

COMMONWEALTH OF KENTUCKY
MASON FISCAL COURT
ORDINANCE NO. 23-01

AN ORDINANCE GRANTING AND ISSUING A COMPETITIVE, NON- EXCLUSIVE FRANCHISE FOR A COMBINED TERM OF TEN (10) YEARS TO, AND AUTHORIZING THE EXECUTION OF THE FRANCHISE AGREEMENT WITH SPECTRUM MID-AMERICA, LLC, FORMERLY DBA CHARTER COMMUNICATIONS, AND ITS SUCCESSORS AND ASSIGNS, AS FRANCHISEE, PROVIDING FOR THE CONSTRUCTION, ERECTION, INSTALLATION, UPGRADE, MAINTENANCE, REPAIR AND OPERATION OF A CABLE TELEVISION SYSTEM FOR THE PROVISION OF CABLE TELEVISION SERVICES IN MASON COUNTY, KENTUCKY, ALL UPON THE TERMS, CONDITIONS AND COVENANTS CONTAINED IN THE FRANCHISE AGREEMENT.

WHEREAS, acting in accordance with Sections 163 and 164 of the Kentucky Constitution, the Mason Fiscal Court solicited bids by advertisement in the local newspaper for a nonexclusive, competitive franchise agreements for the provision of cable television services throughout the geographical confines of Mason County, Kentucky, such franchise agreement to provide for the construction, erection, installation, upgrade, maintenance, repair, use and operation of a cable television system and related facilities along, under, over, above, through or across the Mason County's County Maintained Road System; and

WHEREAS, the bid proposal by Spectrum Mid-America, LLC ("SPECTRUM") was the only bid received, and the Mason Fiscal Court has reviewed the proposal and franchise agreement attached hereto, and has identified the present and future cable-related community needs and interests of Mason County and its citizens, determined that the foregoing meet the requirements of Section 626 of the Cable Act (47 U.S.C. § 546), and determined that Spectrum has the financial, technical and legal qualifications to own and operate its cable system and to provide cable services over the cable system, and further determined that Spectrum's plans for owning, constructing, operating and maintaining its cable system are adequate; and

WHEREAS, the Mason Fiscal Court has further determined that the cable television franchise proposal offered by Spectrum meets the future cable-related community needs and interests of the Mason County and its citizens, and materially conforms to Mason County's solicitation for proposals; and

WHEREAS, having afforded the public adequate notice and an opportunity for comment pursuant to 47 U.S.C. § 546, and based upon the foregoing recitals and the Mason Fiscal Court's acceptance of such recitals, the Mason Fiscal Court hereby accepts the Spectrum bid proposal and authorizes the Judge Executive to enter the franchise agreement with Spectrum attached hereto, and to grant unto Spectrum a nonexclusive, competitive franchise for a term of ten (10) years providing for the construction, installation, upgrade, operation, and maintenance of its cable system throughout Mason County, pursuant to and upon the terms, conditions and covenants set forth in the franchise agreement attached hereto.

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF MASON COUNTY, KENTUCKY, AS FOLLOWS:

SECTION I

Based upon the foregoing recitals and acting in accordance with the Cable Act and other applicable law, subject to the terms, conditions and covenants set forth in the franchise agreement attached hereto, Spectrum is hereby granted for itself and its permitted successors and assigns, a franchise, in complete form and substance of the attached franchise agreement, and with the following rights and privileges set forth herein and therein:

A. To own, construct, erect, install, upgrade, maintain, repair, replace, and operate a cable system and to provide cable services within the unincorporated areas of Mason County;

B. To locate the cable system upon, along, across, over and under the County Maintained Road System, as provided in the attached franchise agreement;

C. To locate the cable system on county-owned poles, if any, but subject to terms of the franchise agreement and future ordinances of the Mason Fiscal Court;

D. To locate such cable system within the right of way of any other utility through a separate pole attachment agreement or utility easement agreement with an affected utility;

E. To provide cable services within Mason County as provided by the franchise agreement.

SECTION II

The franchise granted in this Ordinance is not exclusive. The County expressly reserves the right to grant to other persons or entities such rights, privileges, or authorizations that are similar to the rights and privileges herein set forth and in the attached franchise agreement. The Mason Fiscal Court specifically reserves the right to grant at any time during the term of the attached franchise agreement to provide additional franchises or licenses for a cable television system or broadband network as it deems appropriate. Further, Spectrum specifically acknowledges that it is aware of the existing franchise agreement between the Mason Fiscal Court and Limestone Cable Vision, which expires on June 16, 2035.

SECTION III

The term of the franchise granted in this Ordinance shall be for a term of ten (10) years. The commencement date shall be the effective date of the franchise agreement attached hereton.

SECTION IV

To the extent that there is any resolution or ordinance respecting cable systems which, in

part or in whole, is directly inconsistent with this Ordinance, such part or such whole of the prior resolution or ordinance shall be repealed to the extent of the inconsistency; subject, however, to police and legislative powers reserved by the County below.

All rights and privileges granted in this Ordinance and the attached franchise agreement are and shall be, at all times during the aforesaid term, subject to all lawful exercise of the police and legislative powers of the County. Spectrum shall comply with all applicable law and such other ordinances and regulations which the Mason Fiscal Court has adopted or shall adopt, applying to the public generally and to other licensees, grantees, or franchisees.

SECTION V

The Judge Executive is hereby authorized to execute the attached franchise agreement for and on behalf of the Mason Fiscal Court, and to comply with all of the provisions thereof; provided that should it become necessary for the Judge Executive and County Attorney to negotiate with and make changes to the proposed franchise agreement to correct or make other changes that do not affect the overall substance of this Ordinance and the proposed franchise agreement, then the Judge Executive shall have authority to execute such agreement as amended.

SECTION VI

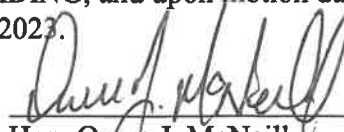
The provisions of this Ordinance are severable; and the invalidity of any provision of this Ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect, so long as they remain valid in the absence of those provisions determined to be invalid.

SECTION VII

This Ordinance shall take effect upon its passage and adoption.


GIVEN FIRST READING this 14th day of February, 2023.

THEREAFTER, after SECOND READING, and upon motion duly made, seconded and passed, ENACTED this 22nd day of March, 2023.



Hon. Owen J. McNeill
Judge Executive

ATTEST:



~~Stephanie Schumacher~~, Kim Muse
~~Mason County Clerk~~
Acting Fiscal Court Clerk

PREPARED BY: John F. Estill, Mason County Attorney