



CITY OF RIO RANCHO COVER PAGE

Legislation Item: O9

AGENDA DATE:
May 11, 2023

DEPARTMENT:
Administration

SUBJECT:
O9, Ordinance Granting Comcast a Non-Exclusive Franchise to Operate a Cable Television System and Other Services within the City Limits by Utilizing Public Places via the Payment of Franchise Fees for a Period of 10 Years

BACKGROUND AND ANALYSIS:

Second reading of an Ordinance. The Governing Body approved the first reading of this Ordinance at their meeting of April 27, 2023.

Comcast has formally notified the City that it desires to obtain a franchise to operate a cable television system and provide other services within the City limits.

Comcast is a nationally recognized cable television system and internet services provider currently serving more than 270,000 customers in the State of New Mexico. In addition to providing customers with cable television and internet services, Comcast prides itself on investing in municipalities on a local level. Comcast provides increasing technological and digital access to low-income areas and in under-resourced communities. Additionally, Comcast's conceptualized based services allows for Comcast to serve local communities through initiatives that support its non-profit partners and create storytelling platforms to connect various members of the local community. Comcast seeks to operate in the City of Rio Rancho in order to strengthen and connect the local community by operating a cable television system and other services.

The cable television franchising process at the local government level is heavily dictated and regulated by federal law (Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996) and the U.S. Federal Communications Commission (FCC), which establishes the procedures and standards that a local entity may grant or deny a new franchise. For example, pursuant to federal law the City, as the local franchising authority, may not grant an exclusive franchise and may not unreasonably refuse to award an additional competitive franchise. Additionally, a local franchising authority cannot set rates, cannot dictate what channels are or are not carried, cannot require franchise fees of more than 5 percent of gross revenues, and cannot regulate data services (e.g., internet).

Staff has reviewed relevant information and federal law over the past several months and has made the assessment that there is no basis to deny the Comcast franchise request. Should the Governing Body deny the franchise, Comcast would have the opportunity to pursue relief through judicial proceedings.

Comcast and the City agree that federal law has been followed and adhered to in negotiating the

franchise over the course of the past several months. The franchise Ordinance prepared by and with Comcast representatives is similar to the previous franchise granted by the City and in-line with other franchise agreements in the State that staff has reviewed.

Highlights of the franchise include that it is non-exclusive, the term is for 10 years, a channel for government use shall be provided upon request and with certain conditions met, cable television service for public elementary and secondary schools and City buildings under certain conditions is provided under certain conditions, and the maximum fee of 5 percent of gross revenue derived from cable television services is assessed for use of public places (e.g., public streets, public rights of way). The franchise Ordinance allows all of the fee revenue received by the City to flow into the General Fund.

IMPACT:

Approval of the Ordinance is beneficial for the public and for business growth in the in the community for the next 10 years. Approval will help to facilitate options for citizens related to their television service and internet service, and it will generate revenue for the City that will be used to fund and provide a variety of public services through the City's General Fund.

Not approving the Ordinance may negatively impact existing Rio Rancho citizens by limiting competition between cable television and other service providers.

Approval of the Ordinance does not prohibit another cable television provider's potential deployment of a cable television system and other services in Rio Rancho, should they desire to do so.

ALTERNATIVES:

Approve the Ordinance.

Do not approve the Ordinance; however, staff has made an assessment that there is no basis for denial which is necessary pursuant to federal regulations. Should the Governing Body not approve the Ordinance, Comcast would have the opportunity to pursue relief through judicial proceedings.

DEPARTMENT RECOMMENDATION:

City staff recommends approval of the Ordinance as presented.

ATTACHMENT: [Ordinance](#)

ATTACHMENT: [Notice of Publication](#)

ATTACHMENT: [O9 Signed](#)