

VILLAGE OF PALESTINE, ILLINOIS

ORDINANCE NO. 2023-O-04

AN ORDINANCE ADDRESSING THE PAYMENT OF  
CABLE SERVICE PROVIDER FEES IN THE  
VILLAGE OF PALESTINE, CRAWFORD COUNTY, ILLINOIS

ADOPTED BY THE BOARD OF TRUSTEES  
OF THE VILLAGE OF PALESTINE, ILLINOIS  
THIS 4<sup>th</sup> DAY OF may, 2023

PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF  
THE BOARD OF TRUSTEES OF THE VILLAGE OF PALESTINE,  
CRAWFORD COUNTY, ILLINOIS  
THIS 4<sup>th</sup> DAY OF may, 2023

CERTIFICATE OF PUBLICATION

I, STACEY A. MYERS, the duly qualified Village Clerk of the Village of Palestine, Illinois, and the official custodian of records of said Village does hereby certify that this Ordinance was published in pamphlet form by authority of the Board of Trustees on the 4<sup>th</sup> day of may, 2023.

  
STACEY A. MYERS, Village Clerk

**ORDINANCE NO. 2023-O-\_\_\_\_**

**AN ORDINANCE ADDRESSING THE PAYMENT OF  
CABLE SERVICE PROVIDER FEES IN THE  
VILLAGE OF PALESTINE, CRAWFORD COUNTY, ILLINOIS**

WHEREAS, MCC Network Services LLC d/b/a Metro Comm and Conxxus was issued a state issued authorization to provide cable and video services in the State of Illinois by the Illinois Commerce Commission on February 5, 2020;

WHEREAS, MCC Network Services LLC d/b/a Metro Comm and Conxxus modified its cable service area to include the Village of Palestine by notice dated August 1, 2022;

WHEREAS, 220 ILCS 5/21-801 permits the Village of Palestine to collect service provider fees from a cable operator operating within the Village of Palestine; and

WHEREAS, the Village of Palestine hereby adopts this ordinance in order to collect service provider fees from MCC Network Services LLC d/b/a Metro Comm and Conxxus.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PALESTINE AS FOLLOWS:

SECTION 1: The Recitals to this ordinance are an integral part hereof and are incorporated herein.

SECTION 2: MCC Network Services LLC d/b/a Metro Comm and Conxxus ("Conxxus") shall pay a service provider fee to the Village of Palestine ("Village") in an amount equal to five percent (5%) of gross revenues derived from the provision of cable or video service to households located within the Village. The service provider fee shall be due on a quarterly basis within 45 days after the close of each calendar quarter. Each payment shall be accompanied by a brief report prepared by a representative of Conxxus showing the basis for the computation. If mailed, the fee shall be considered paid on the date it is postmarked.

SECTION 3: For purposes of the calculation of the service provider fee. "gross revenues" means all consideration of any kind or nature, including without limitation, cash, credits, property, and in-kind contributions received by Conxxus for the operation of a cable or video system to provide cable service or video service within the Village, including the following;

- (i) Recurring charges for cable service or video service.

(ii) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.

(iii) Rental of set-top boxes and other cable service or video service equipment.

(iv) Service charges related to the provision of cable service or video service, including, but not limited to, activation, installation, and repair charges.

(v) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.

(vi) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.

(vii) A pro rata portion of all revenue derived by Conxxus or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of Conxxus's network to provide cable service or video service within the Village, allocation based on the number of subscribers in the Village divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

(viii) Compensation received by Conxxus that is derived from the operation of Conxxus's network to provide cable service or video service with respect to commissions that are received by Conxxus as compensation for promotion or exhibition of any products or services on Conxxus's network, such as a "home shopping" or similar channel.

(ix) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of Conxxus's revenue attributable to the other services, capabilities, or applications shall be included in gross revenue unless Conxxus can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.

(x) The service provider fee permitted by subsection (b) of 220 ILCS 5/21-801.

SECTION 4: For purposes of the calculation of the service provider fee "gross revenues" shall not include any of the following:

(i) Revenues not actually received, even if billed, such as bad debt.

(ii) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by Conxxus to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.

(iii) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from service not classified as cable service or video service, including, without limitation, revenue received from telecommunications services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing, or any other revenues attributed by Conxxus to noncable service or nonvideo service in accordance with Conxxus' books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.

(iv) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the Village and pay the fee permitted by subsection (b) of 220 ILCS 5/21-801 with respect to the service.

(v) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, State, federal, or any other governmental entity and collected by Conxxus and required to be remitted to such city, State, federal or other governmental entity, including sales and use taxes.

(vi) Security deposits collected from subscribers.

(vii) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

SECTION 5: Revenue of an affiliate of a holder of Conxxus shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than Conxxus has the effect of evading the payment of the fee permitted by subsection (b) of 220 ILCS 5/21-801 which would otherwise be paid by Conxxus.

SECTION 6: If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which shall continue in full force and effect.

SECTION 7: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by 65 ILCS 5/1-2-4.

Upon roll call vote the following Trustees voted yea:

JK Dunlap, Twila Davis, Tim McDaniel, Mary Michael  
Brian Nethery and Gene Purcell

Upon roll call vote the following Trustees voted nay:

Passed, approved and published in pamphlet form this 4th day of

May, 2023.

ATTEST:

  
STACEY A. MYERS, Village Clerk

  
JAMES R. BYRLEY, Village President