

ORDINANCE NO. 3312

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ACTING IN THEIR CAPACITY AS A REGULATORY AUTHORITY UNDER THE 1992 CABLE ACT, ESTABLISHING A MAXIMUM BASIC RATE PER SUBSCRIBER FOR ABBREVIATED COST OF SERVICE FILING FOR CABLE UPGRADES FOR BASIC CABLE SERVICE PROVIDED WITHIN THE CITY OF MESQUITE; AND DECLARING AN EFFECTIVE DATE.

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 March 1, 1999, TCI Cablevision of Dallas, Inc. ("TCI") submitted FCC Form 1235 Abbreviated Cost of Service Filing for Cable Network Upgrades to justify a basic cable rate increase related to significant capital expenditures used to improve rate-regulated cable services; and

WHEREAS, FCC Form 1235 submitted by TCI requested pre-approval to add \$1.06 per subscriber per month to the basic cable rate and adjust this rate based on actual costs following completion of the system upgrade; and

WHEREAS, TCI subsequently requested that the FCC Form 1235 filed on March 1, 1999, be considered as a final filing and establish \$1.06 per subscriber, per month, as the maximum allowable increase related to the system upgrade described in FCC Form 1235, and

WHEREAS, on June 21, 1999, the City Council conducted a public hearing on the rate submission as provided by law; and

WHEREAS, according to FCC regulations the network upgrade add-on cannot be charged to any subscriber(s) of rate-regulated services until upgraded cable services become available and are providing benefits to that subscriber(s); and

WHEREAS, the City, based on analysis of FCC Form 1235 and the recommendations of a rate consultant, determined that consideration of FCC Form 1235 as a final filing was reasonable and in the best interests of the citizens 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 and the City's rate consultant of FCC Form 1235 submitted by TCI on March 1, 1999, and pursuant to the 1992 Cable Act, and FCC rules, the City Council of the City of Mesquite sets the maximum Cable System Network Upgrade Add-on to basic cable rate at \$1.06 per month per subscriber.

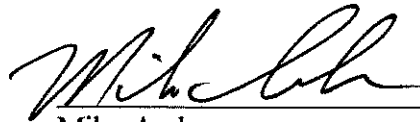
SECTION 2. That by adopting this ordinance, the City Council of the City of Mesquite is not approving or acquiescing in any way whatsoever to cost data and/or methodologies not specifically addressed in this ordinance. Additionally, the City Council of the City of Mesquite is not waiving any right of which it is entitled.

SECTION 3. That should any word, sentence, clause, paragraph, or provision of this ordinance be held to be invalid or unconstitutional the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 4. That the effective date of the maximum charge for Cable System Network Upgrade Add-on shall be on or after June 1, 1999, and in compliance with FCC regulations regarding subscriber connection and benefit from the system upgrade.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on first reading on the 6th day of July, 1999.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on second and final reading on the 19<sup>th</sup> day of July, 1999.



Mike Anderson  
Mayor

ATTEST:

APPROVED:



Ellen Williams  
City Secretary



B. J. Smith  
City Attorney