

Legislation Text

File #: 000452, **Version:** 1

Granting permission to RCN Telecom Services of Philadelphia, Inc. to construct, own, operate, maintain, replace, and remove a telecommunications system in, over, and under the public rights-of-way and streets of the City of Philadelphia, and to operate and maintain a video programming service over such telecommunications system pursuant to the provisions governing open video systems in the Telecommunications Act of 1996, under certain terms and conditions.

WHEREAS, the United States Congress, in P.L. 104-104, known as the Telecommunications Act of 1996 ("Telecommunications Act"), amended the Communications Act of 1934 to provide that a telephone local exchange carrier ("LEC") may provide cable service (defined to include, *inter alia*, video programming) to subscribers in its telephone service area through an open video system ("OVS") complying with certain provisions of such legislation; and

WHEREAS, RCN Telecom Services of Philadelphia, Inc. ("RCN") is in the business of providing such OVS services to residential and commercial customers; and

WHEREAS, RCN is authorized by the Pennsylvania Public Utility Commission to furnish telecommunications services as a competitive LEC ("CLEC") in Pennsylvania; and

WHEREAS, the Telecommunications Act provides that RCN, as such an authorized CLEC, may, upon appropriate certification by the FCC, offer video programming services in the City of Philadelphia as an OVS operator; and

WHEREAS, RCN is certified by the FCC to offer OVS services in the City of Philadelphia; and

WHEREAS, RCN has proposed to construct a telecommunications system within the City and to furnish a video programming services over the system as an OVS operator pursuant to the Telecommunications Act, as well as other telecommunications services; and

WHEREAS, RCN seeks authorization from the City to enter the City's rights-of-way to build and operate its telecommunications system and provide video programming services as an OVS operator in the City; and

WHEREAS, permission by ordinance of the Council of the City of Philadelphia is a condition of RCN's entry into the City's rights-of-way to construct its system and network for the purpose of providing OVS services and telecommunications services in the City; and

WHEREAS, Council, by advertising and holding public hearings on this Ordinance has afforded the public adequate notice and an opportunity to comment on the RCN OVS proposal; now therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to RCN Telecom Services of Philadelphia, Inc. ("RCN") to construct, own, operate, maintain, replace, and remove a telecommunications system in, over, and under the public rights-of-way and streets of the City of Philadelphia, and to operate and maintain a video programming service over such telecommunications system pursuant to the provisions governing open video systems in the Telecommunications Act, P.L. 104-104, 47 U.S.C. § 573, subject to Section 2 of this Ordinance.

SECTION 2. The permission granted to RCN by Section 1 of this Ordinance is conditioned upon the execution by RCN of an agreement in substantially the form attached hereto as Exhibit "A", with such changes as the City Solicitor deems necessary or appropriate to protect the interest of the City. The Commissioner of the Department of Public Property is hereby authorized to execute that agreement on behalf of the City.

SECTION 3. The Chief Clerk of Council shall keep all exhibits to this Ordinance on file and make them available to the public for inspection and copying during regular office hours.