



County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

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SUSAN A. MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

June 4, 2002

AGENDA: June 11, 2002

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

SETTLEMENT OF CABLE TELEVISION RATE DISPUTE WITH AT&T BROADBAND

Dear Members of the Board:

The purpose of this letter is to advise your Board that on April 25, 2002 the City of Santa Cruz and the County of Santa Cruz executed a settlement agreement with AT&T Broadband which resolved a long standing dispute regarding cable television rates. The agreement executed by the City and County implements a settlement previously authorized by the Board of Supervisors and the Santa Cruz City Council.

The settlement agreement takes the form of a Third Amendment to the original 1989 Federal Consent Judgment and therefore required the approval of the Federal Court. In this regard, on May 31, 2002 we were advised that United States District Court Judge Susan Illston had approved the Third Amendment.

Background

The settlement resolves a dispute concerning a basic service rate increase which AT&T Broadband implemented in July 2000. AT&T took the rate increase without filing the Independent Certification of program cost increases which was required by the Second Amendment to the Consent Judgment. Your Board and the Santa Cruz City Council subsequently authorized Special Counsel to file an action to enforce the terms of the Consent Judgment. Subsequent to the filing of the enforcement action there were a series of meetings between the parties which produced the settlement outlined in this letter.

**BOARD OF SUPERVISORS
PROGRAMS AND FUNCTIONS OF COUNTY DEPARTMENTS**

AGENDA: April 23, 2002
Page 2

Terms of the Settlement

In summary, the settlement:

1. requires that AT&T Broadband implement on July 1, 2002, as an alternative to Standard Service, a new low cost lifeline service consisting of broadcast and public access channels at a cost of \$11.49;
2. eliminates any charge for additional outlets, which are now priced at \$3.95 per outlet per month, effective July 1, 2002;
3. retains and protects Santa Cruz's considerable price advantage for standard basic service by:
 - ▶ AT&T Broadband permanently abandoning any claim to a July 2001 rate increase;
 - ▶ a negotiated rate for July 2002 of \$29.92 per month, which is approximately \$10.00 per month lower than the rate which AT&T charges for equivalent service throughout the Bay Area;
 - ▶ improved controls on future basic service rate increases through:
 - (a) capping the allowable increase for the programming cost component of the basic rate; and
 - (b) limiting the increase for the non programming cost component of the basic rate to an objective measure of inflation.
4. requires that AT&T Broadband pay the City and County \$600,000 — \$75,000 for costs and \$525,000 to a Subscriber Protection and Benefit Fund controlled by the City and County;
5. allows AT&T Broadband to implement a charge of \$3.99 per month for first outlet analog boxes following a public information campaign which explains that such

'The subscriber protection fund will be segregated by jurisdiction based on the number of subscribers.

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**BOARD OF SUPERVISORS
PROGRAMS AND FUNCTIONS OF COUNTY DEPARTMENTS**

AGENDA: April 23, 2002

Page 3

equipment is not needed to receive the standard package on most television sets.

Finally, the Third Amendment provides that AT&T will not claim any refund of PEG payments for the misstated number of senior subscribers included in previous PEG payments to the City and County; includes a **5%** increase in PEG payments on July 1, 2002; allows AT&T Broadband to commence the tenth year review and update process provided for in the City and County Ordinance on January 1, 2003; and provides for liquidated damages and an expedited remedy for Court enforcement for any future breach of the Consent Judgment.

Price Difference

The table below provides a July 1, 2002 price comparison between Santa Cruz and San Jose for a generally equivalent Standard Package of cable services.

July 1, 2002 Comparison			
Item	San Jose	Santa Cruz	Savings
■ Standard Package	\$39.99	\$29.92 ²	(\$10.07)
■ 1 st Outlet Analog Equipment	4.25	3.99	(0.26)
■ Digital Equipment	4.25	4.25	0.00
■ Each Additional Outlet	0.00	0.00	0.00
■ Late Fees	5.00	2.20	(2.80)

The price difference on the Standard Package is equivalent to an annual savings of \$120.84 per subscriber next year. This represents a total savings of \$6,042,000 per year for the 50,000 subscribers in the AT&T Broadband franchise area.

The savings estimate assumes that absent the Federal Consent Judgment there would be price parity between San Jose and Santa Cruz. This is a conservative assumption. The San Jose Cable market enjoys over the air competition which is not present in the Santa Cruz Cable Market. Absent the Consent Judgment we believe that it is quite possible that an equivalent package of services in Santa Cruz would be priced higher than it would be in San Jose.

²The Santa Cruz Rate includes \$1.06 contribution to funding of Public, Education and Governmental Access which AT&T Broadband does not pay in Santa Jose.

**BOARD OF SUPERVISORS
PROGRAMS AND FUNCTIONS OF COUNTY DEPARTMENTS**

**AGENDA: April 23, 2002
Page 4**

Finally, the estimated consumer savings amount stated above is a measure of the savings associated with the pricing of the Standard Package. The savings estimate does not attribute any savings to the difference in equipment charges, late charges or the availability of the new lifeline service.

Resolution Appropriating Unanticipated Revenue

Attachment 1 of this letter is a resolution appropriating unanticipated revenue in the amount of \$75,000 for the purposes of paying the City of Santa Cruz their share of the funds and paying the County's share of the costs associated with the Enforcement Action and settlement.

Conclusion and Recommendation

In conclusion, it is RECOMMENDED that your Board take the following actions:

1. Accept and file this report on the Third Amendment to the Consent Judgment for cable television; and
2. Adopt the attached resolution accepting and appropriating unanticipated revenue.

Very truly yours,



Susan A. Mauriello
County Administrative Officer

Attachment

cc: Richard Wilson
Bill Marticorena

**BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA**

Resolution Number _____

On the Motion of Director _____
duly seconded by Director _____
the following resolution is adopted:

**RESOLUTION ACCEPTING AND APPROPRIATING
UNANTICIPATED REVENUE**

WHEREAS, the County of Santa Cruz is a recipient of funds from the AT&T Broadband for the reimbursement of costs in the settlement of a dispute involving cable television rates;

WHEREAS, the County is a recipient of funds in the amount of \$75,000 which are in excess of those anticipated in the current fiscal year budget of the County; and

WHEREAS, pursuant to Government Code Section 29130 (c) / 29064 (b), such funds may be made available for specific appropriation by four-fifths vote of the Board of Supervisors; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Santa Cruz County Auditor-Controller accept funds in the amount of \$75,000 into the budget of the County Administrative Office as shown below:

T/C	Index Number	Subobject	Account Name	Amount
	181000	0280	Cable Reimbursements	\$ 75,000
Total				\$ 75,000

AND BE IT FURTHER RESOLVED AND ORDERED that such funds be and are hereby appropriated as follows:

T/C	Index Number	Subobject	Account Name	Amount
	18100	5280	Contribution to Other Agencies	\$ 24,750

T/C	Index Number	Subobject	Account Name	Amount
	181000	3665	Prof & Special Services	\$ 50,250
Total				\$ 75.000

DEPARTMENT HEAD: I hereby certify that the fiscal provisions have been researched and that the Revenue(s) will be received within the current fiscal year.

By


Department Head

Date 6.4.02

COUNTY ADMINISTRATIVE OFFICER _____ Recommended to Board

_____ Not Recommended to Board

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, this 21th day of May, 2002 by the following vote:

Ayes:

Noes:

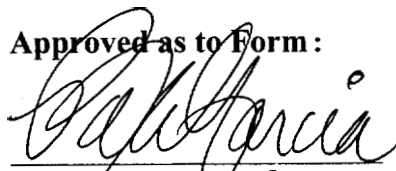
Absent:

Chairperson of the Board

Attest :

Clerk of the Board

Approved as to Form :


County Counsel

Distribution: Auditor-Controller
County Counsel
County Administrative Office