



**CITY OF KIRKLAND**  
Information Technology Department  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3050  
www.ci.kirkland.wa.us

---

## MEMORANDUM

**To:** David Ramsay, City Manager  
**From:** Brenda Cooper, Chief Information Officer  
**Date:** August 18<sup>th</sup>, 2009  
**Subject:** VERIZON/FRONTIER TRANSFER

### RECOMMENDATION

City Council receives a presentation from the Information Technology Department concerning the request received from Verizon Communications, Inc. ("Verizon") on June 1, 2009, to transfer its cable franchise to Frontier Communications Corporation ("Frontier").

We are also asking that Council approve the expenditure of up to \$54,750 for legal counsel, financial experts and for work with other jurisdictions regarding the transfer.

### BACKGROUND DISCUSSION

Verizon has been offering television service across its fiber lines in the community since October of last year. On the first of June, Verizon delivered a request to us to approve a transfer of the Cable Franchise to Frontier. While there is some dispute about the amount of time that we have to act on the request, the narrowest interpretation of our time window is 120 days, which requires action by the end of September.

We have two goals for the City Council at this meeting. The first is to update the Council on the cable franchise transfer analysis and help clarify the City's obligations in the transaction. This presentation covers that element which the City controls of the pending sale of Verizon's telecommunications assets, except for wireless, in 14 states, including Washington and Oregon. We ask to be able to first give the presentation in its entirety so that potentially affected citizens will have a chance to understand the issues. After the presentation, we will welcome questions from the Council. The second goal is to discuss cooperation with other local jurisdictions and the funding for legal counsel to assist us in evaluating this transfer.

It is important to understand that the City of Kirkland does not have jurisdiction or authority over most aspects of the Verizon sale to Frontier. Federal law provides timeline requirements the City must follow, and the City's own franchise agreement and regulatory ordinance detail the specific framework for review of a cable franchise transfer. While the City has the ability, and the responsibility as the regulator, to grant or deny the transfer of the cable franchise, the City does not have the ability to regulate the telephone or broadband sections of the Verizon system in any manner. The Washington Utilities and Transportation Commission (WUTC) will have to take action on the telephone portion of the transfer.

This transfer could have a significant effect on the community, particularly if Frontier (a relatively small, rural telephone operator) does not have the legal, financial, and technical ability to fulfill its Kirkland

franchise obligations. Therefore, it is important that we complete a responsible evaluation of the transaction. Verizon and Frontier are required to provide the City with a federal application and any other information the City requires.

After reviewing Verizon's application, the City submitted a detailed request for information to the companies. In early July, Verizon and Frontier provided the City with some answers. However, many answers raised additional questions and some questions went unanswered or the City was told the information was confidential. Verizon has said it will provide access to the confidential information but has not done so as of August 19. Once staff has completed a review of the application and the supporting information, the staff will discuss with Verizon and Frontier what, if any, consideration the companies' will provide to alleviate staff-identified risks to the City. Based on the outcome of those discussions/negotiations, staff will recommend City Council action concerning the transfer. Possible recommendations include approval, denial, or potentially a recommendation of an approval that includes new terms that help us ensure Frontier meets its obligations. For example, in the cable area we would like reasonable assurances that Frontier will be able to deliver channel line-ups, customer service, and complete the FiOS system build-out that are substantially similar to those of Verizon. It should be noted that we do not have direct regulatory authority over channel delivery, but for the purpose of approving the transfer, Frontier could contractually bind itself to a minimum level of performance in this area. We may also need assurance that Verizon will continue to support Frontier's cable TV performance by providing some of its national video distribution facilities to Frontier.

Since the original filing did not provide complete information and because this is a complex corporate transfer, the City Council is unlikely to be able to take definitive action by the end of September. If the companies will not agree to additional time for City consideration, the City should plan to act in the 120 days. Staff will probably recommend that Council deny the transfer "without prejudice" which will force Verizon to resubmit the transfer request and restart the 120 day clock. This is, however, not a foregone conclusion at this time. We are continuing to evaluate information as Verizon provides it to us.

The City is working with other Northwest jurisdictions where Verizon is making the same request. At this time, the other jurisdictions all feel reasonably similarly; we share the same basic questions and concerns regarding this franchise transfer. That said, we have retained our ability to act independently.

Because we have needed outside counsel to help us interpret complex telecommunications rulings and laws, we have been incurring expenses associated with this transfer. Our telecommunication KMC (Title 26) states that any cable company requesting a transfer must pay our costs of evaluating the transfer. However, Verizon has so far refused to acknowledge that obligation. We anticipate that the cost incurred by the time of the meeting on September 1<sup>st</sup> will be approximately \$25,000, and that further work will be required to support the document analysis, negotiations and Council recommendation. We will continue to pursue reimbursement from Verizon. We will be looking to Council to provide direction regarding further study of this matter and, potentially, to authorize additional funding.

# FISCAL NOTE

CITY OF KIRKLAND

## Source of Request

Brenda Cooper, Chief Information Officer

## Description of Request

Request funding of \$54,750 from the Contingency Fund for legal counsel and financial consultant assistance needed related to the proposed transfer by Verizon of its cable franchise agreement with the City to Frontier Communications.

## Legality/City Policy Basis

## Fiscal Impact

**One-time use of \$54,750 of the Contingency Fund.** The reserve is able to fully fund this request.

## Recommended Funding Source(s)

	Description	2010 Est End Balance	Prior Auth. 2009-10 Uses	Prior Auth. 2009-10 Additions	Amount This Request	Revised 2010 End Balance	2010 Target
<b>Reserve</b>	Contingency Fund	2,324,515	0	0	54,750	2,269,765	4,915,571
<b>Revenue/Exp Savings</b>							
<b>Other Source</b>							

## Other Information

Prepared By	Sandi Hines, Financial Planning Manager	Date	August 24, 2009
-------------	---	------	-----------------