

February 5, 2015

Catharine Rice
Broadband-Matters
424 East Alexandria Avenue
Alexandria, VA 22301

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, NW
Washington, D.C., 20554

Re: Notice of Written *Ex Parte* Presentation:
WCB Docket No. 14-115 (City of Wilson) and
WCB No. 14-116 (Chattanooga EPB)

Dear Secretary Dortch:

Pursuant to Section 1.1206(B)(2) of the Commission's rules, I am submitting this written *ex parte* presentation in support of the relief requested by the petitioners in the above-referenced proceedings. Specifically, I am submitting the attached newspaper articles and URL links to the Commission to demonstrate the ongoing need for the Commission to preempt state laws that create barriers to competitive broadband infrastructure deployment by municipalities and that are primarily the result of the enormous financial lobbying resources of the established incumbent providers that dominate most local markets.

The articles attached, including that of the Portland Press Herald, underscore the ongoing efforts by Time Warner Cable to convince state legislators in Maine to enact legislation at the state level that would effectively prohibit Maine communities from building and operating their own broadband systems that would compete with Time Warner Cable. These articles describe Time Warner Cable's use of expensive dinners and extravagant resort surroundings to communicate their message to state legislators. Obviously the ordinary citizens of Maine do not have the ability to match these resources to communicate their message: Maine ranks 49th in the country in terms of broadband speed and is desperately in need of the modern broadband infrastructure that the incumbent providers are not willing to deploy.

Sincerely,



Catharine Rice
Broadband-Matters

attachments:

[Time Warner Fighting Move to Municipal Broadband Hosted Maine Lawmakers at Resort](http://www.pressherald.com/2015/02/04/time-warner-fighting-move-to-municipal-broadband-hosted-maine-lawmakers-at-resort/) -
Portland Press Herald - February 4, 2015

<http://www.pressherald.com/2015/02/04/time-warner-fighting-move-to-municipal-broadband-hosted-maine-lawmakers-at-resort/>

[Time Warner hosted outing for state lawmakers - MaineBiz - February 4, 2015](http://www.mainebiz.biz/article/20150204/NEWS0101/150209981)
<http://www.mainebiz.biz/article/20150204/NEWS0101/150209981>

[Time Warner Cable Made its Case to Legislators at Luxury Resort - The Center for Public Integrity - Public Integrity - February 4, 2015](http://www.publicintegrity.org/2015/02/04/16691/time-warner-cable-made-its-case-legislators-luxury-resort)
<http://www.publicintegrity.org/2015/02/04/16691/time-warner-cable-made-its-case-legislators-luxury-resort>

http://pinetreewatchdog.org/time-warner-made-its-case-to-legislators-at-luxury-resort/?utm_content=bufferd9205&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer

[Time Warner Cable fights against municipal broadband by giving lawmakers a vacation - Android Authority - February 4, 2015](http://www.androidauthority.com/time-warner-cable-fights-municipal-broadband-giving-lawmakers-vacation-584900/)
<http://www.androidauthority.com/time-warner-cable-fights-municipal-broadband-giving-lawmakers-vacation-584900/>

Time Warner, fighting move to municipal broadband, hosted Maine lawmakers at resort

 pressherald.com/2015/02/04/time-warner-fighting-move-to-municipal-broadband-hosted-maine-lawmakers-at-resort/

By Naomi Schalit and Blake Davis Maine Center for Public Interest Reporting

Threatened by the possibility that Maine cities and towns may build their own high-speed broadband networks because they are frustrated with corporate providers, the largest provider went on the offensive last month.

Just as the legislative session was starting in January, Time Warner invited Maine lawmakers to an overnight "Winter Policy Conference" at a resort in Cape Elizabeth, where the company tried to convince legislators that government owned-broadband is a bad idea. The guests were served steak dinners and some were put up for the night in rooms that retail for \$205 to \$355 per night.

Maine ranks near the bottom of all 50 states in Internet speeds, which frustrates consumers and puts a damper on business.

Legislators have submitted multiple bills this session to help municipalities build high-speed broadband networks. The more people who use a municipally sponsored broadband service, the fewer customers available to Time Warner.

While lawmakers say they attended the event at the Inn by the Sea to become informed, others are not sure that such an "educational forum," as Time Warner called it, is in the public interest.

"If we want good public policy, there's reason for all of us to be worried," said Gordon Weil, a utilities expert who represented the interests of ratepayers before regulators as Maine's first public advocate. Such treatment of legislators is "obviously intended to persuade them by more than the validity of the arguments; it's intended to persuade by the reception they're given."

The event was not the only multi-day program offered to legislators. The Maine Forest Products Council gave a two-day "Woods and Wildlife 2013 Legislative Tour," co-sponsored by the Maine Department of Inland Fisheries and Wildlife. The Maine Development Foundation and the Maine State Chamber of Commerce offer a three-day "Economic Bus Tour" at the beginning of each legislative session. The organizers of both events have paid for food, travel and lodging.

"I think this idea of meals and conversations is how Augusta functions on some level," said Rep. Mark Dion, D-Portland, who attended the event in Cape Elizabeth, did not stay overnight but was provided dinner and breakfast by Time Warner.

No ethics violations were noted when Time Warner hosted a similar event at the resort in 2013. Ethics rules allow lawmakers to accept meals offered in connection with "informational" events, and simply require reporting of gifts over \$300, such as hotel stays.

Attendees at the event Jan. 22-23 were presented with five sessions, ranging from an update on federal telecommunications issues to a presentation on the state rule requiring certain phone companies to provide service in remote rural areas.]



FEBRUARY 4, 2015

Time Warner hosted outing for state lawmakers

Time Warner Cable, Maine's largest Internet provider, provided a steak dinner and footed the lodging bill for some state lawmakers at an overnight "education forum" in January in an attempt to lobby against legislation pushing for municipally-sponsored broadband service.

The [Maine Center for Public Interest Reporting](#) reported on Wednesday that somewhere between 12 and 35 state lawmakers attended Time Warner's Jan. 22 "Winter Policy Conference" at the Inn by the Sea in Cape Elizabeth, according to separate accounts from Sen. Andre Cushing, R-Hampden, and Rep. Mark Dion, D-Portland, who both attended.

Some state lawmakers, like Rep. Ellie Espling, R-New Gloucester, had the the costs of staying overnight at the inn covered by Time Warner. The publication said one night for a room at the inn retails between \$205 and \$355 per night.

Scott Pryzwansky, Time Warner's director of public relations for the eastern United States, said in an email to the publication: "As one of Maine's leading employers and telecommunications companies, we designed this second biannual educational forum to help policymakers and others better understand some of the complex telecommunications issues confronting Maine and the nation." He added: "Like many other organizations in Maine that sponsor similar forums, we believe it is our responsibility to help raise awareness about issues that are central to Maine's economy and future."

But some, including Gordon Weil, the state's first Public Advocate, said meetings like this are cause for concern. He told MCPIR that this is "obviously intended to persuade them by more than the validity of the arguments; it's intended to persuade by the reception they're given."

[Read the full report, including a breakdown of Time Warner's contributions to state lawmakers, here.](#)



Time Warner made its case to legislators at luxury resort

By: Naomi Schalit and Blake Davis ©Maine Center for Public Interest Reporting | February 4, 2015



The dining room at the Inn by the Sea in Cape Elizabeth

Fed up with slow internet speeds offered by commercial services, some Maine cities and towns are turning to a new way to get high-speed broadband for their residents and businesses: doing it themselves.

Maine ranks near the bottom of all 50 states in internet speeds, which frustrates consumers and also puts a damper on business.

Legislators have submitted multiple bills this session to help municipalities build high-speed broadband networks. One bill's title gives the flavor of many of them: "An Act To Actually Expand Rural Broadband."

All that activity poses a threat to the state's largest internet provider, Time Warner Cable: The more people who use a municipally-sponsored broadband service, the fewer customers available to the company.

Just as the legislative session was starting in January, Time Warner went on the offensive. It invited Maine lawmakers to an overnight "Winter Policy Conference" at [a Cape Elizabeth resort](#), where the company tried to persuade legislators that government owned-broadband was a bad idea. The guests were served steak dinners and some were put up for the night in rooms that retail from \$205 to \$355 per night.

While lawmakers say they attended the event to become informed, others are not sure that legislators attending such an "educational forum," as Time Warner called it, is in the public interest. Especially one at a resort described by its owners as designed to "surround you with every creature comfort."

"If we want good public policy, there's reason for all of us to be worried," said utilities expert Gordon Weil, the state's first Public Advocate, who represented the interests of ratepayers before regulators. Such treatment of legislators is "obviously intended to persuade them by more than the validity of the arguments; it's intended to persuade by the reception they're given."



Maine.gov

Rep. Ellie Espling, R-New Gloucester

And the Time Warner event is not the only one of its type. Legislators are often invited to parties, dinners and multi-day tours paid for by interest groups.

“I think this idea of meals and conversations is how Augusta functions on some level; it’s where the lobby gets to function on some level,” said Rep. Mark Dion, D-Portland, who attended the event, did not stay overnight but was provided dinner and breakfast by Time Warner.

The event began the evening of Jan. 22. Representatives from Pets for Vets, a charity supported by Time Warner, gave the evening keynote presentation.

After breakfast the next day, legislators attended [sessions](#) that presented the telecommunications world as [seen through the eyes of Time Warner](#), as well as a session featuring a panel of legislative leaders.

“It was helpful to go and get a perspective on some of those issues,” said Rep. Ellie Espling, R-New Gloucester, for whom Time Warner paid the cost of meals and the overnight stay. “I’m always looking at the opportunity to learn more about different things.”

(continued on next page)

How many legislators attended the conference isn't

| Time Warner Contributions to Democrats 2008 - 2014 | |
|--|----------------------|
| Senate Democratic Campaign Committee | \$ 48,000.00 |
| House Democratic Campaign Committee | \$ 43,000.00 |
| Empowering Maine Leadership PAC (Barry Hobbins, Saco) | \$ 10,000.00 |
| Cain for Maine (Emily Cain, Orono) | \$ 8,000.00 |
| Maine Democratic State Committee | \$ 5,000.00 |
| Michaud for Maine | \$ 3,000.00 |
| Alfond Business, Community & Democracy PAC (Justin Alfond, Portland) | \$ 3,000.00 |
| Strengthening Maine (Seth Goodall, Richmond) | \$ 2,000.00 |
| The Dawn Hill PAC (Dawn Hill, Cape Neddick) | \$ 1,050.00 |
| Eves Leadership PAC (Mark Eves, North Berwick) | \$ 1,000.00 |
| McCabe for Leadership (Jeffrey McCabe, Skowhegan) | \$ 1,000.00 |
| Maine Women's Leadership PAC (Anne Graham, North Yarmouth) | \$ 750.00 |
| Mitchell Leadership Fund (Elizabeth Mitchell, Vassalboro) | \$ 500.00 |
| Gideon Leadership PAC (Sara Gideon, Freeport) | \$ 500.00 |
| Diamond PAC (Bill Diamond, Windham) | \$ 500.00 |
| Brunswick Democratic Town Committee | \$ 60.00 |
| TOTAL | \$ 127,360.00 |

| Time Warner Contributions to Republicans 2008 - 2014 | |
|---|----------------------|
| Maine Senate Republican Majority | \$ 49,000.00 |
| House Republican Majority Fund | \$ 36,500.00 |
| Maine Republican Party | \$ 12,500.00 |
| House Republican Fund | \$ 3,000.00 |
| Committee to Re Elect Paul LePage | \$ 3,000.00 |
| Paving The Way For A Prosperous Maine (Michael Thibodeau, Winterport) | \$ 2,750.00 |
| Capital Leadership PAC (Roger Katz, Augusta) | \$ 2,000.00 |
| Republican Speakers Fund (Robert Nutting, Oakland) | \$ 1,000.00 |
| Imagine Maine (Chris Rector, Thomaston) | \$ 1,000.00 |
| Leadership for Maine's Future (Kenneth Fredette, Newport) | \$ 750.00 |
| Leading to a Balanced Maine PAC (Thomas Saviello, Wilton) | \$ 500.00 |
| Respect Maine (Andre Cushing, Hampden) | \$ 500.00 |
| Cushing Andre E. (Andre Cushing, Hampden) | \$ 350.00 |
| MacDonald Sharri K. (Sharri MacDonald, Old Orchard Beach) | \$ 200.00 |
| Guerin Stacey K. (Stacey Guerin, Glenburn) | \$ 200.00 |
| TOTAL | \$ 113,250.00 |

These tables, compiled with data from the Maine Commission on Governmental Ethics and Election Practices, include contributions given to political action committees (PACs), candidates and party committees. Not all committees or candidates were active, or received contributions, for the entire period the tables cover (2008 through 2014).
clear.

An [email from Melinda Poore](#), Time Warner's chief Maine lobbyist and the event's organizer, sent to members of the legislative leadership panel prior to the event, said "we ... have maxed out the attendance." Sen. Andre Cushing, a Republican senator from Hampden, for whom Time Warner also paid the cost of meals and the room, said he thought "about a dozen" legislators attended the Thursday night dinner. Rep. Dion said "30 or 35" attended Friday's sessions.

What's also not clear is whether or how many legislators brought partners or spouses to the event. Poore's lobbying [disclosure](#) for Jan. 2013 shows that at a previous Time Warner policy conference in 2013, several lawmakers brought partners or spouses.

Poore did not respond to a request for details about the recent event. Instead, [Scott Pryzwansky](#), Time Warner Cable's director of public relations for the eastern U.S., responded by email, declining to answer any specific questions.

"As one of Maine's leading employers and telecommunications companies, we designed this second biannual educational forum to help policymakers and others better understand some of the complex telecommunications issues confronting Maine and the nation.

"Like many other organizations in Maine that sponsor similar forums, we believe it is our responsibility to help raise awareness about issues that are central to Maine's economy and future."

"This idea of meals and conversations is how Augusta functions on some level; it's where the lobby gets to function on some level." —Rep. Mark Dion, D-Portland

The Center obtained copies of materials distributed at the event from both Cushing and Rep. Barry Hobbins, D-Saco, who also attended. Hobbins' meals and lodging were covered by Time Warner.

While there were five sessions, Espling said "broadband was probably the biggest theme." In addition to a specific session entitled "Broadband in Maine," attendees were given a [presentation](#) by pollster Mary Ellen Fitzgerald on a Time Warner-commissioned survey about, among other subjects, public attitudes toward broadband expansion.

That presentation concerned her, said Rep. Sarah Gideon, D-Freeport, who only attended Friday's sessions.

The answers in the poll's broadband section made it appear that a majority of the state's taxpayers do not want to use public funds to support broadband expansion or to "subsidize public entities to compete with private businesses." But Gideon said such results were responses to "leading" questions.

"We see lots of surveys as policymakers and we have to be smart enough to look at what questions are asked," said Gideon.

Gideon was bothered by survey [questions](#) such as, "Should taxpayer-supported debt be used to build government-owned and operated broadband networks that sell broadband services to the public...where no broadband service currently exists...(or) broadband services are already available?"

"Nobody's going to say 'Yes, I want my state to incur debt,'" said Gideon.

Two New York Law School scholars also spoke to the legislators. They presented a [report](#) that asserted that, contrary to what the legislators might think, the speed of broadband available through private companies was getting faster and that government-operated networks were neither necessary nor a good public investment.

The Cape Elizabeth event for legislators fits into a larger effort by Time Warner nationally to oppose public broadband growth.

A 2014 news story, "[How big telecom smothers city-run broadband](#)," by the [Center for Public Integrity](#), a nonprofit journalism organization, reported: "For more than a decade, AT&T, Comcast, Time Warner Cable Inc., and CenturyLink Inc. have spent millions of dollars to lobby state legislatures, influence state elections and buy research to try to stop the spread of public Internet services that often offer faster speeds at cheaper rates."

Since 2008, Time Warner has donated more than \$240,000 to Maine politicians: \$127,360 to Democrats and Democratic PACs, and \$113,250 to Republicans and Republican PACs.

Gideon plans to introduce legislation this session, co-sponsored by Sen. Garrett Mason, R-Lisbon Falls, to fund a planning process for communities that are considering building connections to high-speed broadband.

Freshman Rep. Norman Higgins, R-Dover-Foxcroft, has introduced legislation that would help rural communities connect to faster broadband service. His bill would foster "public-private partnerships" to get the job done.

Despite his interest in the topic, Higgins said he chose not to attend the event out of concern for how it would appear to constituents.

"I'm a new legislator and I'm trying to be very diligent about making sure that I provide an appropriate distance to meet my comfort level," said Higgins. He said his service on the Energy, Utilities and Technology Committee made him especially sensitive about appearing to take favors, because it's "the committee that Time Warner comes before on any issues that relate to their core business."

"That was my personal decision, not a reflection on anybody else," said Higgins.

Rep. Dion, who is co-chair of the committee, said attending the Time Warner event was "an education," as long as he remembered "this kind of stakeholder-sponsored education seminars is very helpful if you understand that really it's presupposing a position from that stakeholder. They don't normally invite people who are critical of their positions."

Weil, the former state public advocate, said that it's a mistake to assume that other interests in the broadband issue have an equal ability to get their message across.

"The municipalities do not have corresponding resources," said Weil.

Yet corporations like Time Warner have the right to make their case to lawmakers, said Weil.

“I would have said, ‘Fine, if you want to meet with me come meet on state facilities, no steak dinner.’

“If steak dinners didn’t work, they wouldn’t give them steak dinners,” said Weil.

The Maine Center for Public Interest Reporting is a nonpartisan, non-profit news service based in Augusta. Email: pinetreewatchdog@gmail.com. Web: www.pinetreewatchdog.org



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Time Warner Cable fights against municipal broadband by giving lawmakers a vacation

BY WILLIAM NEILSON JR | FEBRUARY 4, 2015 | 10

153
SHARES



72



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citizensforethics

As I have written about in the past, cities around the country are so fed up with their current broadband situation that they are left to either begging Google Fiber to come to their city or starting the process of building their own municipal broadband network.

Rather than increasing speeds or lowering prices, incumbent broadband providers have instead turned towards trying to outlaw municipal broadband networks through increased political contributions. In some cases, lobbyists for the broadband providers actually have written the language found in proposed anti-municipal broadband laws. No, really.

But in Maine, we have a state with maybe the worst broadband situation in the country. According to some rankings, Maine is dead last or near dead last in terms of broadband speeds. Several cities in Maine responded to their lack of current broadband competition by formulating plans to start their own municipal broadband network.

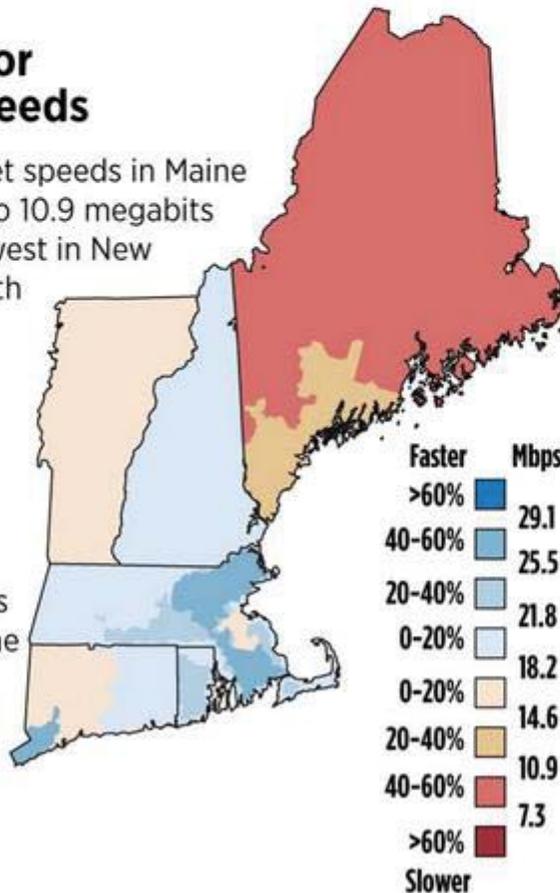
How did Time Warner Cable respond to this plan? As the [Portland Press Herald](#) notes, Time Warner Cable hosted Maine lawmakers at a resort by the Sea in Cape Elizabeth, Maine. At this meeting, Time Warner Cable "tried to convince legislators that government owned-broadband is a bad idea."

Just as the legislative session was starting in January, Time Warner invited Maine lawmakers to an overnight "Winter Policy Conference" at a resort in Cape Elizabeth, where the company tried to convince legislators that government owned-broadband is a bad idea. The guests were served steak dinners and some were put up for the night in rooms that retail for \$205 to \$355 per night. - *Portland Press Herald*

Essentially, they are trying to influence lawmakers behind closed doors. What makes this even more unbelievable is that some of the lawmakers tried to pass off this trip as an "educational forum" about Maine's broadband situation. It was educational enough for Time Warner Cable to also pay for any lawmakers "partners or spouses."

Maine's poor Internet speeds

Most top Internet speeds in Maine range from 7.3 to 10.9 megabits per second, slowest in New England and 49th among the 50 states. By comparison, Internet speeds in Boston range from 21.8 to 25.5 mbps, twice the speeds available in Maine or better. The national average for Internet speed is 18.2 mbps.



SOURCE: Gizmodo.com

STAFF GRAPHIC | MICHAEL FISHER

But what exactly were they told?

Attendees were given a presentation by two New York legal scholars who asserted that, contrary to what the legislators might think, government-operated networks are neither necessary nor a good public investment. They were also given a presentation by pollster Mary Anne Fitzgerald on a Time Warner-commissioned survey. State Rep. Sarah Gideon, D- Freeport, who attended only Friday's session, was skeptical of the survey's section on broadband because some the questions were "leading." - Portland Press Herald

This isn't the first time that Time Warner Cable ~~bribed~~ hosted Maine lawmakers to starve off municipal broadband plans. In 2013, Time Warner Cable hosted a similar event. Additionally, since 2008, Time Warner has donated more than \$240,000 to Maine politicians.

In Kansas, Time Warner Cable (along with Cox Communications and others) **put forward** a proposal to impose the strictest municipal broadband bans in the country if a city/area was already served. The bill was even nice enough to make sure that anyone with the slightest cellular connection was deemed "served."

But at the end of the day, do customers really want faster broadband speeds? Shouldn't we listen to Time Warner Cable who has publicly told cities like Louisville, KY, that the resident **didn't "need" faster** speeds even though the city was begging other telecom companies to come to their area? Time Warner Cable has even reminded us that **nobody really** wants Google Fiber.