

Connecticut Broadband Internet Coordinating Council

Quarterly Meeting of the CT Broadband Internet Coordinating Council (CBICC) Dec. 6, 2010 ♦ 9-11 a.m., LOB, 1B

Chairman Manzione opened the meeting. IT was noted that Chief of Utility Regulation Peter Pescosolido was in attendance on behalf of the DPUC since Bob Mundy is now retired.

Introductions

Glenn Carberry, *Guest Speaker*, Tobin, Carberry, O'Malley, Riley and Selinger

Mike Chowaniec, Cablevision

Burt Cohen, Murtha Cullina LLP

John Emra, AT&T

Lou Manzione, *CBICC Chairman*, University of Hartford

Jack McCoy, Town of Manchester

Matt Miller, Consultant

Peter Pescosolido, DPUC

Anthony Santino, Independent Businesses

Bill Vallée, Office of Consumer Counsel

Also Present: Ann Bertini and Richard Strauss with CASE

Not Present: Robert Vietzke, CBICC Vice Chairman, Internet 2

OUTCOMES:

- Adoption Strategies Subcommittee formed and will hold teleconference in coming weeks
- CASE will keep CBICC informed of Broadband study meetings and progress
- 2011 meeting dates adopted

1) Call for Approval of September Minutes — Santino made a motion. Chowaniec seconded. There was no discussion. All were in favor. September minutes were approved.

2) Glenn Carberry Presentation on Pole Attachment Issue -- Tobin, Carberry, O'Malley, Riley and Salinger

See accompanying PPT. Carberry said he supports equal access for providers and represents Fibertech in the pole attachment docket. *The opinions expressed here are those of Attorney Carberry and are not reflective of the position of the CBICC.*

Overview

- Approximately two dozen companies provide various types of broadband service across CT
- The State Legislature created this Council to identify funding opportunities and to encourage cooperation among governmental agencies and providers.
- The DPUC and the Department of Information Technology (DOIT) have obtained close to \$100 million in grant funds for broadband mapping and the deployment of improved fiber networks with your support.
- The DPUC issued a landmark decision on pole attachments in 2008 which established fixed time intervals for pole owners to issue licenses to third party attachers, regulated the completion of make-ready work, and imposed other limitations on the pole owners' management of our telecommunications infrastructure.

Carberry perspective: Promoting fair competition. Expediting access to poles and encouraging expansion.

Customer Issues: Delays. Providers need to be able to give customers a commercially reasonable date for installation. Studies by the Make Ready Working Group show that about half of the licenses issued are completed within 50 days. Also, pole owners have had difficulty meeting the 90 or 125 day deadlines required by the DPUC on 10-15% of applications.

It should be possible to do better than 90 days. Companies cannot compete effectively.

Frustrating Pole Administration: Providers currently need one agreement with each separate pole owner, AT&T, CL&P and UI. Also, AT&T is not required to submit a license application for any new telecommunications installations on pole; so there is clear potential for delay, anti-competitive action, and duplicative procedures. In addition, any broadband provider which is not a cable company, a municipality or an ILEC telephone company must also file an application with

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the Department for authorization to install facilities in the public rights-of-way.
Compelling legal and policy reasons for addressing the pole administration issue.

- Section 224 of Federal Telecommunications Act: *Utilities are required to provide telecommunications carriers and cable systems with non-discriminatory access to any poles, ducts, conduits and rights-of-way owned or controlled by it. The FCC was further directed by Congress to ensure that terms and conditions for pole attachments are just and reasonable*
- FCC National Broadband Plan noted: *the most significant obstacle to the deployment of fiber transport is the inability of broadband providers to obtain access to pole attachments in a timely manner.*
- CT self regulates on pole attachments but should do so in accordance with these fundamental principles.

Efforts of Working Group to achieve a level playing field have reached a critical juncture.

- First, the Working Group has not accepted any of the proposals made by Fibertech on other participants to expedite licensing and make-ready to process customers installations more quickly.
- Second, neither AT&T or United Illuminating have committed to revising their own pole attachment agreements to match the negotiated terms of the new CL&P agreement. As a matter of fact, AT&T has not even modified its pole agreements to incorporate the requirements of the Department's 2008 Pole Decision. And both AT&T and CL&P intend to charge private broadband providers separate licensing and make ready fees without any adjustment for duplication, so licensing fees and costs have effectively doubled.

Carberry to the CBICC: Your role as an advocacy group and as a coordinator for state efforts to expand fiber systems and broadband internet networks could be important in encouraging action by the Working Group, the pole owners, and the Department on these issues. Consider supporting:

- ▶ Use of temporary pole attachments in certain limited situations
- ▶ Encourage pole owners to standardize licensing process and agreements

Carberry noted that he is not taking a position on the establishment of a pole administrator but instead believes that the pole owners can improve the process on their own and make the privately-run system work more efficiently.

CBICC Member: Why does it take longer? What causes the delay?

Carberry: Not every issue can be resolved by lawyers. The Working Group realized this and that is why the engineering subgroup was created. There was a relationship between the number of poles on a license application and the time it takes to process. Also, when other attachers have to move that takes up time. With the help of AT&T, the Working Group came up with a protocol with notifying other attachers. They have also identified some forecasting so that an applicant can be given an estimate on how long the process will take.

CBICC Member: Regarding the temporary attachment becoming a permanent attachment. What happens if you don't get the permanent attachment within 30 days?

Carberry: The temporary attachment would not be put up unless the make ready analysis by pole owners had been done. It is temporary in that it does not drill through the pole. In NY, where weather is difficult, they've had great success in these temporary attachments.

3) CBICC Member William Vallée Presentation: Effect of Broadband on Small Business in Connecticut

Primary sources are: Small Business Administration (SBA) survey; FCC BB capability survey; National Telecommunications and Information Administration (NTIA) report; North Carolina Authority (e-NC)

SBA report: "Broadband is essential for business."

- Small businesses account most of the 1.2 million jobs created in the last 10-15 years of the Internet age
- PEW research shows that: 62% of American workers use the Internet
- Broadband is responsible for 17% of new jobs according to e-NC

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- Also according to e-NC survey **54%** of businesses would **not be in business** if they did not have broadband
- **41%** said that they would have to **relocate** if they were unable to access broadband in their community.

Slides 12 & 13 - Jobs & Economic Security - Governor-elect Malloy's Small Business Outreach Proposal

<http://www.danmalloy.com/policy>. Establish recruiting teams comprised of:

- the local chief elected official and local economic development specialists,
 - local and regional representatives from business groups such as local Chambers of Commerce
 - "builders" of communities, such as educational leaders, community non-profits, foundations, and arts and culture organizations.
- Coordinating teams will have key individuals from state agencies related to a company's industry.
 - Teams will help link companies to local, state, and federal fiscal resources.
 - **CT Broadband Coordinator Vallée adds "Teams should include a broadband assessment."**

Slide 17 - From a small business perspective, the definition of broadband must be:

- Application needs should be the defining metric, not the provider's particular speed.
- "broadband is a connection that is sufficient in speed and capacity such that it does not limit a user's required application."

Key Point: Connecticut needs champions on adoption. Access is not the issue in CT. Massachusetts has a champion in Gov. Deval Patrick. Public-private partnerships are key. Allow the government to help providers do what they do.

Chowaniec: The reality is that the take rates for the upper speed levels are still at the margins.

The question was raised as to whether applications drive adoption. Netflix streaming movie service and YouTube were cited by McCoy as an area where growth will be exponential. It was agreed that applications drive change.

4) ADOPTION STRATEGIES DISCUSSION

Manziona: Should the libraries get involved? (facilitating computer training, loaning kindles and computers ...).

A committee member proposed that other states best practices be examined before any recommendations are made. Here, Vallée explained that the CASE Study Committee on *Guidelines for the Development of a Strategic Plan for Accessibility to Broadband Services in Connecticut* is doing a best practice analysis, having identified five states to look at in more depth. Strauss also said that the study involves a public survey of residents and businesses regarding broadband usage. It was decided that the CBICC would be included on the contact list for the project.

Another report referenced was the Program Review & Investigations staff work on *Assessment of Connecticut's Implementation of E-Government*. (Briefing was held Dec. 16. See below links.)

- **Assessment of Connecticut's Implementation of E-Government (Approved Findings & Recommendations Report, 12/16/10)**
http://www.cga.ct.gov/pri/docs/2010/1216/E-Government_Findings_and_Recommendations%20V2.PDF
- **E-Government Assessment Approved Key Points (12/16/10)**
http://www.cga.ct.gov/pri/docs/2010/1216/E-Government_Findings_and_Recommendations_Key_Points%20-%20Copy.PDF
- **E-Government Assessment Presentation (12/16/10)**
http://www.cga.ct.gov/pri/docs/2010/1216/E-Government_FR_Final.pdf

Cohen cited a 2009 Benton report, *Broadband Imperatives for African Americans*, noting that one cannot apply for a job without broadband in today's world. The CBICC should focus on this, he said, and try to make recommendations that might make some impact.

Chairman Manziona suggested an Adoption Strategies Subcommittee of volunteers that he offered to lead which would

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hold a conference call in the coming weeks. The following committee members volunteered: Cohen, Vallée, Chowaniec, Emra, McCoy. Emra recommended the entire Council be invited to participate. (*See summary for 12/21/10 teleconference.*)

It was noted that adoption strategies would probably be driven by results of the CASE survey as well as the CASE study overall. Strauss noted that the survey and best practices review will be used to formulate questions for focus groups around the state.

McCoy: There are a lot of statistics in the communities about where people do not have adoption. In one Manchester school, for example, greater than 60% do not adopt broadband at home. McCoy suggested the CASE study conduct a focus group to those areas. – a focus group of non-adopters.

Vallée: If the state could help a One Economy type model that would be ideal.

CBICC Member Jack McCoy – Connecticut Conference on Municipalities (CCM) Pole Attachment Docket

McCoy cited Metcalf's Law of network value. Those that don't have it don't want it. Those that have it want those that don't have it to get it. The Value to users multiplies with coverage. If the poor and underserved are not using Internet b/c don't understand its use then the rest of the users missing out on that value.

Key Questions:

- Why are services too expensive for the poor?
- Is the cost of services not entirely in hands of the providers because of the public rights of way?

McCoy's position: Revisit the single pole administrator idea. There are towns that have been waiting for more than a year to do municipal gain projects and the pole attachment issue is really a barrier.

Pescosolido noted that the DPUC has been doing a lot of work on this. The commissioners felt that this should be done at the Working Group (WG) level and he underscored the fact that the work of the WG has been recognized by the FCC. The DPUC awaits a report (due to DPUC Dec. 15) from the WG on work that has transpired since the decision was issued and hopes that the pole administration issue will be addressed.

- McCoy clarified that his comments were not intended as a criticism of DPUC, noting that some of the pending projects he mentioned will be attempt to use the draft pole attach agreement with different attachers. If that process fails, the towns will go back to the DPUC.
- Pescosolido noted that and said nothing prevents them from coming to the DPUC and asking them to get involved.
- McCoy noted that not everyone has fully participate in the WG.
- Pescosolido said the DPUC has been clear that anyone who wants to participate, should participate.

Cohen made a further point with regard to adoption: it is much more nuanced than a straight economic analysis. Parental involvement varies significantly. He cited statistics that show some high level of digital adoption with respect to wireless devices amongst urban community.

Meeting dates for 2011 were adopted as the first Monday of every quarter, except for September which would be Labor Day. Emra motioned. Santino seconded. All were in favor. The 2011 meeting dates and locations are:

- March 7 – 9-11 a.m. (CERC)
- June 6 – 9-11 a.m. (CERC)
- Sept. 12 – 9-11 a.m. (LOB, TBD)
- Dec. 5 – 9-11 a.m (LOB, TBD)

Adjourned.