

UTILITY FRANCHISES

- The Public Service Commission (PSC) has exclusive jurisdiction over utility rates and services. Cable television is not considered a utility by the PSC, and is instead regulated at the federal and local (limited) level.
- The PSC also dictates the service areas for each utility.
- A utility (including cable television) is required to have jurisdictional (local government) consent in order to place its facilities within the public rights-of-way or on public property.
- A franchise agreement is the legal mechanism for granting the utility the use of the public right-of-way. Franchises are:
 - non-exclusive
 - advertised and bid out as an ordinance/resolution (negotiated in advance)
 - 20 years or less in duration (including extensions)
 - Uniform as to each respective type of utility
- Lexington is compensated through a franchise fee applied to certain defined gross revenues related to the utility's provision of services within Fayette County. Telecommunications and cable utilities are excluded from paying this fee this pursuant to the state telecommunications tax law.
 - the franchise fee is a separate line item on the bill
 - current fee on newer franchises is 3% (plus permitting cost at option of utility)
 - Lexington could defend increasing the fee to 5% (including permit fees)
- Lexington adopted a comprehensive regulatory scheme pertaining to public-right-of-way regulation and permitting (Chapter 17C of the Code) in 2002 which also applies to franchisees. This has been incorporated by reference into each franchise agreement entered into since it was adopted.
- Lexington currently has franchise agreements for water (multiple), electric (multiple), gas (multiple), telecommunications (multiple), and cable television (Insight).
- Current franchise agreements range in duration from 1 year temporaries (electric, gas) to 20 years (KAW water – expires in 2015).