



sunflower | B R O A D B A N D

March 21, 2009

Mr. Dave Corliss
City Manager
City of Lawrence
PO Box 708
Lawrence, Kansas 66044

Dear Mr. Corliss,

I am writing to express my concern over terms in the pending agreement between the City of Lawrence and Lawrence Freenet that would grant Freenet the use of the public right-of-way near the intersection of 23rd and Harper.

The agreement before the Commission on March 24, 2009 names the licensee to Lawrence Freenet, a not-for-profit, and that the grant is in return for Freenet's offering of free and/or discounted internet service to Lawrence residents.

My concern is that this and all other easements granted to Lawrence Freenet by the City previously, appear to benefit a for-profit company, Community Wireless Communications (CWC). Lawrence Freenet has publicly stated that CWC in fact owns the equipment, network and subsequently the backbone connections that CWC utilizes to sell internet service back to Lawrence Freenet for CWC's profit. Meanwhile, other competitors pay for access in the same easements.

Lawrence Freenet is requesting use of the public right of way at 23rd and Harper for the significantly reduced cost of \$10 annually. In contrast, in June 2008, Sprint was required to compensate the City \$5,000 to use the public right of way for a distance of approximately one city block. To my knowledge, every other entity which charges customers for service and is operating in the public right of way, compensates the City for the right to be in the public right of way including gas, electric, and other telecommunication providers.

While Sunflower does not pay incrementally on Internet services, it did compensate the City nearly \$1,000,000 in 2008 alone for the privilege of using Lawrence's public rights-of-way. In addition Sunflower charges a franchised cable transport fee to customers that do not take a franchised service like Cable or Telephone. This means that for every customer served by Sunflower, the City receives some compensation toward to use of the public right of way.

Additionally, Lawrence Freenet does not offer a unique value to Lawrence residents to merit the special consideration that they receive under these agreements with the City. Currently, Sunflower provides 143 free Internet locations compared to Freenet's 104 free locations, per Freenet's fourth quarter 2008 report submitted by Freenet to the City on Feb. 5, 2009.

At the same time Freenet, by its own admission, is focused on having 90% of its customers as paying subscribers and almost all of that revenue passes through to a for profit company, Community Wireless.

In summary, I am concerned about competition at any level receiving special treatment. As has been stated on previous occasions, Sunflower welcome competition. Sunflower competes for every service it provides and that competition includes AT&T, one of the largest telecommunication companies in the United States.

Due to Freenet's latest request for free right-of-way access, I respectfully ask the City enforce a right-of-way policy that seeks to receive fair compensation from all providers.

I also ask the City to revise its current agreement with Freenet to reflect this right-of way policy and to hold Freenet and its Internet provider, CWC, accountable to the same standards as the other providers who pay for right-of-way access.

Sunflower Broadband provides more than 250 local jobs, has invested tens of millions of dollars in the Lawrence community and provided millions more in revenue to the city to place facilities in the right-of-way and serve the community.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rod Kutemeier', with a stylized flourish at the end.

Rod Kutemeier
General Manager
Sunflower Broadband