



OFFICE OF
THE SECRETARY

Federal Communications Commission
Washington, D.C.

September 5, 2014

Mr. Charles Davidson
Director
The Advanced Communications Law
& Policy Institute
New York Law School
185 W. Broadway
New York, NY 10013

Re: Motion to Accept Filing as Timely Filed
WC Docket No. 14-115 and
WC Docket No. 14-116

Dear Mr. Davidson:

The Office of the Secretary has received your request for acceptance of the document you filed in the above-referenced proceeding as timely filed, due to technical difficulties with the Commission's Electronic Comment Filing System.

In accordance with 47 C.F.R. Section 0.231(i), I have reviewed your request and your assertions. After considering the relevant arguments, it has been determined that this filing will be accepted as timely filed on Friday, August 29, 2014. If we can be of further assistance, please contact the Office of the Secretary.

Sincerely,

A handwritten signature in cursive script that reads "Marlene H. Dortch".

Marlene H. Dortch
Secretary

MHD/gt

SEP 5 - 2014

From: Davidson, Charles <Charles.Davidson@nyls.edu> Federal Communications Commission
Office of the Secretary
Sent: Friday, September 05, 2014 11:19 AM
To:
Subject: Dockets 14-115 and 14-116: Motion to Accept late Filed Comments
Attachments: Government-Owned-Broadband-Networks Report.pdf

Dear FCC,

I respectfully request that the attached comments be accepted into the initial comment cycle of above two dockets. For several hours on Friday, August 29 (the deadline for filing comments), I personally attempted to file the comments through the ECFS. I kept getting the error message "Could not roll back Hibernate transaction; nested exception is org.hibernate.TransactionException: JDBC rollback failed" (which I also received today when attempting to file this motion).

Thank you in advance or your consideration.

Charles Davidson
Director, ACLP at New York Law School
646-229-5283 (cell)

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August 29, 2014

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: In the Matter of Petitions Pursuant to Section 706 of the Telecommunications Act of 1996 for Removal of State Barriers to Broadband Investment and Competition, WC Docket No. 14-115 (Wilson, NC), WC Docket No. 14-116 (Chattanooga, TN)

Dear Ms. Dortch,

The Advanced Communications Law & Policy Institute (“ACLP”) at New York Law School respectfully submits the following comments and attached report in the above-referenced dockets. The ACLP is an interdisciplinary program that focuses on identifying and analyzing key legal, regulatory, and public policy issues impacting stakeholders throughout the advanced communications market.¹

The attached report, titled “Understanding the Debate over Government-Owned Broadband Networks: Context, Lessons Learned, and a Way Forward for Policymakers,” examines the many facets of government-owned broadband networks (GONs) and seeks to provide state and local policymakers with numerous resources for evaluating whether such systems are appropriate in their communities. We are submitting this report for several reasons.

First, it provides the essential context that should inform any discussion, debate, or deliberation regarding municipal broadband.

This includes in-depth, data-driven discussions of: the path of pro-GONs advocacy in the United States (section 2); a comprehensive examination of the U.S. broadband market (section 3.1); the precarious state of local and state finances (section 3.2.1); and the crumbling nature of public

¹ For more information, please visit the ACLP’s [website](#).

infrastructure (roads, bridges, dams, etc.), infrastructure for which state and local officials are responsible for maintaining (section 3.2.2).

The first set of issues look at the arguments that broadband is too expensive, too slow, and offered by too few providers, and that GONs offer viable redress. A comprehensive, data driven and historical analysis of both the supply side (i.e., availability) and demand side (i.e., adoption and use) yields more optimistic findings regarding the broadband market's competitive and innovative health.

The second set of issues look at the ability of municipalities, and, by implication, states, to construct and maintain GONs – and the opportunity costs of doing so. By nearly every measure, basic public infrastructure like roads, bridges, dams, the electric grid, and water systems are crumbling. To the extent that new funding is available at the local level, data indicate that it should be allocated in support of repairing existing infrastructure.

Second, the report includes comprehensive case studies of 10 major GONs that have been deployed in the U.S. over the last decade, including the two at issue here.

This includes a comprehensive analysis of the financial viability of the 10 major GONs, and the extent to which they have achieved their stated goals of economic development. This analysis shows that in general, some have failed; some are faltering; and others appear to be surviving – that is, we do not see any major successes in terms of financial viability or achieving the stated economic development goals. Ultimately, the case studies provide data-driven assessments of these various projects and, of particular relevance here, support a number of foundational findings regarding the general viability of GONs in the United States. It is respectfully submitted that these findings should inform the Commission's deliberations on the instant petitions. Some of the key foundational findings are:

- Overly optimistic assumptions about costs and take-rates often doom GONs. Moderately successful GONs generally had their genesis in unique circumstances like a one-time grant that are extremely difficult, if not impossible, to replicate. And many "successes" offered have not, in fact, endured over the long term, raising key concerns about the viability of any kind of municipal broadband network.
- The substantial costs of building, maintaining, and operating GONs typically outweigh real benefits. The asserted benefits are often attributable to other factors. And there are important opportunity costs associated with a decision to pursue a GON instead of spending money on other infrastructure (e.g., water and wastewater systems) or public policy needs (e.g., education).
- A GON will not spawn the next Silicon Valley. Numerous cities have successfully nurtured vibrant information sectors, high-tech clusters, and start-up communities by using public resources to create or enhance the economic and innovative conditions

necessary to foster an environment conducive to these industries. But this outcome is the result of many factors and policies having nothing to do with a GON.

- The costs associated with a GON are significant, which raises the risk of financial default by local government or other negative outcomes (e.g., credit downgrades). States, which maintain ultimate responsibility for the financial health of their localities, have strong interests in overseeing the process by which GONs are approved. Well-established legal precedent supports such a relationship between states and their political subdivisions.

Third, we are submitting this report because GONs have proven themselves, in large measure, to be complex and risky ventures that have often invited scrutiny from state legislatures, which bear ultimate responsibility for being the steward of public resources and the overseers of their own political subdivisions. The report examines the many state interests vis-à-vis protecting their taxpayers against a costly GONs failure and puts forward an array of alternative strategies and approaches for addressing broadband connectivity issues – both on the supply and demand sides – in communities of all kinds.

Among its other features, the report provides a detailed Policymaker's Toolkit for stakeholders to utilize when considering and evaluating proposed GONs and offers perspectives from an array of individuals knowledgeable of the many issues involved in a rational discussion of GONs.

In conclusion, we appreciate the opportunity to contribute to this discussion and look forward to working with the Commission and other stakeholders on these vital issues going forward.

Respectfully submitted,

/s/ Charles M. Davidson
Charles M. Davidson, Director
ACLP at New York Law School
185 West Broadway
New York, NY 10013

/s/ Michael J. Santorelli
Michael J. Santorelli, Director
ACLP at New York Law School
185 West Broadway
New York, NY 10013

Submitted: August 29, 2014

JUNE 2014

UNDERSTANDING THE DEBATE OVER GOVERNMENT-OWNED BROADBAND NETWORKS:

Context, Lessons Learned, and a Way
Forward for Policy Makers

Charles M. Davidson

Director, ACLP at New York Law School

Michael J. Santorelli

Director, ACLP at New York Law School



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About New York Law School

Founded in 1891, New York Law School is the second oldest independent law school in the United States. Drawing on its location near the centers of law, government, and finance in New York City, its faculty of noted and prolific scholars has built the school's curricular strength in such areas as tax law, labor and employment law, civil and human rights law, telecommunications and information law, corporate and commercial law, and interdisciplinary fields such as legal history and legal ethics.

The mission of NYLS is to provide an extraordinary and innovative educational experience that embodies the fundamental values of the legal system and creates a bridge from scholarship and service to leadership and practice; to offer a vibrant, diverse, and forward-thinking center of legal studies where students develop the knowledge, skills, and professional values to serve their clients and have successful careers advancing justice, building the economy, and serving the various needs of modern society; and, to serve as an incubator of ideas and actions to be emulated throughout New York City, the nation, and the world.

For more information, please contact:

New York Law School
185 West Broadway
New York, NY 10013
(212) 431-2100
www.nyls.edu



About The Advanced Communications Law & Policy Institute

The Advanced Communications Law & Policy Institute (ACLP) at New York Law School is an interdisciplinary public policy program that focuses on identifying and analyzing key legal, regulatory, and public policy issues facing stakeholders throughout the advanced communications sector. ACLP's mission is to promote data-driven and solution-focused dialogues amongst local, state and federal policy makers, academe, consumers, service providers, and the financial community concerning changes to the regulatory regimes governing wireline, wireless, broadband, and IP platforms. Recent research has focused on modernizing communications regulations at the federal, state, and local levels, identifying barriers to more robust broadband adoption in key demographics and sectors, and public policy strategies to spur innovation and investment in broadband.

For more information, please contact:

Charles M. Davidson, Director
Michael J. Santorelli, Director
185 West Broadway
New York, NY 10013
212-431-2163 (o)
<http://www.nyls.edu/advanced-communications-law-and-policy-institute/>

UNDERSTANDING THE DEBATE OVER GOVERNMENT-OWNED BROADBAND NETWORKS:

Context, Lessons Learned, and a Way Forward
for Policy Makers

Charles M. Davidson*
Michael J. Santorelli**

The Advanced Communications Law & Policy Institute
New York Law School

With Contributions From* :

William Dunaway
Marietta, GA

Chris Hart
CareerSource Florida

Anna-Maria Kovacs
Georgetown University

David Merritt
Glenwood Springs, CO

Joseph Miller
WashingTECH

Ryan Palmer
West Virginia PSC

Carole Post
New York Law School

Rep. Linda Runbeck
Minnesota State Legislature

David Salway
New York State Broadband
Program Office

Royce Van Tassell
Utah Taxpayers Association

John Venzon
Davidson, NC

Laurie Venzon
Davidson, NC

Luz Weinberg
Aventura, FL

* Director, ACLP at New York Law School.

** Director, ACLP at New York Law School. Questions and comments may be sent to michael.santorelli@nyls.edu. The views expressed herein are those of the authors and do not necessarily represent those of New York Law School or any of the Contributors.

* The views expressed by the Contributors are their own and do not necessarily represent those of their employers or the authors.

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New York Law School Foreword

As a law school based in the heart of the largest and most dynamic city in the country, New York Law School strives to create an environment in which to train the next generation of advocates and government leaders. To do so, we foster a diverse and collaborative atmosphere that draws on the myriad strengths of our faculty, our academic programs, and our proximity to major institutions like state and federal courts, as well as New York's City Hall and its City Council. What emerges is a unique kind of thought leadership, one that is grounded in the realities of litigation, policy making, and on-the-ground advocacy. These are among the many singular traits that make NYLS New York's law school. The following paper is written very much in this spirit. It tackles head-on a controversial topic and offers a very straightforward and practical analysis that will be useful and accessible to a wide range of policy makers.

Nothing is more fundamental to effective governance than understanding the parameters of government action and knowing how to effectively work within those limits to realize core social and public policy goals. No matter what the issue under consideration, there will inevitably be debate, dialogue, and disagreement over the proper reach of government. That is certainly the case in the context of municipal broadband, and such is to be expected. The real test for officials is how they respond. In an environment of limited resources and multiple, pressing public policy priorities, this paper offers guidance for policy makers grappling with the many complex questions associated with ensuring that residents, businesses, and institutions have ready access to what has fast become the foundation of modern commerce: broadband Internet connectivity.

Having had the privilege to work in New York City government for more than two decades, including a decade as counsel to former Mayor Michael Bloomberg, I certainly appreciate the contours and challenges associated with improving broadband access at the city level. Without robust broadband access, the city's burgeoning start-up sector might have struggled to get off the ground. Similarly, without widespread opportunities for getting online—in school, at home, in our city's many parks—many residents and small businesses would have been deprived of the chance to benefit from the transformative power of high-speed Internet connectivity. For these many reasons, Mayor Bloomberg—working with key appointees in his administration like Carole Post, who, before joining NYLS as its Executive Vice President and Chief Strategy Officer, led the city's Department of Information Technology and Telecommunications and served as the city's Chief Information Officer—sought to maximize broadband coverage by engaging experts and working with them to enhance what they do best—build networks, increase capacity, support high-tech businesses, and increase digital literacy. The model that resulted was a partnership model, one that positioned city government as a vehicle for facilitating and expediting beneficial outcomes for all involved (some of these partnerships are discussed at length in section 6).

These types of challenges and opportunities remain in cities and states throughout the country. The following paper identifies a reasonable path forward and, perhaps most importantly, provides policy makers with an array of resources to reach the decisions that make the most sense for their municipalities. It is essential to approach these types of issues in as reasoned and forward-looking a manner as possible. This paper will help to do just that.

ANTHONY W. CROWELL
Dean and President
New York Law School



Authors' Foreword

Over the last nine years, the Advanced Communications Law & Policy Institute at New York Law School has explored nearly every major facet of the U.S. broadband market. Through an array of articles, white papers, reports, primers, and interdisciplinary events, we have examined a wide range of policy and regulatory matters—from more esoteric topics like intercarrier compensation to the “big” issues like how to spur more robust adoption and use of broadband in key sectors (e.g., education, energy, and health care) and in major demographic groups (e.g., seniors, people with disabilities). Our wide-ranging curiosity stems in large part from previous experiences working in and around state and local government during the birth and adolescence of broadband in the United States.

This is our fifth paper on government-owned broadband networks (GONs). Our current study holistically examines the topic of GONs in the context of statistics and data, case studies and real world experiences, and consensus-based policy objectives (e.g., spurring broadband adoption and use).

Beyond disagreements about the competitive and innovative health of the U.S. broadband space—a topic we explore at length in this report—the debate over whether or not GONs are appropriate often comes down to a fundamental disagreement over the proper role of government in private markets. This debate is not unique to the GONs space. Indeed, it is a debate that has been ongoing for decades, if not centuries, and it has spilled over into nearly every sector of the economy.

At their core, these disagreements are animated by competing worldviews that, more often than not, fail to align. The debates that such competing views stimulate, however, can be enormously productive. Throughout history, they have inspired creative solutions to profound problems. Unfortunately, in the broadband context, debates tend to unravel into unproductive shouting matches. Instead of meeting on common ground to arrive at sound policy outcomes, debates in the broadband space tend to spiral out of control, draining all of the life and productive mental energy from the room. Stakeholders often move further apart; arguments are attacked regardless of their merits; cynicism reigns supreme.

In an effort to break through what at times appears to be a manufactured stalemate, the following report is offered as a conversation starter. It has been developed first and foremost with policy makers in mind. For many at the state and local levels, the issue of GONs can be arcane, especially in light of the dozens of more pressing day-to-day priorities, like improving schools, keeping the streets paved, and fighting crime. Nevertheless, there is increasing enthusiasm around the potential for municipally owned and operated networks to serve as a means for municipalities to seize control of their economic destiny. With so many issues of foundational importance already challenging decision-makers—from rising economic inequality to structural shifts in employment that have forced millions out of the workforce, to crumbling roads, bridges, and other basic public infrastructure—calls for GONs, which typically require substantial investments of already scarce public resources, warrant increased scrutiny.

We don't purport to have the “right” answers to the many questions raised by GONs. What's right for a particular community will differ from city to city and from state to state. Nevertheless, the following report offers critical context for these discussions and proposes a possible path forward for policy makers. To the extent that someone disagrees with our analyses, observations, or recommendations, we invite constructive feedback. Our hope is that this report will spur solution-focused dialogues among a diverse array of stakeholders

and encourage creative ideas for developing and implementing rational policies that bolster broadband connectivity throughout the United States.

We would remiss if we didn't acknowledge the many sources that were influential throughout the drafting and editing of this report. Over the last few years, we have benefited immensely from conversations with stakeholders across the broadband ecosystem on the many issues discussed herein. Our dialogues with policy makers and their staffs have been immensely informative. Through conversations with state legislators, federal and state regulators, and local elected officials, as well as policy experts and members of major national policy-focused organizations like the National Conference of State Legislatures, the American Legislative Exchange Council, the National Association of Regulatory Utility Commissioners, the National Association of Counties, the National League of Cities, the National Association of Telecommunications Officers and Advisors, and Women in Government, we have learned much. Closer to home, we have appreciated our many discussions on a range of broadband issues with the New York State Broadband Program Office, the New York State Broadband Task Force, the New York State Business Council, and the Partnership for New York City, as well as a number of local elected officials, including Manhattan Borough President Gale Brewer.

We are indebted to New York Law School for supporting our work on this project. The law school is supported by a wide range of organizations—alumni, trustees, corporations, and philanthropies—that, collectively, hold a range of views on the issues discussed in and implicated by the following report. We note that everything included herein, unless otherwise noted, represents the views of the authors only and does not necessarily reflect the views of New York Law School or any of its supporters. We are incredibly thankful for the continued support of New York Law School, including the wisdom shared with us by its many resident experts. Foremost among this cadre are Dean Anthony Crowell and Executive Vice President Carole Post, two veterans of the administration of former New York City Mayor Michael Bloomberg.

We look forward to discussing these critical issues with all stakeholders going forward and hope that our report contributes to productive dialogues around harnessing the transformative power of broadband in every sector and every community across the United States.

CHARLES M. DAVIDSON
MICHAEL J. SANTORELLI
ACLP at New York Law School



Executive Summary

Policy makers have debated the efficacy and viability of government-owned broadband networks (GONs) in the United States for many years. At their core, these debates reflect fundamental disagreement over the broadband market's competitive and innovative health, as well as the appropriate role of government in this space. This report seeks to inform the debate by grounding it in data and relevant context. The report offers a number of resources and tools for use by policy makers when evaluating the efficacy of GONs and developing targeted and cost-effective approaches to bolster broadband connectivity from both the supply side and demand side.

Report Overview and Summary of Findings

Historical Analysis of GONs and GONs Advocacy. The report begins by tracing the historical evolution of arguments for government broadband ownership in the United States. Understanding how these arguments evolved and how they have fared in the real world is essential to understanding the contours and drivers of current GONs advocacy.

Key point: Many current rationales for GONs are variations of themes and advocacy about broadband regulation in the early and mid-2000s. These themes informed much of the municipal Wi-Fi advocacy in the late 2000s and now inform the current debate over GONs.

Key point: Despite a number of failed municipal Wi-Fi projects in the mid-2000s, advocacy for GONs persisted. Many blamed the failures on too little government involvement and began to embrace broadband deployment models that were exclusively public in nature and built around particular technologies (e.g., fiber) and subjective speed benchmarks. These efforts ultimately sought to “future-proof” advocacy by asserting what the “end-state” of broadband in the United States should be and then advocating for that outcome.

Contextualizing the Modern GONs Debate. The report then sets forth the relevant context in which to evaluate GONs proposals. This analysis encompasses two categories of issues.

First, the report examines the state of the U.S. broadband market. Critics argue that broadband is too expensive, too slow, and offered by too few providers, and that GONs offer viable redress. A comprehensive, data-driven and historical analysis of both the supply side (i.e., availability) and demand side (i.e., adoption and use) yields more optimistic findings regarding the broadband market's competitive and innovative health.

Key point: Throughout the evolution of the GONs debate, diagnoses of failing or failed broadband have proven inaccurate. The data make clear that the U.S. broadband market is robust in terms of speed, affordability, and choice, and well-positioned to keep improving in response to evolving consumer demand.

Key point: Ample data demonstrate that, by nearly every metric, broadband availability and performance have greatly improved—and continue to improve—across the entire country. Over the last 15 years, consumers have been getting increasingly more value for their money; average speeds have increased and the number of service options has multiplied.

Challenges nevertheless remain. On the supply side, some remote parts of the country remain unserved. The Federal Communications Commission (FCC) and state governments, in partnership with service providers, are helping to plug these gaps. But on the demand side, data highlight a number of important challenges that require concerted, collaborative action by public, private, and nonprofit stakeholders.

Key point: Some of the most pressing public and social policy challenges remain on the demand side. Adoption rates in key user groups—senior citizens, people with disabilities, low-income households, and certain minority communities—remain below the national average. This is due in large part to an array of community-specific barriers that impede more robust adoption and use of broadband-enabled services.

The second set of issues involves the ability of municipalities, and, by implication, states, to construct and maintain these networks—and the opportunity costs of doing so. Foremost among the many factors that influence municipal action of any kind are the volatile state of public finances and the immediate need to invest more resources in shoring up basic public infrastructure like roads, bridges, dams, the electric grid, and water systems.

Key point: The Great Recession exposed a number of critical weaknesses in local finances that, taken together, create an inhospitable environment for taking on the risks and making the massive new investments associated with redundant long-term construction projects like GONs.

Key point: By nearly every measure, basic public infrastructure in the United States is crumbling and in need of trillions of dollars of investment. To the extent that new funding is available for investment in towns, cities, and states, data indicate that those dollars should be allocated in support of repairing existing infrastructure. Calls to prioritize public spending for the purposes of deploying a GON should be carefully examined in light of these many existing and future obligations.

Case Studies of Major GONs. To better understand the real-world issues of municipal broadband projects, the report profiles the GONs that have been built in Chattanooga, Tennessee; Bristol, Virginia; Lafayette, Louisiana; Monticello, Minnesota; Cedar Falls, Iowa; Danville, Virginia; UTOPIA, Utah (a consortium of 16 cities); Groton, Connecticut; Provo, Utah; and Wilson, North Carolina. These networks represent a broad spectrum of municipal broadband efforts undertaken across the country in recent years. While the networks share many traits—notably, volatile business models, significant debt, and uncertain financial futures—the story of each individual GON highlights why the network should be seen as a cautionary endeavor rather than a replicable model.

Findings about GONs' Efficacy in the United States. The data included in the case studies, along with analyses from other sections of the report, support an array of findings regarding GONs.

Finding One: Failed and failing GONs offer much-needed perspective about the complexities and challenges associated with building and deploying advanced communications networks. Overly optimistic assumptions about costs and take-rates often doom networks before they are even launched. In addition, moderately successful municipal networks generally had their genesis in unique circumstances that are extremely difficult, if not impossible, to replicate. Oftentimes, these unique factors include the availability of one-time grant funding that offsets the significant costs associated with building a broadband network. And many “successes” offered by GONs proponents have not, in fact, endured over the long term, raising key concerns about the viability of any kind of municipal broadband network.

Finding Two: GONs, especially those deployed by municipal utilities, raise fundamental concerns regarding sustainability, fair competition, and consumer welfare. As regulated monopolies, municipal utilities operate according to a distinct set of rules, regulations, and

incentives relative to private firms. These incentives are not primarily focused on spurring innovation or engaging in competitive markets.

Finding Three: Calls for achieving subjective speed benchmarks should not supplant actual consumer demand as the primary driving force shaping the broadband ecosystem. Data indicate that the vast majority of consumers are satisfied with their broadband connections and that, in general, the supply of bandwidth and the speeds of Internet connections are being shaped, in fact, by consumer demand and actual usage patterns.

Finding Four: The direct economic impact of GONs, especially in job creation, can be difficult to attribute. Data do not indicate that GONs actually serve as the nucleus of renewed economic activity in cities and towns where they have been deployed. On the contrary, they appear to be playing minor roles in creating relatively few new jobs as companies continue to respond more favorably to other, more tangible incentives (e.g., tax breaks).

Finding Five: Governments are not well-equipped to compete in dynamic markets. In general, municipal governments do not have a strong record of keeping pace with technological advances or in shaping policies that reflect rapidly evolving consumer preferences for new services. Moreover, because of the various interests represented in government policy- and decision-making, and because of other factors like institutional inertia, government is ill-equipped to act quickly or drive the type of creative destruction evident throughout the broadband ecosystem. Finally, increasing use of public-private partnerships (PPPs) and privatization of many municipal functions evince a growing recognition by government entities that there are viable alternatives to “going it alone.”

Finding Six: The substantial costs of building, maintaining, and operating GONs outweigh real benefits. The asserted benefits are often attributable to other factors. And there are important opportunity costs associated with a decision to pursue a GON instead of spending money on other infrastructure (e.g., water and wastewater systems) or public policy needs (e.g., education).

Finding Seven: Pursuit of a GON often diverts scarce public resources from more pressing priorities. Many states have laws limiting the amount of debt a municipality can accrue. Cities contemplating a municipal system will have to determine whether debt assumed as a result of a GON may limit additional bond issuances in support of other projects. Pursuit of a GON often necessitates real trade-offs that may negatively impact core aspects of local governance.

Finding Eight: A GON will not spawn the next Silicon Valley. Numerous cities have successfully nurtured vibrant information sectors, high-tech clusters, and start-up communities by using public resources to create or enhance the economic and innovative conditions necessary to foster an environment conducive to these industries. But this outcome is the result of many factors and policies having nothing to do with a GON.

Finding Nine: GONs are not remedies for perceived or actual broadband connectivity challenges. Positioning a municipal network as a vehicle for spurring competition in a local broadband market could ultimately undermine market forces and harm consumers.

Finding Ten: State-level policy makers have important roles to play in the GONs context. The costs associated with building and maintaining a GON are significant, which raises the risk of financial default by local government, the diversion of resources from other priorities, or other negative outcomes (e.g., credit downgrades). States, which maintain ultimate responsibility for the financial health of the cities and towns in their borders, have strong interests in overseeing the process by which GONs proposals are vetted and

approved. Well-established legal precedent supports such a close relationship between states and their political subdivisions.

Roles for State and Local Policy Makers in Enhancing Broadband Connectivity. The final substantive section of the report examines the wide array of roles that policy makers can and should play in bolstering broadband connectivity from both the supply side and demand side.

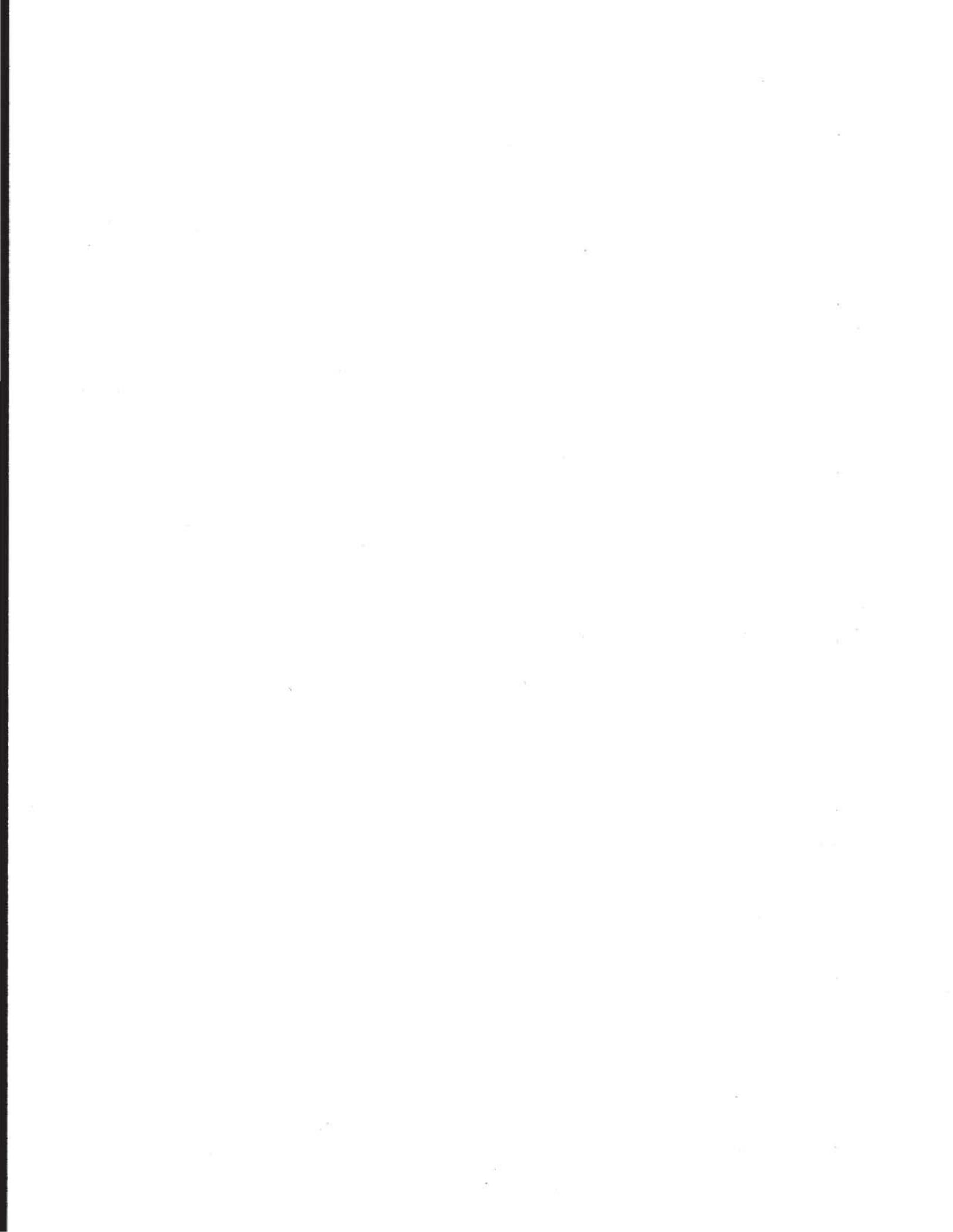
Key point: The most effective public efforts in the broadband space are well defined and narrowly tailored to address actual problems. Often, public-private partnerships, which leverage the expertise, resources, and economic incentives of stakeholders in the private and nonprofit sectors, can reduce public risk and optimize outcomes on both the supply side and demand side. Numerous examples of PPPs are provided for consideration by policy makers.

Key point: In general, the most successful PPPs tend to be those that position government as a conduit for channeling available funding to support the efforts of expert firms in the private and nonprofit spaces, and as hubs for facilitating collaboration and frank discussions about workable, impactful solutions in a given community.

Additional Resources for Policy Makers:

The **Policy Maker Toolkit** presented in **section 1** provides a step-by-step guide for evaluating proposals for a government-owned broadband network. Because these networks typically require long-term commitments of limited public resources and entail the assumption of substantial risk, decision-making processes should be as informed and comprehensive as possible.

Additional Perspectives on GONs are included in **section 7** in an effort to provide further insight into the efficacy of government-owned broadband networks. These brief essays have been authored by a range of subject-matter experts who have firsthand experience with GONs or who have examined the contours of municipal broadband.



Part I

Introduction and Context

1

Introduction

This paper seeks to provide policy makers and regulators at every level of government with:

- Relevant historical and modern context to inform discussion about government-owned broadband networks (GONs);
- A data-based, fact-driven examination of ten GONs deployed in the United States over the last decade;
- Findings regarding the efficacy of GONs in the United States; and
- A list of feasible, efficient options for municipalities and states interested in increasing broadband connectivity.

1.1 Broadband Policy Making in the United States and its Critics

Policies and arguments impacting U.S. Internet access have long been driven by a desire to plan for and achieve “what’s next.” For example, work around the National Information Infrastructure¹ in the early 1990s gave way to the Next Generation Internet initiative a few years later. This initiative was launched to improve a congested online experience that was a result of robust consumer use and rapid growth in online services.² In 2010, the *National Broadband Plan*, prepared and released by the Federal Communications Commission (FCC), articulated a bold vision for high-speed Internet connectivity, including a wide availability of next-generation communication networks and more informed use of broadband-enabled services.³

The common thread of these initiatives is a desire to ensure U.S. consumers and businesses can access progressively better Internet connections. The nation’s strategy for achieving this goal has been the implementation of a minimalist regulatory framework to encourage investment in the deployment, maintenance, and improvement of commercial broadband networks.⁴ This approach can be traced back to the Telecommunications Act of 1996, in which Congress stated:

It is the policy of the United States ... to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.⁵

¹ See, e.g., *The National Information Infrastructure: Agenda for Action*, Information Infrastructure Task Force (Sept. 1993), available at <http://www.eric.ed.gov/PDFS/ED364215.pdf>. This initiative was launched to “ensure that [new] information resources [were] available to all at affordable prices.” *Id.* at p. 5.

² See, e.g., *Concept Paper*, Next Generation Internet Initiative, Networking and Information Technology Research and Development (July 1997), available at <http://www.nitrd.gov/ngi/pubs/concept-Jul97/pdf/ngi-cp.pdf> (“Today’s Internet suffers from its own success. Technology designed for a network of thousands is laboring to serve millions. Fortunately, scientists and engineers believe that new technologies, protocols, and standards can be developed to meet tomorrow’s demands. These advances will start to put us on track to a next generation Internet offering reliable, affordable, secure information delivery at rates thousands of times faster than today. Achieving this goal will require several years of generic, pre-competitive research and testing.” *Id.* at 1).

³ See generally *Connecting America: The National Broadband Plan*, Federal Communications Commission (March 2010) (“*National Broadband Plan*”).

⁴ See, e.g., William Kennard, Chairman, FCC, *Connecting the Globe: A Regulator’s Guide to Building a Global Information Community*, at p. IX-2 (1999), available at <http://www.fcc.gov/connectglobe/regguide.pdf> (observing that “Government policy can have a profound impact on Internet development; it can either foster it or hinder it. To date, the Internet has flourished in large part due to the absence of regulation. A “hands-off” approach allows the Internet to develop free from the burdens of traditional regulatory mechanisms.”).

⁵ 47 U.S.C. §230 (b) (2) (emphasis added).