

Legislation Text

File #: 020377, **Version:** 0

Consenting to the transfer of control of the Areas I, III and IV cable television franchises from Comcast Corporation to AT&T Comcast Corporation; the transfer of the Area I cable television franchise by merger of Comcast Cablevision of Philadelphia Area I, Inc. with and into Comcast Cablevision of Philadelphia, Inc., a direct subsidiary of Comcast Cable Communications, Inc.; and the reorganization or conversion of the legal form of Comcast Cablevision of Philadelphia, Inc. to a limited liability company; all under certain terms and conditions.

WHEREAS, Pursuant to Bill No. 53-A (approved March 29, 1984) and Bill No. 339 (approved November 14, 1984), Greater Philadelphia Cablevision, Inc. ("Greater Philadelphia") was awarded a franchise for the operation of a cable communications system in Area I of the City of Philadelphia (the "City"), which franchise was renewed for a fifteen year term commencing on October 8, 2000 pursuant to Bill No. 980847 (approved January 5, 1999). A franchise renewal agreement for Area I (the "Area I Franchise Agreement") was executed on June 15, 1999 by the City as franchisor and Greater Philadelphia as franchisee; and

WHEREAS, The Area I cable television franchise was transferred from Greater Philadelphia to Comcast GPCI, Inc. ("Comcast GPCI") with consent of the City pursuant to Bill No. 990357 (approved July 1, 1999), and Comcast GPCI on June 30, 1999 entered into an Assumption Agreement with the City agreeing to assume and be bound by all of the provisions, terms and conditions of the Area I Franchise Agreement; Comcast Corporation, the indirect parent of Comcast GPCI, executed on June 30, 1999 an Affirmation of Guaranty guaranteeing to the City the performance by Comcast GPCI of all obligations of Comcast GPCI pursuant to the Area I Franchise Agreement and state and local laws, ordinances, and regulations; and immediately following the close of the transaction, Comcast GPCI changed its corporate name to Comcast Cablevision of Philadelphia Area I, Inc. ("Comcast Area I"); and

WHEREAS, Pursuant to Bill No. 53-A (approved March 29, 1984) and Bill No. 341 (approved November 14, 1984), Rollins Cablevision of Philadelphia ("Rollins") was awarded a franchise for the operation of a cable communications system in Area III of the City, which franchise was transferred from Rollins to Comcast Cablevision of Philadelphia, Inc. ("Comcast Philadelphia") with consent of the City pursuant to Bill No. 1399 (approved October 30, 1987). The franchise was renewed for a fifteen year term commencing on September 28, 2000 pursuant to Bill No. 960882 (approved June 25, 1998), and a franchise renewal agreement for Area III (the "Area III Franchise Agreement") was executed on July 13, 1998 by the City as franchisor and Comcast Philadelphia as franchisee; and

WHEREAS, Pursuant to Bill No. 53-A (approved March 29, 1984) and Bill No. 342 (approved November 14, 1984), Comcast Philadelphia was awarded a franchise for the operation of a cable communications system in Area IV of the City, which franchise was renewed for a fifteen year term commencing on September 12, 2000 pursuant to Bill No. 960882 (approved June 25, 1998). A franchise renewal agreement for Area IV (the "Area IV Franchise Agreement") was executed on July 13, 1998 by the City as franchisor and Comcast Philadelphia as franchisee; and

WHEREAS, Comcast Area I and Comcast Philadelphia ("Franchisees"), pursuant to the Area I Franchise Agreement, the Area III Franchise Agreement, and the Area IV Franchise Agreement (the "Franchise

Agreements”), own, operate and maintain cable television systems (the “Systems”) in the City; and the Franchisees are the duly authorized holders of the respective Areas I, III and IV cable television franchises: and

WHEREAS, Comcast Area I is a wholly owned direct subsidiary of Comcast Philadelphia, which in turn is a wholly-owned subsidiary of Comcast Tri-Holdings, Inc., which in turn is a wholly-owned subsidiary of Comcast Cable Communications, Inc. (“Comcast Cable”), which in turn is a wholly owned subsidiary of Comcast Corporation (“Comcast”); and

WHEREAS, Comcast has informed the City that it intends to merge with AT&T Broadband Corp. to create a new company to be known as AT&T Comcast Corporation (the “Merger”); and

WHEREAS, Comcast Area I and Comcast Philadelphia have requested that the City consent to the change of control of the Areas I, III and IV cable television franchises that would result from the Merger, and in accordance with the requirements of the Franchise Agreements and federal law and regulation, has filed Federal Communications Commission Form 394 (“Application”) with the City; and

WHEREAS, Comcast Area I has requested that the City consent to the transfer of the Area I cable television franchise from Comcast Area I to Comcast Philadelphia (the “Internal Reorganization”); and

WHEREAS, It is intended that Comcast Philadelphia will, effective upon the Internal Reorganization, become the franchisee in Area I, and will be ultimately controlled by AT&T Comcast Corporation; and

WHEREAS, Comcast commits that Comcast Philadelphia will assume all of the obligations of Comcast Area I pursuant to the terms of the Area I Franchise Agreement; and

WHEREAS, Comcast Philadelphia may elect as permitted by law to convert or reorganize its legal form to a limited liability company (“LLC Conversion”); and

WHEREAS, Following the Merger, any LLC Conversion, and/or the Internal Reorganization, the resulting entity controlled by AT&T Comcast Corporation will continue to own and direct the management of the Systems and continue to be responsible for the performance of the obligations of the Franchise Agreements; and

WHEREAS, Article II, Section 10 of the Franchise Agreements requires that Comcast Area I and Comcast Philadelphia obtain the consent of the City by ordinance prior to the transfer of the franchise or any interest therein, and further provides that any change, transfer or acquisition of control of the franchisee shall make the franchise subject to cancellation unless and until the City shall have consented thereto; and

WHEREAS, The Merger, the LLC Conversion and the Internal Reorganization are events requiring the consent of the City by ordinance pursuant to Article II, Section 10 of the Franchise Agreements; and

WHEREAS, Article II, Section 10 of the Franchise Agreements also requires Comcast Area I and Comcast Philadelphia to demonstrate the character and financial qualifications of the proposed transferee of control (AT&T Comcast Corporation), and documents so demonstrating have been submitted; and

WHEREAS, The Council of the City of Philadelphia is willing to consent to the Merger, LLC Conversion and Internal Reorganization described above, with certain conditions, now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. City Council hereby consents, pursuant to Article II, Section 10 of the Franchise Agreements, to (i) a transfer of the Area I cable television franchise from Comcast Cablevision of Philadelphia Area I, Inc. (“Comcast Area I”) to Comcast Cablevision of Philadelphia, Inc. (“Comcast Philadelphia”), (ii) a transfer of control of the Areas I, III and IV cable television franchises from Comcast Corporation (“Comcast”) to AT&T Comcast Corporation (“AT&T Comcast”) pursuant to an Agreement and Plan of Merger dated as of December 21, 2001 by and among AT&T Corp., AT&T Broadband Corp., Comcast Corporation, AT&T Broadband Acquisition Corp., Comcast Acquisition Corp. and AT&T Comcast Corporation (the “Merger Agreement”), and (iii) an LLC Conversion by Comcast Philadelphia, provided in each case that:

(a) Comcast Philadelphia executes an agreement substantially in the form attached hereto as Exhibit “A,” with such additions, deletions and changes as the City Solicitor deems appropriate to accomplish: (i) Comcast Philadelphia’s assumption of, and agreement to be bound by, all of the provisions, terms and conditions of the Area I Franchise Agreement, and all applicable federal, state and local laws and regulations, and (ii) Comcast Philadelphia’s assumption of primary liability under the Area I Franchise Agreement, and under such laws and regulations;

(b) AT&T Comcast Corporation executes an affirmation of guaranty substantially in the form attached hereto as Exhibit “B,” with such changes as the City Solicitor deems necessary or appropriate to protect the interests of the City;

(c) Comcast Corporation and AT&T Broadband Corp. receive all approvals required by agencies of the United States of America and the Commonwealth of Pennsylvania in order to complete the transactions contemplated by the Merger Agreement; and

(d) the transactions contemplated by the Merger Agreement are completed according to the terms thereof.

SECTION 2. The Chief Clerk of City 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.

SECTION 3. Capitalized terms used herein shall have the definitions provided for such terms in the introductory “Whereas” clauses to this Ordinance.