

FILE NO. 991806

RESOLUTION NO. 976-99

[RCN Telecom Services of California's Cable Franchise Application]

10/19/99
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AUTHORIZING AND URGING THE DEPARTMENT OF TELECOMMUNICATIONS AND
INFORMATION SERVICES (DTIS) TO REQUEST AND REVIEW INFORMATION FROM
RCN TELECOM SERVICES OF CALIFORNIA, INC. (RCN) NECESSARY TO COMPLETE
REVIEW
ITS FRANCHISE APPLICATION/OR AS MAY BE REQUIRED PURSUANT TO STATE,
FEDERAL OR LOCAL LAW INCLUDING BUT NOT LIMITED TO THE SAN FRANCISCO
ADMINISTRATIVE CODE AND CALIFORNIA GOVERNMENT CODE; URGING DTIS TO
PREPARE AN ORDINANCE PROPOSING REVISIONS TO THE ADMINISTRATIVE CODE
PROVISIONS REGARDING THE ISSUANCE OF CABLE FRANCHISES FOR THE BOARD'S
CONSIDERATION; URGING DTIS TO NOTIFY RCN OF THE PROPOSAL TO UPDATE THE
ADMINISTRATIVE CODE; URGING THE TELECOMMUNICATIONS COMMISSION TO
HOLD A PUBLIC HEARING REGARDING THE POSSIBLE TERMS AND CONDITIONS OF
AN RCN FRANCHISE THAT WOULD BEST SERVE COMMUNITY NEEDS; URGING DTIS
TO SOLICIT INPUT FROM OTHER CITY DEPARTMENTS REGARDING APPROPRIATE
TERMS AND CONDITIONS OF AN RCN FRANCHISE THAT WOULD BEST MEET CITY
GOVERNMENT AND COMMUNITY NEEDS; URGING DTIS AND THE
TELECOMMUNICATIONS COMMISSION TO REPORT THEIR FINDINGS TO THE BOARD;
FINDING THAT NOTHING IN THE RESOLUTION PREVENTS DTIS FROM DISCUSSING
TERMS OF A FRANCHISE WITH RCN; FINDING THAT TIME IS OF THE ESSENCE
REGARDING THE RCN FRANCHISE APPLICATION; AND URGING THAT DTIS AND THE
TELECOMMUNICATIONS COMMISSION MAKE THE RCN FRANCHISE APPLICATION A
PRIORITY.

WHEREAS, RCN Telecom Services of California ("RCN") applied for a cable television
franchise pursuant to Chapter 11 of the San Francisco Administrative Code on July 30, 1999;
and,

SUPERVISORS
KATZ, NEWSOM

1 WHEREAS, RCN may provide San Francisco residents with an alternative cable
2 service that competes with the incumbent by offering lower prices and improved services;
3 and,

4 WHEREAS, It is in the public interest to have lower prices, improved service and
5 greater options; and,

6 WHEREAS, Chapter 11 of the Administrative Code establishes certain requirements
7 for a franchise application and specifies certain terms that a cable television franchise should
8 contain; and,

9 WHEREAS, Section 11.26 of the Administrative Code establishes criteria which the
10 Board should consider when evaluating a cable franchise application; and,

11 WHEREAS, California Government Code § 53066.3 establishes geographic coverage
12 and public, educational and government access requirements for a second cable franchise in
13 an area where there is an incumbent grantee and requires a franchising authority to consider
14 certain community and economic impacts when granting a second franchise; and,

15 WHEREAS, The Department of Telecommunications and Information Services
16 ("DTIS") has asked for information from RCN concerning franchise application requirements
17 established by but not limited to the Administrative Code and the California Government
18 Code; and,

19 WHEREAS, DTIS has concluded that the RCN franchise application does not contain
20 information sufficient to meet the requirements of applicable law; and,

21 WHEREAS, RCN has agreed to provide additional information and has agreed to do
22 so on a continuing basis; and,

23 WHEREAS, Administrative Code § 11.26 (d) requires RCN, or any other applicant for a
24 cable franchise, to provide any details, statements, information or references pertinent to its
25 franchise application which are required by the Board; and,

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1 WHEREAS, In addition to the information required from RCN, the Board needs more
2 information concerning:

3 1. The appropriate requirements for public, educational and governmental access
4 channels;

5 2. The need for facilities and services for City use including conduit, fiber optic
6 facilities and service to public buildings in order to ensure that any franchise that may be
7 granted satisfies community needs; and,

8 WHEREAS, The Telecommunications Commission is charged with advising the Mayor
9 and the Board of Supervisors regarding telecommunications matters and is ideally situated to
10 gather information about public, educational and government access requirements and
11 facilities for public use; and,

12 WHEREAS, Many of the Administrative Code provisions applicable to cable television
13 franchises were written in 1974, prior to major changes to the state and federal laws
14 governing cable franchises; and,

15 WHEREAS, Many provisions of the Administrative Code do not fully address the needs
16 and interests of the community, or changes in applicable law; and,

17 WHEREAS, Conflicts between provisions of the Administrative Code and applicable
18 law and the public interest make applications for and amendments to a cable franchise
19 unnecessarily complex, and accordingly the Administrative Code should be simplified; and,

20 WHEREAS, It is in the public interest to consider updating these provisions of the
21 Administrative Code; and,

22 WHEREAS, RCN's franchise application should be processed expeditiously; and,
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1 WHEREAS, The City must exercise due diligence in carefully considering RCN's
2 franchise application because the grant of a public asset as valuable as a franchise has
3 significant implications for the City and the public interest and because a franchise is typically
4 a long term agreement; now, therefore, be it

5 RESOLVED, That the Board finds that additional information is needed regarding the
6 RCN franchise application in order for it to be considered by the Board; and, be it

7 FURTHER RESOLVED, That the Board hereby authorizes and urges DTIS to request
10/19/99 and review information from RCN necessary to complete its franchise application/^{review}or as may
grh 8 be required pursuant to state, federal or local law including but not limited to the
9 Administrative Code and California Government Code and to report to the Board when DTIS
10 determines that RCN has submitted information sufficient to complete its application, or within
11 75 days for purposes of updating the Board on the status of the application/^{review}if no such
10/25/99
rt 12 determination has been made; and, be it

13 FURTHER RESOLVED, That the Board urges DTIS to prepare an ordinance
14 containing proposed revisions to the Administrative Code for the Board's consideration and
15 make these revisions available for introduction no later than ten days after the effective date
16 of this resolution; and, be it

17 FURTHER RESOLVED, That the Board urges DTIS to propose revisions to the
18 Administrative Code to clarify and streamline the franchise process and franchise regulations;
19 and, be it

20 FURTHER RESOLVED, That the Board will consider DTIS' proposed revisions to the
21 Administrative Code and that the Administrative Code may be amended by subsequent action
22 of the Board; and, be it
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1 FURTHER RESOLVED, That the Board urges DTIS to notify RCN and other
2 franchisees of this proposal to amend the Administrative Code; and, be it

3 FURTHER RESOLVED, That the Board urges the Telecommunications Commission to
4 hold a public hearing to gather testimony about the possible terms and conditions of an RCN
5 franchise that would best meet community needs, including requirements for public,
6 educational and government access channels and facilities and services for City use; and, be
7 it

8 FURTHER RESOLVED, That the Board of Supervisors urges DTIS to solicit input from
9 other City departments regarding the terms and conditions of an RCN franchise that would
10 best meet City government and community needs; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors urges DTIS and the
12 Telecommunications Commission to report back to the Board at the conclusion of their
13 information gathering; and, be it

14 FURTHER RESOLVED, That nothing in this Resolution shall be read to prevent DTIS
15 from discussing the possible terms and conditions of a franchise with RCN prior to reporting
16 back to the Board; and, be it

17 FURTHER RESOLVED, That revisions to the Administrative Code shall be introduced
18 and adopted in time sufficient to facilitate the expeditious processing of the RCN application;
19 and, be it

20 FURTHER RESOLVED, That the Board concludes that time is of the essence
21 regarding the RCN franchise application and the recommendations set forth in this
22 Resolution; and, be it

23 FURTHER RESOLVED, That the Board urges the City Attorney to prepare placeholder
24 legislation pursuant to the City Charter and the Administrative Code, and submit same to the
25 Board for introduction no later than December 6, 1999; and, be it

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FURTHER RESOLVED, That the Board urges DTIS and the Telecommunications Commission to make the subjects of this Resolution a priority and to report to the Board as soon as possible on the issues set forth herein.

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KATZ



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Resolution

File Number: 991806

Date Passed:

Resolution authorizing and urging the Department of Telecommunications and Information Services (DTIS) to request and review information from RCN Telecom Services of California, Inc. (RCN) necessary to complete its franchise application review or as may be required pursuant to State, federal or local law including but not limited to the San Francisco Administrative Code and California Government Code; urging DTIS to prepare an ordinance proposing revisions to the Administrative Code provisions regarding the issuance of cable franchises for the Board's consideration; urging DTIS to notify RCN of the proposal to update the Administrative Code; urging the Telecommunication Commission to hold a public hearing regarding the possible terms and conditions of an RCN Franchise that would best serve community needs; urging DTIS to solicit input from other City departments regarding appropriate terms and conditions of an RCN Franchise that would best meet City government and community needs; urging DTIS and the Telecommunication Commission to report their findings to the Board; finding that nothing in the resolution prevents DTIS from discussing terms of a franchise with RCN; finding that time is of the essence regarding the RCN Franchise application; and urging that DTIS and the Telecommunications Commission make the RCN Franchise application a priority.

October 25, 1999 Board of Supervisors — AMENDED

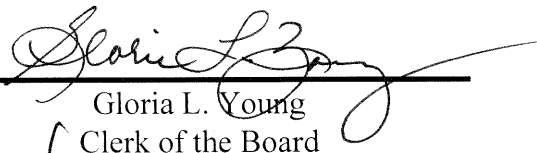
Ayes: 10 - Ammiano, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng,
Yaki, Yee
Absent: 1 - Becerril

October 25, 1999 Board of Supervisors — ADOPTED AS AMENDED

Ayes: 10 - Ammiano, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng,
Yaki, Yee
Absent: 1 - Becerril

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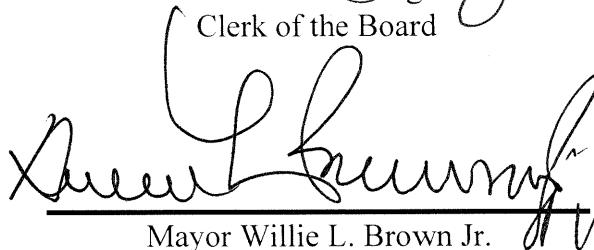
I hereby certify that the foregoing Resolution was ADOPTED AS AMENDED on October 25, 1999 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young
Clerk of the Board

NOV - 5 1999

Date Approved



Mayor Willie L. Brown Jr.