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Federal Communications Commission
Office of the Secretary

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(1930-1991)

CABLE ADDRESS
"CRAB"

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March 16, 1992

PA 91-0009

By Hand Delivery

DOCKET FILE COPY ORIGINAL

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Mississippi Cable Television Association v. South Central Bell Telephone Company

Dear Ms. Searcy:

By letter dated March 10, 1992, NOT Received an amendment was filed, inadvertently naming Tennessee Cable Television Association as the complainant rather than the proper complainants in the above-captioned consolidated action.

Enclosed please find a new original amendment whereby the Mississippi Cable Television Association moves to amend the above-captioned complaint as shown in the attached Amendment.

Please remove the Amendment dated March 10, 1992, which names Tennessee Cable Television Association as the complainant, and replace it with the enclosed Amendment filed on behalf of the Mississippi Cable Television Association.

The Amendment filed on behalf of Mississippi Cable Television Association will permit the efficient resolution of the Complaint filed by that trade association on behalf of its members.

Sincerely,

Paul Glist

Enclosures

cc: Mr. Stephen McMahon (w/out encls.)

**BEFORE THE**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

| | | |
|---|---|---|
| In the Matter of<br><br>UACC MIDWEST, INC. d/b/a UNITED ARTISTS CABLE MISSISSIPPI GULF COAST,<br><br>Complainant,<br><br>v.<br><br>SOUTH CENTRAL BELL TELEPHONE COMPANY,<br><br>Respondent. | ) | DOCKET FILE COPY ORIGINAL<br><br>File No. PA-91-0005 |
| In the Matter of<br><br>TELECABLE ASSOCIATES, INCORPORATED,<br><br>Complainant,<br><br>v.<br><br>SOUTH CENTRAL BELL TELEPHONE COMPANY,<br><br>Respondent. | ) | File No. PA-91-0006 |
| In the Matter of<br><br>MISSISSIPPI CABLEVISION, INC.,<br><br>Complainant,<br><br>v.<br><br>SOUTH CENTRAL BELL TELEPHONE COMPANY,<br><br>Respondent. | ) | File No. PA-91-0008 |

| | | |
|---|---|---|
| In the Matter of<br><br>MISSISSIPPI CABLE TELEVISION ASSOCIATION,<br><br>Complainant,<br><br>v.<br><br>SOUTH CENTRAL BELL TELEPHONE COMPANY,<br><br>Respondent. | ) | File No. PA-91-0009 |

TO: The Common Carrier Bureau

DOCKET FILE COPY ORIGINAL

**AMENDMENT**

Exhibit B to the Complaint filed in PA 91-0009 on November 19, 1991 is hereby amended by adding an additional member's certification as shown in the attachment.

Respectfully submitted,

MISSISSIPPI CABLE TELEVISION ASSOCIATION

By: _____

Paul Glist
COLE, RAYWID & BRAVERMAN
1919 Pennsylvania Avenue, N.W.
Suite 200
Washington, D.C. 20006
(202) 659-9750

Its Attorney

March 16, 1992

EXHIBIT B

| MEMBER | COMMUNITIES | POLE COUNT |
|---|---|---|
| Picayune Cablevision, Inc.<br>c/o Cablevision Industries<br>Cablevision Center<br>Liberty, NY 12754 | Picayune and environs | 1866 |
| Post-Newsweek Cable, Inc.<br>2621 East Camelback Road<br>Suite 150<br>Phoenix, AZ 85016 | Gulfport<br>Harrison County<br>Clarksdale<br>Lyon<br>Duncan<br>Coahoma County | 2222 |
| Sammons Communications, Inc.<br>3010 LBJ Freeway<br>Suite 800<br>Dallas, TX 75234 | Gautier<br>Moss Point<br>Pascagoula<br>Brookhaven<br>Magnolia<br>McComb<br>Natchez<br>Summit | 8355 |
| Susquehanna Cable Company | Brandon<br>Flowood<br>Pearl<br>Pelahatchie<br>Rankin County<br>Centerville<br>Gloster<br>Liberty<br>Woodville | 2237 |
| American Television &<br>Communications Corp.<br>d/b/a Capitol Cablevision<br>5375 Executive Place<br>P.O. Box 9426<br>Jackson, MS 39206 | Bolton<br>Clinton<br>Edwards<br>Jackson<br>Madison/Ridgeland<br>Raymond<br>Richland | 55<br>394<br>87<br>9218<br>172<br>145<br>358 |

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

| | |
|---|---|
| MISSISSIPPI CABLE TELEVISION ASSOCIATION, | ) |
| Plaintiff, | ) |
| v. | ) |
| SOUTH CENTRAL BELL, | ) |
| Defendant. | ) |

CERTIFICATION

Pursuant to Section 1.1404(a) of fCC rules, the undersigned certifies that Mississippi Cable Televisin Association is authorized to file on our behalf a complaint against South Central Bell for pole rent overcharges.

Name: Stephen T. McMahon

Date: 3/6/92

Company: American TV & Comm. Corp. (d/b/a Capital Cablevision)

System(s): Madison, Ridgeland, Bolton, Edwards, Jackson, Clinton, Raymond, Richland

TO:

Date. 8-21-91

Acct.# MB-0891-16

Capitol Cablevision
American Television & Communications Corp. d/b/a
5375 Executive Place
P. O. Box 9426
Jackson, MS 39206
(601) 982-1187

0189

SOU0080I
12-4

## FORWARD PAYMENT TO:

South Central Bell
Billing Maintenance Center
260G Landmark Center
Post Office Box 811
Jackson, Mississippi 39205

## POLE ATTACHMENT RENTALS:

| LOCATION | # OF POLES | SEMI-ANNUAL RATE/POLE | PERIOD COVERED FROM | TO | AMOUNT |
|---|---|---|---|---|---|
| Bolton | 55 | $3.28 | 07-01-91 | 12-31-91 | $180.40 |
| Clinton | 394 | $3.28 | 07-01-91 | 12-31-91 | $1,292.32 |
| Edwards | 87 | $3.28 | 07-01-91 | 12-31-91 | $285.36 |
| Jackson | 9218 | $3.28 | 07-01-91 | 12-31-91 | $30,235.04 |
| Madison/Ridgeland | 172 | $3.28 | 07-01-91 | 12-31-91 | $564.16 |
| Raymond | 145 | $3.28 | 07-01-91 | 12-31-91 | $475.60 |
| Richland | 358 | $3.28 | 07-01-91 | 12-31-91 | $1,174.24 |

DEC 6 PAID

| SYS | ACCT NO./PA. NO. | AMOUNT |
|---|---|---|
| 0-082-1-01-1924-0000 | | ~~$34,207.12~~ 5701.17 |
| 0-082-1-02-2528-0000 | | 28,505.95 |
| | | |
| | | |
| APPROVAL | | 34,207.12 |
| | | OTHER |
| | | ML |

9991

OK

**TOTAL AMOUNT DUE** $34,207.12

write on check
"Subject to adjustment if found not to conform to FCC formula."

August 6, 1970 (09-11-70)

**LICENSE AGREEMENT**
**FOR**
**POLE ATTACHMENTS**

**THIS AGREEMENT** made this 16th day of July, 1992, between SOUTH CENTRAL BELL TELEPHONE COMPANY, a corporation organized and existing under the laws of the State of Georgia, having its principal office in the City of Birmingham, Alabama, hereinafter called Licensor, and American Television & Communications Corporation d/b/a Capitol Cablevision hereinafter called Licensee.

**WITNESSETH:**

WHEREAS, Licensee now proposes to furnish certain communications services in Bolton, Edwards, Clinton, Jackson, Madison/Ridgeland, Raymond and Richland, Mississippi as shown on the map attached hereto as Exhibit A and made a part hereof; and

WHEREAS, Licensee will need to place and maintain aerial cables, equipment and facilities within the area described above and desires to place such cables, equipment and facilities on poles of Licensor; and

WHEREAS, Licensor is willing to permit, to the extent it may lawfully do so, the placement of said cables, equipment and facilities on Licensor's poles where reasonably available and where such use will not interfere with Licensor's service requirements, or the use of Licensor's facilities by others.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties do hereby mutually convenant and agree as follows:

**ARTICLE I**

**DEFINITIONS**

As used in this Agreement:

Licensor's "poles" mean poles owned by Licensor.

"Anchor" means an anchor owned by Licensor which is a device to reinforce the pole to which it is attached by a guy wire.

The term "joint-use arrangement" shall be construed to mean an arrangement whereby each party to an agreement owns poles and have agreed that the other party has the right to attach to and occupy space upon the poles owned by it.

## ARTICLE II

## SCOPE OF AGREEMENT

(a) Subject to the provisions of this Agreement, the Licensor will issue to the Licensee, for any lawful communications purpose, revocable, nonexclusive licenses authorizing the attachment of Licensee's cables, equipment and facilities to Licensor's poles and anchors within the areas shown on Exhibit A attached hereto, or described above.

(b) No use, however extended, of Licensor's poles and anchors or payment of any fees or charges required under this Agreement shall create or vest in Licensee any ownership or property rights in said poles and anchors, but Licensee's rights therein shall be and remain a mere license. Nothing herein contained shall be construed to compel Licensor to construct, retain, extend, place or maintain any facilities not needed for its own service requirements.

(c) It is recognized by the Licensee that the Licensor has heretofore entered into, or may in the future enter into, agreements and arrangements with others not parties to this Agreement regarding the poles and anchors covered by this Agreement. Nothing herein contained shall be construed as a limitation, restriction or prohibition against Licensor with respect to such other agreements and arrangements.

(d) The rights of the Licensee shall at all times be subject to any present or future joint-use arrangement between Licensor and any other party regarding use of the facilities covered herein.

## ARTICLE III

## FEES AND CHARGES

(a) The Licensee shall pay to Licensor the fees and charges as specified in and in accordance with the terms and conditions of APPENDIX 1-P, attached hereto and made part hereof.

(b) Nonpayment of any amount due under this Agreement shall constitute default of this Agreement.

(c) Licensee shall furnish bond or other satisfactory evidence of security in such amount as Licensor from time to time may require, in an initial amount of $5,000.00, but not exceeding $5,000.00, to guarantee the payment of any sums which may become due to Licensor for fees due hereunder or charges for work performed for the benefit of Licensee under this Agreement, including the removal of Licensee's facilities upon termination of this Agreement by and of its provision or upon termination of any license issued hereunder. This bond requirement may be waived in writing by Licensor.

(d) On July 1, 1990, and at the end of every one (1) year period thereafter, the fees and charges specified in APPENDIX 1-P may be adjusted at the request of Licensor or Licensee after notice made in

writing to the other party not later than sixty (60) days before July 1, 1990, or the end of any subsequent one (1) year period thereafter. If agreement is not reached as to fees and charges within sixty (60) days after notification of the desire of either party to adjust fees and charges, either party may thereafter terminate this Agreement, which termination shall be effective upon six (6) months' written notice to the other party. Unless specifically rejected in writing, within (60) days, such adjusted rates and changes shall be deemed accepted.

(e) Changes or amendments to APPENDIX 1-P shall be affected by the separate execution of APPENDIX 1-P as so modified. The separately executed APPENDIX 1-P shall become a part of and be governed by the terms and conditions of this Agreement.

## ARTICLE IV

## SPECIFICATIONS

(a) Licensee's cables, equipment and facilities shall be placed and maintained at Licensee's expense in accordance with the requirements and specifications of APPENDIX 2-P attached hereto and made a part hereof. Unless different standards are specified herein, the provisions of the National Electrical Safety Code (6th edition), and any amendments thereto or replacements thereof, shall be applicable.

(b) Changes or amendments to APPENDIX 2-P shall be effected by the separate execution of APPENDIX 2-P as so modified. The separately APPENDIX 2-P shall become a part of and be governed by the terms and conditions of this Agreement.

(c) Failure to comply with this Article or APPENDIX 2-P to this Agreement shall constitute a default of this Agreement.

## ARTICLE V

## LEGAL AUTHORITY

(a) Licensee shall submit to Licensor satisfactory evidence of lawful authority to place, maintain and operate its facilities within public streets, highways, and other thoroughfares and shall secure any necessary permits and consents from Federal, State, County and Municipal authorities and from the owners of property to construct, maintain and operate facilities at the locations of poles and anchors of Licensor which it uses. Licensee shall indemnify and reimburse Licensor for all loss and expense which results from claims of governmental bodies, owners of property or others that Licensee has not a sufficient right of authority for placing and maintaining Licensee's facilities on Licensor's poles.

(b) The parties hereto shall at all times observe and comply with, and the provisions of this Agreement are subject to all laws, ordinances and regulations which in any manner affect the rights and

obligations of the parties hereto under this Agreement, so long as such laws, ordinances or regulations remain in effect.

## ARTICLE VI

## ISSUANCE OF LICENSES

(a) Before Licensee shall have a right to attach to any pole or anchor of Licensor, Licensee shall make application for and receive a revocable, nonexclusive license therefore in the form of Exhibit B, hereto attached and made a part hereof.

(b) Any license granted hereunder for attachment to Licensor's poles or anchors shall terminate without further notice to Licensee as to individual poles or anchors covered by the license to which Licensee has not attached within sixty (60) days from the date that Licensor has notified Licensee that such poles or anchors are available for attachment of the operating facilities of Licensee.

## ARTICLE VII

## POLE REPLACEMENTS AND REARRANGEMENTS

(a) Licensor reserves the right to refuse to grant a license for the attachment to its poles or anchors when Licensor determines, in its judgment, that the communication space on such pole is required for its exclusive use or that the pole or anchor may not reasonably be rearranged or replaced.

(b) In the event Licensor, in its judgment, determines that any pole or anchors of Licensor to which Licensee desires to make attachments is inadequate or otherwise needs arrangement of the existing facilities thereon to support or accommodate the additional facilities of Licensee in accordance with the specifications set forth in APPENDIX 2-P, Licensor will indicate on the application (Exhibit B) the changes necessary to provide adequate pole or anchor space and the estimated cost thereof to Licensee and return it to Licensee. If Licensee desires that such changes be made and returns the application marked to so indicate, Licensor will make such changes, including the replacement of inadequate poles or anchors, and Licensee shall pay Licensor in accordance with the terms of APPENDIX 1-P. Licensee shall also reimburse the owner or owners of other facilities attached to said poles or anchors for any expense incurred by it or them in transferring or rearranging said facilities to accommodate Licensee's attachments. Licensee shall not be entitled to reimbursement of any amounts paid to Licensor for pole or anchor replacements or for the rearrangement of facilities on Licensor's poles or anchors by reason of the use of any of the pole or anchor space so acquired by Licensor or other authorized user.

(c) Should Licensor, another utility, governmental body or other entity, with whom it then has a joint-use agreement, need for its own service requirements the space occupied by Licensee's attachments on

any of Licensor's poles or anchors, Licensee will be notified that it shall either surrender its license for that pole or anchor; and, at its own expense, vacate the space by removing its attachments, or it shall authorize Licensor to replace the poles or anchors at the expense of Licensee, in the same manner as stated in the preceding Paragraph (b) covering the replacement or rearrangement of poles or anchors when required to accommodate Licensee's attachments, or, if Licensor advises Licensee that Licensee's desired attachments can be accommodated on present poles or anchors of Licensor by rearranging Licensor's facilities thereon, Licensee shall authorize Licensor to make such arrangements. Licensee shall also reimburse the owner or owners of other facilities attached to said poles or anchors for any expense incurred by it or them in transferring or rearranging said facilities to accommodate Licensee's attachments. Any strengthening or stepping poles will be provided at the expense of Licensee in accordance with the specifications in APPENDIX 2-P.

(d) When multiple applications, including application of Licensee, are received by the Licensor with respect to any pole or anchor which must be replaced or rearranged to provide additional space, prior to commencement of the work on that pole or anchor, Licensor will endeavor to prorate to the extent that it is practical between Licensee and the other applicants for pole or anchor space, the common expenses of engineering, rearrangement and replacement, if any, which result from the processing of multiple applications. Licensee shall be bound by Licensor's determination as to any such proration of costs to Licensee.

(e) Whenever it is necessary for Licensor to make pole or anchor replacements or rearrangements in order to accommodate Licensee's cable, equipment and facilities, Licensor will endeavor to perform or have performed such work after issuance of the license to, and acceptance of responsibility for cost by, Licensee in the form of Exhibit B, as soon as is practicable upon consideration of Licensor's service requirements.

## ARTICLE VIII

## CONSTRUCTION AND MAINTENANCE OF FACILITIES

(a) Licensee shall, at its own expense, make and maintain its pole and anchor attachments in a safe condition and in thorough repair, and in a manner acceptable to Licensor, and so as not to conflict with the use of said poles and anchors, or interfere with other facilities thereon or which may from time to time be placed thereon. Licensee shall, at its own expense, upon five (5) days' notice from Licensor, relocate or replace its facilities placed on said poles or anchors, or transfer them to substituted poles or anchors, or perform any other work in connection with said facilities that may be required by Licensor; provided, however, that in cases of emergency, Licensor may arrange to relocate or replace the attachments placed on said poles or anchors by Licensee, transfer them to substituted poles or anchors or perform any other work in connection with said facilities that may be required in the

maintenance, replacement, removal or relocation of said poles or anchors or of the facilities thereon or which may be placed thereon or for the service needs of Licensor and Licensee shall reimburse Licensor for the expense thereby incurred.

## ARTICLE IX

## TERMINATION OF LICENSES

(a) Upon notice from Licensor to Licensee that the use of any pole or anchor is not authorized by Federal, State, County or Municipal authorities or private property owners, the license covering the use of such pole or anchor shall immediately terminate and shall be surrendered and Licensee shall remove its cables, equipment and facilities at once from the affected pole or poles, anchors at Licensee's expense.

(b) Licensee may at any time remove its facilities from any pole or anchor of Licensor, but shall immediately give Licensor written notice of such removal and surrender of License in the form of Exhibit C, hereto attached and made a part hereof. If Licensee surrenders its license pursuant to the provisions of this Article, but fails to remove its facilities from Licensor's poles or anchors within thirty (30) days thereafter, Licensor shall have the right to remove Licensee's facilities at Licensee's expense and without any liability on the part of Licensor for damage or injury to Licensee's facilities. In the event that Licensee's cables, equipment and facilities shall be removed from any pole or anchor as provided by this Article, no attachment shall again be made to such pole or anchor unless Licensee shall have first complied with all of the provisions of this Agreement as though no such attachment had previously been made.

## ARTICLE X

## INSPECTION OF LICENSEE'S INSTALLATIONS

(a) Licensor reserves the right to make periodic inspections of any part of the cable, equipment and facilities of Licensee on its poles or anchors and in the vicinity of such Licensor's poles, anchors, cable, equipment and facilities; and Licensee shall reimburse Licensor for the expense of such inspections. Inspections will not be made more often than once a year and upon notice to Licensee unless, in Licensor's judgement, such inspections are required for reasons involving safety or are required because of a violation of the terms of this Agreement by Licensee. The charge for the inspection shall be in accordance with the terms and conditions of APPENDIX 1-P. The making of such inspections or the failure to do so shall not operate to relieve Licensee of any responsibility, obligation or liability assumed under this Agreement.

(b) If any cable, equipment or facilities of Licensee shall be found on a pole or anchor for which no license is outstanding,

Licensor, without prejudice to its other rights or remedies under this Agreement or otherwise, may (1) impose a charge, and (2) require Licensee to remove such cable, equipment or facilities forthwith or Licensor may remove them without liability and the expense of removal shall be bore by Licensee. For the purpose of determining the charge, absent satisfactory evidence to the contrary, the unlicensed use shall be treated as having existed for a period of two (2) years prior to its discovery or for the period beginning with the date of this Agreement, whichever period shall be the shorter; and the fee, at the appropriate rate as shown in APPENDIX 1-P, for each year and for any portion of a year contained in such period, shall be due and payable forthwith. Any such fee imposed by Licensor shall be in addition to its rights to any other sums due and payable and to any claims or damages under this Agreement or otherwise. No act or failure to act by Licensor with regard to said fee or said unlicensed use shall be deemed as a ratification or the licensing of the unlicensed use, and if any license in the form of Exhibit B should subsequently be issued, after application therefore, said license shall not operate retroactively or constitute a waiver by Licensor of any of its rights or privileges under this Agreement or otherwise.

## ARTICLE XI

## LIABILITY AND DAMAGES

(a) Licensor reserves to itself, its successors and assigns, the right to maintain its poles and anchors and to operate its facilities thereon in such manner as will best enable it to fulfill its own service requirements. Licensor shall not be liable to Licensee for any interruption of service of Licensee or for interference with the operation of the cables, equipment and facilities of Licensee arising in any manner, except from Licensor's sole negligence, out of the use of Licensor's poles and anchors.

(b) Licensee shall exercise special precautions to avoid damaging the cables, equipment and facilities of Licensor and of others occupying Licensor's poles and anchors and Licensee hereby assumes all responsibility for any and all loss for such damage. Licensee shall make an immediate report to Licensor of the occurrence of any such damage and hereby agree to reimburse the respective owners for the expense incurred in making repairs.

(c) Licensee shall indemnify, protect and save harmless Licensor from and against any and all claims demands and damages to property and injury to or death of persons, including payments made under any Workmen's Compensation Law or under any plan for employees' disability and death benefits, which may arise out of or be caused by the erection, maintenance, presence, use or removal of Licensee's cable, equipment and facilities or by the proximity of the cables, equipment and facilities of the Licensee to those of Licensor or its other Licensees, or by any act of Licensee on or in the vicinity of Licensor's poles and anchors, or Licensee's breach of any part of this Agreement, regardless of whether or not any such damage to property or injury to or death of person results from Licensee's

negligence. Licensee shall also indemnify, protect and save harmless Licensor from any and all claims and demands of whatever kind which arise directly or indirectly from the operation of Licensee's facilities including taxes, special charges by others, claims and demands for damages or loss for infringement of copyright, for libel and slander, for unauthorized use of material, and from and against all claims and demands for infringement of patents with respect to the manufacture, use and operation of Licensee's equipment whether arising for the use of Licensee's equipment in combination with Licensor's poles, anchors or otherwise.

(d) Licensee shall carry insurance to protect the parties hereto as named insured from and against any and all claims, demands, actions, judgments, costs, expenses and liabilities of every kind and nature which may arise or result, directly or indirectly, from or by reason of any loss, injury or damage described in (c) above. The amounts of such insurance against liability due to damage to property shall be no less than Two Hundred and Fifty Thousand Dollars ($250,000.00) as to any one accident and Two Hundred and Fifty Thousand Dollars ($250,000.00) aggregate and against liability due to injury to or death or persons no less then a Two Hundred and Fifty Thousand Dollars ($250,000.00) as to any one person and Five Hundred Thousand Dollars ($500,000.00) as to any one (1) accident. Licensee shall also carry such insurance as will protect it from all claims under any Workmen's Compensation Laws in effect that may be applicable to it. all insurance required shall remain in force for the entire life of this Agreement and the company or companies issuing such insurance shall be approved by Licensor. The taking out of such insurance shall not relieve or limit Licensee from its liability to Licensor under this Agreement but shall only be added security. Licensee shall submit to Licensor certificates by each company insuring Licensee to the effect tat it has insured Licensee for liability of Licensee under this Agreement and that it will not cancel or change any policy of insurance issued to Licensee except after thirty (30) days' notice to Licensor.

## ARTICLE XII

## LICENSE NOT EXCLUSIVE

Nothing herein contained shall be construed as a grant of any exclusive license, right or privilege to Licensee. Licensor shall have the right to grant, renew and extend rights and privileges to others not parties to this Agreement, by contract or otherwise, to use any poles or anchors covered by this Agreement.

## ARTICLE XIII

## ASSIGNMENT OF RIGHTS

(a) Licensee shall not assign or transfer the privileges contained in this Agreement without the prior consent in writing of Licensor. The assignment or transfer by Licensee of such privileges

without written consent of Licensor, shall constitute a default of Licensee's obligation and, not withstanding any other provisions of this Agreement, Licensor may at its option forthwith terminate this Agreement or any license issued hereunder. Where control of Licensee is transferred, whether by sale of stock or otherwise, Licensee shall promptly notify Licensor in writing. Failure of Licensee to give such notice shall be cause for termination of this Agreement, at the option of Licensor, as provided hereinabove in this paragraph.

(b) Subject to the provisions of paragraph (a) hereof, this Agreement shall extend to and bind the successors and assigns of the parties hereto.

## ARTICLE XIV

## WAIVER OF TERMS AND CONDITIONS

Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement or failure to give notice to declare this Agreement or any licenses granted hereunder terminated shall not constitute a general waiver or relinquishment of any such terms, conditions or acts but the same shall be and remain at all times in full force and effect.

## ARTICLE XV

## TERMINATION OF AGREEMENT

(a) If Licensee shall fail to comply with any of the terms or conditions of this Agreement or defaults in any of its obligations under this Agreement and shall fail within thirty (30) days after written notice from Licensor to correct such default or noncompliance, Licensor may, at its option, forthwith terminate this Agreement and all licenses granted hereunder, or the licenses covering the poles or anchors as to which such default or noncompliance shall have occurred.

(b) In addition, the Licensor shall have the right to terminate this entire Agreement, or individual licenses granted hereunder, without notice:

(1) If the Licensee facilities are maintained or use in violation of any law or in aid of any unlawful act or undertaking; or

(2) If any permit or other authorization which may be required be any governmental authority, or from any property owner, for the operation or maintenance of Licensee's cables, equipment and facilities on Licensor's poles or anchors is revoked, denied, or not granted before the date when possession of such permit or authorization becomes a condition of continued operations; or

(3) If Licensee defaults under ARTICLE IV.

(c) If the insurance carrier shall at any time notify Licensor that the policy or policies of insurance, as provide under ARTICLE XI hereof, will be cancelled or changed so that the requirements of ARTICLE XI will no longer be satisfied, then this Agreement shall cease and terminate upon the effective date of such notification.

## ARTICLE XVI

## TERM OF AGREEMENT

This Agreement shall become effective upon its execution and if not terminated in accordance with the provisions in ARTICLES IV or XV shall continue in effect for a term of not less than three (3) years. Either party may terminate this Agreement at the end of the said term by GIVING to the other party written notice of an intention to terminate the Agreement at least six (6) months prior to the end of the said term; but, upon failure to give such notice, this Agreement shall continue in force upon the same terms and conditions for a further term of one (1) year, and for one (1) year periods thereafter, until terminated by either party at the end of any current term by giving to the other party written notice an intention so to terminate the Agreement at least six (6) months prior to the end of such term. Upon termination of the Agreement in accordance with any of its terms, all outstanding licenses shall terminate and shall be surrendered and Licensee shall immediately remove its cables, equipment and facilities from all poles and anchors of Licensor. If not so removed, Licensor shall have the right to remove Licensee's cable, equipment and facilities at the cost and expense of Licensee and without any liability therefore.

## ARTICLE XVII

## NOTICES

Notices under this Agreement may be given by posting the same in first class mail to the Licensee as follows:

Name American Television & Communications Corp. d/b/a Capitol Cablevision
Address 5375 Executive Place
City, State and Zip Code Jackson, Mississippi 39206

and to the Licensor as follows:

Operations Manager-Network Provisioning
South Central Bell Telephone Company
Address 340 Landmark Center/P. O. Box 811
City, State and Zip Code Jackson, Mississippi 39205

## ARTICLE XVIII

The Agreement supersedes all previous Agreements, including, but not limited to the one dated N/A, whether written or oral, between Licensee and Licensor for placement and maintenance of aerial cables, equipment and facilities by Licensee within the area shown by Exhibit A or otherwise described above; and there are no other provisions, terms or conditions to this Agreement except as expressed herein. All currently effective licenses heretofore granted pursuant to such previous agreements shall be subject to the terms and conditions of this Agreement.

Exhibit D, entitled "Conflict of Interest", and the applicable provisions in Exhibit E, entitled "Nondiscrimination Compliance Agreement", shall form a part of this contract and any amendments thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year first above written.

American Television & Comm.
Corp. d/b/a Capitol Cablevision
(Name of Licensee)

By Stephen T. McMahon
as _____

SOUTH CENTRAL BELL
TELEPHONE COMPANY

By _____
as General Mgr-Ntwk. Provisioning

Attest:

_____
Secretary

LICENSEE

LICENSOR

# APPLICATION FOR POLE LICENSE

City and State _____
Date _____

Operations Manager-Network Provisioning
South Central Bell Telephone Company
Street Address 340 Landmark Center/P. O. Box 811
City, State and Zip Code Jackson, Mississippi 39205

In accordance with the terms and conditions of the License Agreement between us, dated _____, 19 ___, application is hereby made for a license to make attachments to the following poles and anchors:

| Pole No. | Location | Attachment |
|---|---|---|

_____
(Name of Licensee)

By _____
Title _____

---

[1]Application shall be submitted in duplicate

[2]The designation of each pole shall be given by the pole number on the application.

[3]A complete description of all facilities shall be given, including quantities, sizes and types of all cables and equipment

LICENSE NUMBER _____

A revocable, non-exclusive license is hereby granted to make the attachments described in this application, subject to acceptance by Licensee of the obligation to pay the cost of the following replacement of poles or anchors and rearrangement of facilities on poles and anchors required to accommodate the specified attachments.

| Description | Estimated Cost $ |
|---|---|

SOUTH CENTRAL BELL TELEPHONE COMPANY

By_____
Title_____
Date_____

The above replacements and rearrangements are approved and the cost thereof will be paid to Licensor in accordance with APPENDIX 1-P to the License Agreement.

_____
(Name of Licensee)

By_____
Title_____
Date_____

---

[4]If any additional replacements and rearrangements other than those described herein become involved before delivery of Licensee's approval of such replacements and rearrangements and acceptance of costs to Licensor, the application must be reprocessed to reflect such additional replacements and rearrangements before the license becomes effective.

EXHIBIT C

**NOTIFICATION OF SURRENDER OR MODIFICATION OF POLE ATTACHMENT LICENSE BY LICENSEE**

City and State _____
Date _____

Operations Manager-Network Provisioning
South Central Bell Telephone Company
Street Address 340 Landmark Center/P. O. Box 811
City, State and Zip Code Jackson, Mississippi 39205

In accordance with the terms and conditions of the License Agreement between us, dated _____, 19 ___, notice is hereby given that the license covering attachments to the following poles and anchors is surrendered (or modified, if indicated):

License No. _____ Dated _____, 19 ___.

| Pole Identification | Attachment Removed | Modification/Surrendered |
|---|---|---|

_____
(Name of Licensee)

By _____
Title _____

---

Date Notice Received _____ by _____

Total Poles Discontinued _____

Total Anchors Discontinued _____

## EXHIBIT D

## CONFLICT OF INTEREST

(1) Licensee stipulates that no person employed by the Licensor has been employed, retained, induced or directed to solicit or secure this lease upon agreement, offer, understanding or implication involving any form of remuneration whatsoever.

(2) The Licensee agrees that in the event of an allegation of substance (the determination of which will be made solely by the Licensor) that Paragraph (1) has been violated, the Licensee shall cooperate fully with the Licensor in establishing whether or not the allegation is true.

(3) The Licensee agrees to be liable for, and agrees to pay to the Licensor, any damage resulting to the Licensor because of any violation of Paragraph (1). The Licensee understands that any such violation may also subject the Licensee to prosecution under commercial bribery statutes or other laws.

RF 5303
(12-85)

**Agreement No.**

**Appendix**
Exhibit E

# NonDiscrimination Compliance Agreement

Contractors shall comply with the applicable provisions of the following:

Exec. Order No. 11246. Exec. Order No. 11625. Section 8 of the Small Business Act as amended. Railroad Revitalization and Regulatory Reform Act of 1976. Exec. Order No. 11701. Exec. Order No. 11758. Exec. Order No. 12138. Section 503 of the Rehabilitation Act of 1973 as amended by PL93-516. Vietnam Era Veteran's Readjustment Assistance Act of 1974 and the rules, regulations and relevant Orders of the Secretary of Labor pertaining to the Executive Orders and Statutes listed above.

For contracts of or which aggregate to $2,500 or more annually, the following table describes the clauses which are included in the contract:

1. Inclusion of the Equal Employment clause in all contracts and orders:
2. Certification of non-segregated facilities:
3. Certification that an affirmative action program has been developed and is being followed:
4. Certification that an annual Employers Information Report (EEO-1 Standard Form 100) is being followed:
5. Inclusion of the "Utilization of Minority and Women's Business Enterprises" clause in all contracts and orders:
6. Inclusion of the "Minority and Women's Business Enterprises" clause in all contracts and orders:
7. Inclusion of the "Listing of Employment Openings" clause in all contracts and orders:
8. Inclusion of the "Employment of the Handicapped" clause in all contracts and orders:

| $2,500 to $10,000 | $10,000 to $50,000 | $50,000 or more |
|---|---|---|
| 8 | 1, 2, 5, 6, 7, 8 | 1, 2, 3*, 4*, 5, 6, 7, 8 |

* Applies only for businesses with 50 or more employees

1. Equal Employment Opportunity Provisions

In accordance with Exec. Order No. 11246, dated September 24, 1965 and Part 60-1 of Title 41 of the codes of Federal Regulations (Public Contracts and Property Management. Office of Federal Contract Compliance. Obligations of Contractors and Subcontractors), as may be amended from time to time, the parties incorporate herein by this reference the regulations and contract clauses required by those provisions to be made a part of Government contracts and subcontracts.

2. Certification of Non-segregated Facilities

The contractor certifies that it does not and will not maintain any facilities it provides for its employees in a segregated manner, or permit its employees to perform their services at any location under its control where segregated facilities are maintained and that it will obtain a similar certification prior to the award of any nonexempt subcontract.

3. Certification of Affirmative Action Program

The contractor affirms that it has developed and is maintaining an affirmative action plan as required by Part 60-2 of Title 41 of the Code of Federal Regulations.

4. Certification of Filing of Employers Information Reports

The contractor agrees to file annually, on or before the 31st day of March, complete and accurate reports on Standard Form 100 (EEO-1) or such forms as may be promulgated in its place.

5. Utilization of Minority and Women's Business Enterprises

(a) It is the policy of the Government and us, as a Government contractor, that minority and women's business enterprises shall have the maximum practicable opportunity to participate in the performance of contracts.

(b) The contractor agrees to use his or her best efforts to carry out this policy in the award of his or her subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority or women's business enterprise" means a business with at least 50 percent of which is owned by minority or women group members or in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority or women group members. For purposes of this definition, minority group members are American Blacks, Hispanics, Asians, Pacific Islanders, American Indians and Alaskan Natives. Contractors may rely on written representation by subcontractors regarding their status as minority or women's business enterprises in lieu of an independent investigation.

6. Minority and Women's Business Enterprises Subcontracting Program

(a) The contractor agrees to establish and conduct a program which will enable minority and women's business enterprises (as defined in paragraph 5 above) to be considered fairly as subcontractors and suppliers under the contract. In this connection, the Contractor shall:

(1) Designate a liason officer who will administer the contractor's minority and women's business enterprises program:

(2) Provide adequate and timely consideration of the potentialities of known minority and women's business enterprises in all "make-or-buy" decisions:

(3) Assure that known minority and women's business enterprises will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of minority and women's business enterprises ;

(4) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority and women's business enterprises, (ii) awards to minority and women's business enterprises on the source list, and (iii) specific efforts to identify and award contracts to minority and women's business enterprises:

(5) Include the Utilization of Minority and Women's Business Enterprises clause in subcontracts which offer substantial minority and women's business enterprises subcontracting opportunities:

(6) Cooperate with the Government's Contracting Officer for us in any studies and surveys of the contractor's minority and women's business enterprises procedures and practices that the Government's Contracting Officer may from time to time conduct:

(7) Submit periodic reports of subcontracting to known minority and women's business enterprises with respect to the records referred to in subparagraph (4) above, in such form and manner and at such time (not more often than quarterly) as the Government's Contracting Officer may prescribe.

(b) The contractor further agrees to insert, in any subcontract hereunder which may exceed $500,000 (or in the case of WBE $1,000,000 in the case of contracts for the construction of any public facility and which offer substantial subcontracting possibilities) provisions which shall conform substantially to the language of this Agreement, including this paragraph (b) and to notify the Contracting Officer of the names of such subcontractors

7. List of Employment Openings for Veterans

In accordance with Exec. Order 11701, dated January 24, 1973, and Part 60-250 of Title 41 of the Code of Federal Regulations, as it may be amended from time to time, the parties incorporate herein by this reference the regulations and contract clauses required by those provisions to be made a part of Government contracts and subcontracts.

8. Employment of the Handicapped

In accordance with Exec. Order 11758, dated January 15, 1974, and Part 60-741 of Title 41 of the Code of Federal Regulations as may be amended from time to time, the parties incorporate herein by this reference the regulations and contract clauses required by those provisions to be made a part of Government contracts and subcontracts.

## APPENDIX 1-P

## SCHEDULE OF FEES AND CHARGES

**THIS APPENDIX 1-P** is, from the effective date hereof, an integral part of the License Agreement between South Central Bell Telephone Company, therein called Licensor, and American Television & Communications Corporation d/b/a Capitol Cablevision therein called Licensee, dated 9-16-90 (hereinafter called the Agreement) and contains the fees and charges governing the use of Licensor's poles and anchors to accommodate the cable, equipment and facilities of Licensee in Bolton, Edwards, and Raymond, Mississippi. The effective date of this APPENDIX 1-P is July 1, 1990, and said Appendix 1-P shall remain in effect through June 30, 1991.

### ATTACHMENTS

1. **ATTACHMENT FEE:** $4.98 per pole per annum.

   (a) Computation

   For the purpose of computing the total attachment fees due hereunder, the total fee shall be based upon the number of poles to which attachments are actually made, on the first day of June and first day of December of each year. The first advance payment of the annual charge for licenses granted under this Agreement shall be prorated from the date that the attachment is made to the pole to the first regular payment date.

   (b) Payment Date

   Attachment fees shall be due and payable semi-annually, in advance, on the 1st day of January for the first half of the calendar year beginning on that date, and on the 1st day of July for the last half of the calendar year. Failure to pay such fees within thirty (30) days after presentment of the bill therefor or on the specified payment date, whichever is later, shall constitute a default of this Agreement.

   (c) Termination of License

   No refund of any attachment fee will be paid on account of any termination or surrender of a license granted hereunder.

2. **OTHER CHARGES**

(a) **Computation**

(1) All charges for inspections, engineering, rearrangements, removals of Licensee's facilities from Licensor's poles or anchors, and any other work performed for Licensee shall be based upon the full cost and expense to Licensor for performing such work. The cost to Licensor shall be determined in accordance with the regular and customary methods used by Licensor in determining such costs.

(2) The charge for replacement of poles and anchors shall include the entire nonbetterment cost to Licensor, including the increased cost of larger poles, the cost of transferring Licensor's facilities from the old to the new poles, cost of removal of replaced poles and anchors, less any salvage and depreciation credits.

(b) **Payment Date**

All bills for such other charges shall be payable upon presentment to Licensee, and failure to pay said bill within thirty (30) days after presentment to Licensee shall constitute a default of this Agreement.

LICENSOR

SOUTH CENTRAL BELL TELEPHONE COMPANY

By _____
Title General Mgr.-Ntwk. Provisioning
Date 7-16-90

LICENSEE

American Television and
Communications Corporation d/b/a
Capitol Cablevision
(Name of Licensee)

By _____
Title Division President
Date 6-20-90

Attest:

_____
Secretary

## APPENDIX 1-P

## SCHEDULE OF FEES AND CHARGES

**THIS APPENDIX 1-P** is, from the effective date hereof, an integral part of the License Agreement between South Central Bell Telephone Company, therein called Licensor, and American Television & Communications Corporation d/b/a Capitol Cablevision therein called Licensee, dated 7-16-90 (hereinafter called the Agreement) and contains the fees and charges governing the use of Licensor's poles and anchors to accommodate the cable, equipment and facilities of Licensee in Clinton, Mississippi. The effective date of this APPENDIX 1-P is July 1, 1990, and said Appendix 1-P shall remain in effect through June 30, 1991.

### ATTACHMENTS

1. **ATTACHMENT FEE:** $2.85 per pole for the period of 07-01-90 through 09-30-90 and $4.98 per pole for the period of 10-01-90 through 06-30-91.

   (a) **Computation**

   For the purpose of computing the total attachment fees due hereunder, the total fee shall be based upon the number of poles to which attachments are actually made, on the first day of June and first day of December of each year. The first advance payment of the annual charge for licenses granted under this Agreement shall be prorated from the date that the attachment is made to the pole to the first regular payment date.

   (b) **Payment Date**

   Attachment fees shall be due and payable semi-annually, in advance, on the 1st day of January for the first half of the calendar year beginning on that date, and on the 1st day of July for the last half of the calendar year. Failure to pay such fees within thirty (30) days after presentment of the bill therefor or on the specified payment date, whichever is later, shall constitute a default of this Agreement.

   (c) **Termination of License**

   No refund of any attachment fee will be paid on account of any termination or surrender of a license granted hereunder.