



# MINUTES

## FPB Board Meeting

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5:00 PM - Tuesday, March 19, 2024 - Community Room

The Frankfort Plant Board met Tuesday, March 19, 2024, at 5:00 PM in the Community Room.

### ATTENDANCE:

John Cubine, Board Chair  
John Snyder, Board Vice Chair  
Stephen Mason, Board Secretary/Treasurer  
Kathryn Dutton-Mitchell, Board Member  
Jason Delambre, Board Member  
Gary Zheng, General Manager  
Harvey Couch, Marketing Video Content Coordinator  
Katrina Cummins, Finance Director  
David Denton, Chief Financial Officer  
Adam Hellard, Cable/Telecom Superintendent  
Cathy Lindsey, Communications & Marketing Director  
Kathy Poe, Executive Assistant to GM  
Hance Price, Assistant GM Administration/Staff Attorney  
Leigh Ann Phillips, Support Services Director  
Deron Rambo, Network Operations Center Director  
Travis McCullar, Director of Electric  
Nichell Brown, Human Resource Director  
Shane Holt, Asst. Cable/Telecom Superintendent  
David Columbia, Community Television Coordinator  
Brian Bourne, Water Distribution Superintendent  
Brandon Powers, Water Treatment Plant Superintendent  
Sharmista Dutta, Director of Water  
Mike Harrod, Telecom Engineering Manager  
April Rhodes, Customer Service Supervisor  
Russ Carter, Asst. Electric Superintendent  
Tyler Fitch, Safety Director

### 1 ACTION ITEM: APPROVAL OF MINUTES

- 1.1 Consider Approval of the Minutes for the February 20, 2024, Board Meeting.

*John Snyder moved to approve the Minutes for the February 20, 2024, Board Meeting. Jason Delambre seconded the motion. CARRIED. 5 to 0.*

**2 ACTION ITEM: ACCEPT FINANCIALS**

- 2.1 Consider Accepting the Financial Statements for Month Ending February 29, 2024.

*Jason Delambre moved to Accept the Financial Statements for Month Ending February 29, 2024. John Snyder seconded the motion. CARRIED. 5 to 0.*

**3 ACTION ITEMS: PERFORMANCE AND PAYMENT BONDS FOR FTTH DEPLOYMENT GRANTS.**

- 3.1 Consider Approval of Performance and Payment Bonds for Broadband Deployment Grant Assistance Agreements. (David Denton, Mike Harrod and Hance Price to discuss)

As the Board recalls, we have executed seven grant assistance agreements to extend broadband service in Franklin County. One of the requirements of all seven agreements is that the project is "fully collateralized". That is, that there are bonds in place to pay for labor and materials furnished on the project.

Staff reached out to Powell Walton to obtain pricing for the bonds. Powell Walton sought pricing from 13 companies. One company responded with a price. This is because most bonding companies serve contractors and developers, and our project does not fit precisely within that market. The quote was for a one-time charge of \$178,000.00 with no renewal fee that will cover the duration of the project. The proposed bonds are standard EJCDC bond forms used in the industry and will cover all seven projects.

Staff considered stacking or splitting bonds with the various contractors working on the project. However, the contractors would likely incorporate the bond pricing into their quotes so this would not result in substantial savings. Consequently, Staff recommends approval of the bonds.

*John Snyder moved to Approval Performance and Payment Bonds for Broadband Deployment Grant Assistance Agreements. Kathryn Dutton-Mitchell seconded the motion. CARRIED. 5 to 0.*

**4 INFORMATIONAL ITEM: PUBLIC COMMENT**

- 4.1 None

**5 INFORMATIONAL ITEM: DEPARTMENTAL REPORTS**

- PUBLIC INFORMATION



- **POTENTIAL OR AGREED UPON RELATED PARTY TRANSACTIONS**  
None Reported
- **NETWORK OPERATIONS CENTER (NOC)**
- **CUSTOMER SERVICE**
- **TELECOMMUNICATIONS**
- **ELECTRIC DEPARTMENT**
- **SEPA**
- **KYMEA**
- **SAFETY**
- **WATER DISTRIBUTION**
- **WATER TREATMENT PLANT**

**6 ACTION ITEMS:**

**6.1 Consider Approving INSP Renewal. (Harvey Couch will discuss)**

Staff recommends approval of the INSP renewal. This National Cable Television Cooperative (NCTC) agreement has a term through March 30, 2026. INSP is on Preferred Cable channel 164 and contains programming focused on delivering positive, family-friendly entertainment, quality dramas and inspiring stories that celebrate the American spirit and honor timeless, traditional values. INSP is the 2nd most watched Preferred Cable network. FPB has carried INSP since 2015. There has not been a fee associated with this network and that trend continues with this new agreement. No additional carriage requirements or obligations are included in this agreement. The Asst. GM for Administration has reviewed the agreement and it meets with his approval.

***Jason Delambre moved to Approve INSP Renewal. John Snyder seconded the motion. CARRIED. 5 to 0.***

**6.2 Consider Retransmission Consent Agreement with Gray Television Group (WKYT and WAVE). (Harvey Couch will discuss)**

Every three years, FPB must renegotiate Retransmission Consent Agreements with all the local broadcasters in Lexington and Louisville. During the budget process, staff discussed the possibility of removing duplicate broadcasters.

At the December meeting, the Board approved agreements with Scripps (WLEX-NBC-Lexington), Nexstar (WDKY-FOX-Lexington), and Tegna (WHAS-ABC-Louisville). At the January meeting, the Board approved agreements with Morris Network (WTVQ-ABC-Lexington) and Hearst Properties (WLKY-CBS-Louisville).

The NCTC executed an agreement with Gray for the two remaining stations (WKYT-CBS-Lexington) and (WAVE-NBC-Louisville).



Staff and the Cable Advisory Committee recommend approving the agreement for WKYT and not approving the agreement for WAVE. We feel as though this is the option that provides the best value to FPB's customers.

Staff believes that carrying newscasts out of Louisville is of utmost importance to our customers. FPB has committed to carrying WHAS and WLKY out of Louisville for the next three years. However, as the costs to our customers continue to rise, all options must be considered. WAVE is the most expensive of the three Louisville networks and their viewership is the lowest. Staff will continue to engage with Gray (WAVE) and Block Communications (WDRB) in the case that a mutually beneficial agreement can be reached.

The staff attorney has reviewed the agreements and they meet with his approval.

***John Snyder moved to Approve Retransmission Consent Agreement with Gray Television for WKYT and Not Approving the Agreement with WAVE. Jason Delambre seconded the motion. CARRIED. 5 to 0.***

**6.3 Consider Approving Nexstar Letter Agreement. (Harvey Couch will discuss)**

Staff recommends approval of the Nexstar Letter Agreement. At the December 11, 2023 meeting, the Board approved an Amendment to Retransmission Consent Agreement with Nexstar, Inc. for carriage of WDKY, the FOX broadcast affiliate out of Lexington, Ky. That agreement contained a drafting error which required we pay for the three multicast channels we carry from WDKY. Our negotiations with Nexstar prior to that agreement reflected that we would only pay for two. This Letter Agreement remedies this drafting error. The Asst. GM for Administration has reviewed the agreement, and it meets with his approval.

***Jason Delambre moved to Approve Nexstar Letter Agreement. John Snyder seconded the motion. CARRIED. 5 to 0.***

**6.4 Consider Approving Public Hearing Notice covering: (1) Increasing rate for Retrans Surcharge, (2) Increasing rate for Cable Network Pass-Through Fee, (3) Increasing rate for Bulk cable I and Bulk cable II, (4) Establishing Retention Tier lineup and Pass-Through Fee, (5) Updating Sections V, X, and XII of the Tariff. (Harvey Couch will discuss)**

As always, these proposed rate increases are a direct pass-through of increased programming costs of the channels on FPB Cable.

Staff recommends the Board approve the Public Notice for the purpose of conducting a public hearing at the next meeting of the Frankfort Plant Board.

**1. *Increase rate for Retrans Surcharge***

Every three years, FPB must renegotiate retransmission consent agreements with the media companies that own all of the local broadcast



channels in Lexington and Louisville. Many of these agreements contained significant increases in their fees charged to FPB. The Retransmission Surcharge is a direct pass-through of those fees to all FPB Cable customers. Unfortunately, these local broadcasters require their channels to be distributed to all cable customers, so there is no ability for a la carte carriage. The current Retransmission Surcharge is \$27.25. The public notice proposes to increase the Retransmission Surcharge as follows: \$29.89 per month effective 6/1/24, \$32.63 effective 1/1/25, and \$35.69 effective 1/1/26.

2. ***Increase rate for Cable Network Pass-Through Fee***

The public notice proposes to increase the Cable Network Pass-Through Fee from \$63.81 per month to \$67.85 per month effective June 1, 2024. This fee is a direct pass-through of the monthly fees paid by FPB to cable networks for the right to distribute their programming. This is a 4% increase. The Customer Charge will remain unchanged at \$12.79 per month.

3. ***Increase rate for Bulk Cable I and Bulk Cable II***

The public notice proposes to increase the rate for Bulk Cable I from \$16.20 per outlet per month to \$17.24 per outlet per month effective June 1, 2024. Bulk Cable I, as defined in the FPB Tariff, typically includes hotels and KSU dormitories. Staff proposes to increase the rate for Bulk Cable II from \$28.14 per outlet per month to \$29.95 per outlet per month effective June 1, 2024. Bulk Cable II, as defined in the FPB Tariff, typically includes office complexes with more than 8 outlets. These increases are the same percentage as the Retransmission Surcharge and Classic Cable increases and are needed to keep pace with increases in the wholesale license fees FPB must pay to programmers.

4. ***Establishing Retention Tier lineup and Pass-Through Fee***

As the cost of Cable TV continues to rise, many customers are finding themselves "priced-out" of the service. A main driver of the increased cost is live sports rights fees. Staff and the Cable Advisory Committee recommend establishing a new "Retention Tier" that would include some popular cable TV content, but not any networks that show live sports. This tier is called a retention tier because language in our existing agreements limits how we can market this to our customers. We are also limited in how many customers can subscribe to this service, so there could be a point at which we would no longer be able to offer this to additional customers. This tier would only be available through our streaming app, so customers would need to subscribe to Nextband Stream in order to subscribe to the Retention Tier. These customers, like all FPB Cable TV customers, would also need to pay the Retransmission Surcharge. This public notice proposes to establish the Pass-Through Fee for the Retention Tier at \$14.20 effective June 1, 2024. So the total cost of the Retention Tier would be: \$57.10 (\$12.79 customer charge + \$29.89 retrans surcharge + \$14.20 Pass-through fee).



The channels included in the lineup on June 1, 2024 would be:

Limited Cable	
3	WAVE - NBC
4	FPB Marketplace
5	WDKY - FOX
6	WKYT - CBS
7	WLEX - NBC
8	WTVQ - ABC
9	QVC
10	Cable 10
11	WHAS - ABC
12	WLKY - CBS
13	CWKYT
14	C-SPAN
15	C-SPAN2
16	C-SPAN3
17	NASA
18	MyWTVQ
19	FPB Local Weather
20	FPB Leased Access
21	WLJC - Cozi
22	ION
23	KEY KY
24	KET
25	KET2
26	Charge
27	Me TV
28	Antenna TV
29	Grit
30	Rewind TV
98	Comet

Retention Tier	
40	Outdoor Channel
41	Fanduel TV / TVG
44	Fox News
45	CNN
46	Headline News
64	Hallmark Channel
65	Hallmark Movies & Mysteries
67	Disney
71	Animal Planet
73	Discovery
74	Investigation Discovery
75	HGTV
76	Food Network
79	A&E
80	History
83	TLC
84	Lifetime
123	RFD TV
145	Fanduel Racing
164	INSP
770	Motortrend

**5) Updating Sections V, X, and XII of the Tariff**

Add clause to Sections V, X, and XII of the Tariff as follows:

From time to time, FPB may retire technology and upon 60 day written notification to the customer, inform them of alternate service options.

*John Snyder moved to Approve Public Hearing Notice covering: (1) Increasing rate for Retrans Surchage, (2) Increasing rate for Cable Network Pass-Through Fee, (3) Increasing rate for Bulk cable I and Bulk cable II, (4) Establishing Retention Tier lineup and Pass-Through Fee, (5) Updating Sections V, X, and XII of the Tariff. Kathryn Dutton-Mitchell seconded the motion. CARRIED. 5 to 0.*

- 6.5 Consider FPB Clubhouse Renovation. (Leigh Ann Phillips will discuss)

The Board passed over this Item and will discuss at a later date.

- 6.6 Consider approving a resolution and new water supply agreement to provide water to Farmdale Water District. (Sharmista Dutta to discuss)

Farmdale Water District has received funds from USDA Rural Development to perform system wide waterline replacement work. One of the requirements for receiving the funding is to have a minimum 40-year water supply agreement. Farmdale has requested FPB to prepare a new 42-year agreement to allow for an approximate two-year construction phase.

A resolution and the new water supply agreement is included in the Board package.

Staff recommends the Board approve the resolution and the new water supply agreement with Farmdale Water District.

*John Snyder moved to Approve a Resolution and New Water Supply Agreement to Provide Water to Farmdale Water District. Kathryn Dutton-Mitchell seconded the motion. CARRIED. 5 to 0.*

7 INFORMATIONAL ITEM: GENERAL MANAGERS COMMENTS

8 INFORMATIONAL ITEM: OLD & NEW BUSINESS

- 8.1 Discuss Logan and E. 3rd Street Project. (Sharmista Dutta will discuss)

*John Snyder moved to Withdraw Application for KIA loan for Logan and E. 3rd Street Project. Kathryn Dutton-Mitchell seconded the motion. CARRIED. 5 to 0.*

- 8.2 Consider Approving John Cubine as Board Chair to Sign Completed USDA/REAP Grant Application and to Move Forward with the Second Stand Alone Solar Array Option.

*John Snyder moved to approve John Cubine as Board Chair to Sign Completed USDA/REAP Grant Application and to Move Forward with the Second Stand Alone Solar Array Option. Jason Delambre seconded the motion. CARRIED. 5 to 0.*



**9 REQUEST PERMISSION TO HAVE CHAIR CALL FOR A CLOSED SESSION**

- 9.1 *Request permission to call a Closed Session pursuant to KRS 61.810(1)(c) to discuss pending or proposed litigation regarding collection matter, advertising matter, breach of contract matter, employment matter, cost recovery matter, and a regulatory matter; and pursuant to KRS 61.810(1)(g) to discuss a specific proposal that if openly discussed would jeopardize the siting, retention, expansion or upgrading of a business.*

*John Snyder moved Request permission to call a Closed Session pursuant to KRS 61.810(1)(c) to discuss pending or proposed litigation regarding collection matter, advertising matter, breach of contract matter, employment matter, cost recovery matter, and a regulatory matter; pursuant to KRS 61.810(1)(g) to discuss a specific proposal that if openly discussed would jeopardize the siting, retention, expansion or upgrading of a business; and pursuant to KRS 61.810(1)(b) to deliberate on the future acquisition of real property since publicity would likely affect the value of a specific piece of property to be acquired for public use. Jason Delambre seconded the motion. CARRIED. 5 to 0.*

**10 CLOSED DOOR SESSION**

- 10.1 Come Out of Closed Session.

*John Snyder moved to Come Out of Closed Session. Jason Delambre seconded the motion. CARRIED. 5 to 0.*

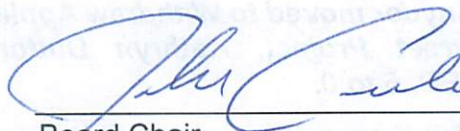
**11 ACTION ITEM: POSSIBLE ACTION REGARDING CLOSED DOOR DISCUSSION**

- 11.1 No Action Taken.

**12 ACTION ITEM: ADJOURNMENT**

- 12.1 Adjournment.

*John Snyder moved to Adjourn. Jason Delambre seconded the motion. CARRIED. 5 to 0.*



Board Chair



Board Secretary/Treasurer