

RESOLUTION NO. 17-2023

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, AMENDING AND RESTATING THE FEES ASSOCIATED WITH THE BOROUGH'S PROVISION OF VIDEO, TELEVISION, INTERNET AND TELEPHONE SERVICES AS PROVIDED FOR IN CHAPTER 110 OF THE CODE OF THE BOROUGH OF KUTZTOWN.

WHEREAS, the Borough of Kutztown (the "Borough") is a Pennsylvania municipal corporation organized and existing pursuant to the Borough Code of the Commonwealth of Pennsylvania, as adopted on February 1, 1965, P.L. 1656, No. 581, as amended and supplemented from time to time; and

WHEREAS, the Borough owns and manages a fiber optic network which provides video, television, Internet and telephone services to the residents of the Borough of Kutztown and other customers of the aforementioned services; and

WHEREAS, Chapter 110 of the 2 Code of the Borough of Kutztown provides that a description of the Services to be made available through the Borough's fiber optic communications Network and the rates to be charged for such Services shall be established from time to time by a Resolution of the Borough Council adopting a Schedule of Rates and Services to be kept on file in the office of the Borough Secretary; and

WHEREAS, the Borough of Kutztown most recently amended the schedule of rates and services related to the Borough's telecommunications services by adoption of Resolution 10-2014 on October 21, 2014; and

WHEREAS, the Borough desires to amend the schedule of rates adopted pursuant to Resolution 10-2014 in order to provide rates for various Microsoft 365 Packages, remove the distinction between Residential and Business internet rates and provide for internet rates based on service speed and provide digital phone pricing regardless of the customers internet provider.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Council of the Borough of Kutztown, County of Berks, Commonwealth of Pennsylvania, pursuant to the authority contained in Chapter 110 of the Code of the Borough of Kutztown, as follows:

SECTION 1. The rates and charges associated with the provision of Fiber Optic Communications Services to the customers of the Borough of Kutztown's video, television, Internet and telephone services shall be as set forth below, until such time as further amended by Resolution of the Borough Council:

Section 1. Video/Television Services and Channel Guide.

A. STANDARD CUSTOMER RATES:

- | | | |
|----|---|---------|
| 1. | Basic Television | \$22.00 |
| 2. | Expanded Basic Television | \$80.00 |
| 3. | Premium 1 Tier | \$18.00 |
| 4. | Premium 2 Tier | \$23.50 |
| 5. | Discount for Multiple Services
Customers subscribing to at least two a la carte services will receive an increase in Internet speed one level above what is being purchased. | |

B. SERVICE BUNDLE RATES – A broadband Internet connection is required for TiVo® Premiere DVR service.

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|----|--|----------|
| 1. | Basic Television, Internet (Internet Package 2) and TiVo® Premiere DVR | \$59.95 |
| 2. | Expanded Basic Television, Internet (Internet Package 2) and TiVo® Premiere DVR | \$114.95 |
| 3. | Expanded Basic Television, Internet (Internet Package 2), Premium Tier 1 and TiVo® Premiere DVR | \$131.95 |
| 4. | Expanded Basic Television, Internet (Internet Package 2), Premium Tier 2 and TiVo® Premiere DVR | \$137.75 |
| 5. | Expanded Basic Television, Internet (Internet Package 2), Premium Tiers 1 and 2 and TiVo® Premiere DVR | \$154.75 |

C. BULK CUSTOMER RATES

1. Definition of Bulk Customer Definitions.
 - (a) Bulk Property - shall mean (i) any multiple unit residential building where all dwelling units receive the service (“MDU”) or (ii) any nonresidential property (including but not limited to bars, restaurants, hotels, motels, hospitals or offices).
 - (b) Bulk Customer - shall mean any Bulk Property (a) that is charged a different rate charged by such system for non-bulk residential customers receiving the same level of service received by such bulk property and (b) where such rate charged to such bulk property is not reduced as an incentive to encourage the purchase

of other products or services, as determined by the Borough Manager or his/her designee.

2. Bulk Customer Rates.

- (a) Bulk customers are contractual customers. Per room, per connection charges are calculated based on the bulk formula. The Borough Manager or his/her designee, at his/her discretion can negotiate the price per connection based on the current situation presented.

BULK PACKAGES

- (a) Option 1: Includes Expanded Basic Television, Tier 1 Premium, Tier 2 Premium and Internet
- (b) Option 2: Includes Expanded Basic Television, Tier 1 Premium and Internet
- (c) Option 3: Includes Expanded Basic Television, Tier 2 Premium and Internet
- (d) Option 4: Includes Expanded Basic Television and Internet
- (e) Option 5: Includes Basic Television and Internet
- (f) Option 6: Includes Internet only
- (g) In order to qualify for the receipt of bulk service, the landlord or business owner must have a minimum of two units connected to the Borough's Service or six connections to the Borough's Service.

D. TiVo® PREMIERE DVR UNIT RENTAL FEES:

1. The Borough reserves the right to require a \$100.00 deposit per unit for customers renting in the Borough. Deposits will be released, upon request, after 12 months. If not requested, deposits will be released when the customer cancels service and returns the TiVo unit and accessories as stated in the TiVo Service Agreement.
2. A broadband Internet connection is required for TiVo® Premiere DVR service.
3. Initial TiVo® Premiere DVR unit per household

(with Bundle): See Bundle Rates

4. Each additional TiVo® Premiere DVR unit per household (with Bundle): \$15.00
5. Initial TiVo® Premiere DVR unit per household (without Bundle): \$19.99
6. Each additional TiVo® Premiere DVR unit per household (without Bundle): \$19.99
7. The Borough reserves the right to require a one-time \$25.00 Activation Fee (per unit).
8. The Borough reserves the right to require a \$25.00 Configuration and Additional Programming Fee (per unit).
9. The Borough reserves the right to charge the current market price for the replacement of lost, stolen or damaged TiVo® Premiere DVR unit or remote control.

E. TiVo® PREMIERE Q DVR UNIT RENTAL FEES:

1. The Borough reserves the right to require a \$100.00 deposit per unit for customers renting in the Borough. Deposits will be released, upon request, after 12 months. If not requested, deposits will be released when the customer cancels service and returns the TiVo unit and accessories as stated in the TiVo Service Agreement.
2. A broadband Internet connection is required for TiVo® Premiere Q DVR service.
3. Initial TiVo® Premiere Q DVR unit per household (with Bundle): See Bundle Rates
4. Each additional TiVo® Premiere Q DVR unit per household (with Bundle): \$15.00
5. Initial TiVo® Premiere Q DVR unit per household (without Bundle): \$19.99
6. Each additional TiVo® Premiere Q DVR unit per household (without Bundle): \$19.99
7. The Borough reserves the right to require a one-time \$25.00 Activation Fee (per unit).

8. The Borough reserves the right to require a \$25.00 Configuration and Additional Programming Fee (per unit).
9. The Borough reserves the right to charge the current market price for the replacement of lost, stolen or damaged TiVo® Premiere Q DVR unit or remote control.

F. TiVo® PREVIEW UNIT RENTAL FEES:

1. The Borough reserves the right to require a \$100.00 deposit per unit for customers renting in the Borough. Deposits will be released, upon request, after 12 months. If not requested, deposits will be released when the customer cancels service and returns the TiVo unit and accessories as stated in the TiVo Service Agreement.
2. A broadband Internet connection is required for TiVo® Preview.
3. TiVo® Preview, per unit, per household: \$10.00
4. The Borough reserves the right to require a one-time \$25.00 Activation Fee (per unit).
5. The Borough reserves the right to require a \$25.00 Configuration and Additional Programming Fee (per unit).
6. The Borough reserves the right to charge the current market price for the replacement of lost, stolen or damaged TiVo® Preview unit or remote control.

Section 2. Data/Internet Services.

A. Commercial Bulk Bandwidth

1. Internal use rate: \$80.00 per mb
2. Retail (resell) rate: \$90.00 per mb

B. Static IP address/Email address/Microsoft 365

1. \$10 per month per IP address
2. Additional email address after the first two: \$1.50 each address, per month
3. Microsoft 365 Business Basic \$11.00 per month
4. Microsoft 365 Apps for Business \$13.25 per month

5. Microsoft 365 Business Standard \$17.50 per month

C. Internet Rates

1. 15mb x 15mb \$32.50 per month

2. 30mb x 30mb \$47.50 per month

3. 75mb x 75mb \$80.00 per month

4. 150mb x 150mb \$95.00 per month

5. 250mb x 250mb \$110.00 per month

6. 500mb x 500mb \$150.00 per month

D. Data/Internet services offered by the customer for resale

1. Fees shall be negotiated as part of an agreement with the data/Internet customer.

2. Resale class data/Internet services. Resale class services are offered to customers that require multiple static IP addresses, priority bandwidth or other special data/Internet service which are not included in the Borough's regular offerings.

3. Fees shall be negotiated as part of an agreement with the Resale class data/Internet customer.

E. Point-to-Point Virtual Private Network Service. In the event that a customer requests a virtual private network path, which utilizes the Borough's fiber optic communications network to make a point-to-point connection to another specific network, the charge shall be as follows:

1. \$150.00 per point-to-point connection, per month

F. Above fees apply to each data port.

G. Digital Phone Service

1. Residential Rate Per Month: \$28.65

2. Additional fees and surcharges are not included.

3. International phone calls will be billed at market rate, plus fifteen percent, plus appropriate taxes based upon a schedule of rates, which will be kept on file in the Borough's administrative office.

4. Commercial Digital Telephone Rates:
 - A. Office Voice
 - i. Office Voice Unlimited \$35.00/mo.
 - ii. Fax/Lobby Line Unlimited \$18.50/mo.
 - iii. Auto Attendant (incl. unl. line) \$50.00/mo.
 - iv. Activation \$22.00

 - B. Integrated Voice
 - i. Trunk Rate (all outbound) \$13.95/mo.
(\$0.03 per min.)
 - ii. Trunk Rate (outbound domestic ltd.) \$19.50/mo.
(\$0.03 per min.)
 - iii. DID (ratio 10:1) \$0.30 per min.
(over billed at \$0.70 per min.)
 - iv. Activation Fee (per Trunk) \$22.00

 - C. Hosted Voice
 - i. Unlimited Seat \$13.50/mo.
 - ii. Extension Only \$12.00/mo.
 - iii. Call Path (5,000 min. outbound, pooled) \$16.50/mo.
 - iv. Fax/Lobby Line (incl. 200 min.) \$16.50/mo.
(\$0.03 after 200 min.)
 - v. Music on Hold (per location) \$5.75/mo.
 - vi. Instant Call Group \$6.00/mo.
 - vii. Auto Attendant (includes call path) \$39.95/mo.
 - viii. Activation (per line/seat) \$22.00

 - D. Other Items
 - i. Toll free (business only) \$6.00/mo.
\$0.065/min.
 - ii. Account Codes \$6.00/mo.

 - E. Per Call Charges
 - i. Operator Assisted \$3.75/mo.
 - ii. Directory Assisted \$1.25/mo.

5. Additional fees and surcharges are not included.

6. International phone calls will be billed at market rate, plus fifteen percent, based upon a schedule of rates, which will be kept on file in the Borough's administrative office.

Section 3. Voice Tariff.

A tariff is hereby established, in the form, at the rates and on the conditions as set forth in the agreement between the voice carrier and the Borough.

Section 4. Installation, Service and Repair Rates.

As established from time to time by Resolution of the Borough Council.

Section 5. Miscellaneous Fees, Charges and Services.

A. Charge for Cost of Reconnection of Customer for any reason: \$35.00

B. Fees for Maxatawny Township customers

1. A regulatory fee of \$5.00 a month shall be charged to all service subscribers residing in Maxatawny Township.
2. A franchise fee of 3% of the total monthly cable bill shall be charged to all service subscribers residing in Maxatawny Township.

C. Hardware Charges

1. Customers of the Borough's Video/Television, Internet and other Fiber Optic services may desire or require additional hardware from time to time to facilitate their needs and such hardware shall be sold to the customer at a rate to be determined by the Borough depending on the nature of the hardware.

Section 6. Customer Service Changes.

Customers may make an unlimited number of service upgrade or downgrade changes and may upgrade or downgrade their service selections at any time. A proration of service fees and charges reflecting any upgrade or downgrade will appear on the next monthly bill. Services terminated in the first 30 days of service will not be prorated.

Section 7. Customer Technical Quality Complaint Resolution.

A. As an additional benefit to Customers of Video/Television Services, and in compliance with any applicable Federal regulations, the Borough establishes the following procedures to insure that any technical quality complaints are addressed:

1. All complaints concerning the technical quality of the Video/Television signals provided to Customers by the Borough shall be put in writing to the Borough Manager. Alternatively, the Customers may call the Network office at 610.683.5722 and speak directly with a Customer Service representative during normal business hours.
2. On the day of receipt, complaints received will be recorded with the time, nature of the complaint and the name, address and telephone number of the complaining Customer.
3. During normal business hours, a field technician will analyze the complaint and make an initial assessment concerning its probable cause. In most cases, complaints related to the technical quality of Video/Television Service signals will be investigated by a field technician within forty-eight (48) hours of receipt, consistent with the Borough's ability to access Customer premises, if such access is deemed necessary to resolve the complaint. If the problem can be resolved without a service call to the Customer's premises, Customer will be advised of this immediately and the resolution of the complaint will be noted in the log book which is maintained by the Borough Manager.
4. All efforts will be made by Borough field technicians and other employees or consultants or contractors to promptly resolve any complaints concerning the technical quality of Video/Television Service. If the Borough's field technician fails to correct the problem after the Customer has notified the Network office, the Customer may contact the Borough Manager in writing to review the complaint and the corrective action taken. If no further action to correct the problem is possible, the Customer will be promptly informed of this determination and the reasons. If the Customer believes the Borough's investigation and handling of a complaint is deficient in some manner, the Customer may appeal in accordance with Chapter 12 of the Code of the Borough of Kutztown.

Section 8. Billing Disputes.

If a Customer believes a bill is in error or has a billing complaint, the Customer shall contact a Borough Network Service representative at the Borough Municipal Building, 45 Railroad Street, Kutztown, PA 19530 or telephone the representative at 610.683.5722. If the dispute is not resolved to the Customer's satisfaction, the Customer may appeal in accordance with Chapter 12 of the Code of the Borough of Kutztown.

Section 9. Third Party Billing Services.

In those instances where a third party is engaged in the billing of customers for services, including, without limitation, installation charges, the Borough reserves the right to regulate the billing practices of such third parties regarding the services.

Section 10. Video Advertising Rates.

Television advertising rates are as follows: \$5.00 per week for a maximum of two slides and \$2.50 per week for each slide over two slides of advertising.

Section 11. Web Hosting and Training Sessions.

In the event that a Customer requests the Borough host Web site services, and from time to time schedules internal training programs, the Borough agrees to do so as long as the Customer is an active customer of Internet Services. The charges therefore shall be as follows:

- A. Set-up and configuration of Web-service folders, directory and security access.
 - 1. A one-time setup fee of \$15.00 per domain (Web site) (applies to Basic, Expanded 25, Expanded 50).
 - 2. Monthly fee based on selected package.
 - (a) Basic Package: 10mb of storage space; one FTP user account; 24/7 technical support; daily backup: \$15.00 per month
 - (b) Expanded 25 Basic Package: 25mb of storage space; one FTP user account; 24/7 technical support; daily backup: \$20.00 per month.
 - (c) Expanded 50 Basic Package: 50mb of storage space; one FTP user account; 24/7 technical support; daily backup: \$25.00 per month.
- B. Web site design, personal Web page development.
 - 1. The cost of the personal Web page and class is \$35.00.
 - 2. Free up to one MB personal HTML page.

Section 12. Additional Ethernet Data Port.

In the event that a Customer requests a telecommunication service from the Borough that requires an additional Ethernet data port be installed, the Borough of Kutztown shall purchase and install the additional port. Once installed, the port shall become the property of the customer. The charges therefore shall be as follows:

- A. A one-time purchase fee of \$20.00 (in addition to the regular monthly service fees).

Section 13. Wireless Internet Access for Telecommunications Customers.

In the event that a Customer requests access to the Borough's Internet service by wireless access, the Borough will provide access, provided the Customer is an active Internet Customer. There shall be different classes of wireless customers as follows:

- A. Bulk Wireless Customers - these customers are provided access to the Borough's wireless Internet service for use by a third party.
 - 1. Fee shall be negotiated as part of an agreement with the bulk wireless customer.

- B. Wireless Customers - these customers are current telecommunications customers, who are purchasing any level of Internet service from the Borough of Kutztown, and are provided access to the Borough's wireless Internet service as part of their service subscription.
 - 1. Fee reserved.

Section 14. Wired or Wireless Internet Access for 30 Days or Less

- A. Pay-As-You-Go Users:
 - 1. One day 24-hour service \$8.00
 - 2. Seven day service \$17.00
 - 3. Ten day service \$22.00
 - 4. Fourteen day service \$27.00
 - 5. Thirty day service \$37.00
 - 6. Static IP address available for \$3.00 per day. Setup fee may apply.

SECTION 2. The Service rates as set forth herein shall become effective on November 1, 2023.

SECTION 3. If any provision, sentence, clause, section, or part of this Resolution shall for any reason be found to be unconstitutional, illegal or invalid, such determination shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Resolution, and it is hereby declared to be the intent of the Borough Council of the Borough of Kutztown that this Resolution would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not be included herein.

SECTION 4. The rates and services, as set forth herein shall become effective as noted above. All such rates and services shall thereafter continue in effect until the same are changed by action of the Council of the Borough of Kutztown.

SECTION 5. All Resolutions or parts of Resolutions inconsistent with this Resolution are hereby superseded.

SECTION 6. Capitalized terms used in this Resolution without definition shall have the meanings ascribed thereto in Chapter 110 of the Code of the Borough of Kutztown.

ADOPTED by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled this 17th day of October, 2023.

BOROUGH OF KUTZTOWN

BY:

Kevin Snyder
President of Borough Council

ATTEST:

Gina M. Wiand
Borough Secretary

APPROVED as a Resolution this 17th day of October, 2023.

James F. Schlegel
Mayor