

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Transfer of control of a cable television franchise awarded to BellSouth Interactive Media Services, Inc, now known as BellSouth Entertainment, LLC to AT&T, Inc. for the remaining term of the franchise.

DEPARTMENT: Community Information **DIVISION:** Cable Franchising

AUTHORIZED BY: Steve Olson SD **CONTACT:** Matt Chesler **EXT.** 1170

Agenda Date 7-25-06 Regular Consent Work Session Briefing
Public Hearing – 1:30 Public Hearing – 7:00

MOTION/RECOMMENDATION:

Motion to adopt the attached resolution approving the transfer of control of the cable television franchise awarded to BellSouth Interactive Media Services, Inc, now known as BellSouth Entertainment, LLC to AT&T, Inc. for the remaining term of the franchise.

BACKGROUND:

On October 8, 1996, the Board of County Commissioners awarded a fifteen (15) year non-exclusive cable television franchise to BellSouth Interactive Media Services, Inc, now known as BellSouth Entertainment, LLC., a wholly owned subsidiary of BellSouth Corporation. BellSouth Corporation has entered into a merger agreement with AT&T, Inc., which if consummated, will result in BellSouth Entertainment, LLC. becoming a wholly owned subsidiary of AT&T, Inc., effectively transferring control of the franchise to AT&T, Inc.

Section 55.27 of the Seminole County Code requires prior approval of the County in the case of transfer of ownership or control of a franchise. The required "FCC 394 Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise" has been received, including the required \$3,000 franchise transfer fee and additional information requested by staff. (Attached are copies of the additional information requested and responses provided by BellSouth and AT&T).

After conducting an evaluation of the information provided, staff recommends approval of the transfer with the following conditions which are included in the resolution:

1. Transferee shall abide by all the lawful provisions of Chapter 55, Seminole County Code, currently in effect and produce written evidence of such intent.
2. Transferee is notified that should it seek a renewal of its current franchise, it shall be required to enter into an agreement on terms and conditions substantially equivalent to those then in effect for other franchisees in the County.

Reviewed by	<i>[Signature]</i>
Co Atty:	<i>[Signature]</i>
DFS:	_____
Other:	_____
DCM:	_____
CM:	<i>Ca</i>
File No:	<i>RCID 1</i>



April 28, 2006

VIA CERTIFIED MAIL

Mr. Donald R. Granger
President
BellSouth Entertainment, LLC
754 Peachtree St., Room D1481
Atlanta, GA 30308

Re: Cable Franchise of BellSouth Entertainment, LLC

Dear Mr. Granger:

Seminole County is in receipt of your letter dated March 31, 2006 along with FCC form 394 regarding the transfer of control of the above referenced cable franchise, granted by Seminole County. Section 55.27 of the Seminole County Cable Franchise Ordinance requires the County's approval of such transfer of control.

Additional information is required in order to complete the County's evaluation of the transfer application. Please provide the following additional information within 10 days of this request in order to render your application acceptable and to avoid a tolling of the 120-day period for action upon this application.

1. The 1996 Resolution granting the original franchise in Seminole County did not require BellSouth Entertainment, LLC to provide service to areas then receiving service from any other existing franchisee. Why has BellSouth never developed its franchise and provided service at least in those areas which were developed after 1996?
2. Is Seminole County considered to be within one of the initial market areas of the 18 million households for Operation Lightspeed discussed in the AT&T Form 10K provided as an exhibit to the Form 394?
3. Is BellSouth Entertainment, LLC strictly limiting its cable technologies to those proposed under Operation Lightspeed or would it consider buyouts of existing franchises and utilization of their existing cable plant?
4. Does BellSouth Entertainment, LLC have any plans to expand cable franchise activities independent of AT&T's Operation Lightspeed and its proprietary technologies?
5. Would BellSouth Entertainment, LLC consider overbuilding in Seminole County if another franchisee is already providing cable service countywide?
6. What is BellSouth Entertainment, LLC's plan for developing this franchise over the remaining term?

"Serving the Community to Improve the Quality of Life"

As soon as adequate responses are received to the above questions, Seminole County will then be able to proceed with evaluating the request to transfer control of the franchise. My contact information is MChesler@seminolecountyfl.gov. Phone: 407-665-1170.

Your cooperation is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Matt Chesler".

Matt Chesler
Cable Franchising Program Manager

cc: Sally Sherman, Deputy County Manager
Steve Olson, Community Information Director
Arnold Schneider, Assistant County Attorney
Larry Strickler, BellSouth Regional Manager Public Affairs



BellSouth Entertainment, LLC
754 Peachtree Street, Room D1481
Atlanta, GA 30308

don.granger@bellsouth.com

Donald R. Granger
President

404 541 6501
Fax 404 541 6533

May 5, 2006

BY FEDERAL EXPRESS AND FACSIMILE (407-665-1177)

Mr. Matt Chesler
Chief Franchising Program Manager
1101 East First Street
Sanford, FL 32771-1468

Re: FCC 394 BellSouth Entertainment/AT&T Cable Franchise Transfer; Seminole
County, Florida ("County")

Dear Mr. Chesler:

I am responding on behalf of BellSouth Entertainment, LLC ("BellSouth" and "BEI") to your April 28, 2006 letter regarding the above referenced matter. This letter addresses the issues you raised that are applicable to BellSouth. AT&T, Inc. ("AT&T") will separately respond to those issues that are applicable to AT&T. BellSouth's responses are numbered and correspond to the numbered request set forth in your April 28th letter.

1. When the subject franchise license was awarded, BellSouth expected to proceed with its plans to arrange for the construction of an active cable system that would be used to provide cable services under the franchise in Seminole County similar to that which BellSouth deployed in other franchised communities in Georgia and Florida. However, due to various economic feasibility issues BellSouth encountered in other markets where it had already deployed cable services using a deep fiber to the curb advanced digital cable system technology and architecture, BellSouth determined that it could not economically proceed with the deployment of cable service in Seminole County using similar arrangements. In the interest of providing a competitive multi-channel video offering in Seminole County, absent a commercially viable wireline serving arrangement, BellSouth introduced a Digital Wireless Multi-channel service offering in 1998 in the franchised area. Unfortunately, BellSouth determined that this new wireless video service could not be deployed in a commercially feasible manner and began the shutdown of this service in the 2000/2001 timeframe.

Though BellSouth had not confirmed the availability of an economically viable alternative wireline facilities arrangement it could use for delivering a competitive video service, we continued to actively pursue the development of new broadband technologies that are economically feasible. In late 2004 BellSouth began an evaluation of new broadband network technologies for delivering multi-channel video services. In 2005, lab and field trials were initiated to explore the technical and economic feasibility of delivering switched digital video service over our next generation Broadband network.

We are still in the test and evaluation phases with this new technology. While our initial trial results are encouraging we have not made any decisions regarding a commercial launch at this time. Any decision will be dependent upon the results of our tests and trials along with a full assessment of the business opportunity.

2. This request is directed at AT&T. BellSouth understands AT&T will be providing the response to this request.

3. BellSouth currently has no plans to provide service or to use any particular transmission technology to provide service in the County. BellSouth continues to test a number of promising new broadband transmission technologies that potentially could be used to transport an array of video and other broadband services to customers in the County on an economical basis; but it is still too early in its development and testing of those technologies to consider them as being a technically feasible and a commercially viable option. BellSouth currently has no plans, nor is it currently interested in considering, buyouts of existing cable franchises and their existing cable plant.

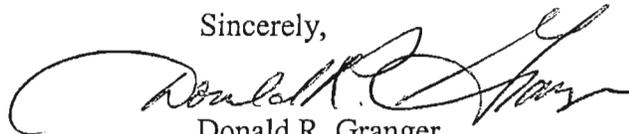
4. Please refer to BellSouth's responses to 1 and 3, above.

5. Please refer to BellSouth's responses to 1 and 3, above.

6. Please refer to BellSouth's responses to 1 and 3, above.

Please let me know if you have any questions or comments with respect to any of the foregoing responses.

Sincerely,



Donald R. Granger

President

BellSouth Entertainment, LLC

cc: Danny Hoek (AT&T)



Danny Hoek
Senior Counsel
AT&T
175 E. Houston Street, Suite 1156
San Antonio, TX 78205
T: 210-351-5059
F: 210-351-3488
dh7897@att.com

May 5, 2006

BY FEDERAL EXPRESS AND FACSIMILE

Mr. Matt Chesler
Cable Franchising Program Manager
Seminole County
1101 East First Street
Sanford, FL 32771-1468

Re: Cable Franchise of BellSouth Entertainment, LLC

Dear Mr. Chesler:

I am responding on behalf of AT&T Inc. ("AT&T") to your April 28th letter to Donald R. Granger, President of BellSouth Entertainment, LLC ("BEI"). This letter addresses the issues you raised that are applicable to AT&T. Mr. Granger will separately respond to those issues that are applicable to BEI.

The responses in this letter address the specific requests for information set forth in your letter.

1. BEI Provision of Service

AT&T anticipates that BEI will provide a response to this request regarding BEI's prior decisions under the franchise agreement.

2. Initial Market Area of the 18 Million Households for Project LightSpeed Referenced in AT&T's 2005 10-K

In AT&T Inc.'s 2005 10-K, filed with the Securities and Exchange Commission on March 1, 2006, AT&T described its plans for improving and expanding AT&T's existing local network facilities, located exclusively within the states of Arkansas, California, Connecticut, Kansas, Illinois, Indiana, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin where AT&T is the incumbent provider of local telephone service. Generally referred to as "Project LightSpeed," these plans, including to reach 18 million homes by 2008, were contemplated before the merger with BellSouth Corporation was announced and thus do not take into account any deployment AT&T might decide to make after consummation of the merger in BellSouth Corporation's service area, which includes the County. AT&T will not be in a position to make any

Matt Chesler
May 5, 2006
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plans with respect to Seminole County until after the proposed transaction has been consummated.

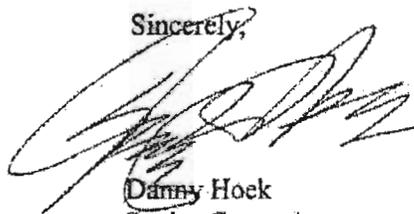
3. Plans for Developing Franchise Over the Remaining Franchise Terms

Questions 3-6 request information regarding BEI's plans for developing its franchise in Seminole County, including what cable technologies it might use, whether it would consider buying out an existing cable plant, whether it has plans to expand its cable franchise activities, whether it would consider overbuilding; and what are its plans for the remaining term. AT&T anticipates that BEI will provide a response to these requests.

Although AT&T has no current plans to change plans which BEI may have in place, AT&T will not be in a position to make any plans with respect to the Seminole County franchise until after the proposed transaction has been consummated.

Please let me know if you have any questions or comments with respect to any of the foregoing responses.

Sincerely,



Danny Hoek
Senior Counsel

cc: Donald R. Granger

THE FOLLOWING RESOLUTION WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA AT THEIR REGULARLY SCHEDULED MEETING OF _____, 2006.

WHEREAS, The Board of County Commissioners (the "Board") of Seminole County, Florida (the "County") by adoption of Resolution No. 96-R-210 on October 8, 1996 (the Franchise Resolution) awarded a fifteen (15) year, non-exclusive cable television franchise for the unincorporated area of Seminole County (the "Franchise") to BellSouth Interactive Media Services, Inc. of Atlanta Georgia; and

WHEREAS, BellSouth Interactive Media Services, Inc., now known as BellSouth Entertainment, LLC (hereinafter referred to as "BellSouth"), 754 Peachtree Street, Room D1481, Atlanta, Georgia, 30308, is a wholly owned subsidiary of BellSouth Corporation; and

WHEREAS, BellSouth Corporation has entered into a merger agreement with AT&T Inc., which will, if approved and consummated, result in BellSouth Entertainment, LLC becoming a wholly owned subsidiary of AT&T Inc., transferring effective control over the Franchise to AT&T Inc.; and

WHEREAS, Section 55.03, Seminole County Code, defines "Transfer of a Franchise" to mean any transaction in which an ownership or other interest in a franchisee or a cable system is transferred from one person or group of persons to another person or group of persons; and

WHEREAS, after consummation of the subject merger, BellSouth Entertainment, LLC, then in its new capacity as a wholly owned subsidiary of AT&T Inc., will remain the franchisee under the

Franchise and will therefore become the "transferee" for the purposes of the "Transfer of a Franchise" described above, in that BellSouth shall retain all responsibility for operating any cable system deployed and cable services provided under the terms of the Franchise following the merger; and

WHEREAS, Section 55.27 of the Seminole County Code requires the submission of detailed information by applicants seeking a transfer; that the Board of County Commissioners make certain findings of fact as well as mandating transferee's compliance with certain terms and conditions in connection with approval of any franchise transfer; and

WHEREAS, BellSouth has heretofore submitted its "FCC 394 Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise" together with the required application transfer fee required by Section 55.09(i)(3) of the Seminole County Code and such additional financial and management information (collectively called "Application") as requested by County staff, as required by 47 U.S.C.A. § 537 and Section 55.27, Seminole County Code; and

WHEREAS, the County has carefully considered the public need, economic impact, financial posture of the transferee, the equality of burdens imposed on overlapping cable television franchises and other factors relevant to the public interest,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, THAT:

(1) The above recitals are true and correct and form a material part of this Resolution upon which the County, BellSouth and AT&T Inc. have relied.

(2) The Board, upon reliance of staff's analysis and summary presentation of the legal, financial and technical information submitted by BellSouth Corporation and AT&T Inc., hereby finds and determines it to be in the best interest of the citizens in the unincorporated areas of Seminole County that the requested "Transfer of a Franchise," in this case in the form of a transfer of control, be approved for the remaining term of BellSouth's present Franchise.

(3) As a condition of approval of this Franchise transfer of control, BellSouth, as Transferee, shall be obligated to abide by and conform with all the lawful provisions of Chapter 55, Seminole County Code, in effect as of the adoption date of this Resolution, any and all subsequent lawful police power amendments thereto and any lawfully enacted successor ordinance addressing police power regulation of cable television franchises in Seminole County, Florida; provided however, nothing herein shall be deemed to waive or dilute any rights or obligations granted to or imposed upon BellSouth under the Franchise Resolution. Written evidence of such intent shall be furnished by BellSouth within ten (10) days of the adoption of this Resolution.

(4) Transferee is hereby notified that should it seek a renewal of its franchise at the expiration of the current franchise, it shall be required to enter into an agreement on terms and conditions that are substantially equivalent to those then in effect for other

franchisees to the extent required by Section 166.046 of the Florida Statutes and to the extent such terms and conditions are not inconsistent with any rights and protections the Transferee may have under the renewal provisions of the Federal Cable Act (47 U.S.C. Sec. 546) and other applicable Federal law. Nothing herein shall be construed as mandating immediate or accelerated build out or commencement of cable television within the remaining term of the current Franchise.

(5) Pursuant to Section 55.27(e), Seminole County Code, following the "Transfer of a Franchise" described herein, BellSouth, as franchisee and a wholly owned subsidiary of AT&T Inc., shall retain all obligations and liabilities under the Franchise including, without limitation, obligations, if any, as are currently required to have been performed but may not have been performed to the extent such obligations are not inconsistent with current State or Federal laws and regulations.

(6) Nothing herein shall be construed as extending the expiration date of the current Franchise or as granting any conditional or advance approval of any renewal of the Franchise in favor of the Transferee.

(7) Neither the County's consent to transfer of control of the Franchise, nor the completion of the AT&T Inc./BellSouth Corporation merger shall in any way diminish or otherwise adversely affect any right that the County has, may have, or may, at any time or in any manner, subsequently acquire with respect to any matter, including, but not limited to, any renewal of the current Franchise, the County's

right to consider Franchise breaches in any renewal, any right of the County to compensation or other remedies in respect to alleged prior breaches of the Franchise, or any other prior commitment made with respect to performance under the Franchise, had the County's consent to the transfer of control of the Franchise pursuant to the Transaction never occurred.

(8) The transfer of control of the Franchise, in the form discussed herein, is hereby APPROVED by the County, subject to AT&T Inc. and BellSouth Corporation completing the merger described herein. AT&T Inc. shall provide written notification by certified U.S. Mail to the County Manager, the County Attorney and Community Information Department immediately upon the completion of the merger transaction. This Resolution shall be effective upon receipt of written notification of completion of the merger.

ADOPTED this _____ day of _____, 2006.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON HENLEY, Chairman

Date: _____