



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**July 30, 2002**

**Ordinance 14446**

**Proposed No.** 2002-0265.2

**Sponsors** Constantine

1 AN ORDINANCE approving, subject to conditions, the  
2 transfer of control of the cable television franchises and  
3 commitments held by TCI Cablevision of Washington, Inc.  
4 under Franchise 12132 and Tele-vue Systems, Inc. d/b/a  
5 TCI of Washington and TCI Pacific, Inc. under Franchise  
6 11680 from AT&T Corporation to AT&T Comcast  
7 Corporation; and repealing Ordinance 14401.

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10 **PREAMBLE:**

11 King County is granted authority under federal, state and county law and  
12 the terms of existing cable television franchises to grant permission for a  
13 transfer of control of the parent corporations of TCI Cablevision of  
14 Washington, Inc., holder of Franchise 12132 with TCI West, Inc., as  
15 guarantor and Tele-Vue Systems, Inc., holder of Franchise 11680 with  
16 TCI Pacific, Inc., as guarantor.

17 For the reasons set forth in this ordinance the proposed transfer is in the  
18 public interest if the conditions set forth in this ordinance are fully  
19 satisfied.

20 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

21 SECTION 1. Findings of fact. The council hereby finds the following facts:

22 A. TCI Cablevision of Washington, Inc., and Tele-Vue Systems, Inc., (together,  
23 for the purposes of this ordinance, "franchisees") subsidiary corporations of Tele-  
24 Communications, Inc., (for the purposes of this ordinance, "TCI") which is now known  
25 as AT&T Broadband, LLC (for the purposes of this ordinance, "ATTB"), provide cable  
26 television service in unincorporated King County pursuant to cable television franchises  
27 12132 and 11680, as amended (for the purposes of this ordinance, "franchise  
28 agreements").

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

32 C. The TCI and AT&T change of control was conditionally approved by the  
33 council pursuant to Ordinance 13409 on February 16, 1999, and Ordinance 13855 on  
34 May 15, 2000.

35 D. On March 10, 2000, Tele-Communications, Inc., changed its name and  
36 corporate structure to AT&T Broadband, LLC.

37 E. AT&T, Comcast Corporation (for purposes of this ordinance, "Comcast"),  
38 AT&T Broadband Corp. (for purposes of this ordinance, "AT&T Broadband") and  
39 certain of their respective affiliates have entered into an Agreement and Plan of Merger in

40 order to create a new company to be known as ATT Comcast Corporation (for purposes  
41 of this ordinance, "ATT Comcast").

42 F. FCC Form 394 was filed with the clerk of the county council on March 4,  
43 2002, giving notice of the proposed change of parental control of franchisees from ATTB  
44 to AT&T Broadband and then from AT&T Broadband to AT&T which will then transfer  
45 control to the new entity, ATT Comcast pursuant to the franchise agreements and with  
46 the approval of franchisees, ATTB, AT&T Broadband, AT&T and Comcast.

47 G. ATT Comcast, AT&T Broadband, ATTB and franchisees acknowledge that  
48 neither the transfer nor the county's approval of the transfer shall diminish or affect the  
49 franchisees' past or present commitments, duties and obligations embodied in all  
50 franchise agreement provisions and other contractual obligations with the county,  
51 including without limitation the lease agreement between the county and the franchisees,  
52 as amended, the construction and performance bonds and the payment bond related  
53 thereto and all applicable laws.

54 H. The proposed change of control of franchisees' parent corporation is a transfer  
55 under the terms and conditions of both franchises and is subject to the county's  
56 permission pursuant to Franchise 12132, paragraph 4, Franchise 11680, paragraph 4,  
57 K.C.C. 6.27A.030 and K.C.C. 6.27A.050.

58 I. Franchisees, ATTB, AT&T, Comcast and ATT Comcast, asserted that King  
59 County had to act on or before July 1, 2002, on the proposed transfer or face an automatic  
60 approval of the transfer under federal law. King County does not agree that it was  
61 required to act by such date because until July 18, 2002, representatives of franchisees,  
62 ATTB, AT&T, Comcast and ATT Comcast failed to provide responses to county's

63 requests for further information which would assist the county in determining the  
64 completeness and accuracy of the FCC Form 394 filed by ATTB, AT&T Broadband,  
65 AT&T and Comcast.

66 J. King County does not agree that it was required to act by such date July 1,  
67 2002, but took action on June 24, 2002, in Ordinance 14401 to remove any ambiguity  
68 that a final decision had not been rendered under 42 U.S.C. section 537. The actions  
69 taken in this ordinance repeal the transfer denial in Ordinance 14401.

70 K. The county requested from representatives of the franchisees, ATTB and ATT  
71 Comcast, both orally and in writing copies of certain documents and agreements relating  
72 to the Agreement and Plan of Merger dated December 19, 2001, by and among AT&T,  
73 ATTB, Comcast and certain of their respective affiliates, and a Separation and  
74 Distribution Agreement dated December 19, 2001, by and between AT&T and AT&T  
75 Broadband. Some of the requested documents were provided for review by the county on  
76 July 11, 2002. The document review was completed on July 18, 2002, when all  
77 requested documents were provided. The county is not required to render a final decision  
78 until one hundred twenty days from the date of receipt of a complete FCC Form 394.

79 L. The county has received public comment and public testimony from  
80 representatives of franchisees, ATTB, AT&T Broadband, AT&T, Comcast, ATT  
81 Comcast and members of the public regarding the legal, technical, financial and public  
82 policy issues raised by the proposed transfer.

83 SECTION 2. King County hereby approves the transfer of control of franchisees  
84 parent corporation from ATTB to AT&T Broadband and then from AT&T Broadband to  
85 AT&T, which will then transfer control to the new entity, ATT Comcast, and indirectly,

86 franchisees from ATTB to AT&T Broadband and then from AT&T Broadband to AT&T,  
87 which will then transfer control to the new entity ATT Comcast, subject to the following  
88 conditions:

89           A. ATT Comcast, AT&T Broadband and ATTB shall confirm in writing their  
90 acknowledgment that neither the transfer nor the county's approval of the transfer shall  
91 diminish or affect the franchisees' past or current commitments, duties and obligations  
92 and franchisees shall agree to abide by and accept all of the franchisees' franchise  
93 agreement provisions and other contractual obligations with the county including,  
94 without limitation, the lease agreement between the county and the franchisees, as  
95 amended, the construction and performance bonds and the payment bond related thereto  
96 and all other applicable laws.

97           B. ATT Comcast, AT&T Broadband, ATTB and franchisees shall confirm in  
98 writing that the franchisees shall remain responsible for the obligations and liabilities of  
99 the franchisees, known or unknown, under their respective franchise agreements and  
100 contracts with the county and under applicable law, before and after the effective date of  
101 the change of control authorized by this transfer.

102           C. ATTB and franchisees shall confirm in writing that TCI West, Inc., TCI  
103 Pacific, Inc., franchisees and the applicable bonding company shall confirm in writing  
104 that the construction and performance bonds and the payment bond presently filed with  
105 the county in connection with the franchisees' franchise agreements and contractual  
106 obligations shall remain in full force and effect before and after the effective date of the  
107 change of control authorized by this transfer.

108 D. ATT Comcast, AT&T Broadband, ATTB and franchisees shall confirm in  
109 writing that approval by the county of the transfer shall not constitute a waiver or release  
110 of any rights of the county under the franchise agreements, prior transfer ordinances or  
111 applicable law, before or after the effective date of the change of control authorized by  
112 this transfer.

113 E. ATT Comcast, AT&T Broadband, ATTB or franchisees shall confirm in  
114 writing that the merger of AT&T and Comcast shall be in substantially and materially the  
115 same terms as stated in the FCC Form 394 transmitted to King County on March 4, 2002,  
116 including subsequent information provided by AT&T, ATT Comcast, AT&T Broadband,  
117 ATTB or franchisees.

118 F. ATT Comcast, AT&T Broadband, ATTB or franchisees shall notify the  
119 county that the merger has been completed within thirty calendar days of the date that  
120 ATTB becomes a subsidiary of ATT Comcast and franchisees become an indirect  
121 subsidiary of ATT Comcast.

122 G. ATTB and franchisees shall confirm in writing that franchisees will meet with  
123 the executive regarding outstanding compliance issues, including but not limited to the  
124 completion of the fiber crossing to Vashon Island and providing two-way services as  
125 described in the franchise agreements to Vashon Island customers and the completion of  
126 all Institutional Network (I-NET) sites in or around Bellevue, Washington.

127 H. ATT Comcast, ATTB and franchisees shall confirm in writing that the county  
128 reserves any right it may have to regulate cable television and cable modem service under  
129 applicable law, including, without limitation, the right to adopt rules related to subscriber  
130 privacy and customer service.

131 I. ATTB and franchisees shall confirm in writing that franchisees will organize  
132 an AT&T Cares Day at two schools serving citizens of unincorporated King County as  
133 designated by the county and shall be substantially in the same form as described in the  
134 May 19, 2000, AT&T letter of agreement with King County. Both schools shall have  
135 their computer labs built as set forth in the letter of agreement dated May 19, 2000, by  
136 October 1, 2002, or by a date that accommodates the schedule of the school. If  
137 franchisees do not complete the two school computer labs by October 1, 2002, or by a  
138 date that accommodates the schedule of the school it shall be considered a material  
139 violation of the franchises.

140 J. ATTB and franchisees shall confirm in writing that franchisees will conduct a  
141 statistically valid survey on an annual basis assessing customer satisfaction with all cable  
142 services provided by franchisees to customers in unincorporated King County. The  
143 survey shall be substantially in the same form as the King County Customer Satisfaction  
144 Survey dated April 2002. Additional questions may be added if franchisees and the  
145 county agree. Final results of the annual survey shall be reported by May 1 of the  
146 reporting year. If franchisees do not complete an annual survey by May 1 of the  
147 reporting year, it shall be considered a material violation of the franchises. Results shall  
148 be provided to the labor, operations and technology committee, or its successor, of the  
149 King County council, and the office of cable communications.

150 K. ATTB and franchisees shall confirm in writing that franchisees shall exercise  
151 all due diligence in obtaining all necessary permits and easements for and complete  
152 construction of a two-way return fiber crossing from Vashon Island to the headend as  
153 described in the franchise agreements. If franchisees do not exercise all due diligence in

154 obtaining all necessary permits and easements for the fiber crossing, or complete the fiber  
155 crossing, it shall be considered a violation for failure to complete construction in  
156 accordance with the terms of the cable franchises.

157 L. ATTB and franchisees shall confirm in writing that franchisees shall comply,  
158 and that franchisees agree to comply fully with the franchise requirements to pay all  
159 applicable franchise fees and charges, including but not limited to costs for public  
160 notification of this transfer.

161 SECTION 3. Where this ordinance requires submittal of written confirmations by  
162 ATT Comcast, AT&T, AT&T Broadband, ATTB or franchisees, the confirmation shall  
163 be filed with the clerk of the council within thirty calendar days of the effective date of  
164 this ordinance, except for the information required in section 2F of this ordinance. If  
165 these or any other conditions for approval are not satisfied, approval shall be deemed to  
166 have been denied as of the enactment date of this ordinance.

167 SECTION 4. Notwithstanding any other provision of this ordinance, if the clerk  
168 of the metropolitan King County council has not received the written confirmations  
169 required by section 2 of this ordinance within thirty calendar days of the effective date of  
170 this ordinance, then the approval granted by this ordinance expires, and the request for  
171 approval of the transaction shall be deemed to have been denied as of the date of  
172 enactment of this ordinance.

173 SECTION 5. If the transaction that is the subject of this ordinance is not  
174 completed or does not reach final closure for any reason, or if the closure is reached on  
175 terms not substantially and materially the same from the terms described in the FCC  
176 Form 394 including subsequent information provided by AT&T, ATT Comcast, AT&T



177 Broadband, ATTB or franchisees, then the approval granted in this ordinance is null and  
178 void and the approval of the transaction shall be deemed to have been denied as of the  
179 enactment date of this ordinance.

180         SECTION 6. The executive is hereby authorized to execute written amendments  
181 to the franchise agreements incorporating in substantial form the conditions set forth in  
182 this ordinance.

183         SECTION 7. If any provision of this ordinance, or its application to any person  
184 or circumstance is held invalid, the remainder of the ordinance, or its application to other  
185 persons is not affected.

186         SECTION 8. This ordinance repeals Ordinance 14401 that denied the transfer of  
187 control of the parent corporations of TCI Cablevision of Washington, Inc., and

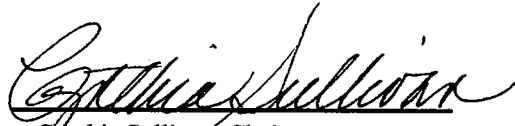
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188 Tele-Vue Systems, Inc., from AT&T Corp. to AT&T Comcast Corporation passed on  
189 June 24, 2002.  
190

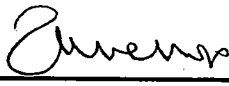
Ordinance 14446 was introduced on 6/10/2002 and passed as amended by the Metropolitan King County Council on 7/29/2002, by the following vote:

Yes: 8 - Ms. Sullivan, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr. Phillips, Mr. Pelz, Mr. Constantine and Ms. Hague  
No: 2 - Mr. Pullen and Mr. Gossett  
Excused: 3 - Mr. McKenna, Mr. Irons and Ms. Patterson

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

  
Cynthia Sullivan, Chair

ATTEST:

  
Anne Noris, Clerk of the Council

APPROVED this 9 day of August, 2002.

  
Ron Sims, County Executive

Attachments None

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KING COUNTY CLERK'S OFFICE