ORDINANCE NO. 82-4

AN ORDINANCE AMENDING PORTIONS OF THE ATKINS MUNICIPAL CODE CHAPTER 4.06; AND PROVIDING FOR A RATE INCREASE TO RURAL ANTENNA SYSTEMS, INC.; AND FOR OTHER PURPOSES.

WHEREAS, Rural Antenna Systems, Inc. has petitioned the Atkins City Council for a rate increase for the basic service and pay television service provided to the City by the Grantee; and,

WHEREAS, certain provisions in the Ordinance as adopted have caused disagreement between the parties involved as to interpretation of certain clauses.

NOW THEREFORE, be it ordained by the City Council of the City of Atkins as follows:

SECTION 1: 4.06.03 System Required. The Grantee shall construct an All Bands System, capable of providing, and the Grantee shall provide, nine (9) or more channels of satisfactory television reception, plus one pay television channel of satisfactory television reception. The Grantee shall provide cable television service to any inhabitant within the corporate limits of the City of Atkins within 30 days from the time of the request for such service by any such inhabitant of the City of Atkins. Such service shall be extended to any such inhabitant regardless of the density of population in the area in which such inhabitant is located.

In addition, the Grantee shall be required to extend its system into any area of the City annexed after the effective date of this Ordinance. In the event that any residence or business shall be located in said area or shall thereafter be located in said area and any inhabitant of any such residence or business located in said area shall make a request for service, the Grantee shall have 60 days to

extend service to any such inhabitant located in an area annexed to the City of Atkins. Provided, however, the period of time in which the Grantee has to extend cable television service into any area shall not begin to run until such time as there are ten customers per mile, beginning at the point to which the system is presently extended. A customer is defined as one who has paid an installation fee to the Grantee for the purpose of obtaining cable television service.

SECTION 2: 4.06.06 Rates. Beginning on the 14TH day of DECEMBER, 1982, the rates charged by Grantee to subscribers for the installation fee and monthly fee shall be as follows:

Installation fee	$ 25.00
Basic rate	
One set	9.00
Two sets	10.50
Additional sets	1.00
Movie Channel	9.50.

The foregoing rates shall be temporary rates for a period of one year, to be reduced beginning on the 14TH day of DECEMBER, 1983, to the following rates:

Installation fee	$ 15.00
Basic rate	
One set	7.50
Two sets	9.00
Additional sets	1.00
Movie Channel	8.00.

Provided, however, the City Council shall vote on or before the 14TH day of DECEMBER, 1983, concerning increasing the rates to those which became effective on the 14TH day of DECEMBER, 1982, giving due consideration to whether or not, in the opinion of the City Council, the Grantee has complied with all terms of the original Ordinance No. 80-1, and with all terms of this Ordinance which amends Ordinance No. 80-1.

All subsequent changes in said rate schedule shall be subject to the approval of the City Council after appropriate public hearing affording due process to all interested parties. In considering future rate increases, the Grantee shall be required to furnish to the City Council any information requested by the City Council, in order that the City Council may properly evaluate the Grantee's request for a rate increase.

SECTION 3: 4.06.12 Grantee Obligations. The distribution system of the Grantee to be hereinafter installed shall not be abandoned, either in whole or in part, without the consent of the City Council of the City of Atkins. In the event of the failure of the Grantee to render community television service in the City of Atkins, as contemplated and provided for by this ordinance within a period of 12 months from the effective date of this ordinance, the City Council of the City of Atkins shall have the right, on reasonable notice to the Grantee, to declare this ordinance and the rights granted thereunder forfeited; provided, however, failure to comply with this stipulation by reason of cause or causes beyond the reasonable control of the Grantee, which could not be anticipated at the time of their acceptance by the Grantee, shall not be sufficient ground to declare a forfeiture.

SECTION 4: 4.06.13 Grantee Obligations. The Grantee shall indemnify and hold the City harmless at all times during the term of this grant from and against all claims for injury or damages to persons or property both real and personal caused by the construction, erection, operation or maintenance of any structures, equipment, appliance or products authorized or used pursuant to authority of this ordinance.

The Grantee, upon receipt of due notice in writing from the City, shall defend at its own expense any action or proceedings against the City of Atkins in which it is claimed that the injury or damage arose from the Grantee's activities in the construction or operation of its television system; and in the event of a determination of liability, shall indemnify the City. More particularly the Grantee, its successors and assigns, do hereby agree to indemnify and hold harmless the City of Atkins from any and all liability, claim, demand or judgment growing out of any injury to any person or property as a result of the violation or failure on the part of the Grantee, its successors and assigns, to observe its proper duty or because of negligence in whole or in part arising out of the construction, repair, extension, maintenance or operation of its distribution lines, amplifiers or equipment of any kind or character used in connection with this permit.

SECTION 5: 4.06.16 Complaint Procedure. As expeditiously as reasonable possible, after receipt of subscriber complaints regarding cable television operations, Grantee shall investigate such complaints and resolve them to the extent reasonably possible, and agents shall be available in the City for such purposes. The Grantee shall provide a local telephone number or toll free telephone number, to the inhabitants of the City of Atkins, which can be used by inhabitants of the City of Atkins to contact the Grantee for purposes of registering subscriber complaints. The Mayor of the City of Atkins has primary responsibility for the continuing administration of the Grantee's rights and privileges herein, and of the reasonable implementation of the foregoing complaint procedures. Notice of the foregoing will be given by the

Grantee to each new subscriber at the time of the initial regular subscription to the cable system.

SECTION 6: 4.06.20 Permit Fee. The Grantee shall pay, and, in consideration of the granting of this permit and authority, agree to pay to the City of Atkins as a permit fee and as compensation for the rights and privileges enjoyed hereunder, a sum equal to three percent (3%) of gross subscriber revenues received by the Grantee in the operation of said system each year or portion of a year during which the system is in operation. This permit fee shall not be charged back by the Grantee to any subscriber but is and shall be included in the basic rates as set forth in Section 4.06.06. Payment shall be made quarterly, and shall be due and payable not later than 30 days after the last day of each calendar quarter. The City shall have all reasonable rights of inspection and audit of the Grantee's books and records.

In conjunction with paying each quarterly permit fee paid by the Grantee to the City of Atkins, the Grantee shall furnish to the City of Atkins a current subscriber list indicating for each such subscriber, the subscriber's name, address, and indicating whether or not each such subscriber subscribes to Movie Channel, in addition to the basic service. In addition, the Grantee shall furnish detailed information indicating how and by what method the Grantee computed the amount of the permit fee paid to the City of Atkins for each quarter.

SECTION 7: This Ordinance being necessary for the public peace, health and safety, an emergency is hereby declared to exist, and this Ordinance shall be in effect from and after its passage.

THIS 14th day of December, 1982.

Jimmy L. McGee

JIMMY McGEE, Acting Mayor

Attest:

Dallas Swain

DALLAS SWAIN, City Clerk