CITY OF BOSTON   MASSACHUSETTS

OFFICE OF THE MAYOR
THOMAS M. MENINO

July 17, 2002

Mr. Brian Roberts
President & CEO
AT&T Comcast Corporation
1500 Market Street, 28th West Tower
Philadelphia, Pennsylvania 19102

RE: Approval of the "Transfer of the Cable Television License" from AT&T Corp. to AT&T Comcast Corp.

Dear Mr. Roberts:

Please be advised that I approve the change of control of the City of Boston's current cable television license from MediaOne of New York, Inc. a wholly owned subsidiary of AT&T Corporation, to MediaOne of New York, a wholly owned subsidiary of AT&T Comcast Corporation.

As the Issuing Authority for the City of Boston, Massachusetts, I make this decision since we have found that AT&T Comcast Corporation meets the four criteria of legal, financial, technical, and managerial capacity to assume the obligations of the cable license.

Sincerely,

Thomas M. Menino, Mayor

Cc:	Ms. Alicia C. Matthews, Director, Cable Television Div.,
	Mass. Dept. of Telecommunications & Energy.
	Mark E. Reilly, VP, AT&T Broadband

CITY OF BOSTON MASSACHUSETTS

OFFICE OF THE MAYOR
THOMAS M. MENINO

SUMMARY OF PROCEEDINGS AND REPORT

Re: **Transfer of Control of the City of Boston Cable Television License held by a subsidiary of AT&T Corporation to a subsidiary of AT&T Comcast Corporation**

From: **Dennis A. DiMarzio,**
Chief Operating Officer, City of Boston
And
Merita A. Hopkins,
Corporation Counsel, City of Boston

Before: **Michael J. Lynch, Director, Mayor's Office of Cable Communications**
And
Charles J. Beard, Esquire, Foley Hoag LLP
Outside Counsel, Mayor's Office of Cable Communications

Date: **July 12, 2002**

I. Background

One of the two cable licenses granted by the City of Boston ("City" or "Boston") is held by MediaOne of New York, Inc. d/b/a AT&T Broadband ("AT&T Broadband"). On December 19, 2001, AT&T Corporation ("AT&T") and AT&T Broadband Corporation entered a merger agreement with Comcast Corporation ("Comcast") to merge all of the cable, broadband and local telephone properties of AT&T Broadband and Comcast into a newly formed entity, AT&T Comcast Corporation ("AT&T Comcast"). As explained in more detail below, the effect of this merger would be to transfer the management of the cable system in Boston from AT&T to AT&T Comcast as well. Because AT&T Comcast is unaffiliated with AT&T prior to the proposed transaction, the proposed transaction falls within the scope of 207 CMR 4.01(1), and the transfer of control of the Boston cable license is subject to review and approval by Mayor Menino, issuing authority for the City, pursuant to G.L. c. 166A § 7 and 47 CFR 76.502.

On March 1, 2002, AT&T Broadband and Comcast filed an application for approval of a change in control (FCC Form 394, with exhibits) of the City's license held by AT&T Broadband[1]. The City held a hearing in connection with the transfer application at 6:00 p.m. on April 10, 2002 in Room 801 of City Hall. Michael J. Lynch, the Director of the Mayor's Office of Cable Communications, and Charles J. Beard of the law firm of Foley Hoag LLP presided at the hearing. Representatives from AT&T Broadband made a presentation in support of the transfer application, and a representative from Comcast participated in the presentation. Several Boston residents commented on the application and on AT&T Broadband's service record. Several members of labor unions spoke as well. The record was held open until such time as AT&T Broadband and Comcast provided responses to record requests at the hearing and other requests for information from the City.

This report addresses the issues raised at the hearing and in the Form 394, and recommends that the Mayor approve the transfer application.

II. Criteria to be Considered

The criteria to be considered by issuing authorities (which under Mass Gen. L. c. 166A, § 1 is the Mayor) in the license transfer process are set out in Mass. Gen. L. c. 166A, § 7, and the regulations promulgated thereunder. Section 7 states in pertinent part:

> No license or control thereof shall be transferred or assigned without the prior written consent of the issuing authority, which consent shall not be arbitrarily or unreasonably withheld.

This statutory language provides very little guidance for issuing authorities weighing a transfer. It tells them what they may not do - act arbitrarily or unreasonably - but it fails to make clear how issuing authorities should conduct their review of a proposal to transfer control of a cable license.

The regulations of the Cable Television Division of the Massachusetts Department of Telecommunications and Energy ("Cable Division") provide some of the guidance that is lacking in the statute. 207 CMR 4.04 states in pertinent part:

[1] The filing fee was sent with a cover letter dated March 12, 2002. It was received by the City the following day. The application for transfer of control was not properly filed, as a result, until March 13, 2002.

> [A]n issuing authority shall consider only the transferee's
> (a) management experience,
> (b) technical expertise,
> (c) financial capability, and
> (d) legal ability to operate a cable system under the existing license.

This four-pronged analysis was first articulated by the Cable Division when it decided *Bay Shore Cable TV Associates v. Weymouth*, CATV Docket No. A-55 (November 13, 1985). The four-part test was reaffirmed by the Division in a decision issued on May 1, 2000 concerning challenges filed by Cambridge, North Andover, Somerville and Quincy to AT&T's acquisition of licenses held by MediaOne. *Order on Motions for Summary Decision/Consolidation*, CTV-99-2, CTV-99-3, CTV-99-4, CTV-99-5, at 16. ("The Cable Division's standard of review, announced in Bay Shore and codified in 207 C.M.R. § 4.04, furthers the purposes of Section 7 [of Chapter 166A] and thus is a valid exercise of our authority under Section 16 of Chapter 166A.") As the Division stated when it amended the regulations governing the transfer process, the goal of the analysis is "to provide the issuing authority with the opportunity to determine whether the transferee can 'step into the shoes' of the transferor." *Report and Order Amending 207 CMR 4.01-4.06* (Docket No. R-24, November 27, 1995), 58. While there is no reported court case interpreting either Mass. Gen. L. c. 166A, § 7 or the regulations promulgated thereunder, the Department of Telecommunications and Energy did affirm the Cable Division's analysis in the May 1, 2000 Order noted above. *Interlocutory Order on City of Cambridge's Appeal and MediaOne's Appeal of Cable Television Division's Order on Motions for Summary Decision/Consolidation*, DTE 00-49, DTE 00-50, at 12. ("We concur with the Cable Division's analysis regarding the validity of its regulations.")

III. Analysis

A. Legal Ability

The central question in this part of the analysis is whether AT&T Comcast has the legal capacity to assume the obligations of AT&T Broadband under the existing license and operate the cable system in accordance with the terms of the license. 207 CMR 4.04(1)(d). A brief description of the proposed transaction and the role of AT&T Comcast will help provide the answer.

AT&T Comcast is a newly formed Pennsylvania corporation. It was organized on December 7, 2001. At the moment it is little more than a shell corporation, since it has no operations and only nominal assets and liabilities. There are three simultaneous transactions which will accomplish the proposed merger of AT&T Broadband and Comcast into AT&T Comcast:

a) AT&T will assign to AT&T Broadband all of the assets in AT&T's cable telephony and broadband cable business, while causing AT&T Broadband to assume the associated liabilities;

b) AT&T Broadband and Comcast each will merge with separate wholly owned subsidiaries of AT&T Comcast;

c) AT&T Comcast will issue its stock to the shareholders of AT&T Broadband and the shareholders of Comcast.

The details of the transaction are quite complex. Both AT&T and Comcast have several classes of stock, each of which is being transferred, and there is a complex formula to describe how many shares of each class of stock the various shareholders will receive. That complexity is not important in this analysis, however. The important conclusion is that MediaOne of New York, Inc., the AT&T subsidiary which holds the cable license from the City, will now become a wholly owned subsidiary of AT&T Comcast as a result of this transaction. In this respect, AT&T Comcast has literally stepped into the shoes of AT&T and assumed the obligations held by AT&T's subsidiary, MediaOne of New York, Inc. Representatives of AT&T Comcast clearly recognized as much at the hearing. They stated that the license holder (MediaOne of New York, Inc.) will continue to meet all lawful federal, state and local licensing requirements, and that AT&T Comcast will assume all of the obligations under the existing license. April 10, 2002 Hearing Transcript ("HT") at 15.

B. Management Experience

The second criterion to be considered by the Mayor is whether AT&T Comcast has the managerial experience to assume the obligations in the license. AT&T Comcast representatives at the hearing took the position that AT&T Broadband and Comcast each has more than 30 years of experience in the cable industry, and that the management of the new company will draw on that experience. HT at 18. AT&T Comcast also made a commitment to dedicate "substantial resources for first-rate customer service, in person, by telephone, and via the internet." AT&T Comcast also committed to providing consumers with a choice of ISPs on its high speed communications line, including United Online and Earthlink. HT 19, 20. However, no information about the service record of Comcast was made available, except that there are no license revocations listed or pending in the response to Question 5 in Form 394.

There are three difficulties here that must be overcome for a finding that AT&T Comcast has the requisite management experience. First, the board of directors has not been named. At present, only three of the twelve seats on the board of directors have been filled.[2] The other nine have not been seats have not been filled, and it is unclear when they will be filled. While ten of the twelve directors will be drawn from among the current directors of Comcast and AT&T Broadband, the City does not know who will constitute a majority of the board of directors of this new corporation. It does not know whether the other nine directors will support investing the capital in New England needed to make the Boston system the showcase system it should be, given that Boston is the hub of the fifth largest media market in the country.

Second, the management team for the New England region has not yet been announced. All that has been announced thus far by AT&T Comcast is that Mr. Brian Roberts, the President of Comcast, will be the President and CEO of AT&T Comcast. HT at 17. While Comcast's representative at the hearing stated that Comcast (Mr. Roberts) had followed a philosophy of decentralized management for many years, (HT 23), it is clear from the testimony that the final decisions on the management team for New England have not yet been made. HT 34. All the City can rely on is the proposition that each of the companies involved has a large management team with 30 years of management history. AT&T Comcast representatives argue that there is a large reservoir of management experience between the two companies, more than enough to manage the New England region, the Boston in particular, in a first class manner, HT 36.

[2] C. Michael Armstrong, president of AT&T, Brian Roberts, president of Comcast and Ralph J. Roberts are the only directors thus far.

The background of AT&T's management was extensively reviewed in June, 2000, during the City's transfer of control proceeding in connection with its review of AT&T Broadband's proposed acquisition of Cablevision's cable properties. Mr. David Grain was AT&T's Senior Vice President for the Northeast Region, and he remains in that position as of this date. Mr. Paul D'Arcangelo was the Vice President for Engineering and Technology in the Northeast Region, and he remains in that position as of this date as well. During that hearing, Mr. Grain adopted a "the buck stops here" attitude at the hearing that was designed to assuage any significant concern that key decisions will be made outside the region or by corporate headquarters in Denver, Colorado or Basking Ridge, New Jersey. (Hearing Transcript, July 20, 2001 at 38.)

The third difficulty is that, in spite of Mr. Grain's statements, AT&T Broadband has had difficulty staying in compliance with the Cable License terms. The upgrade of the cable system was to have been completed by September 30, 2001 according to the Cable License. That deadline was not met, and the best estimate is that AT&T Broadband will not complete the upgrade of existing plant until December 31, 2002 at the earliest, fully fifteen months behind schedule. Even if the upgrade of existing plant is completed by December 31, 2002, AT&T Broadband has been unable to design and build an institutional network for the City in a manner which will provide value to the City, and it is unlikely that the institutional network will be constructed by the end of this year. In addition, AT&T Broadband is not constructing the upgrade by using a "fiber to the last active" network strategy. It is making extensive use of one of the two original coaxial cables, cables which have been in service for twenty years, in its upgrade. In these respects, AT&T Broadband's construction performance has been woefully inadequate. There is no evidence in the record that AT&T Comcast will perform any better in meeting construction obligations. This is a matter of great concern, to say the least.

In addition, AT&T Broadband has been the subject of a large number of customer complaints. There were several system outages in the Summer of 2001. While those problems appear to be resolved at the moment, the Company has had additional system outages in various neighborhoods, and these have been the subject of customer complaints as well. Neither of these issues is a matter of the capacity of AT&T Broadband's management to address these issues. These are matters of execution, and the Office of Cable Communications has programs in place to improve AT&T Broadband's performance on both issues. Indeed, there are remedies available to the City under the Cable License if the City decides it is necessary to invoke them.

What is important for this analysis is the proposition that the City reviewed the strength of the AT&T management team in July, 2001, and found it had the management capacity to assume the obligations of the Cablevision license. While there have been no assurances that the management team will be kept in place, there have been no suggestions that it will be replaced. We do know that Brian Roberts will be the President and CEO of the new company, and that he has an impressive background. According to Comcast's website, Mr. Roberts has been president of Comcast since 1990. During his tenure as president, Comcast grew tenfold into a fortune 500 company with 35,000 employees. We also know that Comcast is the third largest cable company in the country, with more than 8.4 million subscribers. Finally, as will be discussed later in more detail, we know that Comcast's balance sheet is somewhat stronger than AT&T's balance sheet, a sign of strong management ability. We thus have reason to believe, without knowing the details, that Mr. Roberts will assemble a strong management team for New England, even if he does not keep the current management team in place. We can conclude that AT&T Comcast will have the management capacity to assume the obligations of Boston's license, now held by AT&T Broadband.

C. Technical Expertise

The third criterion to be considered is the "technical expertise" of AT&T Comcast to operate the cable system under the existing licenses. 207 CMR 4.04(1)(b).

The AT&T Broadband representatives did not provide any information about the record of technical achievements of either company either during the hearing or in connection with the Form 394. However, the City has a lot of information about AT&T Broadband's technical expertise from the proceedings respecting Cablevision's sale of its Boston property to AT&T Broadband. Comcast's technical expertise is more difficult to learn about, but some information is available from public sources, including the Comcast website.

The record of the hearing held in June 2000 contains a significant amount of data respecting AT&T's technical capacity. At the hearing, AT&T pointed to its long history at the cutting edge of communications technology. It invented the transistor in 1947 and the computer modem only ten years later. In 1958 it invented the laser and only a decade ago AT&T invented the optical digital processor. There is little doubt that AT&T has a well-known reputation for technical competence with its products. Its long distance services, wireless services, internet services and data transmission services are widely perceived as extremely reliable, further evidence of its technical competence.

To put this in human terms, Paul D'Arcangelo had been an engineer with MediaOne for 20 years, rising from Assistant Designer to Project Coordinator, Construction Manager, Director of Construction, Director of Outside Plant and finally Vice President of Engineering and Technology. Today, Mr. D'Arcangelo is AT&T Broadband's Vice President of Engineering and Technology.

The evidence was quite clear that AT&T Broadband has long possessed the technical expertise to operate and upgrade its systems. The company has spent more than $1 billion on upgrades in the region since 1994. (2000 HT, at 24.) That was the year in which MediaOne embraced 750 MHz technology, which it began deploying in 1995. (2000 HT, at 41-42.)

AT&T Broadband has said that the network reliability on its upgraded plant is 99.95 percent, as opposed to 99.2 on plant that has yet to be upgraded. (2000 HT, at 45-46.) While this may appear a small difference, to the customer it represents "thousands and thousands of minutes a month." *Id*. Moreover, barely more than two percent of AT&T's customers served by upgraded facilities experience an outage on a monthly basis. *Id*. By year's end, AT&T expects to have upgraded 95% of its facilities to two-way, 750 MHz service. *Id*. There is also some evidence that AT&T's upgraded facilities will prove even more reliable than those upgraded by Cablevision. Finally, AT&T utilizes a network management system that allows the company to proactively monitor the network. (2000 HT, at 43.) AT&T uses transponders to monitor the health of power supplies, nodes, set-top boxes, modems and residential service units. *Id*.

However, there have been significant maintenance problems in spite of AT&T Broadband's earlier presentation of glowing statistics. One problem which was discussed during the 2000 Hearings and which remains is the problem of making sure that adult entertainment programs can be "blanked out" when so requested by the customer. AT&T has received letters from irate customers on this issue as recently as April, 2002[3], but the problem has plagued

[3] *See* Testimony of Jeannette Hurley, AT&T Annual Performance Review Public Hearing Transcript (April 10, 2002), pp. 23-26.

residents of Boston for the last three years, once citywide, once for a period of many months in South Boston, and other as an episodic problem in Brighton.

There have been system outages as well. They were the subject of many customer complaints in 2001, and they have been raised in hearings in the Boston City Council as well as the AT&T Broadband annual performance review.[4] The Greater Boston Labor Council wrote to the Mayor and testified at the City Council hearing about the customer complaints as well. These problems are serious. They are being addressed by the Office of Cable Communications outside of this license transfer proceeding. There is no question that AT&T Broadband has the capacity to resolve these maintenance issues, however. The evidence still shows that AT&T Broadband has the capacity to meet its obligations. The challenge is in getting it sufficiently motivated and focused.

Publicly available information strongly suggests that Comcast has the technical expertise to assume the technical obligations. Consider the following:

- Comcast provides cable and broadband services to 8.47 million customers in 26 states. It serves municipalities as large as Philadelphia.

- In July, 2000, Comcast announced it had wired interconnect programs between cable systems in the greater Philadelphia area. There are 2.2 million subscribers in the area from the New Jersey Shore to Harrisburg, Pennsylvania, and from Dover, Delaware to Trenton, New Jersey.

- In August, 2000, Comcast announced a digital basic tier which gave customers 33 additional channels as part of their digital cable service. They also announced that month that they had installed over one million digital set-top boxes.

- In November, 2000, Comcast began a trial with Juno Online Services to gain experience in offering multiple ISPs through its cable modem service.

- In March, 2002, Comcast announced it would offer high definition TV (HDTV) in the major markets served by Comcast by the end of 2002. The first market top be served will be the Washington Metro/Virginia region this summer.

These initiatives provide evidence of state-of-the-art engineering expertise in a company which is serving the third largest cable customer base in the country. The City has good reason to feel that Comcast, like AT&T Broadband, has the technical capacity to handle the engineering issues in Boston's cable system. There are ample resources available to AT&T Comcast as a result.

D. Financial Ability

The final criterion to be considered is whether AT&T Comcast has the financial capability to fulfill its obligations under the existing license. This issue is particularly important since there are continuing obligations to complete the upgrade of Cablevision's original plant as well as the continuing concerns about the maintenance and customer service issues which have been the source of so many consumer complaints. Each of these matters requires investment of

[4] *See, e.g.*, letter from Brian Morris to AT&T Broadband, dated April 1, 2002, on file in the Mayor's Office of Cable Communications.

capital. The question is whether AT&T Comcast will have the capital to address the issues effectively.

The analysis of AT&T Comcast's financials is made more difficult for two important reasons. First, the company has no operating history. We have a pro forma which shows what AT&T Comcast's financials might have looked like for the year ending December 31, 2000 and for the nine months ending September 30, 2001, but nothing more about the possible financial performance of AT&T Comcast in the past. The second problem is that AT&T Comcast has not provided much information about how it expects to perform in the future. In spite of several requests, AT&T Comcast has not been able to provide a pro forma showing what it expects its financial performance to be in the future. Instead, it has provided a variety of financial projections, each of which was supported independently. In AT&T Comcast's view, these projections, taken together, are sufficient to show AT&T Comcast has the financial capacity to assume the obligations of the cable license. But there is no pro forma balance sheet or income statement which gives a coherent view of the financial future of the newly formed company.

First, AT&T Comcast argues that its balance sheet will be much stronger than the balance sheet of AT&T. As evidence, it asserts that the AT&T Broadband balance sheet has a cash flow to debt ratio of 8:1, Comcast has a ratio of 4:1, and the ratio of the combined companies will have a ratio of 5:1. An analysis of the pro forma balance sheet and income statement for the period ending 9/30/01 reveals a cash flow of approximately $6.5 billion, and the debt of the combined companies, after giving effect to the debt to equity conversion of Microsoft's QUIPs (Quarterly Income Preferred Securities) investment, is approximately $30.8 billion.[5] AT&T Comcast projects that the debt to cash flow ratio will decline to 2.5:1 by 2004. It projects an increase in EBITDA of $1.25 to $1.95 billion within five years. Assuming it can increase EBITDA by $1.6 billion (the mid point) during that period, AT&T Comcast's debt would have to go down to $20.25 billion. This means that all of the increase in EBITDA, and perhaps more, would have to go to amortizing debt. This is a very aggressive scenario.

The projections are composed of the following elements. First, AT&T Comcast projects additional revenue of $600 to $800 million annually from the rollout of cable telephony in Comcast's service area[6]. AT&T Comcast plans to utilize AT&T Broadband's considerable experience in this area to plan and implement the rollout. AT&T Broadband offers cable telephony to seven million households in 16 markets and has over one million cable telephony customers (for a total of approximately 1.5 million lines).[7] By contrast, Comcast has approximately 41,500 cable telephony customers (for a total of approximately 46,000 lines.)[8]No information was provided on how long it took AT&T Broadband to sell this product to the

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[5] These numbers can be derived from the pro formas for the period ending September 30, 2001. They also appear in the analysis prepared by Merrill Lynch and summarized on page 2 of the document entitled *AT&T Comcast: Financing Considerations*, dated April 1, 2002.

[6] See, Before the Federal Communications Commission, In re Application for Consent, to the Transfer of Control of Licenses, Comcast Corporation and AT&T Corp. to AT&T Comcast Corporation, Declaration of Robert Pick (hereinafter "Pick Declaration"), p. 4.

[7] See, Before the Federal Communications Commission, In the Matter of Applications for Consent to the Transfer of Control of Licenses, Comcast Corporation and AT&T Corp. to AT&T Comcast Corporation, *Applications and Public Interest Statement, Description of Transactions, Public Interest Showing and Related Demonstrations , p. 23* (February 28, 2002)

[8] Public Interest Report. p. 13.

million customers, however. It is unclear, as a result, whether AT&T Comcast can achieve these revenue goals in the time projected, as a result.

Second, AT&T Comcast intends to develop and introduce new products and services to consumers, including without limitation, Video On Demand ("VOD"), Interactive Television ("ITV"), High Definition Television ("HDTV"), cable based home security systems, home networking systems and e-commerce services. AT&T Comcast projects increased EBITDA of $100 to $200 million annually within three years from the introduction of these new products and services. VOD is currently available in 16 Comcast systems which pass approximately 3 million homes. Comcast began making HDTV services available to more than 1.3 million customers in Pennsylvania, New Jersey and Delaware in November, 2001. It has announced further plans to roll out HDTV services to customers in the Washington, D.C.-Northern Virginia area in the Summer of 2002. Finally Comcast is conducting interactive TV trials and trials of a home security service enabling broadband customers to view, e.g., from work the presence in their home of a family member requiring care. Again, the problem is that no figures were provided respecting the number of actual subscribers for these various services or the penetration rates for these services. We cannot tell whether there is really a basis for the projected revenue within the proposed time period.

AT&T Comcast also projects to save between $250 and $450 million annually in programming costs. Because of its increased subscriber base, AT&T Comcast believes it will be able to negotiate rates which match the better rate of either AT&T Broadband or Comcast for AT&T Comcast's entire service area with respect to most programming contracts. These cost savings should be realized by AT&T Comcast, in its view, immediately after closing or very soon thereafter. In some contracts additional volume discounts may be triggered immediately.

AT&T Comcast also projects savings in capital expenditures of $200 to $300 million annually over the next for years. The savings estimate assumes that capital expenditures will stay at or near $5.5 billion annually, the budget figure for capital expenditures in 2002. AT&T Comcast projects savings of 5% to 7% on purchases of set top boxes, vehicles and materials for cable infrastructure because of increased volume in purchases.

AT&T Comcast projects increased operating efficiencies which will be expressed as increased operating margins. Comcast's 2001 operating margin exceeded 40%. By contrast, AT&T's 2001 operating margin was between 20% and 25%. Over the next three years AT&T Comcast hopes to add $200 to $300 million annually to its EBITDA, first by bringing the operating margins of the AT&T Broadband properties closer to 40%, and second, by reducing the overhead of combined companies. AT&T Comcast expects to reduce staffing levels in corporate management, corporate development, strategic development, treasury, accounting, tax and in-house legal services. Consolidation of redundant services should lead to a reduction in personnel, AT&T Comcast believes.

Finally, AT&T Comcast believes it will have a footprint in the country large enough to sell national advertising. It will pass more than 38 million homes and have a presence in 41 states. It will have a leading market presence in 8 of the top 10 Designated Market Areas ("DMAs"). AT&T Comcast projects it may generate $100 to $200 million in EBITDA within three years after the merger. This projection assumes it can capture 1% to 2% of the $15 billion paid to the broadcast industry for national advertising in 2001.

To the extent they are designed to show that AT&T Comcast will be financially healthy, these projections[9] are not very convincing. For example, there are difficulties with the individual projections on EBITDA savings as well. AT&T Comcast projects annual savings of $200-$300 million in capital expenditures. That is not comforting for the City of Boston. AT&T Broadband will be fifteen months late in upgrading the existing plant under the best of scenarios. It is also clear that there are “cold spots” in Boston, areas where cable plant has never been constructed. The City’s view is that the Licensee has a continuing obligation to upgrade its existing plant and to construct plant in the “cold spots” so that cable is available to 95% of the households in the City. Plans to reduce the capital expenditures raise questions about whether the funds will be available for AT&T Comcast to meet these obligations.

IV. Conclusion

There is a substantive basis for concluding that AT&T Comcast meets the four criteria listed in the regulations. Accordingly, we recommend that the Mayor formally approve the proposed transfer of control.

[9] When the individual projections are added together, they add up to $1.45 billion to $2.25 billion.