

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
The Electric Power Board and City of Wilson) WCB Docket Nos. 14-115 and 14-116
Petitions, Pursuant to Section 706 of the)
Telecommunications Act of 1996, Seeking)
Preemption of State Laws Restricting the)
Deployment of Certain Broadband Networks)
)

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August 28, 2014

**COMMENTS OF THE NATIONAL LEAGUE OF CITIES, NATIONAL ASSOCIATION
OF COUNTIES, U.S. CONFERENCE OF MAYORS, AND NATIONAL ASSOCIATION
OF TELECOMMUNICATIONS OFFICERS AND ADVISORS**

I. INTRODUCTION

The National League of Cities (“NLC”), National Association of Counties (“NACo”), U.S. Conference of Mayors (“USCM”) and National Association of Telecommunications Officers and Advisors (“NATOA”) (collectively “Commenters”) hereby file these comments in response to the Federal Communication Commission’s (“Commission”) request, released July 28, 2014, in the above-captioned proceeding.

Commenters commend the Commission for actively seeking input from *all* stakeholders in an effort to better understand the value of local broadband initiatives. As the Commission noted in challenging broadband providers and state and municipal community leaders to come together to develop at least one gigabit community in all 50 states by 2015: “The U.S. needs a critical mass of gigabit communities nationwide so that innovators can develop next-generation applications and services that will drive economic growth and global competitiveness.” To be able to

compete in a global economy, building advanced communications networks and providing access should be explored by all stakeholders, including local governments.

With the public and private sectors working towards the goal of increased broadband access, the United States will be able to take full advantage of the opportunities that advanced communications networks can create in virtually every area of life. In addition to private sector efforts, federal, state, and local government efforts are underway across the nation to deploy both private and public broadband infrastructure to stimulate and support economic development and job creation. But such efforts by the public sector will see barriers, in some areas, by state laws that prohibit or restrict municipalities from engaging with private broadband providers, or developing themselves, if necessary, advanced broadband infrastructure. These barriers will impact a local government's ability to provide vital broadband services that would stimulate local businesses development, foster work force retraining, and boost employment in economically underachieving areas. At the very time local governments across America are ready, willing, and able to do their share to bring affordable, high-capacity broadband connectivity to all Americans, state barriers to public broadband are counterproductive to the achievement of national goals of global economic development.

II. IMPORTANCE OF BROADBAND ACCESS AND SUPPORT FOR LOCAL BROADBAND INITIATIVES

Broadband access has empowered citizens and local communities by increasing civic participation, facilitating learning, and strengthening neighborhood businesses. With the availability of the Internet, city, county, and state governments are live streaming meetings for public viewing, publishing text of resolutions and other official documents, and communicating with their constituents directly online.¹ Students can communicate with their teachers and with one another and can access immense databases of information from home, schools, libraries, and even neighborhood coffee shops.² Through the availability of robust broadband services, small

¹ The City of Santa Monica, CA has built a fiber network which has lowered costs for telecommunications. In addition to the economic benefits of retaining existing and attracting new businesses, their network allows for greater engagement with the community through online services and information: <http://www.smgov.net/video/>.

² The Town of Mansfield, CT provides free wireless Internet access in public school buildings as well as in most of the indoor and outdoor areas of the Mansfield Public Library, Community Center, Senior Center, and Town Hall: <http://www.mansfieldct.gov/content/1914/2778/4151.aspx>.

businesses and entrepreneurs can advertise and sell their products and services online and compete with much larger businesses on a level playing field.³ Without a doubt, broadband brings to communities and residents both a stronger economy and a stronger democracy.

For these reasons, Commenters have steadfastly advocated for an increase in broadband access. In 2013, NLC passed a resolution titled “Local Government Support of Community/Municipal Broadband Networks”⁴ that acknowledges the crucial role local governments can play in increasing broadband access and deployment and calls on the federal government to support these initiatives. Additionally, NLC passed another resolution titled “Broadband Access: A Call for Universal Availability, Affordability, and World-Class Quality”⁵ that recognizes the value of locally owned and operated broadband networks in promoting ubiquitous broadband access across the country.

NACo, too, recognizes that increased broadband deployment will enhance the ability of county governments to respond to the needs of county residents: “Faster computer networks, wireless Internet access, enhanced broadband services... and technologies not yet deployed, will make the county of the future more responsive and meaningful to county residents.”⁶ Like NLC, NACo also has policy that recognizes the importance of local choice in broadband deployment and “...opposes efforts to restrict or prohibit, at state and federal levels, county or municipal ownership of communications facilities.”⁷

³ Lit San Leandro is a public-private partnership between the City of San Leandro and San Leandro Dark Fiber LLC. Lit San Leandro owns and operates the switch and routing facilities that bring high-speed Internet service and as a result is bringing tech start-ups and entrepreneurs to the community:

http://www.mercurynews.com/business/ci_26283395/san-leandro-entices-tech-startups-entrepreneurs.

⁴ 2014 NLC National Municipal Policy, page 209-210:

<http://www.nlc.org/Documents/Influence%20Federal%20Policy/NMP/2014%20NATIONAL%20MUNICIPAL%20POLICY%20BOOK.pdf>.

⁵ 2014 NLC National Municipal Policy, page 211-212:

<http://www.nlc.org/Documents/Influence%20Federal%20Policy/NMP/2014%20NATIONAL%20MUNICIPAL%20POLICY%20BOOK.pdf>.

⁶ NACo, “The American County Platform and Resolutions 2014-2015, page 152:

<http://www.naco.org/legislation/Documents/American-County-Platform-and-Resolutions-2014-2015.pdf>.

⁷ *Ibid.*

In June 2014, USCM adopted a resolution called “Preserving a Free and Open Internet”⁸ which supports the petitioners’ request and recognizes the significant limitation state barriers place on municipal broadband initiatives and how this can negatively impact competition in the provision of Internet access. Additionally, their resolution “In Support of Municipal Home Rule Authority”⁹ states that local governments should have the right and responsibility to govern in the best interest of their citizens and rejects any and all measures by federal and state governments that seek to limit this authority.

NATOA has long advocated for increased broadband deployment and adoption and recognizes that public and public-private networks may be the best, and perhaps only, option that some un- and under-served communities have to bring advanced services to their residents and businesses. Where private providers, for whatever reason, cannot or will not provide the broadband services that a community needs for economic growth, civic engagement, and education and health services, states must encourage “self help” and not stand in the way of communities to better the lives of their residents.

III. LOCAL EXAMPLES

City of Danville, Virginia

The City of Danville (population 42,996) once had the highest unemployment in the state. Their low-skilled, poorly educated population made it difficult to attract the types of industry that would sustain development in the region. While general communications access (telephone, cable TV, and Internet) was adequate for the home consumer, it was not optimized for businesses. Building a network that would help expand business opportunities as well as wire public anchor institutions was one of the key features of Danville’s approach to local economic development. The resulting open access, multiservice fiber network – nDanville –allows the city to provide direct service to schools and other city buildings as well as residential and business service. The network has been able to attract new businesses to the city and Danville has now

⁸ USCM 2014 Adopted Resolutions, “Preserving a Free and Open Internet”:
http://www.usmayors.org/resolutions/82nd_Conference/transportation17.asp

⁹ USCM 2014 Adopted Resolutions, “In Support of Municipal Home Rule Authority”:
http://www.usmayors.org/resolutions/82nd_Conference/metro11.asp

gone from having the highest unemployment in Virginia to boasting a world-class technology infrastructure, revitalized downtown, new jobs, and a skilled workforce.¹⁰

City of Longmont, Colorado

The City of Longmont (population 88,669) is embarking on a fiber optic broadband network, the first municipally owned network of its kind in the state, which will position the City as a leader in digital communications through its gigabit network. Backed by a voter approved \$43.5 million bond issue, Longmont Power and Communications is expected to start construction on the fiber network this month and when the sixth and final phase is completed – estimated to be in 2017 – the network will be available to homes and businesses in Longmont offering services at speeds of up to 1 gigabit per second. The network, which launched a pilot phase in 2013, has already show to be immensely beneficial in the City’s emergency response plans. In September of 2013, a flood hit the city causing damages of \$1 billion. The network enabled the City to collect vast amounts of data that resulted in up to date information to residents via YouTube, Facebook, and Twitter as well as keeping the city website current with the latest information. This unintended use of the network has prompted Longmont to revisit its emergency response plan, creating another benefit in the form of public safety to the community.¹¹

Sherman County, OR

Sherman County (population 1,732) is a frontier community that has successfully deployed broadband to its anchor institutions and residents by leveraging existing systems. It spans roughly 831 square miles and boasts a population of roughly 1,700 which equates to about two people per square mile. Two and a half years ago, Sherman County built onto their existing and very robust 9-1-1 system to provide wireless Internet service. The total cost of the original build-out was roughly \$40,000. After the initial investment, Sherman County leased the Internet infrastructure to a private industry group that serves as the functional Internet Service Provider (ISP). Neighboring counties have mimicked Sherman County’s system and are also providing Internet to their residents and businesses. Sherman County is now exploring fiber installation to

¹⁰ “Danville Transforms its Economy with Fiber”, Broadband Communities Magazine: <http://www.bbpmag.com/MuniPortal/EditorsChoice/1111editorschoice.php>.

¹¹ “Planning for the Best Case”, Broadband Communities Magazine: http://www.bbpmag.com/2014mags/May_Jun/BBC_May14_BestCase.pdf.

existing tower sites, which will allow them to increase available broadband speeds and simultaneously provide a robust backbone to their 9-1-1 system.

The provision of robust Internet services has added economic opportunity to an otherwise isolated community. Benefits to the County include \$6 per household served by the ISP as payment for the use of its network and a savings of \$3,000/month on 911 data transport with its new network. The network has also been a catalyst for new economic activity for county residents and businesses. Most people who move to Sherman County come for a job or to manage a family farm but are challenged to find jobs for accompanying spouses. Several families have been able to leverage the robust Internet system for telecommuting and some have created online businesses allowing families a dual-income, something that had been a challenge for new Sherman County residents. Existing businesses that previously utilized unreliable satellite services, now tap into Sherman County's network and have remarked on the reliability and speed of Sherman County's network.

IV. CONCLUSION

These comments underscore the value of community broadband networks and role of local governments in deploying them because they best understand the day to day activities and needs of their citizens. These networks allow city leaders to improve the way they engage with their residents, enhance public services such as public safety, education, libraries and other public facilities, and foster innovation and local economic development. As such, local governments should have the authority and control to deploy broadband networks to meets the needs of the people they serve.

For the reasons outlined above, Commenters urge the Commission to continue to work with all stakeholders to develop rules and policies that maintain local control and authority in community broadband initiatives. We look forward to working with all stakeholders as the FCC considers these petitions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Clarence E. Anthony', with a long horizontal line extending to the right.

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