

RESOLUTION 2001-25

A RESOLUTION GRANTING A 15-YEAR NON-EXCLUSIVE FRANCHISE TO COX COMMUNICATIONS KANSAS, LLC, ITS SUCCESSORS AND ASSIGNS TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE TELEVISION SYSTEM WITHIN THE COUNTY OF BARTON, KANSAS.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF BARTON, KANSAS AS FOLLOWS:

SECTION 1 - DEFINITIONS

For the purpose of this resolution the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (A) "Cable Service" means (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- (B) "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with 47 U.S.C. 573; or (E) any facilities of any electric utility used solely for operating its electric utility systems.
- (C) "County" is the County of Barton.
- (D) "Cox" is Cox Communications Kansas, LLC, a Delaware limited liability corporation.
- (E) "FCC" is the Federal Communications Commission.
- (F) "Gross Annual Receipts" means any revenues received by Cox from the operation of the Cable System to provide Cable Service within the unincorporated areas of the County. Any taxes or fees on services furnished by Cox herein imposed directly or indirectly on any subscriber by any state, city or other governmental unit or third party and collected by Cox on behalf of such entity are excluded. For the purposes of calculating franchise fees, Gross Annual Receipts does not include monies collected from subscribers as franchise fees.
- (G) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

SECTION 2 - GRANT

- (A) Cox is hereby granted the nonexclusive franchise and right to construct on, through, along, under and over the streets, highways, easements, rights of way, and other public places of the County, a Cable System which is to include, but not necessarily be limited to, a line or lines of wire, cables, fiber, or other conductors, together with all necessary feeders or service wires, poles, amplifiers, pedestals, power supplies and other attachments, devices or apparatus necessary to or usually used in connection with a Cable System; to maintain, upgrade and keep the Cable System in proper condition after its construction; and to operate the Cable System. Nothing in this franchise shall be construed to prohibit Cox from offering any service over its Cable System that is not prohibited by federal or state law.
- (B) The franchise granted to Cox hereunder includes the right for Cox to make such contracts as it deems necessary and proper and is able to negotiate with those public utilities and service corporations already holding franchises from the County, permitting it to use the existing utility poles and facilities for its installation and to erect any necessary poles and facilities for its own exclusive use.

SECTION 3 - CONSTRUCTION STANDARDS

- (A) All work performed in the construction, operation, maintenance and repair of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All construction, including installation, shall conform to all applicable federal and state laws and regulations, resolutions, local laws and regulations and the National Electric Safety Code. It is understood that notwithstanding such standards Cox shall have the right to wire and install its own power supplies.
- (B) Any property damaged or destroyed by Cox shall be repaired or replaced by Cox and reasonably restored to its pre-existing condition.
- (C) Cox shall have the authority to trim trees upon and overhanging all streets, alleys, easements, sidewalks and other public places so as to prevent the branches of such trees from coming into contact with the facilities of Cox.
- (D) Cox shall, upon seven days advance written notice, from any person holding an appropriate permit issued by the County, temporarily raise or lower its lines to permit the moving of any building or structure. The actual expense of such temporary removal shall be paid by the person requesting the same and Cox shall have the right to require payment in advance for such temporary removal.

SECTION 4 - INDEMNIFICATION AND INSURANCE

- (A) Cox shall at all times indemnify the County and the individual members of the County's governing body from any liability for damages or claims resulting from property damage or bodily injury, which arise out of Cox's negligent construction, maintenance or operation of the Cable System in the County.
- (B) Cox shall keep the Cable System and Cable System facilities continuously insured against such risks as are customarily insured against by businesses of like size and type, including but not limited to:

1. Liability insurance for bodily injury including death with limits of at least \$2,000,000 per occurrence and with single limits of at least \$500,000 per occurrence for property damage including loss of use occurring on, arising out of or in any way related to the Cable System and Cable System facilities.
2. Workmen's Compensation Insurance of statutory limits and Employer's Liability Insurance with limits of not less than \$100,000.
3. Comprehensive Automobile Liability Insurance of at least \$500,000 per occurrence and with single limits of at least \$500,000 per occurrence for property damage including loss of use occurring on, arising out of, or in any way related to the Cable System and Cable System facilities.

SECTION 5 - SERVICES

- (A) Upon request of the County Administrator, Cox shall provide to the County one (1) cable outlet with free installation and free monthly basic service to County owned office buildings, public libraries and public schools within a serviceable area. Cox shall not be responsible for internal wiring of these locations.

SECTION 6 - FRANCHISE FEE

- (A) Cox shall remit annually to the County five percent (5%) of its Gross Annual Receipts.
- (B) The aforesaid annual payments shall be made to the County without demand no later than 60 days after the end of each calendar year. Cox shall keep an accurate record of its Gross Annual Receipts during the twelve month period.

SECTION 7 - SERVICE PROCEDURES

- (A) Cox shall maintain a toll free phone number for the purpose of receiving orders for service and resolving all complaints regarding the quality of service, equipment malfunctions and similar matters for prompt resolution.

SECTION 8 - DISCRIMINATION PROHIBITED

- (A) Cox shall not refuse to hire or employ, nor bar or discharge from employment, nor unlawfully discriminate against any person in terms, conditions or privileges of employment because of age, race, creed, color, national origin or sex.

SECTION 9 - BOOKS AND RECORDS

- (A) The County reserves the right to inspect all pertinent books, records, maps, plans, financial statements and other like materials of Cox, for the purpose of ensuring compliance with the franchise granted hereunder, upon reasonable written notice to Cox and during Cox's regular business hours. The County will maintain the confidentiality of such materials and the information contained therein to the maximum extent allowed by law.

SECTION 10 - RESERVATION OF RIGHTS

- (A) The franchise granted pursuant to this Resolution can only be altered or amended upon mutual consent of the County and Cox. The County reserves the right to adopt, in addition to the provisions contained in this resolution and existing applicable resolutions, such additional regulations as it shall find necessary in the lawful exercise of its police power; provided, however, that such regulations shall be reasonable and not materially in conflict with the rights and privileges granted to Cox hereunder, or with any provision of federal law.

SECTION 11 - TERM

- (A) The franchise granted to Cox hereunder shall remain in full force and effect for a period of fifteen (15) years from the effective date hereof. Thereafter renewal of the franchise shall be governed by applicable federal and, to the extent not inconsistent therewith, state law.

SECTION 12 - GOVERNING LAW

- (A) The franchise granted to Cox hereunder is subject to all applicable provisions of the Communications Act of 1934, as amended, and regulations promulgated by the FCC pursuant thereto, as well as state laws or regulations governing cable television operations not inconsistent therewith.

SECTION 13 - SEPARABILITY

- (A) If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held invalid by any court or agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of the resolution.

SECTION 14 - SUCCESSORS AND ASSIGNS

- (A) The rights and privileges and all of the obligations, duties and liabilities created by the franchise granted to Cox hereunder shall pass to and be binding upon the successors of the County and the successors and assigns of Cox.

SECTION 15 - PRIOR RESOLUTION

- (A) All resolutions and parts of resolutions in conflict herewith are hereby repealed as of the effective date of this resolution.

SECTION 16 - EFFECTIVE DATE

- (A) The franchise granted to Cox hereunder shall take effect on October 1, 2001.

ADOPTED AND PASSED by the governing body of the County of Barton, this 24th day of September, 2001.

BOARD OF COUNTY COMMISSIONERS

Kirby Krier
Kirby Krier, Chairman

Pat Keenan
Pat Keenan, Commissioner

Patty Linsner-Hansen
Patty Linsner-Hansen, Commissioner

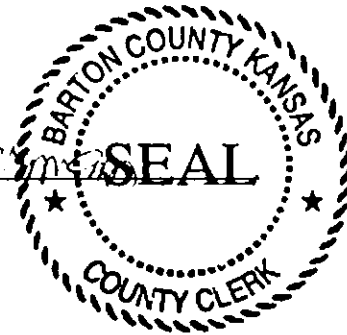
ACCEPTED this 1st day of October, 2001.

COX COMMUNICATIONS KANSAS, LLC

By: Dave McFarrell
Vice President / GENERAL MANAGER

ATTEST:

Donna Zimmerman
Donna Zimmerman,
County Clerk



APPROVED AS TO FORM:

Richard A. Boeckman
Richard A. Boeckman,
County Counselor

ATTEST:

[Signature]
Vice President / COV. AFFAIRS