

Memorandum



CITY OF DALLAS

DATE June 15, 2012

TO Honorable Members of the Budget, Finance & Audit Committee: Jerry R. Allen (Chair), Tennell Atkins (Vice Chair), Monica R. Alonzo, Scott Griggs, and Ann Margolin

SUBJECT Time Warner Cable Inc. Transition to a State Issued Franchise

The June 27, 2012 City Council addendum will include an item to adopt a resolution removing a requirement that Time Warner Cable, Inc. (Time Warner) provide free cable service to schools when operating under a State issued franchise.

Time Warner is currently operating under a franchise issued by the City of Dallas (Ordinance No. 24361 as amended). In 2005 the Texas Legislature passed Senate Bill 5 (SB 5), which among other things transferred the authority for franchising cable providers from municipalities to the Texas Public Utility Commission (PUC). Although SB 5 "grandfathered" existing municipal franchises until their expiration, Time Warner and the Texas Cable Association sued the PUC in the Federal District Court for the Western District of Texas, Austin Division (District Court) alleging SB 5 was discriminatory.

On May 31, 2012 the District Court, on remand from the U.S. Court of Appeals for the Fifth Circuit, entered an order declaring the provisions of SB 5 that "grandfather" existing franchises as unconstitutional and unenforceable. Time Warner filed an application with the PUC for a State Issued franchise on June 6, 2012 and the PUC procedural schedule in that proceeding calls for the PUC to issue an order to approve or dismiss the application on June 27, 2012. It is anticipated that the PUC will grant the requested State issued franchise and that Time Warner will terminate its franchise with the City.

Under the current City franchise Time Warner is required to provide free cable service to all Texas-accredited K-12 public and private schools within the City. Under a State issued franchise Time Warner would continue to provide this service; however, Time Warner may deduct the cost of that service from the City's franchise fees. This would constitute an illegal gift to the schools. Therefore a resolution to remove this requirement is necessary. Although the City will no longer require this free service to schools, Time Warner is strongly encouraged to continue to provide it as a community service even though the incremental cost will not be paid by the City.

Please let me know if you have any questions or need additional information.

A handwritten signature in blue ink that reads "Jeanne Chipperfield".

Jeanne Chipperfield
Chief Financial Officer

C: Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Rosa A. Rios, City Secretary
Thomas P. Perkins Jr., City Attorney
C. Victor Lander, Administrative Judge Municipal Court
Craig Kinton, City Auditor

A.C. Gonzalez, First Assistant City Manager
Ryan S. Evans, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Forest Turner, Assistant City Manager
Joey Zapata, Assistant City Manager
Stephanie Pegues-Cooper, Assistant to the City Manager