

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
DAVENPORT DIVISION

MCC IOWA LLC d/b/a MEDIACOM,

Plaintiff,

No. 3-15-cv-143-CRW-HCA

vs.

ORDER

THE CITY OF IOWA CITY and IMON  
COMMUNICATIONS, LLC, f/k/a JB and  
SG COMMUNICATIONS, LLC,

Defendants.

In its second amended complaint, MCC Iowa LLC d/b/a MEDIACOM (MCC) alleges in six counts claims against the defendant City of Iowa City (City), naming IMON Communications, LLC (IMON) as a defendant on three of the counts (I. declaratory judgment; count IV. tortious interference with contract; and count VI. civil conspiracy). Both defendants have filed similar motions for summary judgment (Docket # 41, Docket #42). They contend MCC has no basis in law for its contention that IMON is required to obtain a cable franchise in order to begin constructing a system capable of delivering cable programming.

On July 11, 2016, the court held a hearing by telephone conference call on the resisted motions.

The facts. This summary judgment record establishes the following facts on which there is no genuine dispute:

1. MCC provides internet, telephone, and cable services in Iowa City, Iowa.

Defendant IMON Communications (IMON) provides similar services to various Iowa

communities, but at present IMON provides only internet and telephone services in Iowa City.

2. MCC is currently the only company streaming cable services to subscribers in Iowa City. It operates as a cable provider in Iowa City pursuant to a franchise agreement dated August 1, 2005.

3. On November 10, 2015, the City Council of Iowa City passed resolutions authorizing the City to execute agreements that would allow IMON to install and maintain a fiber optic network in the City.

4. The City and IMON have not entered into a franchise agreement.

The Law.

1. IMON presently provides “telecommunications services” in Iowa City. See 47 U.S.C. ¶ 153 (53).

2. “Telecommunications services” are not subject to local franchising authorities.

See MediaOne Group, Inc. v. County of Henrico, 257 F.3d 356, 365-66 (4<sup>th</sup> Cir. 2001).

Summary. The court grants the motions for summary judgment in favor of defendants.

Plaintiff has no factual or legal basis for its constitutional equal protection claim because MCC and IMON are not similarly situated with respect to providing cable services.

Although IMON is constructing in Iowa City a system that may become capable of delivering cable programming, IMON is not now delivering cable programming. Therefore IMON is not presently required to seek a cable franchise. If IMON decides to provide cable

programming in Iowa City, IMON need not seek a franchise for cable programming.

This lawsuit is dismissed with prejudice, with no costs assessed to any party.

IT IS SO ORDERED.

Dated this 12th day of August, 2016.

  
CHARLES R. WOLLE, JUDGE  
U.S. DISTRICT COURT