

City of Seattle Legislative Information Service

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Council Bill Number: 115029

Ordinance Number: 121627

AN ORDINANCE related to **cable** television; granting Comcast of Washington I, Inc. and Comcast of Washington IV, Inc. a **franchise** for the Central Business **Franchise** District (CBFD); establishing terms and conditions for extending service in the CBFD; formally subjecting all **franchise** districts served by Comcast to the terms and conditions of Comcast's current **franchise agreement**; reflecting name changes of Comcast **franchise** grantees; and amending Exhibit A to Ordinance No. 117956 to reflect these changes.

Date introduced/referred: September 13, 2004

Date passed: October 18, 2004

Status: Passed

Vote: 8-0 (Excused: Licata)

Date of Mayor's signature: October 27, 2004

[\(about the signature date\)](#)

Committee: Utilities and Technology

Sponsor: COMPTON

Index Terms: FRANCHISES, CABLE-TELEVISION

References/Related Documents: Related: Ord 117956, 111262, 120263

Text

AN ORDINANCE related to cable television; granting Comcast of Washington I, Inc. and Comcast of Washington IV, Inc. a franchise for the Central Business Franchise District (CBFD); establishing terms and conditions for extending service in the CBFD; formally subjecting all franchise districts served by Comcast to the terms and conditions of Comcast's current franchise agreement; reflecting name changes of Comcast franchise grantees; and amending Exhibit A to Ordinance No.

117956 to reflect these changes.

WHEREAS, following the merger between AT&T Broadband and Comcast Corporation, the name of cable franchise grantee TCI Cablevision of Washington, Inc. was changed to Comcast of Washington IV, Inc. and the name of cable franchise grantee United Community Antenna System, Inc. was changed to Comcast of Washington I; and

WHEREAS, Comcast of Washington IV, Inc. and Comcast of Washington I, Inc. currently provide cable services in Cable Franchise Districts I, II and III in accordance with the terms and conditions of a franchise approved by Ordinance No. 117956, as amended; and subsequent agreements; and

WHEREAS, Comcast of Washington IV, Inc. and Comcast of Washington I, Inc. are both wholly owned by Comcast Cable Communications Holdings, Inc. and are together also known in the City as Comcast; and

WHEREAS, Comcast also provides cable services in the Central Business Franchise District pursuant to temporary, revocable City street use permits (see Ordinance 111262); and

WHEREAS, the City adopted Ordinance No. 120263, establishing transition rules for the Central Business Franchise District (SMC 21.60.710), whereby holders of temporary street use permits to provide cable services in the Central Business Franchise District must obtain

a franchise; and

WHEREAS, in accordance with SMC 21.60.710, Comcast has filed a notice of their intent to pursue a franchise in the Central Business Franchise District; and

WHEREAS, the City has reached an agreement with Comcast regarding the terms and conditions for service in the Cbfd; and

WHEREAS, in a letter agreement, substantially in the form attached hereto as Exhibit A, the City and the Franchisees have identified and acknowledged certain franchise issues relating to the Cbfd; and

WHEREAS, the City wishes to amend the franchise agreement attached to Ordinance 117956 as Exhibit A, which is due to expire on January 20, 2006, to establish terms and conditions for extending service in the Cbfd, and to formally subject all the franchise districts Comcast serves to the terms and conditions contained therein; and

WHEREAS, Comcast acknowledges its obligations to complete any new underground cable system extensions in the Central Business Franchise District in such a manner as to minimize the frequency of street openings and disruption to neighborhoods, reduce inconvenience to the public, and avoid work conflicts in the street rights-of-way, as required by the Seattle Municipal Code and all applicable City rules, regulation, and procedures; Now, therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The cable franchise agreement of TCI Cablevision of Washington, Inc., set forth in an attachment to Ordinance 117956 (the "Franchise"), as amended, and shall be further amended as set forth in this Ordinance. Any deviations from requirements or obligations contained in the Franchise are made for the purpose of addressing certain characteristics of the Central Business Franchise District, including but not limited to, the mix of business, industrial and residential areas and City established requirements to place cable underground. The amendments pertaining to line extension costs in the Central Business Franchise District shall not be applied to Cable Franchise Districts I, II or III unless expressly provided herein or otherwise established by ordinance. In addition, the amendments shall not be construed as reflecting any changes in community needs or interests.

Section 2. Subsection 1.1 of the Franchise is amended to read as follows:

1.1 Grant of Franchise.

(A) The City of Seattle hereby grants to .

Comcast of Washington IV, Inc., a Washington Corporation, and

Comcast of Washington I, Inc., a Washington Corporation, having their principal place of business in

Bothell, Snohomish County, Washington, a franchise

to install, construct, operate and maintain a Cable System to provide Cable Services under such terms and conditions as are set forth in this Ordinance.

(B) Throughout this Franchise, the City of Seattle, Washington shall be referred to as the "City," and

Comcast of Washington IV, Inc. and Comcast of Washington I, Inc.

shall be referred to jointly as the "Grantee."

(C) Comcast of Washington IV, Inc. and Comcast of Washington I, Inc. shall be jointly and severally liable for the obligations of the Grantee under the Franchise and other applicable law governing Grantee's operations in the City, for compliance with the terms and conditions set forth herein, and a default by one shall be deemed a default by both. Notice to either shall be deemed notice to both. Termination or revocation of this Franchise as to one shall terminate or revoke this Franchise as to both. The failure to enforce against one shall not operate as a waiver or limitation of claims against the other.

Section 3. Subsection 4.1 of the Franchise is amended as follows:

4.1 Franchise Area. Grantee shall provide Cable Services, as

authorized under this Franchise, within the areas of the City
designated as Cable Franchise Districts I, II and III, and the Central
Business Franchise District (CBFD). A
franchise district map shall be on file with the City Clerk's
Office in sufficient detail and size
to determine exact boundaries and shall be readily accessible to
Grantee.

(A) Central Business Franchise District.

The Central Business Franchise District shall be subdivided into two
areas as stated below:

(1) Area North: All areas of the Central Business Franchise District
located North of Royal Brougham Way; and

(2) Area South: All remaining areas of the Central Business
Franchise District.

Section 4. A new Subsection 8.12 is added to the Franchise as
follows:

8.12 Line Extensions in the Central Business Franchise District

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(A) General

The phrase "line extensions costs" as used in this subsection shall mean the total construction costs of the extension as determined by Grantee. Construction costs are defined as the actual necessary costs to construct the extension, exclusive of profit and the cost of the house drop.

Grantee's obligation to extend its cable television system in the Cbfd shall be as described in this Subsection 8.12. Grantee shall have the obligation to extend its Cable System to all residents in the Cbfd, including residents in a multiple dwelling unit (MDU), except where: (i) residents in the MDU are currently receiving Cable Services from another Cable Operator under a franchise agreement with the City; or (ii) an MDU is connected to the necessary cable system components of another Cable Operator to be able to receive Cable Services; or (iii) the owner of the MDU and another Cable Operator are parties to an existing Right of Entry Agreement or other similar agreement granting access to the building for the purpose of providing Cable Services; or (iv) the owner of the MDU and Grantee have not agreed upon and entered into a Right of Entry Agreement and/or Cable Services Agreement which covers any inside wiring or other telecommunications improvements, provided, however, that Grantee shall not propose terms for the purpose of avoiding service to any MDU. All Right of Entry Agreements and/or Cable Service Agreements covering an MDU are subject to the terms of Subsection 16.5 of this Franchise Agreement. Grantee shall maintain evidence that it has attempted to

secure a Right of Entry Agreement and/or Cable Service Agreement, and provide such evidence at the City's request.

If any line extension charges to subscribers are applicable under this subsection, Grantee may, in its sole discretion, waive all or a portion of the extension charges if it deems it commercially desirable. Grantee may also require that payment of up to 100% of the line extension costs to be borne by potential Subscribers under this subsection be paid in advance; however, nothing in this subsection shall prohibit Grantee from providing more favorable payment terms to Subscribers.

Whenever the City is contacted by a potential subscriber or residential building owner who believes that a line extension estimate is unreasonable, the City may request, and Grantee will provide, information pertaining to all construction costs included in the total line extension estimate provided to the customer. The City may also request that the cable operator arrange for and host a meeting between the City and the contractor that provided the estimate.

(1) Line Extensions in Area North

Whenever the Grantee receives a request for Cable Service from a potential residential Subscriber in Area North of the Central Business Franchise District, Grantee shall extend its Cable System to such Subscriber at no cost to said Subscriber for the Cable System

extension, other than the published Standard/non-Standard Installation fees, where Grantee's total costs of construction is no greater than \$1,200.00 per Dwelling Unit. Grantee shall have no obligation to extend its Cable System to provide service to Subscribers where Grantee's cost of construction is greater than \$1,200.00 per Dwelling Unit, unless Subscribers to be served by the extension agree to pay all additional costs in excess of said amount. In the case of a multiple dwelling unit (MDU), Grantee shall multiply the \$1,200.00 maximum cost cap by the number of total residential units in the building, regardless of the number of subscribers, to determine its maximum cost cap for line extension costs to an MDU.

(2) Line Extensions in Area South

No Subscriber requesting service shall be refused service arbitrarily. Whenever the Grantee receives a request for Cable Service from a potential residential Subscriber in Area South of the Central Business Franchise District as defined in Section 4.1, and where there are at least 15 Dwelling Units within 1,320 cable-bearing strand feet from the portion of Grantee's trunk or distribution cable which is to be extended, Grantee shall extend its Cable System to such Subscribers at no cost to said Subscribers for the Cable System extension, other than the published Standard/non-Standard Installation fees.

However, if any area in Area South of the Central Business Franchise District does not meet the density requirements set forth in this

subsection, Grantee shall only be required to extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the construction costs for extending the Cable System. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of Dwelling Units per 1,320 cable-bearing strand feet from Grantee's trunk or distribution cable, and whose denominator equals 15. Subscribers who request service hereunder shall bear the remaining cost to extend the Cable System on a pro rata basis. A Subscriber shall also be responsible for any Standard/non-Standard Installation charges to extend the Cable System from the tap to the Dwelling Unit.

Section 5. Except as expressly provided herein, all terms and conditions of the franchise granted by Exhibit A to Ordinance 117956, as heretofore amended, remain unchanged and in full force and effect. Changes to the sections and subsections specified herein above do not affect other sections or subsections.

Section 6. The Franchise amendments contained in this Ordinance shall not become effective for any purpose unless and until Grantee accepts the conditions of this ordinance and such acceptance is filed with the City Clerk and the Office of Cable Communications. Such acceptance shall be in writing, shall be in a form and substance approved by the City Attorney, and shall be and operate as an acceptance of each and every term and condition and limitation contained in this ordinance.

If Grantee fails to accept the amendments to the Franchise contained herein within 30 days of the Mayor's acceptance of this Ordinance, the Franchise amendments shall be null and void. All other terms, conditions, and limitations of the Franchise Agreement not specifically amended by this Ordinance shall remain in full force and effect and shall apply to the obligations created by this Ordinance.

Section 7. Any acts done consistent with the authority granted herein and prior to the effective date of this ordinance are hereby ratified and confirmed.

Section 8. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2004, and signed by me in open session in authentication of its passage this ____ day of _____, 2004.

President of the City Council

Approved by me this ____ day of _____, 2004.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2004.

City Clerk

Attachment A:

Side letter agreement between the City of Seattle, Comcast of
Washington I, Inc. and Comcast of Washington IV., Inc.

September 28, 2004

Version #3

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Attachment A:

City of Seattle

Gregory J. Nickels, Mayor

Department of Information Technology

Bill Schrier, Director and Chief Technology Officer

July 15, 2004

Via Electronic Mail and U.S. Mail

Ms. Janet L. Turpen, Executive Director

Government Affairs/Franchising

Comcast Cable Communications Inc.

PO Box 3042

Bothell, WA 98011

Re: Franchise for the Central Business Franchise District

Dear Ms. Turpen:

This letter addresses issues that were identified during franchise negotiations for the Central Business Franchise District (CBFD). The following statements represent clarifications and/or intentions as they relate to the CBFD:

1) The City and Comcast agree that the application of an inflation factor to the per unit contribution amount, as described in new subsection 8.12 to the franchise agreement attached to Ordinance No. 117956 (Section 4 of this ordinance), shall be a discussion item during informal renewal negotiations of the franchise agreement attached to Ordinance No. 117956.

2) The City and Comcast agree that the granting of a franchise for the CBFD increases the number of subscribers served under the terms of the franchise agreement attached to Ordinance No. 117956, as amended. Further, the City and Comcast agree that due to the increase in the subscriber base and the addition of another franchise district, the requirements for bonding, insurance, security fund and liquidated

damages shall be discussion items during informal renewal negotiations of the franchise agreement attached to Ordinance No. 117956.

By signing below the parties acknowledge and agree to the matters described herein above.

City of Seattle

Date _____

By: Bill Shrier

Title: Director and Chief Technology Officer

Comcast of Washington I, Inc.
IV, Inc.

By: Leonard J. Rozek

Title: Senior Vice President
President

Comcast of Washington

By: Leonard J. Rozek

Title: Senior Vice

[Fiscal Note](#)