

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 01-075

Consenting to Transfer of Cable Franchises Held by TCI Cablevision of Ohio, Inc. to AT&T Broadband of Ohio, LLC.

The Multnomah County Board of Commissioners Finds:

- a. The Mt. Hood Cable Regulatory Commission (MHCRC) was created by Intergovernmental Agreement dated December 24, 1992 (IGA) to carry out cable regulation and administration on behalf of Multnomah County and the cities of Gresham, Fairview, Portland, Troutdale, and Wood Village (the Jurisdictions). Among other things, the MHCRC acts in an advisory capacity to the Jurisdictions in connection with potential or proposed transfers or changes in ownership or control of any cable franchisee of the Jurisdictions. As set forth in the IGA, any change in ownership or control of a cable communications system or a Grantee is an area where the Jurisdictions have reserved full authority to act on their own behalf, but each Jurisdiction has agreed to take no action in these areas until the MHCRC has had a prior opportunity to consider the matter.
- b. Certain cable franchises granted to KBL Portland Cablesystems, L.P. and KBL Multnomah Cablesystems, L.P. were transferred in 1999, with the Jurisdiction's approval, to TCI Cablevision of Ohio, Inc. (Transferor), a subsidiary of AT&T Broadband and its ultimate parent company AT&T Corp. Thereafter, Transferor on or about June 1, 1999 assumed ownership and control of the KBL-Portland Cablesystems, L.P. cable franchise granted by the City of Portland (East Portland franchise) and the KBL Multnomah Cablesystems, L.P. cable franchise granted by Multnomah County and the Cities of Fairview, Gresham, Troutdale, and Wood Village (East Multnomah franchise).
- c. MHCRC staff was notified on February 16, 2001 that, as part of an internal restructuring, AT&T Broadband was requesting consent to the further transfer of the East Portland and East Multnomah assets and franchises from Transferor to another AT&T affiliate: AT&T Broadband of Ohio, LLC (Transferee). The notification was accompanied by a FCC Form 394 "Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise" for the East Portland and East Multnomah franchises. The notification and accompanying FCC Form 394 filing requested the consent of each of the Jurisdictions, respectively, for the proposed transfer of the East Portland and East Multnomah franchises and assets from Transferor to Transferee.
- d. The AT&T East Portland franchise and the AT&T East Multnomah franchise prohibit any transfer without the prior consent of the applicable MHCRC Jurisdiction. Specifically, Sections 17.1 and 17.2 of the AT&T East Portland franchise and the AT&T

East Multnomah franchise prohibit a franchise transfer or change in control without the prior consent of the Jurisdictions expressed by ordinance or resolution, as applicable.

- e. MHCRC staff sent a letter dated March 6, 2001 to an authorized representative of the Transferor and Transferee requesting additional information. Transferor and Transferee provided a responsive and reasonably complete reply to the MHCRC letter by the letter's requested due date of March 26, 2001.
- f. The information included in the initial Form 394 filing and in the reply to the MHCRC staff letter was reviewed by MHCRC staff and MHCRC financial counsel KFA Services (KFA). MHCRC staff and KFA concluded that, subject to the inclusion of certain conditions, the transfer of the subject franchises from Transferor to Transferee should not materially affect the financial capability of the franchisee, and should not materially affect the management or operation of the local cable systems operated by the franchisee.
- g. The MHCRC held a public meeting and work session on April 16, 2001 to review the information received from AT&T, MHCRC staff, and KFA and to make a recommendation to the Jurisdictions.
- h. After considering the information received, the MHCRC recommends that the Jurisdictions approve the proposed transfer of the AT&T East Portland franchise and the AT&T East Multnomah franchise from Transferor to Transferee. This is subject to Transferee's acceptance of certain conditions contained in MHCRC Resolution No. 2001-4 adopted on April 16, 2001.
- i. Transferee's application for the transfer of the AT&T East Portland franchise and the AT&T East Multnomah franchise should be approved with the conditions contained in this resolution. If Transferee and Transferee's guarantor TCI West, Inc. do not accept these conditions, the application should be denied.

The Multnomah County Board of Commissioners Resolves:

1. Subject to the conditions set out in the acceptance form attached as Exhibit A to this resolution, Multnomah County approves the request of AT&T Broadband of Ohio, LLC (Transferee) to transfer the AT&T East Multnomah franchise (KBL Multnomah Cablesystems, L.P.) effective May 23, 1998, granted by Multnomah County and the Cities of Fairview, Gresham, Troutdale, and Wood Village.
2. Within 30 days after passage of this resolution, Transferee and Transferee's guarantor TCI West, Inc. and, where applicable, Transferee's ultimate parent AT& T Corp., shall file a written, executed acceptance of this resolution (Acceptance). The Acceptance shall be in the form attached as Exhibit A. Transferee shall file the Acceptance with the City of Portland Office of Cable Communications and Franchise Management, as staff for the MHCRC and the Jurisdictions.

3. The executed Acceptance shall be unqualified and shall be construed to be an acceptance of all its terms, conditions and restrictions.
4. The failure, refusal or neglect by Transferee and Transferee's guarantor TCI West, Inc. and, where applicable, Transferee's ultimate parent AT&T Corp., to file such Acceptance by such time shall constitute an abandonment and rejection of the rights and privileges conferred by this resolution.
5. If for any reason Transferee, Transferee's guarantor TCI West, Inc. and, where applicable, Transferee's ultimate parent AT&T Corp. fail, refuse or neglect to file the Acceptance as provided in paragraph 2, or if the transaction that is the subject of the Acceptance is not finally consummated or does not reach final closure for any reason, or in the event such closure is reached on terms substantially and materially different to the terms described in the FCC Form 394 and subsequent information provided by the Transferee and relied upon by the MHCRC and the Jurisdictions, Transferee's request for transfer of the East Multnomah franchise shall be deemed denied.

ADOPTED this 7th day of June, 2001.

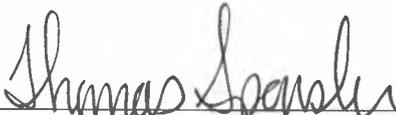


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Thomas Sponsler, County Attorney

**EXHIBIT A
ACCEPTANCE FORM**

Multnomah County
c/o Mt. Hood Cable Regulatory Commission
1120 SW Fifth Ave Room 704
Portland, OR 97204

This is to advise Multnomah County (County) that AT&T Broadband of Ohio, LLC (Transferee) and Transferee's guarantor TCI West, Inc. and, with respect to the obligations of paragraph (c), Transferee's ultimate parent AT& T Corp. (AT&T), unqualifiedly accept the provisions applicable to them of Resolution No. 01-075, adopted by the County on June 7, 2001, regarding the transfer to the Transferee of the following cable franchises:

- KBL Portland Cablesystems, L.P., Ord. No. 170758, passed by the Portland City Council December 4, 1996 (East Portland franchise); and,
- KBL Multnomah Cablesystems, L.P., effective May 23, 1998, granted by Multnomah County and the Cities of Fairview, Gresham, Troutdale, and Wood Village. (East Multnomah franchise)

and agree, as applicable, to abide by the following terms and conditions:

- a. Compliance with franchises. In all respects and without exception, Transferee accepts and shall comply with each and every provision of the East Portland and East Multnomah franchises, including all lawful applicable ordinances, resolutions, orders, contracts, agreements, commitments, side letters, and regulatory actions taken pursuant thereto, as applicable, whether prior or subsequent to the date such franchises were transferred to Transferee.
- b. Acceptance of applicable provisions of 1999 MHCRC Jurisdiction transfer ordinances. In all respects and without exception, Transferee accepts and shall comply with the provisions applicable to TCI Cablevision of Ohio, Inc. (Transferor) of the following 1999 MHCRC Jurisdiction ordinances (or resolutions, as applicable) which authorized transfer of the East Portland and East Multnomah cable franchises to Transferor:
 - (1) Ordinance No. 7-1999, passed by the City of Fairview on May 19, 1999;
 - (2) Ordinance No. 1474, passed by the City of Gresham on May 4, 1999 (first reading) and May 18, 1999 (second reading);
 - (3) Resolution No. 99-89, passed by the Multnomah County Board of Commissioners May 20, 1999;
 - (4) Ordinance No. 173385, passed by the Portland City Council May 19, 1999;
 - (5) Resolution No. 1433, passed by the Troutdale City Council May 11, 1999; and
 - (6) Ordinance 2-1999, passed by the Wood Village City Council on May 12, 1999.
- c. Guarantee. Transferee shall re-confirm and continue, in a form satisfactory to the Jurisdictions, the guarantee of franchise performance by TCI West, Inc. in accordance with

the provisions of Section (b) of Exhibit A to the 1999 MHCRC Jurisdiction ordinances (or resolutions, as applicable) specified in paragraph b. above, and accepted by Transferor, TCI West, Inc., and AT&T Corp.

- d. Cost reimbursement. As required by the East Portland and East Multnomah Franchises, Transferee shall reimburse all direct, out-of-pocket costs of the MHCRC and the Jurisdictions incurred in analyzing and acting upon the transfer request, within 30 days of receipt by Transferee of an itemized statement of such cost.
- e. Transferee responsible for any non-compliance by franchisee. Transferee specifically acknowledges and expressly accepts that the Jurisdictions do not waive and expressly reserve all legal rights and authority in regard to any and all non-compliance under the East Portland franchise and the East Multnomah franchise that may now exist or may later be discovered to have existed during the term of the franchise(s), even if prior to the transfer authorized by the resolution that is the subject of this Acceptance.
- f. Automatic denial in the event of material change in terms. In the event the transaction which is the subject of this Acceptance is not finally consummated or does not reach final closure for any reason, or in the event such closure is reached on terms substantially and materially different to the terms described in the FCC Form 394 and subsequent information provided by the Transferee and relied upon by the MHCRC, then Transferee's request for transfer as provided in the Resolution adopted by the County on June 7, 2001, shall be deemed denied.

AT&T BROADBAND OF OHIO, LLC

BY: _____
NAME: _____
TITLE: _____

State of _____
County of _____

This Acceptance was acknowledged before me on the day _____ of _____, 2001, by _____ as a duly authorized officer of _____.

Notary Public for: _____
My Commission Expires: _____

TCI WEST, INC.

BY: _____
NAME: _____
TITLE: _____

State of _____
County of _____

This Acceptance was acknowledged before me on the day _____ of _____, 2001, by _____ as a duly authorized officer of _____.

Notary Public for: _____
My Commission Expires: _____

AT&T CORP.

BY: _____
NAME: _____
TITLE: _____

State of _____
County of _____

This Acceptance was acknowledged before me on the day _____ of _____, 2001, by _____ as a duly authorized officer of _____.

Notary Public for: _____
My Commission Expires: _____

Approved as to form:

Thomas Sponsler, County Attorney
For Multnomah County, Oregon

