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History: Article I was ordinance 4006¹ (adopted September 14, 1964) and Article II was 4012C (adopted February 13, 1995) and Article III was Ordinance 06-0123-01 (adopted February 27, 2006).

¹ Effective Date: December 14, 1964

Article I Gas

Section 4-1 Granting of Franchise – Terms of Agreement

Delaware Power & Light Company, a Delaware corporation, its successors and assigns (hereinafter referred to as “Grantee”), is hereby granted the right, franchise and privilege of using and occupying the streets, alleys and other public ways in the City of Delaware City for the construction, maintenance, repair and operation of the necessary mains, pipes and other appurtenances for the transmission, distribution, sale and supply of natural, manufactured or mixed gas within the through the present or future corporate limits of the City of Delaware City from and after the date when this Article becomes effective, upon the terms and conditions as hereinafter stated:

a.) The Grantee shall be entitled to charge for the gas supplied by it within the present or future corporate limits of the City in accordance with Grantee’s gas tariff for New Castle County, filed with and approved by the Public Service Commission of the State of Delaware.

b.) The Grantee agrees to make gas service available to any citizen within the City limits of Delaware City desiring to use gas.

c.) Street openings shall be so made that they will not unnecessarily interrupt or interfere with public travel.

d.) Back filling of street openings shall be carried out promptly after work completion. No trench shall be permitted to remain open in any street, alley or public way longer than ten (10) days.

e.) After completion of work requiring the opening of streets, alleys and public ways, the beds of said streets, alleys and public ways where opened will be promptly restored as nearly as practicable to their former condition.

f.) The Grantee shall save and keep harmless the Mayor and Council of the City of Delaware City from any and all liability by reason of damage or injury to any person, persons or property, whatsoever, arising in connection with the opening of said streets, alleys and public ways or by the installation and maintenance of the said mains, pipes and their appurtenances; provided, however, that the Grantee shall be given timely notice in writing of any claim against the said Mayor and Council on account thereof and shall be given ample opportunity to defend the said claim.

g.) If any repairs to the streets, alleys or public ways are necessary or required by reason of their opening, the Grantee shall, upon twenty-four hours’ notice in writing from the Mayor and Council of the City of Delaware City, proceed to repair the same, and upon failure to do so, such

repairs as the Mayor and Council shall deem necessary shall be made by the Mayor and Council and shall be charged to the Grantee, and upon the failure of the Grantee to pay the amount so charged within thirty (30) days, the said Mayor and Council shall have the right to sue for and recover the amount of said charge in an appropriate action taken before any court of competent jurisdiction.

h.) Upon the failure of the Grantee to conform and comply with the above terms, conditions and restrictions, the franchise and permission hereby granted shall become null and void.

Section 4-2 Availability Must be Within One Year

Provided further that if a supply of gas is not available for users within the corporate limits of Delaware City within one (1) year from the effective date of this Article, then this Article and all rights and privileges granted hereunder shall be null and void.

Section 4-3 Conditions

The right, franchise and privilege granted herein to Grantee shall become operative and effective three (3) months from and after its passage and publication according to law, provided it has been accepted by the Grantee by a writing filed with the Town Clerk or Secretary whereby the Grantee agrees to comply with and be bound by the terms and conditions hereof. The right, franchise and privilege herein granted to the Grantee shall run for an initial period of twenty-five (25) years from the effective date of this Article, and thereafter shall automatically be renewed for additional periods of twenty-five (25) years unless on or before one (1) year from the end of the initial period or any renewal period, the Mayor and Council of Delaware City or the Grantee shall notify the other in writing that the right, franchise and privilege herein granted, or the obligations herein undertaken shall be terminated at the end of the initial twenty-five (25) year period or of any renewal period.

Sections 4-4 to 4-10 Reserved

Article II Cable Television

Section 4-11 Definitions

For the purpose of this Article, the following terms, phrases, and words shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in plural include the singular, and vice versa. The word “shall” is always mandatory:

a.) City: the City of Delaware City, Delaware, a municipal corporation under the laws of the State of Delaware.

b.) Company: Tele-Media Company of Maryland, a corporation organized and existing under the laws of the State of Delaware, and it is the grantee of the rights under this franchise.

c.) Mayor and Council: the Mayor and Council of the City of Delaware City, Delaware, or its designated representative.

d.) Federal Communications Commission or FCC: the present federal agency of that name as constituted by the Communications Act of 1934, as amended, or any successor agency created by the United States Congress.

e.) Person: any person, firm, partnership, association, corporation, company or organization of any kind.

f.) Gross Subscriber Revenues: shall include any and all compensation or receipts derived from installation, disconnection and re-installation charges and recurring monthly service charges in connection with the carriage of broadcast signals and Federal Communications Commission mandated non-broadcast services, including monthly service charges for delivery to subscribers of television and radio programming within the City. “Gross Subscriber Revenue” shall not include any refunds or credits made to subscribers or any taxes imposed on the services furnished by the Company. It does not include revenues derived from per-program or per-channel charges, leased channel revenues, advertising revenues, or any other income derived from others (non-residents of Delaware City) for use of the system.

g.) Regular Subscriber Services: shall include the carriage of broadcast signals and FCC mandated non-broadcast services, but shall not include “auxiliary” services, which include, but are not limited to, advertising, leased channels and pay-cable (per program).

Section 4-12 Grant of Authority

In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified, there is hereby granted to the Company, its successors and assigns, the right to erect, maintain, and operate television transmission and distribution facilities, and additions thereto, in, under, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges and other public places in Delaware City, Delaware, and subsequent additions thereto for the purpose of transmission and distribution of audio and visual impulses of television energy and other services including but not limited to cable television, closed circuit television and two-way communications so long as all such services are provided in accordance with the laws and regulations and the ordinances and regulations of the Federal Communications Commission, the State of Delaware and the ordinances and the regulations of Delaware City, Delaware, upon the stipulation and conditions hereinafter contained.

Section 4-13 Use of the Existing Pole Line Facilities

There is hereby granted the further right, privilege, and authority to the Company to lease, rent or in any other manner obtain the use of towers, poles, lines, cables and other equipment and facilities from any and all holders of public licenses and franchises and to such towers, poles, lines, cables and other equipment and facilities, subject to all existing and future ordinances and regulations of the City. The poles used for the Company's distribution system shall be those erected and maintained by the telephone and power company, when and where practicable, providing mutually satisfactory rental agreements can be entered into with said companies.

Section 4-14 Conditions on Street Occupancy and System Construction

a.) There is hereby granted the further right, privilege and authority of Company to lease, rent or in any other manner obtain land or right-of-way to erect and maintain its own poles, as may be necessary for the proper construction and maintenance of the television distribution system, with the approval of location poles by the City Manager of Delaware City.

b.) The Company's transmission and distribution system, poles, wires and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or use by other utility companies serving the City, or to interfere with new improvements this City may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges or other public property; removal of poles to avoid such interference will be at the Company's expense.

c.) Construction and maintenance of the transmission distribution system shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwrites, and such applicable ordinances and regulation of Delaware, affecting electrical installations, which may be in effect at the time of such construction and/or maintenance.

d.) All installations of equipment shall be permanent of nature, durable and installed in accordance with good engineering practices and of sufficient height to comply with all City regulations, ordinances, and State Laws so as not to interfere in any manner with the right of the public or individual property owner, and shall not interfere with the travel and use of public places by the public during the construction, repair or removal thereof, and shall not obstruct or impede traffic.

e.) In the maintenance and operation of its television transmission and distribution system in the streets, alleys and other public places, and in the course of any new construction or addition to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or other public places made by the Company in the course of its operations shall be clearly designated by red warning lights and any other safety devices required by law. Any excavation or taking up of pavement, curbing or sidewalk shall be done only with the approval of the City, and shall be repaired by the Company to the satisfaction of the City.

f.) In the event the City shall relocate a street, raise or lower a bridge, or make any other changes requiring the removal of utility installations, the Company at its sole expense shall remove or relocate its installations at said locations.

g.) The Company shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for prevention failures and accidents which are likely to cause damage, injuries or nuisance to the public.

h.) All transmission and distribution structures, lines and equipment erected by the Company within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with rights and reasonable convenience of property owners who join any of the said streets, alleys or other public ways and places.

i.) In case of disturbance of any streets, sidewalk, alley, public way or paved area, the Company shall, at its own cost and expense and in a manner approved by the City Manager, replace and restore such street, sidewalk, alley, public way or paved area in as good a condition as before the work involving such disturbance was done.

j.) If at any time during the period of this Franchise the City shall lawfully elect to alter or change the location of any pole being rented to the Company or the grade of any street, sidewalk, alley or other public way, the Company, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense, provided that the City shall be given reasonable notice thereof and an opportunity to make appropriate suggestions or proposals and consult with appropriate officials with respect thereto, with a view to minimizing the expense and that the City shall cooperate as fully as possible to reasonably accommodate the public interest and at a minimum expense to the Company.

k.) The Company shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Company shall have the authority to require such payment in advance. The Company shall be given not less than eight (8) days advance notice to arrange for such temporary wire changes.

l.) The Company shall have the authority, at its expense, to trim trees upon and overhanging streets, alleys, sidewalks, and public ways and places of the City as to prevent the branches of such trees from coming in contact with the wires and cables of the Company. Such trimming shall be done under the supervision and direction of the City.

m.) In all sections of the City where the cables, wires or other like facilities of public utilities are presently or in the future placed underground, the Company shall place or replace its cables, wires or other like facilities underground to the maximum extent that existing technology reasonably permits the Company to do so.

n.) The City shall have the right to supervise all construction or installation work performed subject to the provisions of this Franchise and make such inspections as it shall find necessary to insure compliance with the terms of this Franchise and other pertinent provisions of law.

o.) Where poles or other wire-holding structures already existing for use in serving the City are available for use by the Company, but it does not make arrangements for such use, the City Manager may require the Company to use such poles and structures if the Mayor and Council determine that the public convenience would be enhanced thereby and the terms of that use available to the Company are just and reasonable, provided that the Company shall not be required to use such poles if the rent, if any, therefore exceeds that with the Company will pay the City for the use of its poles.

Section 4-15 Indemnification and Liability

The Company shall indemnify, protect and save harmless the City from and against losses and physical damage to property, and bodily injury or death to persons, including payments made under any Workmen's Compensation Law, which may arise out of or be caused by the erection, maintenance, presence, use or removal of said attachments on poles within the City or by any act of the Company, its agents or employees. The Company shall carry insurance, to protect the parties hereto from and against all claims, demands, actions, judgments, costs, expenses, and liabilities which may arise or result, directly or indirectly from or by reason of such loss, injury or damage. The amounts of such insurance against liability due to physical damages to property one million dollars (\$1,000,000.00) each occurrence; and against liability due to bodily injury or to death of persons no less than one million dollars (\$1,000,000.00) aggregate as to each year. The Company shall also carry such insurance as it deems necessary to protect it from all claims under the Workmen's Compensation Laws in effect that may be applicable to the Company. All insurance required by this Article shall be and remain in full force and effect for the entire life of this Article. Said policy or policies of insurance or a certified copy or copies thereof shall be deposited with and kept on file by the City Manager. In addition, the Company shall indemnify the City and its officials and shall hold them and each of them harmless of and from any and all liability with respect to alleged copyright infringements, and with respect to the subject matter of any program transmitted by the Company.

Section 4-16 Prohibitions

a.) Television Sales and Service. The Company and its employees shall not engage in the sale, service, rental, or leasing of television receivers in Delaware City, Delaware. Neither Company, nor its employees, will be responsible for the operation condition of television receivers owned by its subscribers.

b.) Interference with Existing TV Reception. Installation shall be maintained so as not to interfere with TV reception already in existence.

Section 4-17 Provision of Service

a.) The Company shall install an "all band" CATV system carrying, so long as it is technically and economically practical to do so, the number of television broadcast signals permitted by the current regulations of the Federal Communications Commission and any other regulatory agency. The television signals shall be capable of full fidelity color transmission.

b.) The Company shall at its own expense drop a line to the firehouse, public schools, City Hall and Public Library in Delaware City, Delaware. Except as otherwise set forth herein, the Company shall at its own expense provide connections to equipment located in such public buildings and shall provide repair services without cost to such user.

c.) The Company will provide free CATV service to the firehouse, public schools, City Hall and Public Library within the City. Each service will consist of a connection point for the government offices, each separately located school, firehouse and Public Library. Internal distribution within individual buildings and connection between separate buildings of each installation or location shall be the responsibility of the government, schools, fire company and Public Library.

d.) Within one year after the proper equipment is available and installed by the Company, the Company shall provide the necessary equipment to electronically override all channels (television or radio or both) in case of any emergency or disaster so that the City government, the School District, and fire department, or any other appropriate authority could instantly reach all viewers or listeners regardless of the channels they might be viewing or listening to.

e.) Upon receipt of formal authorization from the City, the Company agrees to take necessary steps to apply to the Federal Communications Commission within a reasonable time, to obtain a Certificate of Compliance if the same is required by law. The Company further agrees to equitably and reasonably extend energized trunk cable each year until wiring of the system is completed.

Section 4-18 Complaint Procedures

Procedures shall be adopted by the Company and the City with respect to the investigation and resolution of all complaints regarding cable television operations. The Company agrees to maintain a local business office or maintain a toll-free telephone line to handle the receipt and investigation of all complaints with respect to the quality of service, malfunctions of equipment, and other matters relating to its operations. The City will have primary responsibility for the continuing administration of the franchise and implementation of complaint procedures. Notice of the procedures for reporting and resolving complaints will be given to each subscriber by the Company at the time of the initial subscription to the cable television system.

Section 4-19 Compliance

The company agrees to comply with all rules and regulations promulgated by the Federal Communications Commission with respect to the operation of cable television systems.

Section 4-20 Franchise Fee

The Company shall pay to Delaware City, Delaware, as a franchise fee, a sum equal to three percent (3%) of the Company's gross subscriber revenues per year in accordance with the definition of "gross subscriber revenues" contained herein at Section 4-11, paragraph f. Said payments shall be made annually within ninety (90) days after the end of the Company's fiscal year. The Company shall provide to the City a count of all subscribers in Delaware City and amounts paid by such subscribers on a monthly basis. This payment shall be in addition to any other tax or payment due to the City for other purposes or reasons.

Section 4-21 Term

This franchise shall take effect and be in full force from and after the final passage hereof, subject to acceptance by the Company as herein provided, and the same shall continue in full force and effect for a term of fifteen (15) years beginning with the date of such acceptance. The Company shall have the option to request renewal of this franchise for an additional period not to exceed fifteen (15) years. Should the Company desire to exercise this option, it shall so notify the City, in writing, not less than six (6) months prior to expiration of this franchise. Upon exercise of this option by the Company, the City shall conduct a full, open and public renewal proceeding upon prior notice and with opportunity of all interested parties to be heard. The City may consider the performance of the Company under this franchise and any other factors deemed relevant in determining whether to renew this franchise. If the City renews this franchise, all of the terms and provisions contained herein shall be controlling during the renewal period except to the extent that said terms and provisions are modified by the City or unless this franchise is superseded by a new franchise.

Section 4-22 Surrender of Franchise

The Company may surrender this franchise at any time upon filing with the city Manager a written notice of its intention to do so at least six (6) months before the surrender date. On the surrender date specified in the notice, all of the rights and privileges and all of the obligations, duties and liabilities of the Company occurring after that date shall terminate.

Section 4-23 Termination of Liabilities

On the surrender date specified in the notice, and on payment of all franchise fees to the surrender date, all of the rights and privileges and all of the obligations, duties, and liabilities of the Company occurring after that date shall terminate.

Section 4-24 Removal of Expiration

At the time of expiration of the franchise as set forth herein, the Company, at the Company's expense, shall remove all portions of the CATV system owned by the Company from all public property within the City as required by Federal guidelines and/or regulations.

Section 4-25 Law Expenses

The Company shall reimburse the City for its legal expenses in connection with this Article up to the sum of five hundred dollars (\$500.00).

Article III Cable Services Franchise Grant to Verizon Delaware, Inc.

Section 4-26 Grant of Franchise

Verizon Delaware, Inc., a Delaware corporation, its successors and assigns (hereinafter referred to as “Verizon”), is hereby granted the non-exclusive right, franchise and privilege to own, construct, operate and maintain a “Cable System”, (as said term is defined in Section 602 of the federal Communications Act, 47 U.S.C. §522(7)), along the streets, alleys and other public ways in the City of Delaware City for purposes of providing “Cable Service”, (as said term is defined in federal Communications Act, 47 U.S.C. §522(6)), to the citizens and residents of the City of Delaware City. The right, privilege and franchise granted hereby is subject to and shall be controlled by the terms and conditions of that certain Cable Franchise Agreement between the City of Delaware City, Delaware and Verizon Delaware, Inc. dated February 27, 2006 (the “Agreement”), the terms of which are incorporated herein by reference and the City Manager is hereby authorized to execute and deliver the Agreement immediately upon adoption of this Ordinance.²

Sections 4-27 to 4-30 Reserved

² Ordinance 06-0123-01 Article III, Section 4-26 Adopted February 27, 2006