



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

June 25, 2002

Ordinance 14401

Proposed No. 2002-0279.2

Sponsors Constantine

1 AN ORDINANCE denying the transfer of control of the
2 parent corporations of TCI Cablevision of Washington, Inc.,
3 with TCI West, Inc., as guarantor under Franchise 121332
4 and Tele-Vue Systems, Inc., with TCI Pacific
5 Communications, Inc., as guarantor under Franchise 11680
6 from AT&T Corp. to AT&T Comcast Corporation; and
7 declaring an emergency.

8

9

10 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

11 SECTION 1. King County is granted authority under federal, state and county
12 law and the terms of existing cable television franchises to deny or approve a transfer of
13 Franchises 12132 and 11680.

14 SECTION 2. For the reasons set forth in this ordinance the proposed transfer is
15 not in the public interest and is denied.

16 SECTION 3. Findings of fact. The council hereby finds the following facts:

17 A. TCI Cablevision of Washington, Inc., and Tele-Vue Systems, Inc. and TCI
18 Pacific, Inc. (together, for the purposes of this ordinance, "franchisees"), subsidiary
19 corporations of Tele-Communications, Inc. (for the purposes of this ordinance, "TCI"),
20 provide cable television service in unincorporated King County pursuant to cable
21 television franchises 12132 and 11680, as amended (for the purposes of this ordinance,
22 "franchise agreements").

23 B. TCI entered into a merger agreement with AT&T Corp. (for the purposes of
24 this ordinance, "AT&T"), that resulted in a change of control of TCI and, indirectly, of
25 franchisees.

26 C. The TCI and AT&T change of control was conditionally approved by the
27 council under Ordinance 13409 on February 16, 1999, and Ordinance 13855 on May 15,
28 2000.

29 D. On February 18, 2000, Tele-Communications, Inc. changed its name and
30 corporate structure to AT&T Broadband, LLC (for the purposes of this ordinance
31 "ATTB"). This action was taken without notice to King County.

32 E. AT&T, AT&T Broadband Corp. (for purposes of this ordinance "AT&T
33 Broadband") and certain of their respective affiliates have entered into an Agreement and
34 Plan of Merger to create a new company to be known as AT&T Comcast Corporation
35 (for purposes of this ordinance, "AT&T Comcast").

36 F. FCC Form 394 was filed with the clerk of the county council on March 4,
37 2002, giving notice of the proposed change of parental control of franchisees from ATTB
38 to AT&T Broadband and then from AT&T Broadband to AT&T which will then transfer

39 control to the new entity, AT&T Comcast in accordance with the franchise agreements
40 and with the approval of franchisees, ATTB, AT&T Broadband, AT&T and Comcast.

41 G. The proposed change of control of franchisee's parent corporation is a transfer
42 of the franchises under the terms and conditions of both franchises and is subject to the
43 county's permission pursuant to Franchise 12132, paragraph 4, Franchise 11680,
44 paragraph 4, and K.C.C. 6.27A.030 and 6.27A.050.

45 H. Franchisees, ATTB, AT&T Broadband, AT&T, Comcast and AT&T Comcast
46 have asserted that King County must act on or before July 4, 2002, on the proposed
47 transfer action or face an automatic approval of the transfer under federal law. King
48 County does not concede that it is required to act by such date because franchisees,
49 ATTB, AT&T Broadband, AT&T, Comcast and AT&T Comcast have failed to provide
50 responses to county's requests for further information which would assist the county in
51 determining the completeness and accuracy of the FCC Form 394 filed by franchisees,
52 ATTB, AT&T Broadband, AT&T, Comcast and AT&T Comcast. King County does not
53 concede that it is required to act by that date but takes action in this ordinance to remove
54 any ambiguity that a final decision has been rendered under 42 U.S.C. Sec. 537. The
55 county has requested from the franchisees, ATTB, AT&T Broadband, AT&T, Comcast
56 and AT&T Comcast, both orally and in writing copies of certain documents and
57 agreements relating to the Agreement and Plan of Merger dated December 19, 2001 by
58 and among AT&T, AT&T Broadband, Comcast and certain of their respective affiliates,
59 and a Separation and Distribution Agreement dated December 19, 2001, by and between
60 AT&T and AT&T Broadband. Permission to review the requested documents pursuant
61 to a nondisclosure agreement was tentatively granted on June 11, 2002. The county is

62 not required to render a final decision until one hundred twenty days from the date of
63 receipt of a complete FCC Form 394.

64 I. The county has received public comment and public testimony from
65 representatives of ATTB, AT&T Broadband, AT&T, Comcast and AT&T Comcast and
66 members of the public regarding the legal, technical, financial and public policy issues
67 raised by the proposed transfer.

68 J. The county has considered a financial analysis conducted by Ashpaugh &
69 Sculco of the proposed merger of AT&T and Comcast. This financial analysis concludes
70 that "(f)ranchises currently served by AT&T Broadband will go from a company with
71 significant debt and shortages in cash flow to [a] company with even more debt and
72 greater shortages in cash flow." Testimony and documentation from other organizations
73 opposed to the transfer have supported this conclusion.

74 SECTION 4. King County hereby denies the proposed transfer of parental control
75 of ATTB to AT&T Broadband and then from AT&T Broadband to AT&T, which will
76 then transfer control to the new entity, AT&T Comcast and indirectly, franchisees from
77 ATTB to AT&T Broadband and then from AT&T Broadband to AT&T to the new parent
78 corporate entity AT&T Comcast on the following grounds:

79 A. The FCC Form 394 provided by the franchisees is incomplete. Further,
80 AT&T, AT&T Comcast, AT&T Broadband, ATTB and the franchisees have not replied
81 to county's written requests for additional information to properly evaluate the
82 application;

83 B. It is not evident that the newly formed parent cable service provider, AT&T
84 Comcast can meet its financial requirements without seriously eroding its ability to

85 implement or complete outstanding construction requirements. At this time, franchisees
86 have two outstanding construction completion requirements, the completion of the King
87 County Institutional Network, which includes the Vashon fiber crossing and the sites
88 located in or near the city of Bellevue, Washington;

89 C. It is not evident that the newly formed parent cable operator, AT&T Comcast,
90 will have the financial resources to operate the cable franchises at the existing level of
91 services;

92 D. It is not evident that the newly formed parent cable operator, AT&T Comcast,
93 will be able to meet its financial obligations without raising cable rates. Expanded basic
94 cable rates in unincorporated King County increased seventeen percent, from eighteen
95 dollars in 2000 to twenty-one dollars sixty-five cents in 2002;

96 E. AT&T Comcast may not be able to initiate and offer new and additional
97 services in the county because of the approximate thirty-two billion seven hundred
98 million dollars of debt, as noted in the Ashpaugh & Sculco report, that will be transferred
99 from both AT&T and Comcast individually to the merged company, AT&T Comcast;

100 F. Failure of AT&T to timely inform the county of changes in the franchisee
101 corporate structure and names; and

102 G. Failure to timely allow King County to review the documents, which were not
103 specifically described in the FCC Form 394 and categorized as "not necessary in order to
104 understand the terms of the Agreement."

105 SECTION 5. If the merger between AT&T, Comcast, AT&T Broadband, ATTB
106 and franchisees, indirectly, is upon terms that are substantially and materially different
107 from the terms describe in the FCC Form 394 including subsequent information provided

108 by AT&T, AT&T Comcast, AT&T Broadband, ATTB and franchisees, then AT&T,
109 AT&T Comcast, AT&T Broadband, ATTB and franchisees shall be allowed to resubmit
110 a request for a change in control in order to comply with Franchise 12132 and Franchise
111 11680.

112 SECTION 6. The limited time provided under federal law for review of a
113 proposed transfer of a cable franchise, may require final action by the county on or before
114 July 1, 2002. As more fully set forth in the findings section of this ordinance, Section 3,
115 King County does not concede that it is required to act by such date. However, failure to
116 take final action by that date could be deemed approval of the transfer under federal law.
117 The council does not plan to meet during the week of July 1, 2002 and therefore would be
118 unable to take action prior to July 1 with a regularly enacted ordinance. To ensure that
119 the county's decision in the public interest on the proposed transfer is effective it is
120 necessary to adopt this ordinance as an emergency ordinance. The council finds as a fact
121 and declares that an emergency exists and that the enactment of this ordinance as an

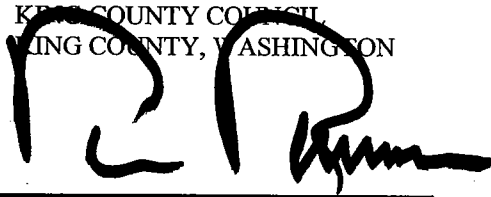
122 emergency ordinance is necessary for the immediate preservation of public peace, health
123 or safety or for the support of county government and its existing public institutions.

124

Ordinance 14401 was introduced on 6/24/2002 and passed as amended by the Metropolitan King County Council on 6/24/2002, by the following vote:

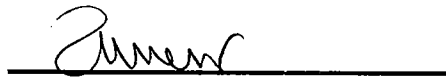
Yes: 13 - Ms. Sullivan, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr. Phillips, Mr. Pelz, Mr. McKenna, Mr. Constantine, Mr. Pullen, Mr. Gossett, Ms. Hague, Mr. Irons and Ms. Patterson
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



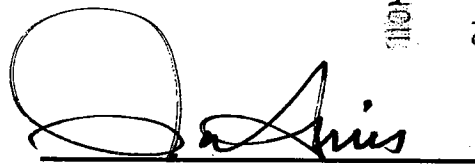
Cynthia Sullivan, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 3 day of July, 2002.



Ron Sims, County Executive

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CLERK
KING COUNTY COUNCIL

Attachments None