



development<sup>2</sup> requested and was granted an person visit to the 12<sup>th</sup> Street Offices of the FCC in Washington DC on January 28, 2010 at 11:00 AM.

- a. Present for the City of La Verkin, Utah and the DTFA was Karl Wilson, Mayor of La Verkin and Chairman of the Board of the DTFA
- b. James Driessen represented the DTFA as their Consulting Attorney.
- c. Representing Wireless 802.11n WiFi mesh and experience in the traditional media industries including Satellite, cable, and copper was Luann Linnebur, Vice President of Datasat Technologies/RCU.
- d. Representing experience in the Fiber-wireless convergence movement was S. Jay Lawrence, Chief Executive Officer and President, GigaBeam.
- e. Representing the feature film and movie and broadcast industries was William J. MacDonald of Insomnia Media Group, also Vice President of Business Development, of Datasat Technologies/RCU.
- f. Present for the Federal Communications Commission National Broadband Plan (NBP) Drafting Group (the “Group”) were Nick Sinai, Michael Connely, Elvis Stumbergs, and Mukul Chawla.
- g. A non-substantive thank you letter (form attached) was also sent to each participant.

#### **MEMORANDUM SUMMARIZING THE SUBSTANCE OF THE PRESENTATION**

Mr. Driessen, described the ready, tested, and proven concept of local data off-load and convergent networks (or emerging “hot cloud” technologies for rural communities). He

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<sup>2</sup> A Utah Code Annotated Title 17C(3) Limited Purpose Local Government Entities - Community Development and Renewal Agencies

persuaded the Group that the definition for “Convergence” – a term used to describe the transition from a separate circuit-switched voice network and packet-switched data networks, to a single packet-switched network supporting both voice and data protocols – could now have much broader importance to the NBP than may have been previously thought. The new definition for “Convergence” should include any cross-platform voice and data control or sharing. As one of his slides, Mr. Driessen displayed a short and currently popular TV commercial depicting a man in the middle of a bank hoist controlling his satellite DVR by using his cell phone.

Nearly every media rich device released by the consumer electronics industry during the past couple of years has included 3G and/or WiFi convergent capability (the awaited “iPad” announcement coming exactly the day before this ex parte presentation was no exception). Yet, actual network design and architecture supporting both 3G and WiFi convergence has primarily remained stagnant. The industry has primarily looked to on-board applications with handhelds to accomplish cross-platform convergence. Mr. Driessen suggested that although the DTFA was not tied to any particular technologies like 3G or WiFi – convergence could be best enabled through local public network architecture designed to work within the convergent enabled handheld playing fields as well as within the stationary devices like set top boxes, home media services, and business local area networks.

Nick Sinai for the Group, mentioned that consumer demand for bandwidth has far exceeded industry ability to provide it, estimating somewhere in the realm of 7000 per cent. Spectrum shortage and smart phones are stretching service providers to the limit. Providers have

wanted to market content with their network to increase Average Revenue Per User (ARPU) but have traditionally seen unlocked phones with dual band capabilities as a threat to revenue.

Mr. Driessen contended that an industry education movement needs to be underway where the fiber, cable, copper, and wireless industries are persuaded that the adaptive DNS and multiple internet gateway routing of the “hot cloud” 3G-WiFi mesh block convergent networks, with its open competition model, for example, would not lower ARPUs in any of those industries, but actually increase them because of the adaptive and carrier agnostic properties.

Datasat noted that it is now working with a large carrier who is asking for that help.

Mr. Driessen also pointed out that not only is the open internet and the open competitive provider model desirable for these emerging hot cloud rural networks, but that it was mandated by State law on point in Utah (and in several other states currently) for municipal owned telecommunications networks.<sup>3</sup> Because the State law is on point and the evolving federal case law directs us as such, the Local and Tribal government entities would create the *ideal* situation for the FCC to regulate the emerging “hot cloud” technologies for maintaining open internet, open competition and net neutrality.

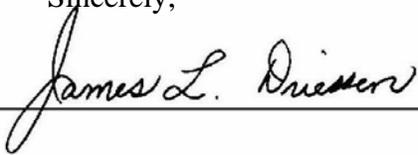
The FCC can help this movement by including a clear statement in the NBP that not only is the local and tribal government entity emerging “hot cloud” technology one viable solution to the national broadband objectives, but that it is perhaps the most concrete way for creating the

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<sup>3</sup> The Utah Municipal Cable Television and Public Telecommunications Services Act. *U.C.A. § 10-18-1 et seq.* and abundant Federal District Case law on point have evolved since the Supreme Court Decision in 2004 where an 8-1 decision held local municipalities and tribal governments can be either allowed or prevented by the States to operate as local telecommunications networks. Today, as a repercussion to this body of case law, we see that both the State Laws in most states and the case law on point has evolved to mean that so long as Municipalities operate telecommunications in an open infrastructure and open service competitive environment and in accordance with all relevant case law on point, that Municipalities generally may become operators in telecommunications. see *Nixon v. Missouri Municipal League*, 541 US 125 (2004).

local access Infrastructure as a Service (IaaS), Platforms as a Service (PaaS) and Software as a Service (SaaS) “in the cloud industries” to create local jobs. These local jobs “in the cloud” will come in the form of wireless based DTV (in addition to signal based), media, distance learning, security and surveillance, mobile health monitoring, public safety, public information, commerce, mobile maintenance, finance, banking, and literally hundreds of other industries that can benefit from local access networks along side signal based and internet based industries. With over 3,000 Counties in the US that could mean up to 6 million new and sustainable jobs!

Sincerely,



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attachments: City of La Verkin, Utah thank you letter



# LA VERKIN CITY

KYLE GUBLER  
*CITY ADMINISTRATOR*

KARL WILSON  
*MAYOR*

PHIL JENSEN  
DOUG BEECHER  
SCOTT STRATTON  
ZACHAREY BEATTY  
RAY JUSTICE  
*COUNCIL MEMBERS*

[NAME], [TITLE]  
[ADDRESS]  
[CITY],[STATE] [ZIP]

Dear [NAME],

On behalf of the City and our programs for economic development, I would like to personally thank you for attending and contributing your experience and expertise in your field during our recent presentation to the FCC National Broadband Plan drafting group. I hope you found this meeting both enjoyable and productive. Again my sincere thanks.

Sincerely,

Karl Wilson, Mayor of La Verkin, Utah