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**EXHIBIT WITH TESTIMONY OF ANDREW BARBANO, CHAIR
CITY OF RENO CITIZENS CABLE COMPLIANCE COMMITTEE
BEFORE THE NEVADA STATE SENATE
COMMITTEE ON COMMERCE AND LABOR
RE: SENATE BILL 278
3-18-2003**

<http://www.msnbc.com/news/863945.asp?cp1=1>

*Public broadband catching on
Private firms fight city-owned networks*

Utility superintendent William Ray estimates that since Glasgow, Ky., began offering cable in 1989, \$32 million of residents' money has stayed in town that otherwise might have gone to big telecom firms.

ASSOCIATED PRESS

Jan. 27, 2003 — If you ever wince after opening your cable bill, you're not going to like this: The good folks in Glasgow, Ky., pay \$19 a month for 70 cable channels, and for an additional \$25 they can get blazing fast Internet access. How do they get prices nearly half the national average? Because the city-owned electric utility provides cable TV and Internet access over wires that also monitor power usage in the town of 14,000. The utility isn't trying to profit from the service — just recover its costs.

<http://www.msnbc.com/news/863945.asp?cp1=1#BODY>

"This is like the history of electrification all over again, and if [communities] don't help themselves, they're not going to get advanced communications services any time in the foreseeable future."

— JIM BALLER

attorney for several municipal telecoms

UTILITY SUPERINTENDENT William Ray estimates that since Glasgow began offering cable in 1989, \$32 million of residents' money has stayed in town that otherwise might have been vacuumed by giant telecommunications companies — which often don't offer advanced services in rural areas like Glasgow anyway.

"It's like an armored car wrecking in the streets once a year and spreading money in the streets for people to grab for themselves," Ray says.

Frustrated with the high cost and slow pace of broadband deployment in much of the country, 511 publicly owned utilities now provide telecom services for residents, schools, city agencies and their internal operations, up nearly 14 percent from a year ago, according to the American Public Power Association.

Some utilities built networks from scratch. Others extended infrastructure they already had, such as fiber-optic lines and networking equipment needed to monitor power flow or remote substations.

Not surprisingly, big phone and cable companies hate this, and have fought with some success to block public gas, water and electric utilities from providing telecom services. Eleven states bar or restrict the practice, sometimes by imposing artificial costs on municipal telecoms so the prices they charge end up closer to what private companies offer.

But things may be looking up for municipal telecoms — thanks to recent favorable court rulings, weakness in the private telecom industry and a technological breakthrough that lets data be transmitted over power lines.

"A very large number of communities across the country are beginning to realize this is like the history of electrification all over again, and if they don't help themselves, they're not going to get advanced communications services any time in the foreseeable future," said Jim Baller, an attorney who has represented municipal telecoms in several cases.

"Recognition of that is forcing legislatures to take a second look — even ones that had enacted barriers."

PRIVATE COMPANIES CRY FOUL

City-owned utilities — which generally buy their cable programming from a cooperative in Kansas and connect to the Internet by leasing facilities from big data carriers — don't have to be rivals of telecom companies.

For example, in Washington state, which prohibits utilities from selling retail telecom services, several public power providers are becoming "carriers' carriers" — building fiber networks that private Internet and phone providers can lease.

But generally, private companies say municipal telecoms create unfair competition because they have no need to make profits or pay off debts quickly, have preferential access to digging streets and other 'rights of way' and are owned by cities that have regulatory power over the industry.

The mere existence of the competition is not really an issue for us," said Rob Stoddard, spokesman for the National Cable & Telecommunications Association.

"The issue is more that the competitive playing field seems tilted in favor of municipalities."

The industry's arguments also stray into other realms.

In Palo Alto, Calif., where the public utility is considering spending \$50 million building fiber-optic connections to every home, a SBC Pacific Bell executive gave officials "MuniToons," a memo describing municipal telecoms as "folly."

Among its contentions: Municipal telecoms hurt a town's tax base and may violate the First Amendment by placing the distribution of media content under government ownership. Baller, the utilities lawyer, believes nearly every sentence in MuniToons is "incorrect or misleading or a half-truth."

Even SBC spokesman Kevin Belgrade said the document doesn't exactly reflect the company's position.

Richard Carlson, chairman of Palo Alto's utility advisory committee, wasn't swayed by Munitoons. Nevertheless, he worries that a civic fiber network might lose out to private competition or become obsolete in a few years.

COURT BATTLES

Ultimately, the municipal telecom fight boils down to two words: "any" and "entity."

The 1996 Telecommunications Act — meant to usher the nation into the digital age — said no state or city could prohibit "any entity" from providing 'any' telecom service.

With that in mind, officials in Abilene, Texas, asked the Federal Communications Commission to let them wire their own broadband network despite a 1995 Texas law banning municipal telecoms.

But the FCC agreed with phone and cable companies that Congress wasn't absolutely clear whether it meant for utilities to be "entities" protected by the law. The agency declined to overrule Texas.

A federal appeals court in Washington, D.C., let the decision stand.

Since then, a federal district court in Virginia and the Nebraska Supreme Court have seen things differently, ruling in favor of municipal telecoms. Most importantly, so has a federal appeals court in Missouri.

In hopes of getting clarity on the issue, Missouri's attorney general plans to appeal to the U.S. Supreme Court.

In the meantime, municipal telecoms are finding new ways to offer broadband — such as wireless antennas recently installed on water towers in Carthage, Mo. — and soon could have another method.

Private electric companies are experimenting with a new technology that delivers data over existing power lines. So is the city-owned electric utility in Manassas, Va., which provides broadband to city departments but not residents.

"The interest in that is very high," said Ron Lunt, the American Public Power Association's telecom director. "

"It is a natural fit."

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B-Column Timeline template v. 2.0
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Broad-banned

States that bar or restrict public telecom service:

Arkansas, Florida -- Heavy taxes on publicly provided telecom services face court challenges

Missouri, Minnesota -- Municipalities must obtain approval from at least 65 percent of their voters

Nebraska -- Restricts utilities from being telecom carriers, but allows them to lease lines to carriers, with certain restrictions

Nevada -- Prohibits towns with more than 25,000 people from providing service

South Carolina, Tennessee -- Public disclosure, vote requirements

Texas, Utah -- Stringent procedural and accounting requirements apply

Washington -- Utilities can only sell telecom services at wholesale prices

Source: American Public Power Association

3-11-03

EXHIBIT SUBMITTED BY ANDREW BARBANO

CITY OF RENO CITIZENS CABLE COMPLIANCE

[fn: G3/7 Danville, VA MuniNet/nac-nrs/charter/opsn3]

Committee.

<http://www.registerbee.com/news/MGBTCNZ01DD.html>

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Mar 7, 2003

Consultants urge city to develop fiber optic network

By VICTOR REKLAITIS

/ Register & Bee staff writer

DANVILLE, Va. - A consultant's report is recommending the city of Danville consider providing data, voice and cable TV services.

The fiber optic infrastructure to provide the services would be developed in three phases, first providing services to government institutions, then to businesses and lastly to residences.

The total cost for the infrastructure could be \$37.2 million, according to estimates by Icon Broadband Technologies, the Woodstock, Ga.-based consultants who wrote the report for Danville Power & Light.

IBT's "Fiber Optic Cable Study" was distributed to the city's utility commission last week, as well as made available to the Register & Bee. The commission will discuss the study at its meeting on March 24.

In the first phase, a fiber optic backbone, called MAN for Metropolitan Area Network, would connect municipal buildings, schools and other government institutions.

If the city decides to just develop MAN, then it would spend about \$1.9 million on the project.

If the city were to further develop MAN in phases two and three, a more extensive network would need to be constructed initially to provide a sound foundation.

Building an "expanded MAN," consisting of 57 miles of fiber optic cable, would cost an additional \$600,000.

According to Danville Power & Light Director Paul Kalv, the costs would be offset by a \$1 million contribution from Danville Public Schools, in anticipation of a decrease in costs for telecommunications services due to MAN.

With the network, municipal government telephone costs also could be reduced by up to \$129,000 per year, according to Kalv.

Kalv said some city government buildings are already connected by a fiber optic network. He said MAN could be constructed in six months if it is approved by city council, which has not yet discussed the matter.

"If we were to go forward, I believe we would go forward with phase one, and then re-evaluate," Kalv said.

Phases two and three would be called, respectively, Fiber to the Business (FTTB) and Fiber to the Home (FTTH).

The cost of FTTB, including the cost of MAN, would be \$7.1 million. The cost of FTTH, including the cost of phases one and two, would be \$37.2 million.

"In all likelihood, the city of Danville will have to utilize some type of municipal bond to finance the final deployment of the network project," the IBT report said. The report also recommended to the city several government grant programs and private funding foundations.

"Cities are looking to ... provide broadband access because there is a lack of incumbent providers," Kalv said. "Verizon and Adelphia do not have plans to deploy this next-generation technology in Danville, and that's really the bottom line."

David Martin, a co-owner of Pure Internet Inc. in South Boston, said he did not think it was appropriate for city government to provide end user services, when private businesses can do so. But Martin, who is also chairman of the Halifax County Board of Supervisors, said Pure Internet would be interested in partnering with the city to provide telecommunications services.

The IBT report discusses partnership opportunities with area telecommunications providers Gamewood Data Systems Inc. and GCR Communications.

Verizon spokesman Paul Miller said Friday his company is not opposed to Danville getting into the telecommunications business so long as it follows the rules established in Senate Bill 875, passed last month by the General Assembly. The bill allows municipalities to offer telephone and Internet services, but puts forth restrictions on how they may offer cable TV services.

Ted Crane, the Adelphia general manager in Danville, said he would like to study the report before commenting at length about it.

"You just have to make sure local governments offer private industries a level playing field," he said.

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This story can be found at:
<http://www.registerbee.com/news/MGBTCNZ01DD.html>