

January 6, 2015

A Special Board meeting of the Electric and Water Plant Board of the City of Frankfort, Kentucky, was held at the FPB Clubhouse, located at 98 Tanglewood Drive, Frankfort, Kentucky, on Tuesday, January 6, 2015 at 1:00 p.m.

ATTENDANCE:

Ralph Ludwig, Board Chair
Dr. Scott Green, Board Vice Chair
Rick Pogrotsky, Board Secretary/Treasurer
Arthur McKee, Board Member
James Liebman, Board Attorney
Herbbie Bannister, General Manager
John Higginbotham, Cable Supt.
Kathy Poe, Executive Assistant
Hance Price, Staff Attorney/Asst. GM Administration
Glen Waldrop, Public Information Officer
Seth Littrell, State Journal Reporter
Bruce Siria, Customer
Ernest Collins, Customer
Gary Harrod, Customer
Tawnya Monroe, Customer
Robert Roach, Customer
Gary Ison, Customer
Rebecca Parris, Customer
Nancy Schultz, Customer

AGENDA

The Agenda for the Board Meeting was received and entered into the Minute Book as follows:

JANUARY 6, 2015 SPECIAL BOARD MEETING AGENDA

1. **Conduct Public Hearing Regarding: Retransmission Surcharge Increase.**
2. **Request Permission to have Chair call for a Closed Session** pursuant to KRS 61.810 (1)(c) for the discussion of proposed or pending litigation against or on behalf of FPB; and KRS 61.810 (1)(f) for discussions which might lead to the appointment, discipline, or dismissal of an individual employee.
3. **Closed Door Session:**

BOARD ACTION

Mr. Ludwig called the meeting to order at 5:00 p.m. Ms. Poe noted four (4) board members in attendance and Ms. Lynch absent.

1. **Conduct Public Hearing Regarding: Retransmission Surcharge Increase.**

Dr. Green called the public hearing to order.

This Hearing will now come to order. My name is Dr. Scott Green. I have been requested by the Board to conduct this Hearing. With me today are the Board Members and Staff of the Frankfort Electric and Water Plant Board. We are here to receive comments regarding the increase of the retransmission surcharge related to local and off-air broadcast signals. This Public Hearing was advertised

in accordance with the Regulations for Public Notification and appeared on Tuesday, December 30, 2014 in The State Journal newspaper.

We have asked that you register if you request to speak. If you have not already done so, please register with the Secretary so that we will have a record of those in attendance and wishing to speak today.

A brief statement about the conduct of this Public Hearing is in order. This Hearing will be conducted informally. This Hearing is being conducted voluntarily by the Frankfort Electric & Water Plant Board in order to accept comments on the above items. Formal rules of evidence will not apply. Both oral and written comments will be accepted. Any and all persons present who wish to make a statement will be afforded an opportunity to do so. If you have a written statement to accompany your oral presentation, a copy of the written statement should be provided to me prior to your presentation. If you have a lengthy statement, I ask that you summarize your comments. Oral presentations should be limited to no more than 3 minutes. If necessary, I may interrupt and request the presentation to be completed due to this time limit. I may ask questions of any person presenting oral comments where it is necessary to clarify the nature or substance of the comments.

The reasons for conducting the Hearing by these rules are so that we can collect information, especially information that the Board has not previously considered, and take it under review.

The Board may not answer questions because we do not want to make hasty judgments on specific issues that are brought out if technical in nature. This is especially true since different points of view may come up during the course of the willing from different speakers. It is the job of the Board to fairly consider these points of view and information as part of the setting. We do want public input and involvement and I hope you do not find our standard procedures restrictive.

The oral comment period for this Hearing will end at the close of business on January 6, 2015. Written comments received on or before January 6, 2015, will be accepted and considered.

Before we open the floor for comments, John Higginbotham will provide a summary.

The public notice proposes to increase the retrans surcharge for the purpose of passing through all charges related to the retransmission of local, off-air broadcast signals. All Limited, Classic, and Preferred tier customers are subject to this charge. The surcharge is based on the actual fees associated with the ABC, CBS, NBC, and FOX stations in Lexington and Louisville, required multi-cast stations, and associated Video-on-Demand services. The increase is proposed to be effective February 1, 2015.

Currently, the retrans surcharge is \$4.32. Staff recommends increasing the retrans surcharge to \$9.93, effective February 1, 2015. The fee is proposed to increase to \$10.90 on January 1, 2016 and increase to \$12.03 on January 1, 2017.

Mr. Higginbotham reiterated the necessity for the increases. He stated that staff recommended increasing the retransmission surcharge to \$9.93, effective February 1, 2015. The fee is proposed to increase to \$10.90 on January 1, 2016 and increase to \$12.03 on January 1, 2017. He further noted that this increase was necessary in order to retain current Lexington and Louisville local and off-air broadcast stations.

Dr. Green acknowledged that the increase was a strict pass through.

Eight (8) customers registered to address the Board: Bruce Siria, Ernest Collins, Gary Harrod, Tawnya Monroe, Robert Roach, Gary Ison, Rebecca Parris, and Nancy Schultz.

Dr. Green introduced Bruce Siria and invited him to speak. Mr. Siria stated his appreciation for the opportunity to speak. He thanked Staff and FPB for its services and the hard work of its employees. He further stated that he was not happy about the increase but he understood that increases are necessary at times. He further acknowledged his appreciation for keeping both the Lexington and Louisville channels and noted that he preferred Louisville channels.

Dr. Green introduced Ernest Collins and invited him to speak. Mr. Collins noted his agreement with Mr. Siria's comments. He noted that he understands that Frankfort is not immune to issues and rate increases in connection with cable and satellite companies all over the country.

Dr. Green introduced Gary Harrod and invited him to speak. Mr. Harrod stated that customers could not afford to pay cable if rates were increase. He also stated that he did not want channel 18 news to be taken off the lineup.

Dr. Green reiterated that the Board was not hard hearted and that they understood the increases would be difficult some customers.

Dr. Green introduced Tawnya Monroe and invited her to speak. Ms. Monroe declined to comment stating that she agreed with Mr. Harrod's comments.

Dr. Green introduced Gary Ison and invited him to speak. Mr. Ison acknowledged that he had received great service from FPB but had experienced some issues with pixilation and freezing of channels. He noted that he was concerned with recording limitation of FPB's current DVR system. He further stated that he did not like the increases but understood the reasoning. He asked if Staff had researched and accounted for any customer growth when considering the rate increases and if so, how much?

Dr. Green introduced Rebecca Parris and invited her to speak. Ms. Parris declined to comment.

Dr. Green introduced Nancy Schultz and invited her to speak. Ms. Schultz stated that she was on a fixed income and could not afford to pay any more for cable services.

Dr. Green introduced Robert Roach and invited him to speak. Mr. Roach stated that he appreciated the work and the services provided by FPB. He suggested that FPB look at cutting operating costs in order to absorb a portion of the rate increases in lieu of passing the entire cost on to the customer. He further suggested that FPB look at reducing insurance benefits to employees and possibly even getting out of the Cable business altogether.

Dr. Green concluded the public hearing.

Mr. Pogrotsky moved to adjourn. Dr. Green seconded. Mr. Ludwig called for the vote and the motion passed.

2. **Request Permission to have Chair call for a Closed Session** pursuant to KRS 61.810 (1)(c) for the discussion of proposed or pending litigation against or on behalf of FPB; and KRS 61.810 (1)(f) for discussions which might lead to the appointment, discipline, or dismissal of an individual employee.

No closed session necessary.

3. Closed Door Session:



ATTEST:

January 20, 2015

A Special Board meeting of the Electric and Water Plant Board of the City of Frankfort, Kentucky, was held at the FPB Clubhouse, located at 98 Tanglewood Drive, Frankfort, Kentucky, on Tuesday, January 20, 2015 at 3:00 p.m.

ATTENDANCE:

Ralph Ludwig, Board Chair
Dr. Scott Green, Board Vice Chair
Rick Pogrotsky, Board Secretary/Treasurer
Patricia B. Lynch, Board Member
Arthur McKee, Board Member
James Liebman, Board Attorney
Herbbie Bannister, General Manager
John Higginbotham, Cable Supt.
Kathy Poe, Executive Assistant
Hance Price, Staff Attorney/Asst. GM Administration
Dianne Schneider, HR Director
Michael Startzman, Media Specialist
Glen Waldrop, Public Information Officer
Seth Littrell, State Journal Reporter
Mark Smedal, Attorney for Michael Startzman
Kem Marshall, Court Reporter

AGENDA

The Agenda for the Board Meeting was received and entered into the Minute Book as follows:

JANUARY 20, 2015 SPECIAL BOARD MEETING AGENDA

1. **Action Item:** Review Employee Complaint Regarding FPB Job Posting Procedure.

BOARD ACTION

Mr. Ludwig called the meeting to order at 3:00 p.m. Ms. Poe noted five (5) board members in attendance.

1. **Action Item:** Review Employee Complaint Regarding FPB Job Posting Procedure.

Mr. Ludwig turned the meeting over to James Liebman to conduct the grievance hearing. He noted that this was a formal hearing but that the proceedings would be informal. He further explained the procedures and policies for conducting the hearing.

Mr. Liebman stated that the Board was familiar with the situation and had reviewed all documentation and materials presented in connection with the grievance. Mr. Liebman advised that the Board had the option to make a decision after the hearing on the merits of the grievance or they could take additional time to deliberate on the merits of the grievance.

Mr. Smedal began by thanking the Board, introducing himself and explaining his legal experience. Mr. Smedal discussed FPB's policy in connection with new positions and stated that Mr. Startzman believed that the policy was not followed. Mr. Smedal stated that Mr. Startzman believed that he was qualified to apply and be considered for the Marketing & Video Coordinator position and that he was denied that opportunity because he believed the guidelines were not followed.

Mr. Smedal reiterated Staff's position that the Marketing & Video Coordinator position was a reclassification or essentially re-naming of a position which another employee already held and was successfully completing on a daily basis. He further noted that reasonable minds may differ on that interpretation.

Mr. Smedal advised that Mr. Startzman would like for the Board to consider re-opening and posting the position in question or to increase Mr. Startzman's salary to an amount equal to the duties which Mr. Startzman is currently performing. Mr. Smedal stated that Mr. Startzman felt like his job duties were in many ways identical to those of the Marketing & Video Coordinator position.

Mr. Smedal questioned Mr. Startzman. In response, Mr. Startzman stated that he had been employed at FPB for nearly nine (9) years and explained the position for which he was hired and its job duties. Mr. Startzman further explained how his job duties had changed and increased over the years. Mr. Startzman advised that he believed that his work was consistent with that of the job description for the Marketing & Video Coordinator position. Mr. Startzman stated that he was willing to and had taken on new job duties over the course of his employment. Mr. Startzman further stated that his ideal solution would be that all jobs be posted internal and potentially externally, and that he would request additional compensation for the additional work he had undertaken. Mr. Startzman stated that he did not expect FPB to terminate Mr. Couch from his current position.

Mr. Startzman stated that he had reviewed the Johanson Compensation Study and noted that his position was initially negatively impacted by the Study. He confirmed that he and Mr. Higginbotham reviewed the job description and made the appropriate updates and corrections which increased the grade and pay scale of his current position. He further confirmed that he received an increase of \$.89 per hour after the changes were made to his job description. Mr. Startzman further acknowledged that he felt like his position and his work at FPB were undervalued.

Mr. Price questioned Mr. Startzman. In response, Mr. Startzman acknowledged that if the position had been posted, that he had no assurance that he would have received the promotion. Mr. Startzman stated that Ms. Hay in Human Resources confirmed that all new positions should be posted. He further stated that he assumed that all new positions were to be posted pursuant to the written policy. Mr. Startzman confirmed that his current job description included his current job duties and that new job description was considered in the Johanson Compensation Study. He further confirmed that the Study resulted in his receiving a salary increase of \$.89 per hour.

In redirect, Mr. Smedal read FPB's policy regarding job postings. Mr. Startzman reiterated that it was his understanding from reading the policy that posting a job was a requirement and that he confirmed his understanding with the Human Resources department.

The Board, Mr. Startzman and Staff discussed Mr. Startzman's current salary grade and whether he was currently at the minimum, mid-point or maximum of that grade. Mr. Startzman confirmed that his salary was at the lower end of his salary grade.

In response to Mr. McKee, Mr. Startzman stated that he was not asked to take on the duties which Mr. Couch was currently performing and explained what additional duties he had accepted. Mr. Smedal stated that Mr. Startzman's testimony was that he felt like his current duties were similar to that of the Marketing & Video Coordinator position, therefore he felt he was qualified to have at least applied for Mr. Couch's position if it had been posted.

After additional discussion, Mr. Startzman stated that he re-evaluated his job description for the Johanson Group Study and stated that he believed his current salary was nowhere near market value for the work that he was currently

performing. Mr. Startzman advised that he had completed some independent market research regarding salaries for duties that he was performing and he felt that his work was currently undervalued.

Mr. Startzman stated that in completing his own market research regarding compensation for position like his he realized that his salary was

Board members noted their appreciation for the manner in which the case had been presented.

In discussion, Ms. Schneider stated that Mr. Startzman's currently salary grade was a 107 and Mr. Higginbotham stated that he believed Mr. Couch's salary grade was a 110 or 111.

Mr. McKee asked Mr. Startzman to explain the reason for the length of time between the job posting in 2013 and his filing of the grievance in 2014? Mr. Startzman explained the timeline of his market research regarding his salary and noted that he spoke with Ms. Schneider who told him he had the option to file a grievance. Mr. Startzman further noted that he wanted to exhaust all other options before filing a grievance. Mr. Smedal stated that it was actually the findings of the Johanson Study which was completed in 2014 that lead Mr. Startzman to learn that he had a grievance with the 2013 non-posting of the Marketing & Video Coordinator position.

In response to Mr. Pogrotsky, Mr. Startzman confirmed that he was compensated for actual time worked for any after-hours duties actually performed. Mr. Smedal stated that in many cases employees are compensated for the entire "on-call" time.

Mr. Smedal stated that if Mr. Startzman's research holds credibility that one way to resolve the issue would be to increase his salary.

Mr. Liebman asked if there were any additional questions or comments. Mr. Liebman reiterated that the Board and Mr. Smedal would like clarification on Mr. Startzman's and Mr. Couch's salary grade/tier information. Mr. Liebman stated that Ms. Schneider would provide that information to Mr. Liebman for the record and that he would forward the information to Mr. Smedal. With no further questions or comments to be made, Mr. Liebman closed the hearing in terms of taking evidence and asked the Board how they wished to continue. Ms. Lynch requested that the hearing be concluded and the Board be allowed to deliberate and Dr. Green agreed.

Mr. Liebman stated that Mr. Smedal could submit a potential settlement offer based on the evidence provided. It was agreed that Mr. Liebman and Mr. Smedal would discuss that option at a later time if Mr. Smedal was so inclined. Mr. Liebman recessed the hearing.

Board members decided to deliberate further. Mr. Liebman suggested that the Board wait on a decision until Mr. Smedal decides whether Mr. Startzman wants to submit a potential settlement.

The Board discussed the issues, facts, evidence presented and potential options to settle the grievance. Mr. McKee and Ms. Lynch further stated that it would be prudent to review the current policy to avoid issues of this nature in the future. The Board decided that further deliberation was needed before a final decision could be reached. With nothing further to discuss the meeting adjourned.





ATTEST: