitive practices.

Response. This language has been included in the ordinance.

Peter Cabra

GREATER SACRAMENTO CABLE CO.

COMMENTS ON SUB-CHAPTER 4

Preliminary Cable Television Ordinance

1. Page 36: General Capability. Sub-section b requires that the cable system have a minimum capacity of 100 channels. This should be clarified to specify video and/or data channels.
2. Page 36: General Capability. Sub-section d requires that the cable system make available upon request a key-lock device to prevent unauthorized viewing of pay-TV channels. The sub-section should be revised to specify "a key-lock device or its functional equivalent . . .". This takes into account new technological developments in converter design which, depending upon the converter used, may substitute a "code" that a parent would punch on numbered converter buttons. The "code" would be known only to the parents and would prevent children from unauthorized viewing of pay-TV channels.
3. Page 37: Interconnection. This section does not adequately define interconnection. For example, it would be prohibitively expensive and unnecessary for a 100-plus channel Sacramento cable system to interconnect each and every channel with an adjacent cable system. There is no need to "duplicate" off-air signals, satellite-provided signals, or certain other programming that is readily available and probably carried by other cable

television systems. This section should limit mandatory interconnection to (1) access channels, (2) local origination channels, and (3) if the franchising authority so desires, institutional channels. Further, the franchisee should be given the right to negotiate the financial arrangements of such interconnection with the connecting cable television system. This assumes, of course, that the connecting entity is a full service cable television system.

4. Page 52: Commencement of Construction. This section provides that the franchisee shall not be deemed to have "commenced construction" outside of the Service Area unless, inter alia, (a) the Commission has approved a plan proposed by the franchisee for extension of its system into the territory, and (b) "the plan defines the exact geographic area to be served and the precise time or times Basic Service will be made available within the territory covered by the plan." Sub-section (b) is overly burdensome and unnecessary. It will require substantial administrative time and costs to develop such plans with the required detail. The additional costs will be borne by the franchisee initially, but eventually by all subscribers in the form of higher rates. It is noted that these provisions relate only to service outside of a Service Area. The franchisee should be free of substantial paperwork to permit speedier extension of service to residents located out of the initial Service Area.

5. Page 56: Removal. At line 3, change "of" to "or."

6. Page 59: Audio and Vidio [sic] Quality. Change "VIDIO" to "VIDEO."
7. Page 63: Discrimination in Service Prohibited. In the fifth line, delete "reaso-".
8. Privacy. This provision effectively precludes a cable television company from polling converters in use by subscribers throughout the franchise area to determine, in the aggregate, the viewing habits of subscribers even if the cable television company does not disclose the individual viewing habits of subscribers. Viewing polling is necessary to permit the cable television company to assess whether programs and program formats meet the needs and interests of franchise area subscribers, and if they do not, to revise program offerings to better serve the community.
9. Page 65: Evaluation Sessions. At the end of line 2, add "than."
10. Amounts and Payment of Franchise Fees. In line 6, at the end of the sentence add "relating to its cable television system." This amendment provides for the possibility that the cable television company could conceivably form a separate subsidiary which would have no connection whatsoever to the cable television business (e.g., a subsidiary that manufactures clothing). The Cable Television Commission is justified in regulating the cable television business of the franchisee, but should not be involved in regulation of any other business in which the franchisee may enter at some future time.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

Sacramento High School

2315 34TH STREET
SACRAMENTO, CALIFORNIA 95817

March 16, 1981

to: Sacramento County Board of Supervisors and,
Sacramento City Council

from: Douglas R. Peckham
Teacher, Sacramento High School

re: Cable TV Ordinance, Section 4A - System Capability

Suggestion:

The following suggestion regarding System Capability for cable tv in Sacramento is offered (1) to ensure public participation in the decision making process in both public and nonpublic education in Sacramento; and, (2) to help meet the current and future educational needs of students, parents, and teachers of school age and college age students in Sacramento.

Suggestion 1. Each school district or Local Education Agency (LEA) in the proposed cable service area with a student population of 20,000 students or more should be offered total and independent use of one cable tv channel.

Suggestion 2. Each school district or Local Education Agency (LEA) in the proposed cable service area with a student population less than 20,000 students should be offered the opportunity to cooperatively operate one cable tv channel with other school districts with student populations less than 20,000.

Objectives:

Meeting behavioral objectives regarding the above suggestions, requires broadcast of locally and nationally produced education-related programs not currently aired by any of the commercial stations in Sacramento. Airing education-related programs would have the following positive effects:

1. Public and private interest in educational activities would be stimulated.
2. Correct information would be readily available to students and parents regarding test dates and meeting times.
3. A wide audience would be entertained by high quality student performers.
4. Changes in school district policies and practices would be quickly and accurately shared with students and parents.
5. Decision making processes would be shared with concerned members of the public.

Conclusion:

When final decisions are being formulated for cable system capability, we at Sacramento High School would like to participate.



CALIFORNIA STATE ELECTRONICS ASSOCIATION

March 2, 1981

TO: City Council
County Board of Supervisors

SUBJECT: Cable TV

We have attended your various meetings on the Cable TV franchise and I listened with great interest during the last meeting when you were discussing your respective Vested Rights. All of you were concerned about your rights and this is understandable. But lets take this one step further and consider the rights, if you would call them that, of the local business's, their employees and children who have decided to live in this wonderful community. We have established business's, supported our local government, raised our children and spent our money in this community. We are an important part of this community and we feel we should be heard and our requests be carefully considered.

We have always welcomed new business's and even supported them in our community; However the very idea of granting a franchise to a Cable company without adequate safeguards to the existing community is not acting in the best interests of the community.

The restrictions we are asking you to include in the franchise are;

1. Prohibit directly or indirectly engaging in the business of leasing, renting, repairing or servicing any product which is not an integral part of the Cable TV System itself such as television sets, radios, burglar alarms, appliances etc.

2. Prohibit directly or indirectly engaging in the business of selling any product, whether or not said product is an integral part of the Cable TV System itself.

3. Prohibit directly or indirectly from engaging in the business of furnishing contract services for labor and materials. EXCEPTION: Engaging in the business of furnishing contract services for a specific of delivering service to a subscriber is permitted. Example: Distant residence outside the service area where the owner is willing to pay construction costs to extend service to said residence.

4. The Cable TV Company shall be prohibited from directly or indirectly shifting its construction costs to a builder/developer.

5. The Cable TV Company shall be required to construct its cable system in a manner which will not discriminate against the economically disadvantaged neighborhoods

6. The Cable TV Company shall be required to hire employees from the community it services and shall pay area's established wages and the fringes for comparable work.

We also ask that you accept the concept of bulk rates to MATV owners and permit the Cable Company to provide a signal up to private property only, and stop at that point.

We have submitted these restrictions at previous meetings and to most of the individuals at the board, and we have valid reasons for these restrictions. The very existence of local businesses and their employees would be directly threatened by allowing a Cable TV Company to extend its operations beyond the point of providing a signal to its subscribers. Due to the vast sums of money available to a Cable Company and the influence it generates, we smaller companies would not be able to effectively compete in the marketplace against a virtual monopoly, and the huge costs involved in legal action resulting from any anti-competitive practices would prevent us from defending ourselves in the courts.

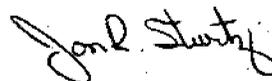
We applaud the City and County officials for their continuing efforts in seeking additional revenue to operate local government without raising local taxes, but let me point this out; a Cable Company will generate millions of dollars, yet a very small percentage will remain in the community. Yet almost ALL the money generated by the existing businesses remain in the community. We provide the stability, employment and a large percentage of taxes for this community, and the possible loss of up to 45% of our particular industry would have a drastic effect on the local economy. We feel the loss in local revenue would be far greater than any revenue generated by a Cable Company.

Let's grant a franchise for Cable TV and utilize the additional revenues to make our community better, but let's also protect the existing businesses and people so Sacramento can continue to grow. This attitude can only make our community more attractive to other businesses and people who wish to settle here.

Other areas have these restrictions in their franchises, and some areas who don't are already experiencing problems now. The cities of Chowchilla, San Jose, Spokane, and Burbank have these restrictions in their franchises. But, the cities of Los Angeles and Phoenix don't, and they are experiencing problems.

We respectfully ask that you adopt these restrictions, and protect the existing community from any possible harmful effects in the future.

Respectfully,



Jon. R. Sturtz
Chapter President, Sacto
Calif. State Elec. Assoc

635-6000



Rogers TV & Electronics

Sales - Service - Rentals
Serving Rancho Cordova Since 1955

Ron Sturtz
Certified Electronic
Technician

10769 Folsom Blvd.
Rancho Cordova, Ca. 95670

ORDINANCE NO. 230-71

AN ORDINANCE OF THE CITY OF CHOWCHILLA PROVIDING FOR THE GRANTING OF A NON - EXCLUSIVE FRANCHISE FOR A COMMUNITY ANTENNA TELEVISION SYSTEM IN THE CITY OF CHOWCHILLA TO

TELEVENTS OF CALIFORNIA, INC.,

PROVIDING TERMS AND CONDITIONS FOR THE OPERATION OF SUCH COMMUNITY ANTENNA TELEVISION SYSTEM AND FEES THEREFORE.

The City Council of the City of Chowchilla do ordain as follows:

SECTION 1. DEFINITIONS: For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein:

(a) "CITY": The City of Chowchilla, a municipal corporation of the State of California, in its present incorporated form or in any later recognized, consolidated, enlarged or reincorporated form.

(b) "COUNCIL": The present governing body of the City or any future board constituting the legislative body of the City.

(c) "GRANTEE": Televents of California, Inc., the corporation to whom this franchise, under this ordinance, is granted by the City Council and the lawful successor or assignee of said corporation.

(d) "STREET": The surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway or drive, now or hereafter existing as such within the City.

(e) "COMMUNITY ANTENNA TELEVISION SYSTEM": Hereinafter referred to as "CATV", coaxial cables, wave guides, or other conductors and equipment for providing television service by cable or through its facilities as herein contemplated. CATV shall not mean or include the transmission of any special program or event in the manner commonly known or referred to as "pay television" transmission.

(f) "SUBSCRIBERS": Any person or entity receiving for any purpose the CATV service of the grantee herein.

(g) "GROSS ANNUAL RECEIPTS": Any and all compensation and other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly from subscribers or users in payment for television signals received within the City, or otherwise derived from the use of the franchise and accounted for annually. Gross Annual Receipts shall not include any taxes on services furnished by the Grantee imposed directly on any user or subscriber by any City, State or other government unit and collected by the Grantee for such government unit.

SECTION 2: USES PERMITTED TO GRANTEE: The franchise granted pursuant to the provisions of this Ordinance shall authorize and permit the Grantee to engage in the business of operating and providing a CATV system in the City of Chowchilla and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any public street or highway, such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the CATV system; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from a public utility franchised or permitted to do business in the City of Chowchilla.

SECTION 3. DURATION OF FRANCHISE: The franchise, granted by the City Council under this Ordinance, shall be for a term of twenty (20) years following the date of acceptance of such franchise by the Grantee or the renewal thereof. The franchise may be terminated prior to its date of expiration by the City Council in the event that said Council shall have found, after notice and public hearing, that

(a) the Grantee has failed to comply with any provision of this Ordinance, or has, by act or omission, violated any term or conditions of any franchise or permit issued under this Ordinance; or: (b) any pro-

become invalid or unenforceable, and the Council further finds that such provision constitutes a consideration material to the grant of said franchise; provided, however, that the Grantee shall be given a least thirty (30) days notice of any proposed termination proceedings.

SECTION 4. FRANCHISE PAYMENT: The Grantee granted a franchise under this Ordinance shall pay to the City, during the life of such franchise, and at the times hereinafter specified, a sum equal to five percent (5%) of the gross annual receipts of the Grantee, and such payment by the Grantee to the City shall be in lieu of any occupation tax, license tax or similar levy, and shall be paid monthly.

The Grantee shall file with the City, within thirty (30) days after the expiration of any calendar year during which such franchise is in force, a financial statement prepared by a public accountant showing in detail the gross annual receipts, as defined herein, of Grantee, its successors or assigns, during the preceding calendar year. It shall be the duty of Grantee to pay to the City, within fifteen (15) days after the time for filing such statements, any unpaid balance for the calendar year covered by such statements.

The City shall have the right of inspection of the Grantee's records showing its gross annual receipts, by any of its officers or agents, or an independent public accountant.

SECTION 5. LIMITATIONS OF FRANCHISE:

(a) Franchise granted under this Ordinance shall be non-exclusive.

(b) No privilege or exemption shall be granted or conferred by the franchise granted under this Ordinance except those specifically prescribed herein.

(c) Any privilege claimed under this franchise by the Grantee in any street, or other public property, shall be subordinate to any prior lawful occupancy of the streets, or other public property.

(d) This franchise shall be a privilege to be held in personal trust by the original Grantee. It cannot in any event be sold, transferred, leased, assigned or disposed of, in whole or in part, either by

by voluntary sale, merger, consolidation or otherwise, without prior consent of the City Council of the City expressed by ordinance, and then only under such conditions as may be therein prescribed. The said consent of the City may not be arbitrarily refused; provided, however, the proposed assignees must show financial responsibility and must agree to comply with all provisions of this Ordinance; and provided, further, that no such consent shall be required for a transfer of trust, mortgage or other hypothecation as a whole, to secure or for the purpose of transferring in instances where management remains the same. Should the Grantee be adjudicated or bankrupt or become insolvent, or seek the benefits of any law now or hereafter in effect during the term of the franchise for the financial relief of the Grantee, the City may, at its option, terminate the franchise granted by this ordinance upon service of ten (10) days written notice by registered or certified mail of such election upon the Grantee.

(e) The Grantee shall have no recourse whatsoever against the City for any loss, cost, expense, or damage, arising out of any provisions or requirements of this Ordinance or its enforcement.

(f) The Grantee is subject to all requirements of the City ordinances, rules, regulations and specifications of the City heretofore or hereafter enacted or established including, but not limited to, those concerning streetwork, street excavations, use, removal and relocation of property within a street, and other street work.

SECTION 6. RIGHTS RESERVED TO THE CITY: There is hereby reserved to the City every right and power which is required to be herein reserved or provided by any ordinance of the City, and the Grantee, by its acceptance of this franchise, agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such right or power, heretofore or hereafter enacted or established.

SECTION 7. PERMITS AND AUTHORIZATIONS: The Grantee shall proceed within thirty (30) days with due

to obtain all necessary permits and authorizations which are required in the conduct of its business. Failure of the Grantee to proceed with due diligence shall be grounds for termination of the franchise.

SECTION 8. LOCATIONS OF GRANTEE'S PROPERTIES:

(a) Any poles, wires, cable lines, conduits or other properties of the Grantee to be constructed or installed in streets, shall be so constructed or installed only at such locations and in such manner as shall be approved by the Superintendent of Streets of the City acting in the exercise of his reasonable discretion.

(b) The Grantee shall not install or erect any facilities or apparatus on public property or rights-of-way within the City (except those installed or erected upon public utility facilities now existing), without written approval of the Superintendent of Streets of the City, and/or the Department of Public Works of the State of California.

(c) In those areas and portions of the City where both the transmission and distribution facilities of the public utility providing electric service, are underground or hereafter may be placed underground, then the Grantee shall likewise construct, operate, and maintain all of its transmission and distribution facilities underground. Amplifiers in Grantee's transmission and distribution lines may be in concrete boxes or vaults upon the surface of the ground.

SECTION 9. REMOVAL OR ABANDONMENT OF PROPERTY OF GRANTEE:

(a) In the event that the use of any part of the CATV 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 its franchise, or the franchise has been terminated, cancelled or has expired, the Grantee shall promptly, upon being given notice, remove from the streets or public places all such property and poles of such system other than any which the Superintendent of Streets may permit to be abandoned in such place. In

the event of any such removal, the Grantee shall promptly restore the street or other area from which such property has been removed, to a condition satisfactory to the Superintendent of Streets.

SECTION 10. CHANGE REQUIRED BY PUBLIC IMPROVEMENTS: The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, alley or public place, or remove from the street, alley or public place, any property of the Grantee when required by the Superintendent of Streets 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 type of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity, or any other structures or public improvements, provided, however, the Grantee shall in all such cases have the privileges and be subject to the obligations to abandon any property of the Grantee in place, as provided in Section 9 hereof.

SECTION 11. FAILURE TO PERFORM STREET WORK: Upon failure of the Grantee to complete any work required by law or by the provisions of this Ordinance to be done in any street, with the time prescribed, and to the satisfaction of the Superintendent of Streets, the Superintendent of Streets may cause such work to be done and the Grantee shall pay to the City the cost thereof in the itemized amounts reported by the Superintendent of Streets to the Grantee, within thirty (30) days after receipt of such itemized report.

SECTION 12. CATV INSTALLATION SHIELDING: The Grantee shall at all times during the term of any franchise granted under this Ordinance, at its own cost and expense, properly and in a good workmanlike manner, install and maintain adequate shielding, filtering and grounding at affected installations with the CATV system to eliminate television interference encountered from

fundamental frequency overload by radio amateur transmissions which are in compliance with Federal Communications Commission regulations.

SECTION 13. FAITHFUL PERFORMANCE BOND:

(a) The Grantee shall, concurrently with the filing of an acceptance of award of the franchise granted under this Ordinance, file with the City Clerk, and at all times thereafter maintain in full force and effect for the term of such franchise, at Grantee's sole expense, a corporate surety bond in a company approved by, and in a form to be approved by the City Attorney, in the amount of \$10,000.00, renewable annually, and conditioned upon the faithful performance of Grantee, and upon the further condition that in the event Grantee shall fail to comply with any one or more of the provisions of this Ordinance, or of the franchise issued to the Grantee hereunder, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the City as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the Grantee as prescribed hereby which may be in default, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond; said condition to be a continuing obligation for the duration of such franchise and thereafter until the Grantee has liquidated all of its obligations with the City that may have arisen from the acceptance of said franchise by the Grantee or from its exercise of any privilege therein granted. The bond shall provide that thirty (30) days prior written notice of intention not to renew, cancellation or material change, be given to the City.

(b) Neither the provisions of this section, any bond accepted by the City pursuant thereto, nor any damages recovered by the City thereunder, shall be construed to excuse faithful performance by the Grantee or limit the liability of the Grantee under any franchise issued hereunder or for damages, either to the full amount of the bond or otherwise.

SECTION 14. INDEMNIFICATION OF THE CITY:

The franchise issued hereunder, shall be in full force and effect, and shall be filed with the Council of the City of Chowchilla, at its own cost and expense, a general comprehensive liability insurance policy, in protection of the City of Chowchilla, its officers, boards, commissions, agents and employees, in a company approved by the City Manager and in a form satisfactory to the City Attorney, protecting the City and all persons against liability for loss or damage for personal injury, death and property damage, occasioned by the operations of Grantee under such franchise, with minimum liability limits of \$100,000.00 for personal injury or death of any one person and \$300,000.00 for personal injury or death of two or more persons in any one occurrence and \$50,000.00 for damage to property resulting from any one occurrence.

(b) The policies mentioned in the foregoing paragraph shall name the City of Chowchilla, its officers, boards, commissions, agents and employees, as additional insured and shall contain a provision that a written notice of any cancellation or reduction in coverage of said policy shall be delivered to the city ten (10) days in advance of the effective date thereof; if such insurance is provided in either case by a policy which also covers Grantee or any other entity or person than those above-named, then such policy shall contain the standard cross-liability endorsement.

(c) The franchise granted under this Ordinance shall not be effective unless and until each of the foregoing policies of insurance as required in this section have been delivered to the City.

(d) By accepting the franchise the Grantee agrees to save and hold harmless the City of Chowchilla, its officers, boards, commissions, agents and employees from any and all claims, costs, demands, causes of action, suit, loss, expense or other detriment of liability arising from or out of the operations of the Grantee under the franchise, or on account of any

failure of or defect in the service rendered by the Grantee to its subscribers, from any cause whatsoever. The Grantee agrees that in all written contracts made between itself and its subscribers a clause shall be inserted to the effect that no municipal corporation or other political subdivision having jurisdiction over the Grantee or the Grantee's properties is responsible or answerable for any default or omission of the Grantee, or for any interruption or interference with the service of the Grantee, from any cause whatsoever.

SECTION 15. INSPECTION OF PROPERTY AND RECORDS: At all reasonable times, the Grantee shall permit any duly authorized representative of the City to examine all property of the Grantee, together with any appurtenant property of the Grantee situated within or without the City, and to examine and transcribe any and all maps and other records kept or maintained by the Grantee or under its control which deal with the operations, affairs, transactions or property of the Grantee with respect thereto. The Grantee shall, at all times, make and keep in the City full and complete plans and records showing the exact location of all CATV system equipment installed or in use in streets, alleys and public places in the City. The Grantee shall file with the Superintendent of Streets, on or before the last day of March of each year, a current map or set of maps drawn to scale to be designated by the Superintendent of Streets, showing all CATV system equipment installed in streets, alleys and public places of the City during the previous year.

SECTION 16. OPERATIONAL STANDARDS: The CATV system shall be installed and maintained in accordance with the highest and best accepted standards of the industry to the effect that subscribers shall receive the highest possible service. In determining the satisfactory extent of such standards the following will apply:

(a) The system shall be installed using all band equipment capable of passing the entire VHF and FM spectrum, and it shall have the further

capability of converting UHF for distribution to subscribers on the VHF band.

(b) The system, as installed, shall be capable of passing standard color TV signals without the introduction of noticeable effects on color fidelity and intelligence.

(c) The system and all equipment shall be designed and rated for 24-hour per day continuous operation.

(d) The system shall provide a signal level of 2000 micro-volts at the input terminals of each TV receiver.

(e) The system signal-to-noise ratio shall be not less than 46 decibels.

(f) Hum modulation of the picture signal shall be less than 5%.

(g) The system shall use components having VSWR of 1.4 or less.

SECTION 17. MISCELLANEOUS PROVISIONS:

(a) All matters herein provided to be filed with the City shall be filed with the City Clerk.

(b) If Grantee should fail to operate its system for a period of two years from the date such service begins, the subscribers who have paid installation charges shall be entitled to a refund of the installation charges less 1/24th of each charge for each month elapsing from the time service was first started to that subscriber and during which time service was available to him.

(c) In the event the Public Utilities Commission of the State of California or the Federal Communications Commission takes jurisdiction over the operations and rates of the Grantee, then the authority of the City to approve rates and charges shall cease.

(d) The Grantee shall not engage directly or indirectly in the business of selling television or other receivers which make use of signals transmitted by its system, nor shall the Grantee engage in the repair of such receivers or the sale of parts for the same. If the Grantee is a corporation, partnership, or other association of natural persons, this prohibition shall likewise apply to the officers, directors and employees of the Grantee, to general limited partner of

any partnership Grantee, and to any person or combination of persons who own, hold, or control more than 5% of the corporate stock or other evidence of ownership of the Grantee, and shall likewise apply to any affiliated or subsidiary corporation owned or controlled by the Grantee or by its officers, directors or stockholders, and shall likewise apply to any corporation or entity which acts in the capacity of a holding company or controlling company of the Grantee.

(e) Rates charged by the Grantee for service hereunder shall be fair and reasonable and designed to meet all necessary costs of the service, including a fair rate of return on the net valuation of its properties devoted thereto under efficient and economical management. The Grantee agrees that it shall be subject to all authority now or hereafter possessed by the City, or any other regulatory body having competent jurisdiction, to fix just, reasonable and compensatory television signal distribution rates. When this franchise takes effect, the Grantee shall have authority to charge and collect not to exceed the following schedule of rates, which shall remain in effect until changed or modified in accordance with the general standards set out in this sub-section:

Television or FM radio in any combination		
Type of Installation	Installation Charge	Mo. Serv. Chg.
First Outlet, overhead	\$10.00	\$5.95
First Outlet, underground	Cost plus 10% (see Note 1)	\$5.95
Additional Outlets, each	\$5.00	\$1.00
FM service in connection with TV service		\$1.00
Reconnection	\$7.50	\$1.00

Notes: 1. Add \$5.00 plus \$.15 per foot to the first outlet installation charge for every foot in excess of 150' from system tap off to house contact.
2. Owners of apartment houses of twenty (20) or more single family dwelling units within a single build-

ing are entitled to a bulk rate of \$2.00 per month per apartment billed and payable by the owner. Installation of apartments made on a cost plus 10% basis. Less than 20 units the bulk rate will be \$3.00.

3. A subscriber, in good standing, who moves to a location within the area where overhead or underground television facilities have been or are to be installed by Televents, may re-establish his service for \$3.00. Service requirements in excess of 150 feet will be charged for in accordance with Note 1.
4. A subscriber, in good standing, from any cable system in the United States may have an overhead service installation for \$3.00. Service requirements in excess of 150 feet will be charged for in accordance with Note 1.
5. Schools (public, private and parochial), libraries, police stations, fire stations and hospitals may receive a free installation of a single service outlet for which the monthly service charge will be waived.
6. For remote, relatively inaccessible subscribers within the City, service may be made available on the basis of cost of materials, labor, and easements if required by the company.
7. The term cost shall, as used here, mean the actual cost of labor and materials without overhead load.
8. Pioneer Plan: All potential subscribers will be given an opportunity to subscribe for service free of installation charges during the first 30 days that service is available on their street.

(f) The Grantee must pay to the City a sum of money sufficient to reimburse it for expense incurred by it in publishing legal notice and ordinances and for attorney's fees in connection with the granting of a franchise pursuant to the provisions of this Ordinance; such payment to be made within thirty (30) days after the City shall furnish such Grantee with a written statement of such expense.

(g) The said CATV system operated by the Grantee shall deliver adequate television signals from at least seven (7) television stations, plus a weather channel, plus at least three (3) FM radio stations which shall include the local FM radio station when it becomes available.

SECTION 18. FREE SERVICE: The Grantee shall provide free of charge one service drop and CATV service for all public and non-profit private schools, City police and fire stations, City recreation centers and church recreation rooms provided such locations are passed by transmission cable maintained for the service of paying subscribers.

SECTION 19. FRANCHISE RENEWAL: Franchise granted under this Ordinance is renewable at the application of the Grantee, its lawful successors or assignees for such period of time and at such return to the City as the Council and the applicant may agree upon by negotiation.

SECTION 20. SEVERABILITY: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional, such holding shall not effect the validity of this Ordinance or any of the remaining portions thereof.

SECTION 21. EFFECTIVE DATE- PUBLICATION: This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption, and shall be published by one insertion in the Chowchilla News a newspaper of general circulation printed and published in the City of Chowchilla, within fifteen (15) days after its final passage.

Introduced by Councilman Rascoe on the 20th day of October, 1971.

Passed on the 23rd day of November, 1971, by the following vote:

AYES: COUNCILMEN Hargis, Hicks, Rascoe, Kilday and Mayor McCloughry
NOES: COUNCILMEN None
ABSENT: COUNCILMEN None

APPROVED:

s/ Samuel L. McCloughry
Mayor of the City
of Chowchilla

ATTEST:

s/ Al Acker
City Clerk of the City of
Chowchilla

I hereby certify that the foregoing Ordinance was duly and regularly passed by the city council of the City of Chowchilla at a regular meeting thereof held November 23, 1971.

s/ Al Acker
Clerk of the City of Chowchilla
No. 483, Pub. 12/2/71

FROM THE EDITOR'S DESK



This month I am going to quote a news item from *The Scanner*, the official publication of the Arizona State Electronics Association. It suggests a rather ominous outlook, in some instances, for relations between the cable television companies and independent TV sales and/or service businesses. The news item headlined "Independent Service Dealers Threatened With Extinction" follows:

"The greater Phoenix City Council allows cable companies to sell, service, or lease television receiving equipment. The Council in 1976 and again in 1980 refused to put a clause in the CATV Ordinance or Franchise agreements prohibiting cable companies from selling, servicing, or leasing television receiving equipment. With the CATV company being able to, according to national average, count on 45 percent subscribers in any area they supply cable to, it would seem they would be able to take an unfair advantage in the sale, service, or leasing of television receiving equipment by being able to supply a service that no other servicing/dealer could offer. If this happened over a period of time, you would probably find about 45 percent of the television service dealers going out of business due to the lack of customers.

In Phoenix already American Cable Television is selling new television receivers with the inducement of one year of HBO free including installation if you purchase one of the models listed. This value of HBO to the retail customer is approximately \$280.00. The ads state that if you are unable to receive HBO they will give you a cash discount on the article purchased. The question to ask is How Much?

In closing, the consumer is the one who will be hurt in the long run. If there are 45 percent fewer dealers to choose from, what prices are they going to have to pay, and what kind of service are they going to receive?"

Frank Moch, Executive Director of NATESA testified before the committee on cable TV for the City of Chicago September 5, 1980 and expressed a concern that the cable TV companies might well attempt to establish virtual monopolies of all aspects of television.

"It is very conceivable that cable TV entrepreneurs will quickly move to consolidate their hold on all phases of TV, including production and distribution of programs, connection to the system, TV sets, service and maintenance thereof.

This would become a dangerous monopoly of mammoth size which would require the same very expensive deterrent as quite recently has been brought to bear on the telephone company monopoly. It would seriously deprive many small businesses, which have contributed greatly to the development of home electronic TV as a most important service to the public.

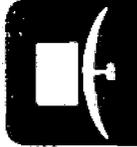
We strongly urge that any franchise that may be granted, carry permanent provisions restricting operators of cable TV systems from providing TV sets in any manner, and from installing, servicing or maintaining the sets.

Such franchises would guarantee the best deal for all concerned, and particularly for the public."

I understand many cable franchises do prohibit the sales and service of television receivers by the cable company. How prevalent is the incursion of cable companies into sales and service? I feel that cable has a tremendous part to play in the future of television, but not as a sales and service agency. In fact I feel the cable company cable should end upon entering the house and what is done thereafter, as long as it does not affect the cable system is only the homeowners business, opening up the in house distribution system to any competent installer. This is, after all, essentially the case with the telephone, now, finally.

We invite your comments.

Walter H. Schwartz



ELECTRONICS POTPOURRI

THE NEWSLETTER OF ELECTRONICS INDUSTRY AND MARKETING NEWS



CATV WATCH

CATV, a rapid-growth commodity for some time, has suddenly started booming across the country. Some areas have included clauses in the franchises that prohibit the cable company — or businesses which it is affiliated with — from engaging in consumer sales, service, leasing, etc. Some areas do not have such clauses. Some dealers have found the CATV companies in their communities engaging in competitive activities — in some instances, even where such clauses appear to exist.

If CATV is headed for your area, or if it already exists and you are facing particular problems, NESDA wants to be of as much aid to you as possible. While CATV must generally be attacked at the local level, NESDA's Executive Director JW Williams will provide to local members and group leaders all available file material which may be of assistance, including advice on what should be included — and excluded — in a local ordinance.

Also, we will be instituting a column — either in ServiceShop magazine or the NESDA "Update" newsletter — to advise you of what is happening with CATV in other areas. Of course, this depends on receiving sufficient information from the field, so let us know what is occurring with cable TV in your area and, especially, any problems you may be having.

BUYING AT HOME THROUGH PAY/CABLE TV

Times-Mirror Cable TV Inc. and Comp-U-Card of America have just formed a joint subsidiary called Times-Mirror Satellite Programming Co. to offer electronic in-home shopping to subscribers of the service. A subscription to Comp-U-Card is \$18 a year but the shopping service is without additional charge. Earl Lifshy in HFD-Retail Home Furnishings, quotes a spokesman of the programming company as saying that "CATV operators will now obtain a portion of the profit generated from purchases made by their subscribers while having video programming provided free of charge."

NARDA's Jules Steinberg said that these type of activities won't necessarily wipe out the independent retailer but it does mean that the independent must become a better "agent" for the buyer. He suggests emphasizing those things which sets him apart, such as wide selection of merchandise, personal consultation to determine and match the needs of the consumer, proper instruction in use and care, and good after-sale service.

CBS SUPPORTS FRENCH TELETEX "ANTIOPE"

Officials of the Columbia Broadcasting System (CBS) have recently reaffirmed their convictions that broadcast teletext will become the first new information source to attract a mass market in the U.S. They contend that equipment costs to the consumer will be as little as \$100 per TV receiver and that the information will be free to the user — paid for by commercial advertising.

They and other groups are urging the FCC to adopt a national teletext standard to avoid the proliferation of non-compatible systems in the marketplace.

CBS also reaffirmed their backing of the French "Antiope" system over Canada's "Telidon" (which is being made compatible with "Antiope") and the British system. They feel that the French telecommunications industry is "leading us toward the future in teletext technology, electronic graphics and electronic publishing."

To add fuel to the above fire, the French government has implemented a national program known as "Telematique" which is to develop 2-way facimile service for home and office, a free-form telewriting system, smart-card technology, complete teleconference facilities for corporations and electronic telephone directories.

Over the course of the next 10 years, more than 30 million electronic terminals will be distributed free to replace the standard printed telephone directories. The terminals have alphanumeric keyboards allowing the phone subscriber to either select a specific name or a category (such as "TV Service") and the specific number or informational listing will appear on a 9-inch black-and-white screen. Not only is the system, including the cost of the terminals, reported to be cheaper than printing the phone book, they're also more accurate than the book because of continuous updating. The same system will also eventually be used for home banking, mail-order catalogue, information retrieval, etc.

FLORIDA DEALER ROBBED

Jim's Mobile TV Sales & Service in Longwood, Florida was recently robbed with the following merchandise listed as stolen:

Model	Serial	Description
RA4042	20862847	13" Color Remote Portable
RA4042	20771220	13" Color Remote Portable
VR8330	30861409	Video Cassette Recorder
VR8330	30861408	Video Cassette Recorder
VR8330	30861811	Video Cassette Recorder
VR8330	30861400	Video Cassette Recorder
VR8330	30861391	Video Cassette Recorder
VK8227	30622384	Video Cassette Recorder
ER899	6000526	Toshiba Microwave Oven
ER779	54004464	Toshiba Microwave Oven
BA4038	20184221	13" Color Portable TV
BA4010	17543858	AC/DC 9" Color Portable TV
BK4224	19760181	19" Color Portable TV
BK4170	19687492	19" Color Portable TV
BK4170	19686739	19" Color Portable TV
RK5254	19175171	25" Color Console TV
BK1712	19688035	Component Stereo
BJ7600	00000045	Odyssey 2 Game
BJ7600	00000046	Odyssey 2 Game
BJ7600	00000047	Odyssey 2 Game
BH5220	15327420	9" B/W Portable TV

Be on the lookout for these items and, if spotted, notify your police department or Dottie at Jim's Mobile TV, 420 W. Highway 434, Longwood, FL 32750. Ph. (305) 830-9705. □

Note

S. Coly Potlauer Sept. 1979

SCR SEPTEMBER 1979 6

ATV To Market Cable TV In LA

LOS ANGELES—TransVideo Enterprises, Inc. of Los Angeles has concluded an agreement with Theta Cable Television of Santa Monica to market and install The "Z" Channel throughout the greater Los Angeles area. The agreement was to take effect August 15, 1979.

Through the use of the MDS microwave system, The "Z" Channel will now be available "over-the-air" to more than a million additional viewers who in the past were not in Theta's cable area, according to the company.

In announcing the agreement, Paul J. Magnone, president of TransVideo, said, "Not only will we offer The "Z" Channel to so many who have

wanted it but couldn't have it in the past, but included in our low monthly fee will be a Comprehensive Service Policy for their TV set which will cover all parts, labor and picture tube. Our offer is the most innovative and exciting in the industry."

Initial plans call for an aggressive marketing plan to attract the consumer at the retail store level when they purchase a new TV set, ATV reported.

ATV is one of the largest TV service companies in the country with approximately 300,000 customers in Southern California alone. The company registers about 10,000 new RCA, Zenith, Sony and Magnavox TV purchases per month for warranty service.

PAY TV + SERVICE CONTRACT = UNFAIR COMPETITION

DIRECTORS

What is your opinion of above?

a formal "unfair Competition" Complaint can be filed with the F.T.C.

Possibly F.C.C. and the Los Angeles City Council.

What do you think

Harry C. Malkin

MOTIONS SUBMITTED TO THE HOUSE OF REPRESENTATIVES ON JANUARY 30-31, 1981

Kahler Green Oaks Inn
Ft. Worth, Texas

- A MOTION: CATV Committee - NESDA adopt the following policy on Cable TV: For the continuing protection of free enterprise and to protect the rights of the consumer; the National Electronics Service Dealers Association recommends to CATV ordinance writers that CATV companies shall provide a construction timetable when franchise granted and be required to adhere to timetable; also that CATV companies shall be prohibited from the sales/service or leasing of electronic receiving or transmitting equipment; and shall have no direct interest in ownership or recommending such business to the subscriber. Also, that states and locals send copies of non-complete clauses and ordinance titles to ASEA attention Bob Lunn, CET, 4747 N 16th St Suite E#100, Phoenix AZ 85016, to be compiled. (20-1) Carried
- B MOTION: CATV Committee - NESDA Convention committee try to include a panel discussion on CATV at the 1981 NESDA Convention composed of FCC, Cable Association, MDS System, Cable Companies, and Service Dealers; and to publicise such as much as possible. (Unan.)
- ** SEE "CLASSIFICATION OF STATES" PROPOSAL ENCLOSED -
- C MOTION: Jack Kelly - Accept the classification proposal of staff subject to any by-law changes necessary. (13-7) Carried
- D MOTION: Steckler/Lunn - the staff research the by-laws to see if any changes need to be made to implement Motion C. If no by-laws changes are needed the motion shall be implemented immediately. If changes are required a by-laws committee must be appointed to present the necessary by-laws changes at the next house and membership meetings. (Unan.)
- E MOTION: Bluze/Cicchetti - 1982 NESDA Convention be held in New Orleans and the choice of the hotel be left to the convention committee and Ex-Com. This is to be a joint convention with Texas, Arkansas, and Louisiana. (Unan.)
- F MOTION: Masa/Kavan - An advertising and promotion budget be established and NESDA promotion ideas be implemented when it is financially possible. (Unan.)
- G MOTION: Lunn/Redman - Executive Council decision in Louisville be changed in regards of Non-Member Workers Comp Dividends; namely that an equitable formula for the return of non-member fund be on the same division as rest of dividends are dispersed, namely 2% NESDA, 5% state, converted for whole amounts would be a 30% split to NESDA and a 70% split for the state and be adopted as standing policy. (Carried)
- Amendment to Motion G; delete the portion re, standing policy and refer to Insurance Committee for recommendation. (7-10) Failed
- H MOTION: Redman/Lawler - Give "Second Wind" Award to M.L. Finneburgh and Enos Rice. (Unan.)

** "Classification of States" on back side.

Blecher, Collins & Hawken

612 SOUTH FLOWER STREET, SUITE 600

LOS ANGELES, CALIFORNIA 90017

TELEPHONE (213) 625-0200

TELECOM (213) 625-1028

June 12, 1980

Lessing E. Gold, Esq.
 Gold, Herscher, Marks & Pepper
 8500 Wilshire Blvd.
 Suite 614-19
 Beverly Hills, California 90211

RE: Proposed Cable Franchise,
Sacramento County, California

Dear Les:

I am writing in response to your request for this office's opinion with respect to the antitrust implications which likely would attach if Sacramento County were to permit its cable franchisee to engage in the central station alarm business. It is the opinion of this office that the cable franchisee's participation in the alarm business, except to the extent that communication lines are made available to private security companies, could run afoul of the Supreme Court's admonition that one who possesses a lawful monopoly in one field may not "us[e] its monopoly power . . . to foreclose competition or gain a competitive advantage or to destroy a competitor" in another field. Otter Tail Power Co. v. United States, 410 U.S. 366, 377 (1972).

In Otter Tail Power Co. v. United States, the defendant power company had monopoly power over power transmission facilities in its service area. The Supreme Court in Otter Tail held that the defendant had violated Section 2 of the Sherman Act, 15 U.S.C. § 2, by utilizing this lawful monopoly in the transmission field to foreclose competition for the provision of retail power. 410 U.S. at 377.

The Ninth Circuit Federal Court of Appeals, which has jurisdiction over California, has also condemned under Section 2 of the Sherman Act attempts by a lawful monopolist to extend its monopoly power unlawfully into a competitive field. In Pacific Coast Agricultural Export Association v. Sunkist Growers, Inc., 526 F.2d 1196 (1975), cert. denied, 425 U.S. 959 (1976), the defendants' monopoly power over the production of oranges in California and Arizona was protected by the Capper-Volstead Act. Plaintiffs alleged that defendants

Lessing E. Gold, Esq.

June 12, 1980

Page 2

used their lawful monopoly power over production to foreclose competition in the distribution of oranges to Hong Kong, and the Ninth Circuit agreed:

"[P]laintiffs attempted to show and did show, that Sunkist's control of supply was employed to extend its monopoly into distribution." Id. at 1261.

Similarly, in Greyhound Computer Corp. v. International Business Machines, 559 F.2d 488, 503 (9th Cir. 1977), cert. denied, 414 U.S. 1040 (1978), the Ninth Circuit reiterated in dicta that it is a violation of Section 2 of the Sherman Act to foreclose competition in one market through the extension of monopoly power from a second market:

"The Sherman Act would be violated if IBM had monopoly power in the sales market and used that power to foreclose competition, gain a competitive advantage, or destroy a competitor in the lease market."
(Citations omitted.)

Other Federal Courts of Appeal have also firmly condemned the extension of lawful monopoly power into a second, competitive field. See, e.g., Berkey Photo, Inc. v. Eastman Kodak Co., 603 F.2d 263, 275 (2d Cir. 1979), cert. denied, _____ U.S. (1980) ("It is clear that a firm may not employ its market position as a lever to create -- or attempt to create -- a monopoly in another market . . ."); T. V. Signal Co. of Aberdeen v. AT&T, 462 F.2d 1256, 1261 (8th Cir. 1972) ("The monopoly which defendants have in the field of telephone communications cannot be used to foreclose competition in the broadband cable field.")

It is possible that the same type of conduct condemned in Otter Tail and its progeny may occur if Sacramento County permits its cable franchisee to engage in the alarm business beyond the provision of communication lines to central station alarm companies. We cannot predict to what extent, if any, a cable franchisee might engage in such unlawful, anticompetitive activities as refusing to deal with competing alarm companies or imposing unreasonable terms and conditions as a condition of permitting access to the cable network. However, if the cable franchisee is permitted to enter the alarm business, it

Leasing E. Gold, Esq.

June 12, 1980

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will have both the power and self-interest to squeeze out rival alarm companies through its control over what we understand to be the most cost-effective means of providing a communications link between a central station and its customers, a cable network.

In addition, it appears that a cable franchisee who desires to provide alarm services would enjoy inherently unfair marketing advantages in terms of advertising, sales, etc., over competing alarm companies, solely by virtue of its ownership of the cable network. At best, there is an uncertain regulatory climate with respect to permitting those who control common carrier transmission facilities to compete with an industry which depends upon such a network for its survival, as demonstrated by the attention Congress is now giving to AT&T's desire to expand into new fields.

Moreover, to the extent Sacramento County may wish to grant the cable franchisee the exclusive right to provide alarm services over the cable network, the County should be advised that it may subject itself to antitrust exposure by granting a monopoly beyond its lawful authority. See City of Lafayette, Louisiana v. Louisiana Power & Light Co., 435 U.S. 389, 400-01 (1978); Woolen v. Surtran Taxicabs, Inc., 461 F. Supp. 1025, 1032 (N.D. Tex. 1978).

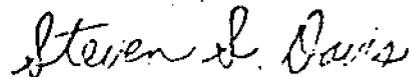
Based on the foregoing, we believe that the prudent course for the County to take is to avoid the spectre of antitrust exposure and regulatory turmoil by prohibiting the cable franchisee from engaging in the private security business, except to the extent that communication lines are made available to private security companies.

Finally, we strongly believe that the First Amendment protects the WBFPA's right to lobby Sacramento County consistent with the principles set forth herein. See Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc., 365 U.S. 127 (1961); United Mine Workers of America v. Pennington, 381 U.S. 657 (1965). However, it should be pointed out that there is the possibility, especially in the context of seeking to exclude the cable franchisee altogether from competing in the alarm business, that some court might consider such concerted

Lesling E. Gold, Esq.
June 12, 1980
Page 4

lobbying efforts, which may include conduct with which this office is not aware, to be a "sham" unprotected by the First Amendment. See California Motor Transport Co. v. Trucking Unlimited, 404 U.S. 508, 516 (1972).

Very truly yours,



STEVEN S. DAVIS

SSD:bea

SACRAMENTO-SIERRA'S BUILDING AND CONSTRUCTION TRADES COUNCIL

(Sacramento, Yolo, Amador, Placer, El Dorado, Nevada and Sierra Counties)

Secretary-Business Manager

(916) 422-2623

Labor Center, 2245 Florin Road, Suite 6

Sacramento, CA 95822

ROJ STURTZ

220-28

October 17, 1979

Return

Mr. Ted Sheedy
Supervisor, First District
700 H Street
Sacramento, California 95814

Dear Ted:

Enclosed are some suggestions for the draft of the proposed Cable TV contract which you, I and Brother Frith, Electrical Workers #340, discussed on September 26th.

These suggestions will go a long way towards alleviating our concerns with Cable TV and will strengthen the protection to the consumer and public alike.

Yours truly,

al.

R. A. Caples
Business Manager

RAC:bb
opeu #29
afl-cio
enclosure

The Cable TV Company shall be prohibited from directly or indirectly doing any one of the following:

- a. Engaging in the business of leasing, renting, repairing or servicing any product which is not an integral part of the Cable TV System itself such as: television sets, radios, hi-fi, appliances, etc.
- b. Engaging in the business of selling any product, whether or not said product is an integral part of the Cable TV System itself.
- c. Engaging in the business of furnishing contract services for labor and materials. Exception: Engaging in the business of furnishing contract services for the specific purpose of delivering service to a subscriber is permitted. Example: Distant residence outside of the area being served where owner is willing to pay construction costs to extend service to said residence.

The Cable TV Company shall be prohibited from directly or indirectly shifting its construction costs to a builder/developer,

The Cable TV Company shall be required to construct its cable system in a manner which will not discriminate against the economically disadvantaged neighborhoods. The Cable TV Company therefore, within five (5) years from date of award of franchise, shall provide service to all areas in the community with a dwelling density (averaged) of 45 or more dwelling units per running mile of cable. The Cable TV Company shall hire employees from the community it services and shall pay area's established wages and fringes for comparable work.



International Brotherhood of Electrical Workers

October 10, 1979

Mr. Ted Sheedy
County Board of Supervisors
700 "H" St.
Sacramento, CA 95814

RECEIVED

OCT 11 1979

BOARD OF SUPERVISORS

Dear Sir;

I am forwarding to you a request from Local Union 340, IBEW, suggested language to be included in the proposed Cable TV franchise being considered by the Sacramento County Board of Supervisors. Your assistance in this matter would be greatly appreciated. Thank you in advance.

Respectfully,

ELECTRICAL WORKERS UNION
Local No. 340

Lee Frith
Business Manager

LFjc
opeu 29
aflcio

The Cable TV Company shall be prohibited from directly or indirectly doing any one of the following:

- a. Engaging in the business of leasing, renting, repairing or servicing any product which is not an integral part of the Cable TV System itself such as: television sets, radios, hi-fi, appliances, etc.
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SACRAMENTO AREA CONDOMINIUM ASSOCIATION
P. O. BOX 160246
Sacramento, California 95816

December 20, 1979

Mrs. Sandra Smoley
Supervisor Third District
County Administration Center Suite 1450
700 H Steet
Sacramento, California 95814

send proposed ordinance when ready
RECEIVED

DEC 21 1979

BOARD OF SUPERVISORS

Dear Mrs. Smoley:

The membership of the Sacramento Area Condominium Association consists of 40 homeowner associations in the metropolitan Sacramento area representing about 5,000 homeowners. Many of our member organizations have existing master antenna systems and are vitally interested in the current issue of cable TV being considered by the Board of Supervisors.

Since you live in a homeowner association served by a master antenna system, I'm sure you understand the economic advantage which would be given to a cable TV franchisee if a "bulk-rate" provision were not made in the ordinance.

It is estimated that homeowners paid about \$200 each for the master antenna system when they purchased their homes. Without "bulk-rate" this becomes a gift to the franchisee. With bulk-rate, an association could choose to maintain the system (hopefully at a low cost) and provide its' members with cable television at an advantageous rate.

Since many of our members are affected by this issue, please provide me with copies of the proposed ordinance.

Yours very truly,

Richard Peters

Richard Peters
President,
Sacramento Area Condominium Association

355-0701

PHONE W/ 5/27

BILL W/ 1/20/80

NOT ADEQUATELY
ADDRESSED

THE FOLLOWING INFORMATION WAS DEVELOPED DURING MEETINGS OF SACRAMENTO BUSINESS MEN AND WOMEN CONCERNED ABOUT THE LONG RANGE IMPACT OF CABLE TV ON THE COMMUNITY.

1. One major area of concern was how Cable TV might affect local business. The following concerns were voiced:
 - a) Would Cable TV be permitted to sell goods? If so, what type? The proposed ordinance only prohibits the sale of television sets and radios.
 - b) Would Cable TV be permitted to sell repair services? If so, what type? The proposed ordinance only prohibits the "imposing of a fee or charge for any service or repair to subscriber owned receiving devices". How about other devices?
 - c) Would Cable TV be permitted to enter into contracts to furnish labor and materials not required or involved in its delivery of service to the subscriber?
2. The majority of persons attending the meetings did not take a position against CATV. Most were more concerned about the regulations governing the activities of CATV.
3. Everyone agreed that the community had the most to gain if there was a legitimate competition for the franchise. Two of the names mentioned were Warner Cable Corporation and Cox Broadcasting.
4. Another major concern was whether or not Cable TV would have a free reign to establish bulk rate schedules which would intentionally or unintentionally create an economic hardship for various sectors of the community. Such economic hardship is caused when the Cable Company either refuses to deliver its basic service at a bulk rate or at a bulk rate in excess of 20% of its single subscriber rate. Some of the examples given were:
 - a) Most condominium Home Owners Associations already own and maintain their own Master Antenna TV (MATV) systems. Some of these systems include either local program origination or security, or both. A very few have their own entertainment channel. If bulk rate CATV service is made available to these associations at an affordable bulk rate, they can opt for the bulk rate service. The alternatives to bulk rate service are to either sell their system to the Cable Company or to allow the Cable Company to traverse their premises to serve those tenants who wish to become subscribers. It should be noted that in the absence of an affordable bulk rate service the only alternative is to grant the Cable Company easement rights on its premises. The end result is the ultimate abandonment of the private MATV system. The Cable TV Company wins; the private sector loses.

It should also be noted that the bulk rate requirement must be for basic service only. Pay TV entertainment channels such as "Home Box Office", "Showtime", etc., cannot be included in the basic service bulk rate

- b) Condominium Home Owner Associations are not the only ones who are concerned as to the availability of bulk rate service. Others are:

Apartment House Owners
Mobile Home Park Owners
Hotel and Motel Owners

It should be noted that the transient needs of hotels and motels are not as important as the resident needs of the other groups. Since hotels and motels are economically less vulnerable to the impact of Cable TV, most Cable TV companies make their service available to them at very low bulk rates.

- c) How about bulk rate service for hospitals? As a maximum it should be made available at no more than the bulk rate charged for hotels and motels.
- d) How about bulk rate service for the Sacramento Redevelopment Agency? The Sacramento Redevelopment Agency has spent hundreds of thousands of dollars installing Master Antenna TV Systems in most of its housing developments. It should have the option of contracting for the basic Cable TV service at reasonable bulk rates.

As to whether or not the bulk rate service should be contracted for in any given instance, who can say? With respect to the many locally owned multi-dwelling projects, the Cable TV companies have many valid arguments as to why their basic subscriber service should be preferred to bulk rate service. On the other hand, there are the arguments that can be brought to bear by the private sector as to the advantages of bulk rate service. The entire thrust of the bulk rate argument is to create within the community a freedom of choice. For those of us in the Master Antenna TV (MATV) System business, it gives us a chance to survive.

Another point to ponder is the FHA requirement on FHA #235 projects which requires the owner/builder to provide free TV. In those communities with Cable TV, the owner/builder installs an MATV system and the Cable TV Company installs its system. The outlets are side-by-side. This is a waste of somebody's money. An "affordable" bulk rate service might be more advantageous to the community.

- 5. Where new residential construction is involved, there have been instances where the cable companies have passed on a part of their construction costs to the builder/developer by requiring the builder/developer to furnish trenching, conduit, etc. Is this legal and right? Although the Cable Company, in the absence of rate regulations, can charge its subscribers whatever it wishes, does it have the right to recover any portion of its construction costs from other than its subscribers?

AS REGARDS THE PROPOSED CITY/COUNTY CABLE TV ORDINANCE, THE FOLLOWING PROTECTIVE LANGUAGE SHOULD BE INCLUDED:

- 1. **BULK RATE SERVICE.** Definition: The delivery by the Cable TV Company of its "basic" programming to the property line of a multi-dwelling residential project or a multi-occupancy facility, at which point it will be fed into a privately owned multiple-outlet TV signal system. The signal so delivered shall be of the same strength and quality as that delivered to a single family residence, no more or no less. The current bulk rate must be paid monthly with a single check for all dwelling units, whether occupied or not. The minimum bulk rate service shall not be less than five (5) times the single family subscription rate for a single outlet.

- a) Bulk rate service for condominium homeowners associations, owners of mobile home parks, and owners of apartment houses shall not exceed (for each dwelling unit) 20% of the single family subscription rate for a single outlet:
 - b) Bulk rate service shall be made available to both publicly owned and privately owned licensed (State of California) general hospitals. The service charge shall not exceed that charged for hotels/motels, or for privately owned multi-dwelling facilities, whichever is less.
 - c) Bulk rate service shall be made available to publicly owned retirement facilities or similar multi-dwelling units. The service charge shall not exceed that charged for hotels/motels, or for privately owned multi-dwelling facilities, whichever is less.
 - d) Bulk rate service shall be made available to privately owned nursing care facilities, retirement facilities, convalescent hospitals, etc. The service charge shall not exceed that charged for other privately owned multi-dwelling projects.
2. The Cable TV Company shall be prohibited from directly or indirectly doing any one of the following:
- a) Engaging in the business of leasing, renting, repairing or servicing any product which is not an integral part of the Cable TV System itself such as; television sets, radios, hi-fi, appliances, etc.
 - b) Engaging in the business of selling any product, whether or not said product is an integral part of the Cable TV System itself.
 - c) Engaging in the business of furnishing contract services for labor and materials. Exception: Engaging in the business of furnishing contract services for the specific purpose of delivering service to a subscriber is permitted. Example: Distant residence outside of area being served where owner is willing to pay construction costs to extend service to said residence.
3. The Cable TV Company shall be prohibited from directly or indirectly shifting its construction costs to a builder/developer.
4. The Cable TV Company shall be required to construct its cable system in a manner which will not discriminate against the economically disadvantaged neighborhoods. The Cable TV Company therefore, within five (5) years from date of award of franchise, shall provide service to all areas in the community with a dwelling density (averaged) of 45 or more dwelling units per running mile of cable.

AS REGARDS THE CITY/COUNTY CABLE TV DRAFT ORDINANCE PRESENTED TO THE BOARD OF SUPERVISORS AT THEIR AUGUST 7, 1979 MEETING, THE FOLLOWING QUESTIONS WERE RAISED:

1. Reference Section 3, paragraph (j); Should there be limitations as to how many channels can be used for advertising?