

Appendix 1

Source Data for figure 1

Segment	Leader	Share	Second	Share	Remaining	Share	Measure	Source
Social Networking	Facebook	55%	YouTube	16%	MySpace, Tagged, Twitter, Yahoo! Answers, My Yearbook, et al	29%	Visits for the week ending 05/29/2010.	http://www.hitwise.com/us/datacenter/main/dashboard-10133.html
Email	Yahoo! (Yahoo Mail and Yahoo Address Book)	43%	Microsoft (Windows Live, msn)	40%	Gmail and others	17%	US Internet visits, week ending 5/29/10	http://www.hitwise.com/us/datacenter/main/dashboard-10133.html - analysis of top 4 email sites among top 20 sites overall. See also. Hitwise/Tancer at http://weblogs.hitwise.com/bill-tancer/2008/02/microsoft_and_yahoo_putting_th.html
Search	Google	72%	Yahoo! + Microsoft (Bing)	24%	Ask, MSN.com, Live.com	4%	Volume of searches for 4 weeks ending 5/29/10	http://www.hitwise.com/us/datacenter/main/dashboard-10133.html
Online Advertising	Google-DoubleClick	66%	Yahoo! + Microsoft	8%	Revenue Science, AOL, ValueClick, AdBrite, Other	26%	Ad Server Market Share of monthly unique users (rel. 5/7/10)	http://www.attributor.com/blog/category/ad-networks/
Broadband Estimate - Companies	Comcast	19%	AT&T	19%	Other	62%	% of all high-speed subscribers	Leichtman Research Group 4Q09, FCC 2Q08, USTelecom analysis, conservatively assuming minimal wireless substitution (~1.5% share)
Broadband Estimate - Industry	Cable	53%	Telecom	44%	Wireless, Satellite, Overbuilder, BPL, etc.	3%	% of all high-speed subscribers	Leichtman Research Group 4Q09, FCC 2Q08, USTelecom analysis, conservatively assuming minimal wireless substitution (~1.5% share)
Browser (Global)	Microsoft	60%	Firefox	25%	Safari, Chrome, Netscape, Opera, other	15%	Browser share of users, 2Q 2010	http://marketshare.hitslink.com/browser-market-share.aspx?gclid=0
Operating System (Global)	Microsoft	91%	Mac	5%	Linux, iPhone, iPod Touch	4%	OS share of users., 2Q 2010	http://marketshare.hitslink.com/operating-system-market-share.aspx?gclid=8&qpmr=100&qpdt=1&qpct=3&qptimeframe=Q
Semiconductors (Global microprocessors)	Intel	81%	AMD	11%	Other	8%	Shipments, 4Q09	See http://www.fabtech.org/news/_a/intel_only_losi ng_small_market_share_to_amd/ , citing iSuppli

Some figures may not add to 100% due to rounding

Appendix 2

USTelecom Survey of Members

INTERNET SERVICES	HORIZON 1.28K	SKYLINE 512K	FRONTIER 1MB	SUMMIT 1.5MB
Monthly Recurring Base Charge	\$40	Reg. \$50 Promotion: \$25 for first 6 months; regular price applicable thereafter	\$75	\$99
Bandwidth Download/Upload	Up to 128K/ 128K	Up to 512K/ 256K	Up to 1MB/ 384K	Up to 1.5MB/ 384K
E-mail Accounts	1/15MB	5/25MB	7/25MB	1/100MB & 9/25MB
Additional E-mail Account		\$5 each	\$5 each	\$5 each
Mailbox 100MB		\$5 per mailbox	\$5 per mailbox	\$5 per mailbox
Mailbox 300MB		\$10 per mailbox	\$10 per mailbox	\$10 per mailbox
Mailbox 500MB		\$15 per mailbox	\$15 per mailbox	\$15 per mailbox
Spam Filtering	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Inbound/Outbound Virus Scanning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GreyMail	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
TattleMail		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
ZoneAlarm Security Suite <i>One Download per e-mail account is included</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
WebMail		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Video Mail		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Personal Webspace		25MB	25MB	25MB
Newsgroups Access		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Static IP		\$10	\$10	\$10
Static IP/29		\$25	\$25	\$25
Broadband Activation Fee	Broadband Internet services activation fee of \$95 currently being waived			

Internet Services	Basic Plan up to 1.5Mbps
Monthly Recurring Base Charge	Reg Price: \$29.95 per month
Bandwidth Download/Upload	Up to 1.5Mbps/384K
E-Mail Accounts	5/100MB
Additional E-Mail Account	\$3 each or 5 for \$12
Mailbox 2GB	\$5
Mailbox 5GB	\$10
Spam Filtering	<input checked="" type="checkbox"/>
Inbound/Outbound Virus Scanning	<input checked="" type="checkbox"/>
GreyMail	<input checked="" type="checkbox"/>
TattleMail	<input checked="" type="checkbox"/>
ZoneAlarm Security Suite <i>One download per e-mail account is included</i>	<input checked="" type="checkbox"/>
Webmail	<input checked="" type="checkbox"/>
Video Mail	<input checked="" type="checkbox"/>
Personal Webspace	25MB
Newsgroups Access	<input checked="" type="checkbox"/>
Static IP	\$10
Static IP / 29	\$25
Relocation of Service	\$25
Restore Service	\$25
Deposit Required after Non-pay	\$100

Big Bend Telephone Company, Alpine, Texas (5,364 Access Lines)

Broadband Ad 12/02/2006.

Available at:

http://web.archive.org/web/20070910233231/www.bigbend.net/internet_service_plans.php

Broadband service includes: 1, 5 or 7 e-mail addresses (25 MB storage) and 10 e-mail addresses (1/100 MB and 9/25 MB); inbound/outbound virus scanning; spam filtering, webmail, graymail; Tattle mail; newsgroup access; zone alarm security suite; 25 MB personal webspace; newsgroup access.

Broadband Ad Today.

Available at: <http://www.bigbend.net/broadband/>

5 e-mail addresses (100 MB storage); spam filtering, inbound/outbound virus scanning; graymail, tattlemail, ZoneAlarm Security Suite, webmail, video mail, 25 MB personal webspace, newsgroup access.

Home HTC TV Internet Phone Contact HTC Email

HTC DSL

HTC DSL gives you lightning fast Internet access 24 hours a day, webmail that lets you check your email anywhere, web site creation, hosting and more!



Installation will be taken care of by our professional and knowledgeable staff, and you will have access to FREE 24-hour technical support. With all DSL accounts, you'll get:

- 24-hr connection that won't tie up your line
- Check your email anywhere with HTC Email
 - 5 Email addresses
 - Spam Filtering
 - 25 Mb web space
- Create your website with our Online Site Creator
 - Free 24-hr technical support

Unlike our competition, **HTC will not impose unreasonable limits on how many computers you may connect to DSL.**

DSL Speed	Price/mo. with TV	Reg. Price/mo.
128 Kb DSL	\$19.95 <small>SAVE</small>	N/A
256 Kb DSL	\$35.95	\$45.90
768 Kb DSL	\$55.95	\$65.90

Free basic installation with a 1 year contract!

Ask about commercial DSL services!

HTC

Home | Services | Bundles | Support | Aurora | History | HTC

High Speed DSL

Whether you're surfing the web or connecting with friends and family, DSL makes it simple. Connect multiple computers at once and download pictures, music, and videos with ease. Unlike dial-up, DSL is always connected and it won't tie up your line.

We also offer [Commercial Broadband Services!](#)

Can't get DSL in your area? Try [HTC Dial-Up Internet.](#)

	199 Kbps (fast)	512 Kbps (faster)	3 Mbps (fastest)	Details
Reward Plan	\$21.35 /mo.	\$38.47 /mo.	\$59.87 /mo.	This rate is available with HTC TV or when you provide your own ADSL modem (you can purchase one from us for \$89).
Premium Plan	N/A	\$49.11 /mo.	\$70.51 /mo.	HTC will provide an ADSL modem.
Wireless Network Maintenance	\$5.00 /mo.			Hassle Free! HTC will install and maintain your wireless network. Includes a free wireless router.*

Installation by our professional staff is **free** with a one-year contract (A \$90 value).

All packages include:

- 24-hour high-speed Internet browsing
- Free 24-hour tech support
- 5 email addresses
- Web mail
- Spam filtering
- 25 MB web space
- Access to our Online Site Creator
- [Additional web space, static IP's and other options are available.](#)



Hickory Telephone Company, Hickory, Pennsylvania (1,300 Access Lines)

Broadband Ad 12/13/2006.

Available at:

<http://web.archive.org/web/20061030015205/www.hky.com/dsl.php>

Broadband service includes: 5 e-mail addresses; spam filtering, 25 MB webspace; Web mail; access to online site creator.

Broadband Ad Today.

Available at: <http://www.hky.com/dsl.htm>

Broadband service includes: 5 e-mail addresses; Web mail; spam filtering, 25 MB webspace; access to online store creator.

Le-Ru Telephone Company

M Mail L Locator O Organizer P Postcards

HOME COMMUNITY SERVICES LONG DISTANCE CONTACT US TECH SUPPORT

Powered By Utah Wednesday, September 21, 2006

Stella, MO

Get the 10 day forecast

82°F Partly Cloudy

Feels Like 86°F Humidity: 88% Wind: N at 8 mph

Enter city/zip GO

The Weather Channel weather.com

Airport Delays Sporting Events Pollen Reports

10 Tricks To Avoid A Ticket

U.S. News

Forecasters Fear Hurricane Rita's Strength

Rita Grows to Category 2 Hurricane With 100 Mph

Wi... continues

DSL

Experience the best of the Internet with a Le-Ru DSL connection. You can surf the Web and download files 20 to 30 times faster than dial-up, and DSL is always-on, so there is no waiting for a modem to dial-up and connect. Plus, with Le-Ru DSL there is no need for a second phone line. You can surf and talk on the phone at the same time over the same line.

Our DSL accounts include:

- Internet access at over 200 kbps
- Free Spam and Virus Protection
- 10 MBs of personal Web space
- Free technical support 24 hours a day, seven days a week

For more information or to order service, call **(417) 628-3844**.

Customer Control Panel eSchool

emScan Msg Ctr

EDUCATION

ENTERTAINMENT

HEALTH

JUST FOR KIDS

PARENTAL CONTROL

NEWS

SEARCH

TRAVEL

WEATHER

CALENDAR

Le-Ru Telephone Company

M Mail L Locator O Organizer P Postcards

HOME COMMUNITY SERVICES LONG DISTANCE CONTACT US TECH SUPPORT

Powered By Utah Thursday, July 8, 2010

Stella, MO

Get the 10 day forecast

73°F Cloudy

Feels Like 73°F Humidity: 96% Wind: ENE at 2 mph

Enter city/zip GO

The Weather Channel weather.com

Airport Delays Sporting Events Pollen Reports

Will it snow on Christmas?

U.S. News

Severe Weather

Allen: Relief well timing depends on oil's spread (AP)

AP - The leader of the oil spill relief effort say

... continues

DSL

Experience the best of the Internet with a Le-Ru DSL connection. You can surf the Web and download files 20 to 30 times faster than dial-up, and DSL is always-on, so there is no waiting for a modem to dial-up and connect. Plus, with Le-Ru DSL there is no need for a second phone line. You can surf and talk on the phone at the same time over the same line.

Our DSL accounts include:

- Internet access at over 200 kbps
- Free Spam and Virus Protection
- 20 MBs of personal Web space
- Free technical support 24 hours a day, seven days a week

For more information or to order service, call **(417) 628-3844**.

Customer Control Panel

CALENDAR

COMMUNITY

CLASSIFIEDS

EDUCATION

ENTERTAINMENT

HEALTH

JUST FOR KIDS

PARENTAL CONTROL

NEWS

SEARCH

TRAVEL

WEATHER

CALENDAR

Le-Ru Telephone Company, Stella, Missouri (1,604 Access Lines)

Broadband Ad 12/9/2006.

<http://web.archive.org/web/20061209211311/http://www.leru.net/>

Broadband service includes: Free virus and spam protection, 10 MB personal webspace.

Broadband Ad Today.

<http://www.leru.net/>

Broadband service includes: Free virus and spam protection, 20 MB personal webspace.



Tatumtel DSL

Contents:

Tatumtel ADSL is an always on, High-speed Internet service. This means no more waiting to connect to the Internet. ADSL service is up to 21 Times Faster than a standard dial-up connection, that means faster downloads, faster surfing, and faster gaming.

Included with your ADSL account

- 5 E-mail addresses
- FREE Technical Support (24 hours, 7 days a week)
- Web Based E-mail
- 10 MB Web Page Space
- Dynamic Public IP Addressing

Pricing*

Plan Name	Plan Speeds	Monthly Rate
Basic	128 KB Up / 384 KB Down	\$39.00
Enhanced	256 KB Up / 768 KB Down	\$54.00
Deluxe	384 KB Up / 1.0 MB Down	\$90.00



**Hometown Values
World Class Technology**
Go Tatum Eagles!

- Home Page
- About Us
- Community Links
- Site Map
- Telephone Services**
 - Rates & Surcharges
 - Calling Features
 - Lifeline FAQ
- Internet Services**
 - High Speed Internet
 - Dialup Speed Internet
 - Usage Policy
- Webmail Login

Tatum Telephone ADSL Information

Tatumtel ADSL is an always on, high-speed Internet service. This means no more waiting to connect to the internet. ADSL service is up to 21 Times Faster than a standard dial-up connection, that means faster downloads, faster surfing, and faster gaming.

Included with your ADSL Account

- 5 E-mail addresses
- FREE Technical Support (24 hours, 7 days a week)
- Web Based E-mail
- 10 MB Web Page Space
- Dynamic Public IP Addressing

Sign Up Today!

Sign up online using our online web form. [Click here](#) now!

Or, if you would rather sign up by mail [click here](#).

The free **Adobe Reader** is needed to view this print version.

Pricing:

Plan Name	Plan Speeds	Monthly Cost
Basic	128 KB Up / 384 KB Down	\$39.00
Enhanced	256 KB Up / 768 KB Down	\$54.00
Deluxe	384 KB Up / 1.0 MB Down	\$90.00

*Applicable connection fees and taxes are not included in these rates.

Tatum Telephone Company, Tatum, Texas (1,000 Access Lines)

Broadband Ad 08/04/2006.

<http://web.archive.org/web/20051203013157/www.tatumtel.net/dsl.htm>

Broadband service includes: 5 e-mail addresses; Web based mail; 10 MB webspace; dynamic Public IP addressing.

Broadband Ad Today.

<http://www.tatumtel.net/adsl.php>

Broadband service includes: 5 e-mail addresses; Web based mail; 10 MB webspace; dynamic Public IP addressing.

WALDRON COMMUNICATION COMPANY
Local Impact, Global Reach

Internet Long Distance DIRECTV® Web Hosting & Email Other Services About Us Customer Care

WALDRON COMMUNICATION COMPANY
is committed to providing you quality communications with personal service you can rely on.

HIGH-SPEED INTERNET Want faster, higher-quality Internet service without the hefty price-tag? You've come to the right place.

These ADSL offerings are available in Waldron (517-286) only. If you are not in this area but would like high-speed Internet, see the [WildBlue section](#) below.

All pricing effective May 1, 2006

Price	\$29.95/mo	\$42.95/mo	\$52.95/mo
Speed (Down/Up)	256/256Kbps	512/256Kbps	768/256Kbps
Email Addresses	5	5	5
Web Space	10MB	10MB	10MB
Spam & Virus Filtering	Included	Included	Included
24x7 Support	Included	Included	Included

Current customers, take advantage of this rock-bottom pricing simply by committing to a new 12 month agreement.

Alacarte Items

- Speed Change \$30.00 per change
- Add'l Mailboxes \$0.60/mo each
- Add'l Up/Down Stream \$5.00/mo per 64KB
- Modems CURRENT MARKET PRICE
- Inline Filters \$4.10 each
- ADSL Splitter \$32.00 each

NEW - Satellite-Speed Internet!
Through a partnership with the [National Rural Telecommunications Cooperative \(NRTC\)](#), we are able to offer you high-quality, cost-effective [WildBlue high-speed internet service](#). This offering helps us broaden our reach and suite of services.

EXTREME DIAL
INTERNET ACCELERATOR

[Click here for our Internet Acceptable Use Policy](#)

Refer a friend

WALDRON COMMUNICATION COMPANY
Local Impact, Global Reach

Internet Long Distance DIRECTV® Web Hosting & Email Other Services About Us Customer Care

WALDRON COMMUNICATION COMPANY
is committed to providing you quality communications with personal service you can rely on.

HIGH-SPEED INTERNET Want faster, higher-quality Internet service without the hefty price-tag? You've come to the right place.

These ADSL offerings are available in Waldron (517-286) only. If you are not in this area but would like high-speed Internet, see the [WildBlue section](#) below.

Speed (Down/Up)	768/256	1Mbps/256	1.5Mbps/384	3Mbps/512
Email Addresses	5	5	5	5
Web Space	10MB	10MB	10MB	10MB
Spam & Virus Filtering	Included	Included	Included	Included
24x7 Support	Included	Included	Included	Included

Alacarte Items

- Speed Change \$30.00 per change
- Add'l Mailboxes \$0.60/mo each
- Add'l Up/Down Stream \$5.00/mo per 64KB
- Modems CURRENT MARKET PRICE
- Inline Filters \$4.10 each
- ADSL Splitter \$32.00 each

aNnouncements

Now offering 2 NEW Services!!!
New [Wireless Broadband Internet Service](#) is now available ... ALSO we're now setup to assist you with all of your [Networking Issues](#) too!

NetCentral, your NEW HOMEPAGE
We've setup a [new portal](#) for you to access various news stories, events, weather, financial information, maps/directions and just about anything else you'd want to find online. [Check it out!](#) And then set

Waldron Telephone Company, Waldron, Michigan (550 Access Lines)

Broadband Ad 12/30/2006.

<http://web.archive.org/web/20070717225614/www.wcomco.net/internet.html>

Broadband service includes: Broadband service includes: 5 e-mail addresses; Virus and Spam filtering, 10 MB webspace.

Broadband Ad Today.

<http://www.wcomco.net/internet.html>

Broadband service includes: Broadband service includes: 5 e-mail addresses; Virus and Spam filtering, 10 MB webspace.



Internet. Just plain supersonic.

Products/Services | Customer Care | About GVTC | Contact Us

GVTC Broadband

GVTC Broadband Internet access is fast. Really fast. At broadband speeds, most web pages load almost instantly, and music or video files can often be downloaded in a matter of seconds.

Now the Internet is right at your finger tips. All the time.

With GVTC Broadband, you're always connected, so using your high-speed avenue to the Internet is quick and easy - just click to your browser and there's the Web. You could use it for something important like work or school. But now that you don't have to wait to connect, you can just as easily go to the Web for reasons that are possibly not so important. You might use it to see what's coming on TV, or you could go to our online directory to look up someone's phone number.

So if you use the Internet, and you're wondering whether you should step up to Broadband, consider this: After you get GVTC Broadband Internet access, you'll probably end up using it a whole lot more than you're thinking now. As a matter of fact, at some point you'll almost certainly ask yourself how you ever got along without it. Maybe now is the time to make the leap to GVTC Broadband.

Basic Broadband

Speeds*:	Downspeeds range from up to 1.5 – 8 Mbps Upspeeds range from up to 384 – 768 Kbps
Includes:	1 Dynamic IP Address 3 Email boxes

Other packages available with static IPs and additional email boxes. For more details, please call or come by one of our customer care stores.

Telephone
Cable
Internet

- GVTC Broadband
- GVTC Accelerator
- GVTC Jumpstart
- Web Hosting
- 24hr. Tech Support
- Domain Registration
- Web Scam Alert
- Webmail
- Spam and Virus Filter
- Roaming Access
- Internet Speed Test
- Usage Report
- GVTC Internet Acceptable Use Policy
- GVTC Internet Service Terms And Conditions
- Fiber to the Home
- Fiber to the Business
- Security

Residential broadband lets you enjoy:



SIMPLY CHOOSE YOUR BROADBAND LEVEL

ULTIMATE SPEEDS:
Available in Fiber-to-the-Home service areas only.

Are you a multiple computer household? Or simply looking for the ultimate in speed and power? Then this is where you need to be. With GVTC, you can get speeds around 4 times as fast as anywhere else. You won't find faster speeds anywhere in the US Country ... or even in Arizona.

WHAT'S YOUR SPEED?
Just choose a level to suit your specific usage.

Broadband 12Mbps*
Good for customers who enjoy frequent online gaming, fast music and video downloads, etc.

Broadband 8Mbps*
Good for customers who often send large attachments, enjoy occasional gaming, and want a faster internet surfing experience.

Broadband 5Mbps*
Good for customers who will be sharing photos, downloading music, etc.

Broadband 1.5Mbps*
Good for customers who want to access email, send small attachments, and experience easy internet surfing.

Broadband Lite* 768kbps
Good for customers who just want access to email and to surf the internet for news and information very occasionally.

Broadband 40Mbps* - 10Mbps Uptime*
This is the fastest broadband, ideal for multi-computer households who want the ultimate experience possible in extreme online gaming and super fast music and video downloads. It's top-of-the-line connectivity at its best.

Broadband 20Mbps* - 1Mbps Uptime*
This super fast level of broadband is designed for customers who participate in intense online gaming and need to send and receive very large audio, video, image and photography files. It's perfect for heavy use in terms of bandwidth and number of connections and online transactions.

MyGVTC.com Custom Home page
Instant access, on one page, to GVTC, Gmail and Yahoo email

Over 40 free channels of commercial-free radio stations
Customizable so you can access content most important to you

Fastest downloads of digital pictures, video and music files

Smooth, clear video streams and CD-quality music

Maximized gaming experience

5 small boxes come standard, with an option to acquire more as needed

AND YOUR TERMS

- Triple Play* (Best Value)**
Save \$10/month off standard pricing. Get GVTC Broadband, plus choose two of the following: phone, cable or security monitoring.
- Double Play***
Save \$5/month off standard pricing. Get GVTC Broadband, plus choose one of the following: phone, cable or security monitoring.
- Month-To-Month***
Standard pricing with no discount.

CALL GVTC TODAY AND GET A BROADBAND PLAN THAT FITS YOU INSTEAD OF EVERYONE ELSE.

1-800-FOR-GVTC (1-800-367-4882)
www.gvtc.com



*GVTC Broadband plus phone, security monitoring, standard pricing which are subject to availability. Actual speeds may vary. Additional fees include: installation, training and support. GVTC reserves the right to change, modify, suspend, terminate, or alter its services without notice. Service provided pursuant to a service agreement. See the terms and conditions at www.gvtc.com for more information.

Guadalupe Valley Telephone Cooperative, New Braunfels, Texas (40,115 Access Lines)

Broadband Ad 12/20/2006.

<http://web.archive.org/web/20070210092306/www.gvtc.com/internet/gvtcbbroadband.php>

Broadband service includes: 3 e-mail addresses; and 1 Dynamic IP Address.

Broadband Ad Today.

<http://www.gvtc.com/brochures/ResidentialBroadband.pdf>

Broadband service includes: 5 e-mail addresses (with an option to acquire more as needed); web mail; and a custom home page with over 40 free channels of commercial-free radio stations and customizable access.

Basic Plan:	
Unlimited Access at speeds up to 1.5Mbps downstream and 512Kbps upstream.	
One E-mail Address.	
Free Internet Explorer or Netscape Communicator.	
Monthly Charge:	\$ 46.95
*Internet Setup Charge:	\$ 15.00
Telco Setup Charge:	\$ 95.00
**Equipment Cost:	\$155.00
Additional E-mail Accounts (per address per month). \$ 5.00	
Bronze Plan:	
Unlimited Access at speeds up to 1.5Mbps downstream and 512Kbps upstream.	
Two E-mail Addresses.	
Five megabytes of space (for saving files or Personal Homepage).	
Free Internet Explorer or Netscape Communicator.	
Monthly Charge:	\$ 50.95
*Internet Setup Charge:	\$ 15.00
Telco Setup Charge:	\$ 95.00
**Equipment Cost:	\$155.00
Additional E-mail Accounts (per address per month) . \$ 5.00	
Additional Disk Space (per meg per month). \$ 3.00	
Silver Plan:	
Unlimited Access at speeds up to 1.5Mbps downstream and 512Kbps upstream.	
Three E-mail Addressees.	
Seven megabytes of space (for saving files or Personal Homepage).	
Free Internet Explorer or Netscape Communicator.	
Monthly Charge:	\$ 58.95
*Internet Setup Charge:	\$ 15.00
Telco Setup Charge:	\$ 95.00
**Equipment Cost:	\$155.00
Additional E-mail Accounts (per address per month). \$ 5.00	
Additional Disk Space (per meg per month). \$ 3.00	
Gold Plan:	
Unlimited Access at speeds up to 1.5Mbps downstream and 512Kbps upstream.	
Five E-mail Addresses.	
Forty megabytes of space (for saving files or Personal Homepage).	
Free Internet Explorer or Netscape Communicator.	
Virtual Web Hosting	
Monthly Charge:	\$ 68.95
*Internet Setup Charge:	\$ 40.00

Basic Plan:	
Unlimited Access at speeds up to 1.5Mbps downstream and 512Kbps upstream.	
One Email address.	
Dial-Up account.	
Monthly Charge:	\$ 46.95
*DSL Internet Setup Charge:	\$115.00
**Telco Setup Charge:	\$185.00
***Equipment Cost:	\$ 75.00
Express Plan:	
Unlimited Access at speeds up to 3.0Mbps downstream and 512Kbps upstream.	
Two Email Addresses.	
Dial-Up account.	
Five megabytes of space (for saving files or Personal Home page)	
Monthly Charge:	\$ 56.95
*DSL Internet Setup Charge:	\$115.00
**Telco Setup Charge:	\$185.00
***Equipment Cost:	\$ 75.00
Pro Plan:	
Unlimited Access at speeds up to 4.5Mbps downstream and 512Kbps upstream.	
Four Email Addresses.	
Dial-Up account.	
Seven megabytes of space (for saving files or Personal Homepage)	
Monthly Charge:	\$ 66.95
*DSL Internet Setup Charge:	\$115.00
**Telco Setup Charge:	\$185.00
***Equipment Cost:	\$ 75.00
Elite Plan:	
Unlimited Access at speeds up to 6.0Mbps downstream and 512Kbps upstream.	
Six Email Addresses.	
Dial-Up account	
Forty megabytes of space (for saving files or Personal Homepage)	
Monthly Charge:	\$ 76.95
*DSL Internet Setup Charge:	\$115.00
**Telco Setup Charge:	\$185.00
***Equipment Cost:	\$ 75.00

Beggs Telephone Company, Beggs, Oklahoma (1,700 Access Lines)

Broadband Ad 12/20/2006.

http://web.archive.org/web/20050924110045/www.beggstelco.net/dsl_account_plans.htm

Broadband service includes: one to five e-mail addresses (with an option to acquire more as needed); five to forty MB of storage space; virtual web hosting; 1.5 Mbps download speeds.

Broadband Ad Today.

http://www.beggstelco.net/dsl_plans.htm

Broadband service includes: one to six e-mail addresses (with an option to acquire more as needed); and five to forty MB of storage space; 1.5 mbps – 6 Mbps download speeds.

573-293-2NET (2638), Toll Free 888-808-9207, Fax: 573-293-6901
Toll Free 24 hour Customer Support 866-543-3412, email: support@bpsnetworks.com

DSL Service

Residential Business

Residential DSL service \$34.95

- Installation:
 - Line setup fee: \$100.00 (one time fee)*
- (Line setup fee waived with a 1 year contract)
 - Installation: - Call for details-
- Includes:
 - 3 email addresses
 - Webmail interface
 - 5 MB personal web space (for business pages see below)
 - Internet access for a single computer ([see our AUP here](#))
- Options:
 - Static IP \$5.00 (requires preapproval and a separate agreement)
 - Second PC access - No additional monthly, but requires a DSL or firewall ([below](#))
 - Firewall - Call for pricing
 - DSL Router - \$75

BPS

Broadband BillPay AUP Contact Us

Home > Broadband > DSL

Residential/Business - 1.5M

Residential/Business DSL - 1.5M \$44.95/mo or \$36.95/mo with 2 year contract

- Installation
 - Line setup fee \$250 (Waived with one or two year contract)
- Features
 - 3 E-Mail addresses - many domains to chose from
 - Full featured webmail interface
 - 10Mb of personal webspace to host pictures and web pages
 - Free virus and spam scanning
 - 24x7 Technical support
- Options
 - Additional E-Mail accounts \$1.00/ea per month
 - Static IP \$5.00/mo (requires approval)

< Residential/Business - 768k up

Bernie, MO (63822)

86 °F High
Sunrise : 5:50 AM
Sunset : 8:20 PM

Parma, MO (63870)

86 °F High
Sunrise : 5:50 AM
Sunset : 8:19 PM

BPS Telephone Company, Bernie, Missouri (3,249 Access Lines)

Broadband Ad 12/05/2006.

<http://web.archive.org/web/20041207150048/bpsnetworks.com/dsl.html>

Broadband service includes: 3 e-mail addresses; 5 MB personal webspace; webmail interface.

Broadband Ad Today.

<http://www.bpsnetworks.com/node/10>

Broadband service includes: 3 e-mail addresses; full-featured webmail interface, 10 MB of personal webspace, free virus and spam scanning and 24x7 technical support. Four broadband speeds ranging from 768 kbps to 6 Mbps.

Are you tired of waiting hours for programs and music files to download from the internet? Are you tired of slow browsing speeds and getting disconnected? Wildcat Netlink DSL service is a new, high-speed internet service available from Carnegie Telephone Company. Using your existing phone line, Wildcat Netlink DSL can provide download speeds 10 to 30 times faster than a 56K modem. Even more—you're always on-line—no need to wait for a dial-up connection to be established.

Do I need a second phone line for Wildcat Netlink DSL?

- No. In fact, if you have a separate phone line for your computer now, you can have it disconnected or use it for another purpose. DSL service uses your existing home telephone line to send high-speed internet to your house.

Will my phone be "busy" when I'm online?

- No. DSL uses unused frequencies of your telephone line. As such, it does not keep your phone line used when it is active. You can talk on the phone or send a FAX on the line all while your high-speed internet connection stays active.

Will I have a different e-mail address and will my programs need to be changed?

- No. Your e-mail address and all of your internet programs will work the same with DSL as with a dial-up account—except they will all be faster.

What equipment is needed for DSL service?

- To have DSL service, our technicians will need to install a "line splitter" device on the outside of your house, in the telephone network interface box. This splits the high-frequency DSL signals apart from your normal phone conversations so you can use DSL and your normal phone line at the same time. You will also need an Ethernet card installed in your computer, if you do not already have one. Some newer computers have these pre-installed. If you do not have an Ethernet card, our technicians will install one for you free of charge. One final device is needed: a DSL "modem". This is a small box which sits outside your computer. It connects to the phone line and to the Ethernet card in your computer.

Can I get DSL at my house?

- If you live inside the town of Carnegie or Aftafa, or are within approximately three miles from our central offices in those towns, you can get DSL service. This covers a large portion of our customer base. If you live in a rural area more than three miles from Carnegie or Aftafa, you cannot currently get DSL service. However, this will change in the near future.

What are the costs involved?

- For RESIDENTIAL customers, the price for DSL service is \$49.95/month. There is also a one-time installation charge of \$195.00. The cost of the installation charge can be financed over a six-month period.
- For BUSINESS customers, the monthly charge is \$59.95. There is also the customary \$195.00 installation charge.
- If you have your own DSL-compatible modem/line adapter (compatible with the current G.DMT or G.LITE implementation, not CAP or CAP-i4e) the installation charge is reduced to \$95.00.

Want more information?

- Contact our office at (580) 654-1002, or e-mail us at carntel@carnegienet.net



High-Speed DSL Internet is available to every customer in the Carnegie Telephone territory. Imagine no more disconnects, busy signals, or slow downloads; that's what High-Speed Internet is all about! We are now proud to provide customers a full 6.0 megabits of DSL speed. Almost all customers that live within 2.5 miles of one of our DSL equipment cabinets can achieve this speed. Over 99% of our customers are in these areas. (see important note below)

ALWAYS A FAST CONNECTION.... 6.0 Megabits/sec!!!
DSL service starts at only \$39.95/month!

Residential ADSL Plans	Business ADSL Plans
6.0 Megabit download/256k upload..... \$39.95/mo.	6.0 megabit download/512k upload..... \$39.95/mo.
7.5 Megabit download/384k upload..... \$49.95/mo.	8.0 megabit download/512k upload..... \$49.95/mo.
9.0 Megabit download/512k upload..... \$59.95/mo.	10.0 megabit download/1024k upload..... \$59.95/mo.

Business VDSL Plans... available now to certain areas...

18 Megabit download/6 Mb upload..... \$69.95/mo.
40 Megabit download/18 Mb upload..... \$129.95/mo.

Additional services available:

- Additional e-mail addresses..... \$5.00/month.
- Basic Web site hosting..... FREE with service
- Advanced Web Site Hosting..... FREE with business plans*
- Business E-Mail Hosting..... \$11.95/month (includes up to 10 e-mail addresses)
- Static IP Address..... \$8.00/month, 3 addresses FREE with 10 megabit Business Plan

* Additional Domain Name fees may be applicable. Contact us for more details.

Installation Charges and optional Equipment:

- FREE Installation** (a DSL modem and an Ethernet port are required for service, however)
- DSL Modem: \$50.00 or you can use your own (if compatible)
- Wireless Router: \$37.95
- Wireless Router/DSL Modem Combo Device: \$73.95
- Wireless Adapter for desktop computer: \$25.00
- Wireless Adapter for notebook computer: \$35.00
- Ethernet Adapter for desktop computer: \$25.00
- Ethernet Adapter for notebook computer: \$65.00

Carnegie Telephone Company, Carnegie, Oklahoma (1,400 Access Lines)

Broadband Ad 02/10/2005.

<http://web.archive.org/web/20021214032052/www.carnegienet.net/dsl-information.htm>

Broadband service includes: Single broadband DSL offering for \$49.95.

Broadband Ad Today.

<http://www.carnegietelco.com/dslinfo.htm>

Broadband service includes: free e-mail address (with additional available); free basic and advanced website hosting, three broadband speeds ranging from 6 Mbps to 9.0 Mbps.

CLtel's DSL connection is the easiest way for you to get lightning-fast access to the Internet and you'll never hear a busy signal. Plus, unlike a cable modem, your DSL connection is all yours. Or if dial-up access with a modem is more your style, we've got that too.

To find out which option best meets your needs, please contact one of our Customer Service Representatives at 357-2111 today.

Clear Speed / Home

PACKAGE	SPEED
DSL - 256	256k Down 128k Up
DSL - 384	384k Down 128k Up
DSL - 768	768k Down 256k Up
DSL - 1.5	1.5Mb Down 320k Up

Residential classification is based on telephone billing. Customer must have an existing telephone line from the Clear Lake or Ventura Telephone Company. The monthly package *includes* the cost of your internet account. [Top]

CLtel
We Make It Easier!

641-357-2111

Home | CLvision | Digital Voice | Long Distance | Internet | eStore | Wireless | Community | About Us | Packages | Directory

Related Links

- > Getting Started
- > Internet Classes
- > Internet Security
- > FAQ
- > Troubleshooting
- > eSupport
- > Parental Control
- > eNewsletter
- > ESPN360
- > Online Backup

Quick Links

- > Contact Us
- > Packages
- > CLvision Channel Lineup
- > GO TV
- > Newsletter
- > Search our Site
- > Web Mail

High Speed DSL go FAST!

CLnet² Internet

CL Tel Internet

CL Tel's DSL connection is the easiest way for you to get lightning-fast access to the Internet and you'll never hear a busy signal. You'll be speeding around the Internet at speeds up to 3Mbps. Plus, unlike a cable modem, your DSL connection is all yours. Or if dial-up access with a modem is more your style, we've got that too.

With CL Tel Internet you get all this:

- o Free Professional Installation
- o 24-Hour Technical Support
- o Free Local Internet Classes
- o Free SPAM and Virus Filters
- o 5 Email Accounts
- o Webmail Access
- o Free Monthly eNewsletter
- o ESPN360 Access

DSL service is not available in all areas. To find out if it's available at your home or business, call 357-2111.

Clear Lake Telephone Company, Clear Lake, Wisconsin (1,493 Access Lines)

Broadband Ad 02/10/2005.

<http://web.archive.org/web/20060207082345/cltel.com/cltel/internet.html>

Broadband service includes: A choice of four different broadband speeds, up to 1.5 Mbps.

Broadband Ad Today.

http://www.cltel.com//index.php?option=com_content&task=view&id=20&Itemid=10

Broadband service includes: 5 free e-mail addresses; free SPAM and virus filters, webmail access, ESPN360 access and free local Internet classes; offering speeds up to 3.0 Mbps.

CVFTC Coon Valley Farmers Telephone Co.

Home Contact Us Web Clients Bulletin Board

Services

Video & DSL Channel Line Up Dial-Up Long Distance Telephone Web Hosting

Support

Change Password Downloads E-mail Setup Junk E-mail Filter Mac Settings Time Usage Virus Support

Links

Amazon Apple Newegg CNET Digg eBay La Crosse Tribune Microsoft MWT Newegg Slashdot TWIT

Residential DSL	
256K	\$34.95
512K	\$44.95
Business DSL	
256K	\$44.95
512K	\$54.95

Residential DSL with Video	Basic Video	Expanded Video	Total PKG Price with Basic Video	Total PKG Price with Expanded Video
128K	\$24.95	\$32.95	\$42.95	\$57.90
256K	\$29.95	\$32.95	\$42.95	\$62.90
512K	\$39.95	\$32.95	\$42.95	\$72.90

Video Activation - \$35.00
Video Installation - Free

DSL Activation - Free
DSL Installation - \$35.00 per hour

Optional Equipment
Network Card - \$20.00
Wireless Router - \$70.00
Wired Router - \$59.00

CVFTC Coon Valley Farmers Telephone Company
"Providing All Your Communication Needs!"

Home Bundle/Package Telephone Video Internet Support Contact Us

Get Connected.

With **High-Speed Internet** from Coon Valley Telephone.
Now available in our **entire** service area.

Talk on the phone and use the internet at the same time!

Please read the [Midwest Telnet Acceptable Use Policy](#).

High-Speed Internet
Unlike Dial-up internet, High-Speed internet allows you to be on the internet without tying up your telephone line. Installation of High-Speed internet is \$50.00/hr and usually takes an hour or less depending on the house.

All Customers are capable of getting up to 5mbps High Speed Internet Service.

Requirements

- A Network Interface Card (NIC). Most newer computers already have one. If you do not have one, you can purchase one from Coon Valley Farmers Telephone or from Best Buy, Wal-Mart etc...
- Computer with Windows 2000 operating system or newer is preferred.

Speeds (Residential)

We offer several High-Speed Packages. Speed is measured in kbps(kilobits per second), downstream/upstream.

- 512kbps/512kbps \$30.00/month
- 1mbps/512kbps \$35.00/month
- 2mbps/512kbps \$45.00/month
- 3mbps/512kbps \$55.00/month
- 5mbps/1mbps \$65.00/month
- 10mbps/1mbps \$75.00/month
- 20mbps/1mbps \$95.00/month

Coon Valley Farmers Telephone Company, Coons Valley, Wisconsin (2,248 Access Lines)

Broadband Ad 02/10/2005.

<http://web.archive.org/web/20061007003005/http://www.coonvalleytel.com/>

Broadband service includes: A choice of two broadband speeds up to 512 Kbps.

Broadband Ad Today.

<http://www.coonvalleytel.com/internet.html>

Broadband service includes: Seven different broadband speeds up to 20 Mbps (all customers are capable of receiving up to 5 Mbps); one e-mail account; web mail access; and access to free Anti-Virus and Spyware protection downloads.

Web pages full of photos will flash up instantly before your eyes. E-mail large files in seconds or minutes instead of hours.

- **High-Speed gives you access to the latest technologies**

Many of today's sophisticated Internet applications, including interactive games, live videoconferencing, interactive learning platforms and multi-location data convergence, would be impossible without a high-speed connection.

- **Surf the 'Net and talk on the phone at the same time!**

With High-Speed, you don't need an additional phone line for Internet access. High-Speed utilizes an advanced technology that enables your computer and your telephone to operate simultaneously on your existing telephone line!

- **Networking Capabilities.** High-Speed modems typically can be attached to a network hub, allowing multiple users to access the Internet simultaneously via a single access account.

RESIDENTIAL PLAN 1 1.5Mb down x 256K up	\$39.00 per month
---	-------------------

RESIDENTIAL PLAN 2 3Mb down x 384K up	\$51.00 per month
---	-------------------

MODEM/ROUTER: Lease - \$3.95 per month or Purchase - \$125.00
(a residential single PC user)

INSTALLATION - \$100.00 residential single PC user

ACTIVATION - \$95.00 FREE ACTIVATION for a limited time - with a one-year commitment!

Includes:

Unlimited Internet access

E-mail account

emScan, an innovative spam and virus-fighting service

10Mb of storage space for a personal (non-commercial) Web site

Free net browser, mail client, and news client software (customers are not limited to using our software)

Toll-free 24/7 technical support

Additional e-mail accounts, storage space and commercial services are also available.

Darien Communications
Residential | Local Service | Long Distance | Internet | Cable TV | E-Bill | Home
Business | Local Service | Long Distance | Internet | Cable TV | Who We Are

Residential Internet - High-Speed

Blazing Fast Speeds!
Up To 6Mbps

\$42.95 per month
with Darien telephone service. Service charge may apply.

\$62.95 per month
without Darien telephone service. Service charge may apply.

All Darien Communications Internet accounts include:

- 100Mb of email storage
- 24/7 Tech Support
- Authentication
- Newsgroup access
- Spam Filtering
- Greymail
- Virus Scanning (Inbound and Outbound)
- Videomail
- Webmail
- Email Forwarders
- Email Aliases
- 10Mb of Backup Storage

FREE ACTIVATION
for a limited time - with a one-year commitment!
(\$99.00 Value)

Darien Telephone Company, Darien, Georgia (5,721 Access Lines)

Broadband Ad 12/05/2006.

http://web.archive.org/web/20070204160835/darientelephone.com/residential_internet_high_speed.php

Broadband service includes: A choice of two broadband speeds up to 3 Mbps, free e-mail, free spam and virus service, 10 MB of storage space for personal website, free browser, mail client and news client software.

Broadband Ad Today.

http://www.darientelephone.com/residential_internet_high_speed.php

Broadband service includes: broadband speeds up to 6 Mbps, 100Mb of email storage, Newsgroup access, Spam Filtering, Greymail, Virus Scanning (Inbound and Outbound), Videomail, Webmail, Email Forwarders, Email Aliases, 10 Mb of Backup.


Call (888)774-1NET or [E-MAIL US](#) today!

Want to Speed Legally?
Get Egyptian's SpeedNet DSL

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[Egyptian E-billing](#)
[Webmail](#)
[E-User Tools](#)
[Cyber School](#)
[Bulletin Board](#)

Web Hosting | High-Speed | Dial-up | Telephone and Communications | Propel

"Speed Legally" on the Internet with Egyptian's SpeedNetSM DSL (Digital Subscriber Line)

What is Egyptian SpeedNetSM DSL Internet Access?
 This state-of-the-art service uses Digital Subscriber Line (DSL) technology to carry data at high speeds over a standard copper telephone line. With SpeedNetSM DSL, you can attain speeds 20-30 times faster than a traditional 28.8kbps Modem. Egyptian SpeedNetSM DSL Internet Access gives you the ability to surf the web and talk on your phone at the same time. Just think, no more busy signals or long waits to make a call.

What kind of equipment is needed for Egyptian SpeedNetSM DSL Internet Access?

- An Ethernet Network Interface Card (NIC) installed in your computer.
- A DSL modem is furnished in the package by Egyptian.

Where does Egyptian provide SpeedNet SM DSL Internet Access?			
Baldwin	DeSoto	Blair	DuQuoin
Glenn	DuQuoin	St. Libory	Eldorado
Venedy	Goreville	Oakdale	Harrisburg
Rice	Herrin	Anna	Hurst
Brookport	Murphysboro	Benton	Marissa
Carterville	Metropolis	Carbondale	Royalton
Chester	Shawneetown	Lakewood	Sparta
Marion	Sesser	Coulterville	Tilden
WestFrankfort	Vienna	Johnston City	Cobden
Lakeland	Christopher	Pinckneyville	Percy

Stay tuned for upcoming announcements on new communities to be released!!

Here's what you get with Egyptian's SpeedNetSM DSL service?

- Unlimited Internet Access
- Speeds 20-30 times faster than a traditional 28.8 modem
- Simultaneous transmission of a telephone call and high speed data over the same line
- "Always On" technology -- there's no need to dial-up each time you want to connect to the Internet
- 24-Hour Customer Service/Technical Support
- World Wide Web, E-Mail, Newsgroups
- Free Personal Home Page
- Two Free Email Accounts


Call (888)774-1NET or [E-MAIL US](#) today!

Tell Telemarketers to Stuff It!
with Telemarketer Call Screening!

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[Webmail](#)
[E-User Tools](#)
[Cyber School](#)
[Bulletin Board](#)

Wireless | Web Hosting | High-Speed | Dial-up | Telephone and Communications | Propel | SecureIT Plus

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Glenn	DuQuoin	St. Libory	Eldorado
Venedy	Goreville	Oakdale	Harrisburg
Rice	Herrin	Anna	Hurst
Brookport	Murphysboro	Benton	Marissa
Carterville	Metropolis	Carbondale	Royalton
Chester	Shawneetown	Lakewood	Sparta
Marion	Sesser	Coulterville	Tilden
WestFrankfort	Vienna	Johnston City	Cobden
Lakeland	Christopher	Pinckneyville	Percy

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- "Always On" technology -- there's no need to dial-up each time you want to connect to the Internet
- 24-Hour Customer Service/Technical Support
- World Wide Web, E-Mail, Newsgroups
- Free Personal Home Page
- Two Free Email Accounts

Egyptian Internet Services, Inc. (Egyptian Telephone Cooperative Association), Steeleville, Illinois (2,880 Access Lines)

Broadband Ad 12/05/2006.
<http://web.archive.org/web/20060615175052/egyptian.net/services/dsl.shtml>
 Broadband service includes: free personal home page; two free e-mail accounts.

Broadband Ad Today.
<http://www.egyptian.net/services/dsl.shtml>
 Broadband service includes: free personal home page; two free e-mail accounts.

Granby Telephone Company
A PINE TREE NETWORKS COMPANY

Internet Access for Granby

gogtt.net Broadband

Today, we use computers and the Internet for our finances, shopping, business, and entertainment. Demands on the Internet have grown to the point that we need connections that are always on and many times faster than 56K.

With gogtt.net Broadband Internet access, you can surf the web at up to 20 times the speed of dial-up. gogtt.net is an always-on connection that is as fast or faster than those offered by competing providers, with better privacy and security.

gogtt.net offers these advantages:

- gogtt.net is many times faster than dial-up.
- gogtt.net will not tie up your phone line (no added phone line needed.)
- gogtt.net offers greater security and privacy than cable based on single-line technology.
- gogtt.net's single line technology is less susceptible to slow downs during busy times than competitors.
- Granby Telephone screens all emails for viruses and updates virus definitions daily for maximum protection.
- Granby Telephone screens all emails for spam, dramatically reducing the quantity of junk email you receive.
- gogtt.net users enjoy remote access to email via Web Mail from any computer with Internet access, anywhere in the world.
- Connect multiple PC's with purchase of an inexpensive switch or hub from your computer retailer.

gogtt.net Broadband		With basic service	With Clearly Affordable Long Distance
gogtt.net	4 FREE Email Accounts FREE Email Anti-Virus FREE Installation FREE 5mb personal web page. FREE Support for one computer. Costs LESS than Cable.	\$39.95 per month Request Form	\$34.95 per month

Granby Telephone Company
A PINE TREE NETWORKS COMPANY

Internet Access for Granby

SecureSpeed™ Broadband Services

Today, we use computers and the Internet for our finances, shopping, business, and entertainment. Demands on the Internet have grown to the point that we need fast connections that are always on.

SecureSpeed™ offers these advantages:

- SecureSpeed™ is many times faster than dial-up.
- SecureSpeed™ will not tie up your phone line (no added phone line needed.)
- SecureSpeed™ offers greater security and privacy than cable based on single-line technology.
- SecureSpeed™'s single line technology is less susceptible to slow downs during busy times than competitors.
- Granby Telephone screens all emails for viruses and updates virus definitions daily for maximum protection.
- Granby Telephone screens all emails for spam, dramatically reducing the quantity of junk email you receive.
- SecureSpeed™ users enjoy remote access to email via Web Mail from any computer with Internet access, anywhere in the world.
- **Wireless Networking** is now available with all SecureSpeed™ products.

SecureSpeed™ Broadband		With basic service	With Clearly Affordable Long Distance
SecureSpeed™	Up to 20 times faster than dial-up 4 FREE Email Accounts FREE Email Anti-Virus FREE Installation FREE 5mb personal web page. FREE Support for one computer.	\$39.95 per month Request Form	\$34.95 per month Request Form
SecureSpeed™ Plus	Up to 60 times faster than dial-up 6 FREE Email Accounts FREE Email Anti-Virus FREE Installation FREE 5mb personal web page. FREE Support for one computer. Up to three times as fast as regular SecureSpeed.	\$44.95 per month Request Form	\$39.95 per month Request Form
SecureSpeed™ XT	Up to 120 times faster than dial-up 8 FREE Email Accounts FREE Email Anti-Virus FREE Installation FREE 5mb personal web page. FREE Support for one computer. Up to six times as fast as regular SecureSpeed.	\$49.95 per month Request Form	\$44.95 per month Request Form

Granby Telephone Company, Granby, Missouri (2,279 Access Lines)

Broadband Ad 12/05/2006.

http://web.archive.org/web/20061209015610/gogtt.net/residential/internet_access_1.asp

Broadband service includes: single choice of broadband speeds, 4 free e-mail accounts, free e-mail anti-virus, Spam protection; free 5 Mb personal web page, remote access.

Broadband Ad Today.

http://www.gogtt.net/residential/internet_access_1.asp

Broadband service includes: choice of three broadband speeds, up to 8 free e-mail accounts, free e-mail anti-virus, Spam protection; free 5 Mb personal web page, remote access and wireless networking.

With Net@HomeXpress High Speed Internet Access, you get high speed Internet access connected through a Digital Subscriber Line or a cable modem. **Why is this better than a dial-up connection?** In a word - SPEED! Although download speeds are affected by the speed of the server and by the amount of traffic on the Internet at any given time, our high speed options can transfer data downstream at up to 3 mbps (megabits per second) - much faster than a standard 28.8 kbps dial-up modem! **CLICK HERE TO SEE IF NET@HOMEXPRESS IS AVAILABLE IN YOUR AREA!**

What are the advantages of High Speed Internet Access?

- o Very high transmission speeds
- o Access is instant and constant - no busy signals or disconnects
- o High speeds give you true multimedia capabilities
- o Able to make and receive calls or watch TV while surfing the net

Xpress Essential \$44.95/month, 256K upstream - up to 1M downstream

If you use the Internet for basic web browsing and email, or download files or view multimedia (music/video) files on a regular basis, Xpress Essential is best for you. Xpress Essential provides speeds of 256K upstream and up to 1M downstream.

Xpress Premium \$54.95/month, 512K upstream - up to 3M downstream

Xpress Premium is best for users who play online games and send multimedia or other large files. Xpress Premium provides a faster upload speed of 512K while maintaining a download speed of up to 3M.

All residential plans include:

- o Modem Lease
- o Unlimited Internet usage
- o Eight email addresses - Additional addresses are available for a monthly charge of \$3.00 each.
- o Dynamic IP address
- o 20 MB Web Space - For your personal web page
- o One free dial-up account for use while traveling
- o 24/7 technical support
- o Postini Email Filtering

The screenshot shows the Home Telephone Company website. At the top, the logo reads "HOME TELEPHONE · INTERNET · CABLE TV · WIRELESS · SECURITY". The main navigation bar includes "BUNDLES", "INTERNET", "CABLE TV", and "WIRELESS". Under "INTERNET", there are sub-links for "SECURITY", "TELEPHONE", "WHO WE ARE", and "BUSINESS".

The main content area is titled "HIGH SPEED INTERNET FIBER" and describes the service as super-fast, delivered via fiber technology. It includes a "Requirements" section and a table of service plans:

	Speed up to	Per Month*
Xpress Ultimate	15 Mbps	\$74.95
Xpress Extreme	10 Mbps	\$64.95
Xpress Premium	6 Mbps	\$54.95
Xpress Essential	3 Mbps	\$44.95

Below the table, it notes that installation charges apply and services are not available in all areas. A "Check Availability" link is provided. The "Features" section lists: Quick, easy setup; Always on, always connected; Today's fastest speeds; and 8 e-mail accounts.

On the left sidebar, there are "QUICK LINKS" for View/Pay Bill, Check E-mail, Internet Tools, VIGs, Contact Us, and Legal Notices. Below these are logos for "make it yellow.com" and "yellow pages".

At the bottom left, there is a "WIRELESS" section with a photo of a woman on a phone and a list of services: National Calling Plans, Family Talk Plans, Rollover Minutes, Phones, and Accessories. It states "Plans starting at only \$39.99 per month".

At the bottom right, there is a "Attention Dial-Up Customers!" section with a photo of a family and a "NEW" starburst. It says: "The local access number for use by Home Dial-Up customers when in Charleston has changed. The new number is 471-2800".

Next to it is a "Google" logo and text: "Home is now partnering with Google® to offer Google Apps Partner Edition, a rich collection of new services! Beginning with the setup of your HomeSC.com e-mail account, you can begin taking advantage of all that Google offers."

Home Telephone Company, Moncks Corner, South Carolina (24,000 Access Lines)

Broadband Ad 12/05/2006. **Broadband Ad Today.**

<http://web.archive.org/web/20061031234608/hometelco.com/express.html> <http://www.hometelco.com/fiberRes.php>

Broadband service includes: two choices of DSL broadband, up to 3 Mbps; eight e-mail addresses; dynamic IP address; 20 MB web space; e-mail filtering.

Broadband service includes: four choices of DSL (768 Kbps to 10 Mbps), and four choices of fiber technology (3 Mbps to 15 Mbps); 8 e-mail accounts; free Internet security and dynamic IP address; online customer service support chat.

Premier Fiber Access.....	\$39.95
- Fast Fiber Optic Internet Service	
Professional Fiber Access.....	\$59.95
- Fast Fiber Optic Internet Service	
- 1 static IP Address with Additional IP Addresses Available for \$10 each	
- Major Ports Enabled	
DSL Access.....	\$39.95
- Up to 1.5 meg DSL Service	
Professional DSL Access.....	\$59.95
- Up to 1.5 meg DSL Service	
- 1 static IP Address with Additional IP Addresses Available for \$10 each	
- Major Ports Enabled	
Dial-Up Internet.....	\$19.00
- 56k V.92 Dial-up Modem Service	
School Discount.....	\$16.00
- Discounted rate for school faculty and families of students attending local schools (Dial-up only)	
Internet Accelerator.....	\$2.00
- Accelerates your connection up to 6x faster & adds essential safety features!	
All of our Internet Access options include:	
<ul style="list-style-type: none"> ● 3 e-mail addresses ● Free 24/7 LIVE tech support ● Free virus and SPAM filtering ● Free Pop-Up Blocker ● Professional Installation ● Unlimited Internet Access 	

Internet Access Includes
3 E-mail Addresses Free 24/7 LIVE Tech Support Free E-Mail Virus and Spam Filtering Free Pop-Up Blocker Unlimited Internet Access 25mb of Web Space Professional Installation <small>(View our Internet Terms of Service)</small>
Additional Services Available
Routers Wireless Networks Professional Networking Service Private VLANs and Subnets Domain Hosting Additional E-Mail Addresses Additional Web Space Internet Accelerator with Anti Spyware, Privacy Protection, Ad Blocker and Parental Control

Hood Canal Communications, Union, Washington (1,035 Access Lines)

Broadband Ad 12/05/2006.

<http://web.archive.org/web/20061107132316/home.htc.com/x44.xml>

Broadband service includes: 3 e-mail addresses, Free 24/7 LIVE Tech Support, Free E-Mail Virus and Spam Filtering, Free Pop-Up Blocker, Professional Installation.

Broadband Ad Today.

<http://www.hcc.net/serv-broadband.php>

Broadband service includes: 3 e-mail addresses, Free 24/7 LIVE Tech Support, Free E-Mail Virus and Spam Filtering, Free Pop-Up Blocker, 25mb of Web Space, Professional Installation.

COSTS

With DSL, you have 2 choices of speeds to choose from

- 128k down / 64k up ---- \$37.70 / month
- 384k down / 128k up ---- \$40.70 / month

OTHER INFORMATION

- You will be given (1) Static IP Address, that belongs to only you. This enables your computer to be on our "High Speed Network". Most ISP's set up for DHCP or dynamic (random) IP Addresses, here at Venus, you have the same IP address all the time.

DETAILS

- DSL requires some installation, which is FREE (the first time you get hooked up). DSL prices include Internet Access. With DSL you must have either an Ethernet Card or a USB to Ethernet Adapter and a USB port on your PC. You must have a phone jack in the vicinity of your computer. Otherwise a phone jack will need to be installed. Charges will apply if a jack is required. We require customers to use Windows 98 or newer operating systems for DSL. No Windows 95 applications will be installed. With DSL, there is a mandated 1 year contract. If this contract is broken, a \$95 installation fees applies - which is waived if you keep it for a year.
- Along with your DSL Service, you will also get protection from hackers, with a Private IP Address, that is almost impossible to hack through, Up to (5) email addresses, and 5 Mb or server space to store files and or host websites.

COSTS

With DSL, you have 3 choices of speeds to choose from

- 384k down / 128k up ---- \$39.00 / month
- 768k down / 384k up ---- \$45.00 / month
- 1Mb down / 500k up ---- \$60.00 / month

Venus Telephone Company, Venus, Pennsylvania (1,246 Access Lines)

Broadband Ad 10/06/2006.

<http://web.archive.org/web/20061020061755/www.venustel.com/DSL.htm>

Broadband service includes: two choices of DSL broadband; dynamic IP address.

Broadband Ad Today.

<http://www.venustel.com/DSL.htm>

Broadband service includes: three choices of DSL (384 Kbps; 768 Kbps or 1 Mbps); 5 e-mail accounts; private IP address; and 5 MB for personal storage or website.

DSL High Speed Internet Access for Toledo Area

- 640kbps Downstream / 256k Upstream
- \$39.95/mo. (includes DSL line & Internet access)
- \$99.00 Installation Charge (Includes DSL Modem and On-site Installation)
- 5 email addresses
- 10 Megabytes of personal web space

Toledo Telnet ISP agreement:

[Download ISP Agreement \(PDF\)](#)

[Download Modem Agreement \(PDF\)](#)

Fiber To The Home (FTTH) for Winlock Area

- 640kbps Downstream / 256k Upstream
- \$49.95/mo.
- \$99.00 Equipment Fee
- 5 email addresses
- 10 Megabytes of personal web space

Toledo Telnet ISP agreement:

[Download ISP Agreement \(PDF\)](#)

[Download Modem Agreement \(PDF\)](#)

HIGH SPEED INTERNET ANYWHERE! With DSL, Fiber to the Home, or WildBlue service!

DSL High Speed Internet Access for Toledo Area

- DSL BASIC - \$39.95/mo. up to 768K / 256K
- DSL PLUS - \$49.95/mo. up to 2M / 512K
- DSL PREMIER - \$54.95/mo. up to 5M / 1M - Plus a free Vudu "Video On Demand" receiver (limited time offer)
- \$99.00 Installation Charge (Includes DSL Modem and On-site Installation)

Service Includes:

DSL line & Internet access

5 email addresses

10 Megabytes of personal web space

Toledo Telnet ISP agreement:

[Download ISP Agreement \(PDF\)](#)

[Download Modem Agreement \(PDF\)](#)

Fiber To The Premises (FTTP)

- DSL BRONZE - \$49.95/mo. up to 1mb / 512k
- DSL SILVER - \$64.95/mo. up to 5mb / 1mb
- DSL GOLD - \$74.95/mos. up to 10mb / 2mb - Plus a free Vudu "Video On Demand" receiver (limited time offer)
- \$99.00 Installation Charge (Includes On-site Installation)

Service Includes:

DSL line & Internet access

5 email addresses

10 Megabytes of personal web space

Toledo Telephone Cooperative, Toledo, Washington (2,200 Access Lines)

Broadband Ad 12/31/2006.

<http://web.archive.org/web/20080210020014/www.toledotel.com/internet/>

Broadband service includes: two choices of DSL or FTTH broadband, five e-mail addresses; 10 MB web space; e-mail filtering.

Broadband Ad Today.

<http://www.toledotel.com/internet/>

Broadband service includes: 3 DSL speed tiers and 3 FTTH speed tiers; 5 e-mail addresses; 10 MB of personal webspace; free Vudu Video on Demand receiver.

Sisqtel.net - Help Desk - Toll Free, 24/7
888-896-7820

WEBMAIL (webmail.sisqtel.net)
With integrated Virus and Spam Filtering

Online documentation - Spam Filtering
For more information, login to your webmail account with your username and password and view the documentation available via the "Help" link.

sisqtel.net
Siskiyou Telephone - A Tradition of Excellence since 1896!

Home » Services and Rates
Broadband, Data Only

Broadband, Data Only (aDSL)

- Includes unlimited access
- 5 email addresses
- Web Mail
- Virus Filtering
- Spam filtering
- Auto-responders
- Mail forwarding
- 10mb web storage

	Downstream	Upstream	Price
Economy	Up to 384 Kbps	Up to 256 Kbps	\$59.95/Month
Basic	Up to 1.5 Mbps	Up to 512 Kbps	\$74.95/Month
Enhanced	Up to 3.0 Mbps	Up to 1.0 Mbps	\$94.95/Month

The Siskiyou Telephone Company, Etna, California (4,500 Access Lines)

Broadband Ad 12/05/2006.

<http://web.archive.org/web/20060717103743/sisqtel.net/index.html>

Broadband service includes: basic DSL broadband with e-mail and web-mail.

Broadband Ad Today.

<http://www.sisqtel.net/broadband>

Broadband service includes: three choices of DSL (384 Kbps to 3 Mbps); 5 e-mail accounts; web-mail, virus and spam filtering; auto-responders; mail-forwarding and 10 MB web storage.

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Consumer ExpressNet Service

The world at your fingertips. Useful, educational, fun and now accessible at high speed with ExpressNet. Instant message your friends, download music and movies, and more. ExpressNet is up to 50 times faster than dial-up. Go online and talk on the phone at the same time on your single existing phone line.

For more information about ExpressNet, call 336-886-3720 or visit our [FAQ](#) page.

ExpressNet — \$39.95

Enjoy unlimited high-speed access to the Internet—for less! ExpressNet is always on, a direct connection...no more waiting to log on and there is no charge additional computers.

Includes:

- unlimited access
- email
- Instant Messaging
- chat
- spam filtering
- virus screening
- no charge for additional computers

[Sign up for ExpressNet! >>](#)

Why get wireless anywhere else?

unlimited local & long distance now as low as \$39.95

PLEX LITE as low as \$15.00/mo	PLEX 6.0 as low as \$35.00/mo	PLEX 10 as low as \$40.00/mo	PLEX 20 as low as \$50.00/mo
<p>768k Downloads 256k Uploads FREE Installation FREE Modem FREE Email with Spam Filters 5 Email Accounts</p>	<p>6Mbps Downloads 768k Uploads FREE Installation FREE Home Wi-Fi FREE Modem FREE Email with Spam Filters 5 Email Accounts</p>	<p>10Mbps Downloads 768k Uploads FREE Installation FREE Home Wi-Fi FREE Modem FREE Email with Spam Filters 5 Email Accounts</p>	<p>20Mbps Downloads 768k Uploads FREE Installation FREE Home Wi-Fi FREE Modem FREE Email with Spam Filters 5 Email Accounts</p>
<p>For basic use:</p> <ul style="list-style-type: none"> • Always on • Basic surfing • Email • Small file transfer 	<p>For faster downloads:</p> <ul style="list-style-type: none"> • Photos • Music • Videos • Light gaming 	<p>For more speed & large downloads:</p> <ul style="list-style-type: none"> • Heavy gaming • Movies • Online conferencing • Watching web based television 	<p>For more speed & large downloads:</p> <ul style="list-style-type: none"> • Super fast for all use • Multiple connections / simultaneous downloads • Streaming content
SIGN UP	SIGN UP	SIGN UP	SIGN UP

PLEX 10/10 as low as \$45.00/mo	PLEX 20/20 as low as \$55.00/mo	PLEX 30/30 as low as \$75.00/mo
<p>10Mbps Downloads 10Mbps Uploads FREE Installation FREE Home Wi-Fi FREE Modem FREE Email with Spam Filters 5 Email Accounts</p>	<p>20Mbps Downloads 20Mbps Uploads FREE Installation FREE Home Wi-Fi FREE Modem FREE Email with Spam Filters 5 Email Accounts</p>	<p>30Mbps Downloads 30Mbps Uploads FREE Installation FREE Home Wi-Fi FREE Modem FREE Email with Spam Filters 5 Email Accounts</p>
<p>For faster downloads:</p> <ul style="list-style-type: none"> • Same Speeds upload/download • Photos • Music • Videos • Heavy gaming 	<p>For more speed & large downloads:</p> <ul style="list-style-type: none"> • Same Speeds upload/download • Heavy gaming • Movies • Online conferencing • Watching web based television 	<p>Fastest available speed in the area:</p> <ul style="list-style-type: none"> • Same Speeds upload/download • Super fast for all use • Multiple connections / simultaneous downloads • Online conferencing • Streaming Content
SIGN UP	SIGN UP	SIGN UP

*Advertised speeds are maximum download and upload. Prices shown are for residential service only. Subject to service availability.

Plex Broadband Internet subscribers receive exclusive web content and have access to a number of premium services with their account.

North State Communications, High Point, North Carolina (100,000 Access Lines)

Broadband Ad 12/30/2006.

<http://web.archive.org/web/20040806143821/northstate.net/consumer/expressnet.shtml>

Broadband service includes: two choices of DSL, e-mail, instant messaging, chat, spam filtering and virus screening.

Broadband Ad Today.

<http://www.northstate.net/productpage.php?id=157&landingpageid=1&productlandingpageid=2>

Broadband service includes: four choices of DSL (768 Kbps to 10 Mbps, and four choices of fiber technology (3 Mbps to 15 Mbps); 8 e-mail accounts; free Internet security and dynamic IP address; online customer service support chat and exclusive web content (e.g., ESPN, Disney).

Appendix 3

Investment Quotes

What Analysts Are Saying about the Impact of Title II, the FCC's "Third Way," and Net Neutrality on Investment, Innovation, and Employment

Reactions: Impact of Title II / Third Way / Net Neutrality

Craig Moffett, Bernstein Research, *Quick Take - U.S. Telecommunications, U.S. Cable & Satellite Broadcasting: The FCC Goes Nuclear* (May 5, 2010)

- Markets abhor uncertainty. Today [upon the FCC announcement of its "Third Way" plan] we got uncertainty in spades.
- We would expect a profoundly negative impact on capital investment. To the extent that reduced network investment increases network congestion (particularly if these regulations apply to wireless networks), then the implications for downstream equipment and applications providers are also negative, inasmuch as the user experience can be anticipated to degrade.
- This development is an unequivocal negative development for almost all of our coverage universe ...

Craig Moffett, Bernstein Research, *Weekend Media Blast: Internet En-tit- ment... The Nuclear Option* (April 16, 2010)

- Title II designation would have sweeping implications that go far, far beyond net neutrality. It would call into question virtually every assumption about the terminal value of networks, as they would be subject to enormous and unpredictable regulatory risk going forward...
- In the face of this uncertainty, capital investment – and, therefore, employment in the sector – would decline, and perhaps precipitously. How could a carrier make capital investments that in many cases have a return profile that stretches over fifteen to twenty years if the regulatory framework offered visibility over only the next few years? Telecom and cable operators have privately indicated that a Title II designation would result in radical downsizing of their broadband investment plans to account for the enormous regulatory uncertainty it would introduce.

And if they couldn't invest... how could *we*?

Anna-Maria Kovacs, Regulatory Research Associates, *FCC update: Title II reclassification and net neutrality* (May 6, 2010)

- What is inevitable is a lengthy period of uncertainty, first about the precise shape of the order [on reclassification, likely to be voted in the fall of 2010], then about its fate in court, and then about the ways it will be implemented, and then about the fate of the implementation orders in court.

- If the [reclassification] order fails to pass muster in court, there will be more pressure for legislation...The shape of that legislation, of course, will depend on the composition of Congress at the time there is an attempt to pass legislation.
- Any course toward net neutrality regulation—including legislation—would be followed by a lengthy period of testing in court and by uncertainty.

Medley Global Advisors, *Third Way Broadband Roadmap* (May 7, 2010)

- Even if approved by the Democratic-led FCC within that time frame, the controversial initiative opposed by broadband operators and Republicans is likely headed for a train wreck that ties up broadband regulation in years of litigation before policy is clarified.

Robert D. Atkinson, Information Technology & Innovation Foundation, *FCC Goes Too Far (Once Again)* (May 6, 2010)

- The FCC's move is likely to lead to a lengthy and unnecessary legal battle, create needless uncertainty in the market, and detract from the FCC's important work in implementing the recently unveiled national Broadband Plan.
- Putting the Internet in a regulatory straightjacket of Title II and then not enforcing much of it is not the path to a "Third Way." Only Congress can create a new chapter in the library of communications law. The best the FCC can do to facilitate the exercise is propose a framework. That is the only way new law can be created for a system as novel and innovative as the Internet... "third way" is not simply an elegant and highly-nuanced phrase. Rather, the light-touch Third Way is meant to be a serious effort to craft new law appropriate to the needs of innovators and users of new technologies.

Mike Jude, Stratecast / Frost & Sullivan, *Net Neutrality: Impact on Consumer and Economic Growth* (May 2010)

- If network deployments are limited by the operators' perception of risk, then services are denied consumers and businesses and the revenues of such services are denied to the operators and service providers.
- Net neutrality regulation that is constructed in a way that ignores the fact that broadband investment is highly sensitive to uncertainty and risk, could easily curtail or greatly slow the deployment of improved infrastructure necessary to support ubiquitous broadband.
- [I]f net neutrality is interpreted in such a way as to provide disincentives to operators to invest in network infrastructure, the result could be a significant impact on the economy over time...Such an economic impact would be felt primarily as a decrease in the jobs that are supported by a robust Internet infrastructure. Assuming a best case scenario, with minimal regulatory impact, net neutrality could still impose a seven billion dollar a year overhead on the economy by 2011, with a commensurate loss in jobs of up to 70,000.

- Ultimately, though, it is the consumer that would be most harmed by net neutrality regulation. Decreased network capability, over time, would deny consumers new bandwidth intensive services, both from operators and those who provide services over the operators' networks. Additionally, as operators increasingly turn to access charges to support network deployment and management, the charges for that access could increase anywhere from \$10 to \$55 a month for the average consumer.

Balhoff & Williams, LLC, *Financial Market Perspectives: Network Neutrality Principle 5* (December 15, 2009)

- What will investors think about Principle 5, which adds some undefined limitations to a network provider's potential return on investment? [I]nvestors, at least initially, will focus on three simple conclusions. First,...investors will estimate that regulatory risk and uncertainty in the industry are greater. Second, once government begins to regulate more actively, Wall Street will assume the probabilities are higher still that more regulation will be forthcoming. Third, because there is elevated regulatory risk and uncertainty regarding operations, investors will require more certitude to commit capital for investment (slowing incremental investment) and/or higher returns to reflect the perceived risks.
- As such, there is real risk that *unnecessary* controls on network investment could commoditize network services, reduce expected returns on investment, and choke the critical capital formation process.

George S. Ford, The Phoenix Center, *Finding the Bottom: A Review of Free Press's Analysis of Network Neutrality and Investment* (October 29, 2009)

- [T]he most obvious empirical example of the effects of network neutrality regulation on the investment decision of firms [is:]—the C Block auction of the 700 MHz spectrum. Other things constant, the neutrality regulations placed on that spectrum reduced its price at auction by about 40%. Clearly, neutrality regulations can have a significant impact on market value and retard investment incentives, other things equal.

Coleman Bazelon, The Brattle Group, *The Employment and Economic Impacts of Network Neutrality Regulation: An Empirical Analysis* (April 23, 2010)

- If the [FCC's proposed net neutrality] regulations are implemented, growth is expected to be about one-sixth less, leading to a decline in sector revenues compared to the baseline level...The employment losses associated with those reductions is found to be significant—14,217 direct broadband sector jobs lost in 2011 growing to 342,065 jobs lost by 2020; and economy-wide, affecting 65,404 jobs in 2011 growing to 1,452,943 by 2020.

The Regulatory Impact on Firm Investment Decisions

Larry Darby, American Consumer Institute, *The Informed Policy Maker's Guide to Regulatory Impacts on Broadband Network Investment* (November 11, 2009)

- There is no reasoned, factual and analytical basis for concluding that network neutrality rules will not impact the rate of investment in existing broadband networks. Some rules will have more impact than others, but any rule that constrains the ability of firms to pursue business activities that may increase shareholder value will almost certainly affect their allocation of cash to different uses, including domestic network investment.
- The goal of investing in real assets is generally taken to be the maximization of shareholder value as reflected in rates of return by investors who own the assets. Shareholder value, like the value of a specific investment in plant and equipment, is widely regarded as dependent on four variables: a) risk, b) estimated future cash flows or earnings attributable to the capital expenditure, c) growth over time, and d) real options or future opportunities that may be opened by the investment, but which are not assured or cannot currently be valued with certainty.
 - A major source of uncertainty goes by the name of regulatory risk, which might be defined as the prospect that government action may at some future time alter the value or risk of the lines of business to which the capital expenditure is devoted. The logic of regulatory risk is straightforward. Capital expenditures are for plant and equipment with long lives. Their value depends on the present value of future cash flows, which are dependent on, and may be changed by, future rule changes...Regulatory history establishes clearly that the greater the economic stakes and the greater the financial or political strength of stakeholders, the slower will be regulatory processes, and the less definitive will be any particular regulatory outcome. Capital budgetors and investment managers within firms, and financial market investors alike, will regard such uncertainty as undermining efforts to forecast operating costs and revenues, increasing investment risks, and raising capital costs.
 - Regulatory risk is not the only source of regulatory impact on investment. Also material is the extent to which the proposed net neutrality regulations on broadband network operators' can be expected by investors to affect their earnings, growth, and real options...It is inconceivable that regulations designed to keep firms from pursuing market activities they would otherwise pursue will have no impact on shareholder value or the incentives of firms and investors to provide risk capital... The rules will do so through their impact on network costs, revenues, or both; through the obligations they put in place; and through the constraints they impose on the ability of network owners to take advantage of emerging opportunities to create value from innovative network services and management practices.

Mike Jude, Stratecast / Frost & Sullivan, *Net Neutrality: Impact on Consumer and Economic Growth* (May 2010)

- Operators evaluate whether a given stream of revenue is likely or risky and make their decisions on that basis. To the extent that they determine an investment worthwhile, they make investments in the network. These network investments then drive the amount of network capability that is available to deliver services to end users, both by the operator as well as third party service providers who use the network.
- Without dwelling on the particulars, the decision to invest is essentially a cost/benefit assessment made on the basis of long term return.
 - On the cost side, cost is made up OPEX and CAPEX, which are, in turn, influenced by such things as the prevailing interest and taxation rates.
 - Revenue is a function of the service revenue, the access revenue and the ARPU that they generate. Additionally, the general economic conditions and the actions of competition influence the subscription revenue as well as the ARPU that can be generated.
 - [T]his model is extremely sensitive to expected ARPU. ARPU growth, as indicated in the net neutrality model section, is impacted by net neutrality. The model predicts that such erosion can be significant.
 - Another major impact of net neutrality... is that it generally increases operator costs, assuming that the operator continues to invest in network infrastructure rather than simply reducing such investments.

It is the combination of these influences, on cost and revenue, which begin to distort the investment decision. **Note, it is not a measure of actual impacts (since such impacts have yet to be experienced); it is the expectation of such impacts that drive the decision to invest.**

Appendix 4

**April 28, 2010, Letter from
Seth P. Waxman, to
Marlene H. Dortch, Secretary, FCC
GN Docket Nos. 09-51, 09-47, 09-137
WC Docket Nos. 05-337, 03-109**

April 28, 2010

Seth P. Waxman

Julius Genachowski, Chairman
Federal Communications Commission
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Re: *A National Broadband Plan for Our Future*, GN Docket No. 09-51; *Preserving the Open Internet*, GN 09-191; *Broadband Industry Practices*, WC Docket No. 07-52

Dear Chairman Genachowski:

I submit these views in response to reports that the Commission is considering a “reclassification” of broadband Internet access services within Title II of the Communications Act of 1934.

Five years ago, the federal government represented to the United States Supreme Court that treating cable modem broadband Internet access as a Title II “telecommunications service” subject to traditional common carrier regulation would be “impossible to square with the deregulatory purposes of the Telecommunications Act of 1996.”¹ That statement reflected both the factual realities of how broadband access is provided and the Federal Communications Commission’s long-held interpretation of the 1996 Act. The Commission has *never* classified any form of broadband Internet access as a Title II “telecommunications service” in whole or in part, and it has classified all forms of that retail service as integrated “information services” subject only to a light-touch regulatory approach under Title I. These statutory determinations are one reason why the Clinton Administration rejected proposals to impose “open access” obligations on cable companies when they began providing broadband Internet access in the late 1990s, even though they then held a commanding share of the market.² The Internet has thrived under this approach.³

Recently, some have encouraged the Commission to reverse this settled view and treat broadband Internet access providers as offering both an “information service” and a “telecommunications service” subject to Title II regulation. Embarking on that course would bring an enormous sector of the economy within the ambit of public-utility-style common carrier

¹ FCC Reply Br. 3-4, *Nat’l Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967 (2005) (Nos. 04-277, 04-281).

² See William Kennard, *The Road Not Taken: Building a Broadband Future for America*, FCC (June 15, 1999), <http://www.fcc.gov/Speeches/Kennard/spwek921.html> (explaining reasons for the Commission’s decision not to regulate cable broadband service).

³ The National Broadband Plan observes: “Fueled primarily by private sector investment and innovation, the American broadband ecosystem has evolved rapidly. The number of Americans with broadband at home has grown from eight million in 2000 to 200 million last year.” FCC, *Connecting America: The National Broadband Plan*, at XI (Mar. 2010) (“*Broadband Plan*”), available at <http://www.broadband.gov>.

regulation. Yet these transformative proposals are not driven by any relevant changes in either the law or the facts bearing on the relevant statutory definitions. Rather, advocates of this shift are motivated by doubts about the extent of the Commission's "ancillary" authority to regulate broadband service providers under Title I in light of the D.C. Circuit's recent *Comcast* decision, which rejected some (but not all) of the potential Title I rationales the Commission could attempt to invoke to regulate network management practices.⁴ These advocates have cited that decision as a basis for urging the Commission to advance an industry-transforming regulatory agenda. Title II classification, if adopted, could thus revolutionize government regulation of a vast sector of the economy without any warrant from Congress, all for the evident purpose of evading the consequences of a court decision limiting the Commission's authority. In the words of the *Washington Post* editorial staff, it would be perceived as "a legal sleight of hand" and "a naked power grab."⁵

Given the obviousness of these motives and the absence of any change in circumstances to justify the results, the Commission's assertion of authority to regulate broadband Internet access as a "telecommunications service" under Title II would be fundamentally at odds with principled agency decisionmaking and with the proper role of administrative agencies within our constitutional system. It would surely be met with skepticism by a reviewing court, and the odds of appellate reversal would be high—particularly given significant industry reliance on the Commission's prior, deregulatory interpretation of the same statutory scheme. Administrative agencies are charged with implementing the law, not with assuming for themselves the legislative authority that the Constitution vests in Congress. Unlike the local competition rules that the Commission enacted on the heels of the 1996 Act and that I defended in the Supreme Court,⁶ this is not a case where the Commission would simply be responding to a major legislative innovation by Congress or engaging in a mere gap-filling exercise. Instead, the Commission would be—for the first time ever and with no action by Congress—extending a common carrier regime, designed for the monopolist telephone market of the early twentieth century, to a dynamic Internet marketplace that you recently called "the foundation for our new economy."⁷ Such a significant and consequential policy choice should be made, if at all, by Congress.

I. Agencies Have Discretion To Fill Gaps Left By Congress, Not To Create Law Beyond What Congress Has Enacted

Administrative agencies authorized to exercise substantial power are an accepted and necessary feature of modern governance. But as Justice Kennedy recently reminded us, "the amorphous character of the administrative agency in the constitutional system" requires that

⁴ See *Comcast Corp. v. FCC*, ___ F.3d ___, No. 08-1291, 2010 WL 1286658 (D.C. Cir. Apr. 6, 2010). The D.C. Circuit declined to consider the merits of several Title I arguments that the Commission had developed on appeal but not in the underlying administrative order. See *id.*, slip op. at 33-36 (citing *SEC v. Chenery Corp.*, 318 U.S. 80, 87-88 (1943)).

⁵ Editorial, *Internet oversight is needed, but not in the form of FCC regulation*, Wash. Post, Apr. 17, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/16/AR2010041604610.html>.

⁶ See *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999).

⁷ Video, "Announcing the National Broadband Plan," at 0:24, available at <http://www.broadband.gov/plan/>.

agency discretion cannot be unbounded.⁸ Hence, agency action must reasonably heed the statutory boundaries enacted by Congress, and agency decisionmaking must also be adequately justified in light of the relevant facts. These limitations and procedural requirements leave agencies with significant authority, yet they are meaningful: along with other principles of constitutional and administrative law, observance of these limits serves to secure the legitimacy of administrative agency power within the constitutional order.⁹ Federal courts play an important role in enforcing these constraints on agency action, but the members of this Commission also carry an independent obligation to observe these limits on their discretion.

Under the *Chevron* doctrine, ambiguity in a federal statute is understood as an implicit delegation by Congress to the administering agency of authority to make a policy choice within the bounds of that ambiguity, and courts will defer to that choice so long as it is reasonable.¹⁰ Where Congress leaves ambiguity in statutory meaning, it is the agency—armed with unique experience, expertise, and fact-finding ability—that has the right and the responsibility to interpret that ambiguity in a rational manner. In exercising that discretion, it may be appropriate for an agency to reconsider the wisdom of its existing policies or to reverse those policies or undertake new regulation when circumstances change.¹¹

But this rationale only goes so far. The *Chevron* doctrine protects normal exercises of agency discretion to fill gaps—to make policy in the interstices that Congress has left in its legislation.¹² Because, as Justice Breyer once wrote, “Congress is more likely to have focused upon, and answered, major questions, while leaving interstitial matters to answer themselves in the course of the statute’s daily administration,” it is generally plausible that gaps created by

⁸ *FCC v. Fox Television Stations, Inc.*, 129 S. Ct. 1800, 1823 (2009) (Kennedy, J., concurring in part and concurring in the judgment).

⁹ Acknowledging the “significant antidemocratic implications” of governance by administrative action, Judge Friendly observed that enforcement of procedural requirements is “necessary” if administrative action “is to be consistent with the democratic process.” Henry J. Friendly, *The Federal Administrative Agencies: The Need for Better Definition of Standards*, 75 Harv. L. Rev. 863, 880 (1962). Professor Jaffe similarly suggested that while judicial doctrines disfavoring delegation of legislative power to agencies threatened to hamper the administrative state, enforcement of procedural requirements and limits on legislative delegations could both improve the operation of administrative authority and “safeguard . . . its legitimate exercise.” Louis L. Jaffe, *Judicial Control of Administrative Action* 85-86 (1965). Jaffe thus wrote that while delegations of power to administrative agencies “may be exceptionally broad and may, indeed should, be taken to grant enormous room for the improvisation and consolidation of policy,” a delegation nonetheless necessarily “implies some limit.” *Id.* at 320. “Action beyond that limit is not legitimate.” *Id.*

¹⁰ *See Chevron U.S.A. Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 843-844 (1984); *see also, e.g., National Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967, 982 (2005); *Smiley v. Citibank (S.D.), N.A.*, 517 U.S. 735, 740-741 (1996).

¹¹ *See, e.g., Brand X*, 545 U.S. at 981-982; *Smiley*, 517 U.S. at 742; *Chevron*, 467 U.S. at 863-864.

¹² *See Chevron*, 467 U.S. at 843 (“The power of an administrative agency to administer a congressionally created . . . program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress.” (quoting *Morton v. Ruiz*, 415 U.S. 199, 231 (1974))).

ambiguity in statutory terms should be construed as a delegation of authority for the agency to make policy—particularly given the agency’s comparative advantages in doing so.¹³

The *Chevron* doctrine is rooted in *and delimited by* this presumption about Congress’s delegatory intent. Where an agency takes action that tests these boundaries, the Supreme Court has cautioned that “there may be reason to hesitate before concluding that Congress has intended . . . an implicit delegation.”¹⁴ Particularly where an agency asserts broad new authority in an important area without a clear statutory basis, or makes a fundamental change in its implementation of a statute that upsets settled practices and reliance interests, the agency should not assume that its determinations will enjoy the ordinary degree of deference. Rather, as Professor Sunstein has observed, “it would be a major error to treat all ambiguities as delegations,” and deference may be reduced where an “agency is seeking to extend its legal power to an entire category of cases, rather than disposing of certain cases in a certain way or acting in one or a few cases.”¹⁵ Courts properly show *less* deference to such actions due to the strain they place on the checks and balances that otherwise make the role of administrative agencies reconcilable with our constitutional system.¹⁶

Of particular relevance here, where agencies cite supposed “ambiguities” in a statute to effectuate major shifts in federal policy or assert aggressive new regulatory authority over broad subject areas, courts have refused deference on the ground that the cited ambiguity cannot plausibly be thought to delegate such enormous discretion. One instructive case is *FDA v. Brown & Williamson Tobacco Corp.*¹⁷ In that case, after many years of proceeding otherwise, the FDA undertook an exhaustive rulemaking and concluded that cigarettes were subject to regulation under the federal Food, Drug, and Cosmetic Act. Although the literal statutory language supported the agency’s conclusion, the Supreme Court rejected the FDA’s interpretation. The Court expressed doubt that the rationale of *Chevron* should apply where, as in that case, the “breadth of the authority” the agency had asserted made it less plausible that Congress would have intended an implicit delegation of such broad discretion.¹⁸ However pliable the relevant statutory terms might be, the Court was “confident that Congress could not have intended to delegate a decision of such economic and political significance to an agency in so cryptic a fashion.”¹⁹

¹³ Stephen Breyer, *Judicial Review of Questions of Law and Policy*, 38 Admin. L. Rev. 363, 370 (1986).

¹⁴ *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 159 (2000).

¹⁵ Cass R. Sunstein, *Law and Administration After Chevron*, 90 Colum. L. Rev. 2071, 2090, 2100 (1990).

¹⁶ See Breyer, *supra* note 13, at 370 (degree of deference may vary depending on “whether the legal question is an important one”); see also Sunstein, *supra* note 15, at 2100; Cass R. Sunstein, *Chevron Step Zero*, 92 Va. L. Rev. 187, 231-242 (2006) (discussing cases in which the Supreme Court has shown less deference to agency resolutions of major questions).

¹⁷ 529 U.S. 120 (2000).

¹⁸ See *id.* at 159-160.

¹⁹ *Id.* at 160. The FDA was similarly rebuffed when the Supreme Court rejected the FDA’s position that state tort suits against drug manufacturers alleging failure to warn should be preempted because they interfere with the purposes and administration of the federal drug regulatory regime. See *Wyeth v. Levine*, 129 S. Ct. 1187 (2009). The Court held that the FDA’s position merited no deference in part because it “reverse[d] the FDA’s own longstanding

The Supreme Court's decision in *Gonzales v. Oregon* reflects a similar principle.²⁰ There, the Attorney General had asserted authority to define legitimate medical practice and prohibit doctors from participating in medically assisted suicide in accordance with state law. Although the Attorney General asserted this authority under the guise of enforcing the federal Controlled Substances Act, the Court again rejected the notion that ambiguity in that statute could be read as a broad delegation of the "extraordinary authority" claimed by the Attorney General: "The idea that Congress gave the Attorney General such broad and unusual authority through an implicit delegation ... is not sustainable. 'Congress ... does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes.'"²¹

Decisions of the federal appeals courts provide similar examples. For instance, in *American Bar Association v. FTC*,²² the FTC had cited an ambiguity in a statutory definition as a basis for asserting authority to regulate attorneys engaged in the practice of law as "financial institutions" subject to the privacy provisions of the Gramm-Leach-Bliley Act. But the D.C. Circuit invalidated that decision on the ground that the existence of ambiguity alone did not support the conclusion that Congress *intended* to delegate authority of the nature the FTC had asserted. In light of other features of the statute, the court found it "difficult to believe that Congress, by any remaining ambiguity, intended to undertake the regulation of the profession of law" when that profession was not mentioned in the statute and had never before been seen to fall within the statute's reach.²³ Similar considerations drove the court of appeals to invalidate this Commission's action in *American Library Association v. FCC*, in which the court criticized the Commission for attempting to justify a claim of "sweeping authority" it had "never before asserted."²⁴

II. Classifying Broadband Internet Access As A Common Carrier Telecommunications Service Would Be An Extraordinary Assertion Of Broad New Authority, Not A Gap-Filling Measure

Whether resolved on the ground that the agency had acted outside its delegated authority, that Congress had spoken directly to the issue, or that the agency's position was unreasonable,

position without providing a reasoned explanation," *id.* at 1201, and "represent[ed] a dramatic change in position" that was inconsistent with Congress's evident intent, *id.* at 1203.

²⁰ See 546 U.S. 243 (2006).

²¹ *Id.* at 267 (quoting *Whitman v. American Trucking Ass'ns, Inc.*, 531 U.S. 457, 468 (2001)).

²² 430 F.3d 457, 469 (D.C. Cir. 2005).

²³ *Id.*

²⁴ See 406 F.3d 689, 691, 704, 708 (D.C. Cir. 2005). While this and the other examples discussed each involved judicial disapproval of agency *assertions* of regulatory authority, similar reluctance to construe statutory ambiguity as license for agencies to undertake a fundamental shift in a regulatory scheme also influenced the Supreme Court to reject this Commission's *surrender* of regulatory authority in *MCI Telecommunications Corp. v. AT&T Co.*, 512 U.S. 218 (1994). There, the Court held that the Commission's authority to "modify" any tariffing requirement of 47 U.S.C. § 203 did not authorize the Commission to make tariff filing optional for all nondominant long-distance carriers. The Court found it "highly unlikely that Congress would leave the determination of whether an industry will be entirely, or even substantially, rate-regulated to agency discretion." *Id.* at 231.

these cases illustrate courts' appropriate reluctance to infer from statutory ambiguity a delegation of agency discretion to assert broad regulatory authority over a whole new category of issues. A decision by the Commission to extend common carrier regulation to broadband Internet services, based on nothing more than alleged ambiguity in the definitional terms of the Act, would fall in the same category. It would be just another case in which an agency had reversed itself and seized broad new authority to pursue a favored regulatory agenda despite the absence of any clear congressional authority—indeed, despite the agency's own prior conclusion that Congress had affirmatively *withheld* such authority.

According to many of its proponents, authority for Title II classification would supposedly derive from alleged ambiguities in the statutory definitions of “telecommunications service” and “information service.” But as history makes clear, Title II classification would require far more than an interstitial implementation of these terms. Broadband Internet access service has never been regulated under Title II. From the advent of the Internet, the Commission has instead treated broadband Internet access as an “information service” without a separate “telecommunications service” component, subject only to the Commission's ancillary authority under Title I.

The Commission's 1998 *Report to Congress* articulated the key interpretations of the 1996 Act that have formed the basis of that consistent treatment of broadband Internet access.²⁵ The Commission determined there that Congress specifically intended that “telecommunications services” and “information services” be construed as mutually exclusive categories, and that application of these statutory terms required examination of how service is “offer[ed]” to the end user.²⁶ Thus, the Commission explained that an “information service” offered to end users as a functionally integrated whole should not simultaneously be treated as a “telecommunications service,” even though by definition it includes a telecommunications component.²⁷

These conclusions in turn built upon a framework that pre-dated the 1996 Act. In the *Computer Inquiry* proceedings, as traditional communications common carriers moved into the nascent field of computer data processing, the Commission distinguished between “basic services” (defined as the offering of “a pure transmission capability”) and “enhanced services,” which combined basic services with computer processing applications.²⁸ Critically, the Commission determined that “enhanced services” were not within the scope of its Title II jurisdiction, but rather were subject only to the Commission's ancillary authority under Title I.²⁹

²⁵ See Report to Congress, *Federal-State Joint Board on Universal Service*, 13 F.C.C. Rcd. 11,501 (1998).

²⁶ *Id.* at 11,507 ¶ 13, 11,520 ¶ 39, 11,522-11,523 ¶ 43, 11,529-11,530 ¶¶ 58-59.

²⁷ *Id.* at 11,520 ¶ 39.

²⁸ See *id.* at 11,512-11,514 ¶¶ 23-28, 11,520 ¶ 39 (discussing Final Decision, *Amendment of Section 64.702 of the Commission's Rules and Regulations*, 77 F.C.C. 2d 384 (1980) (“*Computer II*”)); see also Order, *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities*, 20 F.C.C. Rcd. 14,853, 14,866-14,868 ¶¶ 21-24 (2005) (“*Wireline Broadband Order*”) (discussing *Computer II*).

²⁹ See *Wireline Broadband Order*, 30 F.C.C. Rcd. at 14,867-14,868 ¶ 23. Some have cited the so-called “unbundling” requirement of the *Computer Inquiry* regime as a basis for claiming that the proposed Title II classification of broadband service would be consistent with past (pre-2002) practice. But that argument confuses

In its 1998 *Report to Congress*, the Commission concluded that Congress intended the terms “telecommunications service” and “information service” in the 1996 Act to build upon the “basic” and “enhanced” service distinction the Commission had previously drawn, and it construed the terms to be mutually exclusive in light of Congress’s evident intent to maintain a regime in which information service providers are not subject to regulation as common carriers merely because they provide their services “via telecommunications.”³⁰ The Commission thus concluded that “when an entity offers transmission incorporating the ‘capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information,’ it does not offer telecommunications. Rather, it offers an ‘information service’ even though it uses telecommunications to do so.”³¹

In later orders classifying various broadband Internet access technologies, the Commission straightforwardly applied this same statutory framework it had adopted in 1998. In the 2002 *Cable Modem Declaratory Ruling*, for example, the Commission concluded that cable modem service is provided to the end user as a single, integrated service, with a telecommunications component that is not separable from the computer processing, information provision, and computer interactivity functions.³² Applying the approach articulated in the 1998 *Report to Congress*, the Commission found, and the Supreme Court later agreed, that the service does not include an offering of telecommunications service.³³ Since 2002—and as recently as 2007—the Commission has repeatedly applied the same approach to find that even though it includes a transmission component, broadband Internet access service as provided through other technologies likewise constitutes an “information service” without a stand-alone offering of telecommunications service, and thus is subject only to the Commission’s ancillary authority under Title I.³⁴

In short, from their inception in the 1990s, broadband Internet access services have always been “information services” with no separate “telecommunications service” component,

two quite different issues: the threshold statutory classification of a service (the issue here), versus whatever regulatory consequences might follow from that classification (not the issue here). Under the so-called “unbundling” obligation, the Commission used to require wireline telephone companies (but not cable companies or wireless providers) to strip out the transmission component of any information (“enhanced”) service, tariff it, and sell it as a stand-alone telecommunications service to any willing buyer. *See Wireline Broadband Order*, 20 F.C.C. Rcd. at 14,867-14,868 ¶¶ 23-24. But the Commission never found that the finished Internet access services that those companies sold to end users were (or contained) Title II “telecommunications services.”

³⁰ *Report to Congress*, 13 F.C.C. Rcd. at 11,507-11,508 ¶ 13, 11,520 ¶ 39.

³¹ *Report to Congress*, 13 F.C.C. Rcd. at 11,520 ¶ 39.

³² *See Declaratory Ruling, Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities*, 17 F.C.C. Rcd. 4798, 4802 ¶ 7 (2002) (“*Cable Modem Declaratory Ruling*”), *aff’d*, *Brand X*, 545 U.S. 967 (2005) (intermediate history omitted).

³³ *See id.*, 17 F.C.C. Rcd. at 4820-4824 ¶¶ 34-41; *see also Brand X*, 545 U.S. 967.

³⁴ *See Wireline Broadband Order*, 20 F.C.C. Rcd. 14,853 (2005); Memorandum Opinion and Order, *United Power Line Council’s Petition for Declaratory Ruling Regarding the Classification of Broadband Over Power Line Internet Access Service as an Information Service*, 21 F.C.C. Rcd. 13,281 (2006); Declaratory Ruling, *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, 22 F.C.C. Rcd. 5901 (2007) (“*Wireless Broadband Order*”).

and they have never been subject to regulation under Title II. The Commission has applied this position consistently, defended it successfully in litigation all the way to the Supreme Court, and repeatedly professed that it best reflects Congress's intent and the broad objectives of federal Internet policy.³⁵

Against this backdrop, any decision to reclassify broadband as a "telecommunications service" under Title II would be a startling about-face. After years of concluding that Congress wished to insulate broadband Internet access services from common carrier regulation in order to protect the healthy and competitive development of the Internet,³⁶ the Commission would abruptly reverse itself—and contradict its own account of congressional intent—by saddling those services with the burdens of a regulatory model that was developed for the monopoly public utilities of the last century. As in other cases, it would be irrational to presume that Congress wished to delegate authority to make a "decision of such economic and political significance"³⁷ and "alter the fundamental details of [the] regulatory scheme"³⁸ that had long applied in the industry, merely by including a supposed definitional ambiguity in the terms "telecommunications service" or "information service."

Proponents of Title II classification of broadband Internet access have cited the Supreme Court's decision in *Brand X* as providing carte blanche authority for the Commission to reverse itself and assert unprecedented authority to regulate the Internet, but that decision does not support any such presumption. The Court was not faced in that case with a seizure of broad new authority or a major policy shift of the type that is contemplated here; indeed, as discussed above, just the opposite was true. The Court's decision thus does not endorse the kind of anything-goes discretion the Commission would have to invoke to classify broadband Internet access as a Title II "telecommunications service." Moreover, the only question before the Court was whether the Commission's position that cable modem broadband Internet access service constituted an "information service" without a separate "telecommunications service" was "at least reasonable."³⁹ The Court held that it was, and that the statute did not "unambiguously require" the conclusion that cable modem broadband service providers "offer[ed]" telecommunications.⁴⁰ In doing so, the Court had no occasion to go further and decide whether, in addition, the statute might *compel* the Commission's interpretation and preclude the opposite outcome that the challengers had proposed there and that the advocates of reclassification

³⁵ See, e.g., *Report to Congress*, 13 F.C.C. Rcd. at 11,507-11,508 ¶ 13, 11,511 ¶ 21, 11,520-11,526 ¶¶ 40-48, 11,540 ¶ 82, 11,546-11,548 ¶¶ 95-97; *Cable Modem Declaratory Ruling*, 17 F.C.C. Rcd. at 4801-4802 ¶¶ 4-6; FCC Br. 8, 16, 29-31, *Brand X* (2005); FCC Reply Br. 3-4, *Brand X* (2005); *Wireline Broadband Order*, 20 F.C.C. Rcd. at 14,877-14,878 ¶ 44; *Wireless Broadband Order*, 22 F.C.C. Rcd. at 5902 ¶ 2.

³⁶ See *supra* note 35.

³⁷ *Brown & Williamson*, 529 U.S. at 160.

³⁸ *Gonzales*, 546 U.S. at 267.

³⁹ 545 U.S. at 990 (emphasis added).

⁴⁰ *Id.* at 989-990.

propose now. The opinion, however, suggests that the Court would not readily accept a reversal by the Commission on the regulatory classification of broadband service providers.⁴¹

Nor does the legislative record support an inference that Congress intended any statutory ambiguity to authorize a reversal of this magnitude. Indeed, to the extent the statutory scheme addresses the topic of Internet regulation, it indicates a strong congressional preference for keeping the Internet *unregulated*.⁴² When an agency adheres consistently to a particular view of statutory meaning, and Congress is aware of the agency's interpretation and takes no action to correct it, Congress's inaction is persuasive evidence that the interpretation is the one intended by Congress.⁴³ Here, Congress has known of the Commission's approach since the Commission presented it in the 1998 *Report to Congress*, applied it in the 2002 *Cable Modem Order*, and showcased it in the Government's *Brand X* arguments to the Supreme Court. During the ensuing years, Congress has never signaled disapproval of the Commission's current statutory interpretation or taken any action to overturn it—a strong indicator that the Commission's approach thus far has been the one intended by Congress. Indeed, while Congress has taken up several bills designed to authorize the Commission to regulate some aspects of broadband Internet access, it has not sought to accomplish this by redefining that service as (or as containing) a Title II telecommunications service.⁴⁴

Thus, rather than filling a gap in a manner consistent with congressional intent, the proposed Title II classification would occur solely on the Commission's say-so. Citing the Supreme Court's recent decision in *Fox Television*, some advocates of Title II classification have suggested that this say-so is all that is required, so long as the Commission cites a good reason.⁴⁵ That assertion is incorrect. To the contrary, *Fox Television* reaffirmed that when an agency changes course, it must provide a "more detailed justification [for the change] than what would suffice for a new policy created on a blank slate" if—as would be true in this case—its "new policy rests upon factual findings that contradict those which underlay its prior policy" or its

⁴¹ See, e.g., *id.* at 990 ("it would, in fact, be odd" to adopt a reading of the statute under which cable modem providers "offer" the discrete transmission components of the "integrated finished product" offered to consumers); *id.* at 989, 990 (Commission's interpretation of "offer" best reflected "common" and "ordinary" usage); *id.* at 995 (expressing "doubt" that Congress intended the "abrupt shift in Commission policy" that would be required under the statutory interpretation offered by the advocates of Title II regulation). Cf. *Cuomo v. The Clearing House Ass'n L.L.C.*, 129 S. Ct. 2710, 2715 (2009) (presence of "some ambiguity as to the meaning" of relevant statutory terms "does not expand *Chevron* deference to cover virtually any interpretation").

⁴² See 47 U.S.C. §§ 230(a)(4), (b)(2), 1302(a).

⁴³ See *CBS, Inc. v. FCC*, 453 U.S. 367, 382-385 (1981); see also *United States v. Rutherford*, 442 U.S. 544, 553-554 & n.10 (1979). Cf. *Brown & Williamson*, 529 U.S. at 143-159.

⁴⁴ See, e.g., Internet Freedom Preservation Act of 2008, H.R. 5353, 110th Cong. (2008) (bill would have charged Commission to undertake study and report to Congress on issues pertaining to broadband Internet access service); Internet Non-Discrimination Act of 2006, S. 2360, 109th Cong. (2006) (bill would have imposed obligations on network operators without reference to Title II and authorized Commission to adjudicate violations).

⁴⁵ See, e.g., Reply Comments – NBP Public Notice # 30, Comments of Public Knowledge, GN Docket No. 09-47, 09-51, 09-137, at 4 (filed Jan. 26, 2010) (citing *Fox Television* as license for the Commission to declare broadband Internet access a "telecommunications service" so long as the Commission concludes that doing so would better serve the Commission's policy goals).

“prior policy has engendered serious reliance interests that must be taken into account.”⁴⁶
Failure to do so, the Court reaffirmed, requires judicial invalidation.⁴⁷

Here, there is no reasoned explanation the Commission could give for rejecting the considerations that underlay its own longstanding treatment of broadband service. Rather, Title II classification would appear to come as a direct and obvious response to the D.C. Circuit’s recent *Comcast* decision limiting the Commission’s authority to regulate the Internet under Title I. That this assertion of significant new regulatory authority would serve solely as a means to an end—as an effort to “provide a sounder legal basis” for a particular regulatory agenda in the wake of a court loss⁴⁸—would not satisfy *Fox Television*’s requirements for reasoned decisionmaking and would lessen the case for judicial deference further still. In short, this is not gap-filling of the sort *Chevron* contemplated, and it is not an appropriate undertaking for this Commission.

* * *

By classifying broadband Internet access as a “telecommunications service” under Title II, the Commission would essentially be making new law for a major sector of the economy. It would do so not to accommodate an improved understanding of statutory meaning or to account for new factual circumstances bearing on the relevant legal criteria, but solely in reaction to a court decision rejecting its prior assertion of regulatory power. As stewards of a critical national industry and of the Commission’s proper place in the governmental structure, the members of this Commission should pause before embarking on that course. The Commission’s discretion to tailor federal telecommunications policy to fit the changing needs of an evolving industry is cabined by the boundaries set by Congress and by the requirements of reasoned decisionmaking, and the proposed reversal on Title II falls outside those limits. Any sea change in the Commission’s overall regulatory framework should come from Congress, not from the Commission itself.

Sincerely yours,

/s/ Seth P. Waxman

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⁴⁶ *Fox Television*, 129 S. Ct. at 1811.

⁴⁷ *Id.*; see also *id.* at 1811 (Kennedy, J., concurring in part and concurring in the judgment) (an “agency cannot simply disregard contrary or inconvenient factual determinations that it made in the past”).

⁴⁸ *Broadband Plan 337*; see also, e.g., Notice of Oral *Ex Parte* Communication of Free Press, GN Docket No. 09-51, GN 09-191, WC Docket No. 07-52 (Apr. 9, 2010) (urging reclassification of broadband Internet access service under Title II in direct response to *Comcast v. FCC*).