

ORDINANCE NO. 3279

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AND THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ACTING IN THEIR CAPACITY AS A REGULATORY AUTHORITY UNDER THE 1992 CABLE ACT, ESTABLISHING MAXIMUM RATES FOR BASIC CABLE SERVICE AND FOR REGULATED EQUIPMENT AND INSTALLATION PROVIDED WITHIN THE CITY OF MESQUITE; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE.

WHEREAS, the City of Mesquite as the franchising authority for cable television within the City of Mesquite is certified to regulate basic rates of cable television pursuant to the 1992 Cable Act ("the Act") and Federal Communications Commission ("FCC") Rules; and

WHEREAS, on or about March 1, of 1996, 1997 and 1998, TCI Cablevision of Dallas, Inc. ("TCI") submitted FCC Form 1205 to justify maximum rates for regulated equipment and installation which the City had ninety days to review after which time TCI could implement such rates unless the rates are determined by the City to be unreasonable; and

WHEREAS, based upon a rate consultant's analysis, the City determined that the rates filed by TCI on FCC Form 1205 for 1996, 1997 and 1998 were not reasonable; and

WHEREAS, based upon a rate consultant's analysis, the City ordered rates that were different from those requested by TCI; and

WHEREAS, TCI appealed each of these rate orders for 1996, 1997 and 1998 to the FCC where they are still under review; and

WHEREAS, on March 1, 1998, TCI submitted FCC Form 1240 to justify basic cable rates which the City had ninety days to review after which time TCI may implement such rates unless the rates are determined by the City to be unreasonable; and

WHEREAS, TCI pursuant to said FCC Form 1240 requested a maximum rate for basic cable service of \$12.44 per month, including FCC regulatory fees; and

WHEREAS, based upon a rate consultant's analysis, the City determined that the rates filed by TCI on FCC Form 1240 were not reasonable and ordered a maximum basic cable rate of \$12.33; and

WHEREAS, TCI appealed this rate order to the FCC where it is currently under review; and

WHEREAS, On October 30, 1998, TCI submitted a Proposal to resolve all outstanding issues related to basic cable, equipment and service rates related to the 1996, 1997, and 1998 FCC Form 1205 filings and the 1998 FCC Form 1240 filing; and

WHEREAS, the City has the information necessary to determine that the Proposal is fair and in the best interest of TCI customers within the City of Mesquite.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

**SECTION 1.** That based upon the review and analysis made by the City of the rates submitted by TCI with its Proposal to the City of Mesquite on October 30, 1998, and pursuant to the 1992 Cable Act, and FCC rules, the City Council of the City of Mesquite sets the maximum rates for regulated equipment and installation for the period June 1, 1998 through May 31, 1999.

<b><u>Installation Rates</u></b>	<b><u>Rate</u></b>
Installation of Unwired Homes	\$40.55
Installation of Prewired Homes	21.95
Installation of Additional Connects Initial	12.64
Installation of Additional Connects Separate	20.15
Relocate Outlet	19.44
Upgrade non-addressable	13.95
Downgrade non-addressable	8.52
Upgrade/Downgrade addressable	1.99
Connect VCR Initial	6.19
Connect VCR Separate	13.16
Changing Tiers	13.95
Hourly Service Charge	\$27.11

<b><u>Lease Rates</u></b>	<b><u>Monthly Rate</u></b>
Remotes	\$.30
Basic Only Converter	1.50
Non-Basic Only Converter	3.25
Inside Wire Maintenance Program	.05

**SECTION 2.** That TCI refund the amount of \$47,580 across the current customer base within 30 days of the effective date of the City's Ordinance.

**SECTION 3.** That based upon the review and analysis made by the City of the rates submitted by TCI with its Revised Form 1240's for 1996, 1997 and 1998, and pursuant to the 1992 Cable Act, and FCC rules, the City Council of the City of Mesquite sets the maximum basic cable rate at \$12.43 per month per subscriber, including FCC regulatory fees for the period June 1, 1998 through May 31, 1999.

SECTION 4. That based upon concern over a \$.01 per month decrease, TCI may continue to charge its current Basic Service Rate of \$12.44 (inclusive of FCC User Fee) until May 31, 1999. However, TCI shall true-up the difference between the Operator Selected Rate of \$12.44 and the Maximum Permitted Rate of \$12.43 in its future rate filings.

SECTION 5. That TCI and the City of Mesquite shall, within 30 days of the effective date of this ordinance, jointly withdraw all outstanding rate appeals, stay requests, oppositions and replies currently pending before the FCC.

SECTION 6. That by adopting this Ordinance, the City Council of the City of Mesquite is not approving or acquiescing in any way whatsoever to cost data and/or methodologies not specifically addressed in this Ordinance. Additionally, the City Council of the City of Mesquite is not waiving any right of which it is entitled, specifically the right to object to any rate issues resolved in this Proposal which arise in future rate cases.

SECTION 7. That the effective date of these maximum charges for regulated equipment and installation shall be as of the effective date of this Ordinance and shall be effective through May 31, 1999.

SECTION 8. That on the effective date of this Ordinance TCI may begin their Operated Selected Rates when those rates are equal to or lower than the rates established by this Ordinance.

SECTION 9. That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinances, to the extent of such conflict are hereby repealed. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on first reading on the 19th day of January, 1999.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on second and final reading on the 1st day of February, 1999.



Mike Anderson  
Mayor

ATTEST:

APPROVED:



Ellen Williams  
City Secretary



B.J. Smith  
City Attorney