



MEMORANDUM

To: ORTCC
From: Milo Mecham, Lane Council of Governments
Date: 26 August 2008
Re: Response to input by John Stadter of Comspan:

It is unfortunate when entities that share nearly all the same end goals for broadband deployment end up disagreeing with each other over relatively small matters, especially when they end up blaming each other for the failure to achieve the goals they all agree on.

Some of the remarks by John Stadter fit into the category of blaming a fellow victim in the difficult struggle to get more broadband. Whether it was the resistance of the incumbents or financial difficulties is hard to say, but it appears that Mr. Stadter is transferring some of the business disappointments of the company to the local governments who were not intentionally a part of the problems that Mr. Stadter discusses. I work at LCOG and provide assistance to local governments in telecommunications matters. I have had interactions with all of the local governments that Mr. Stadter mentions in his testimony, and I may be the part of LCOG that Mr. Stadter is complaining about. While I cannot speak for the cities directly, I can relate my information about the attempt to encourage broadband deployment in these cities. All these cities have been consistent in their desire for competitive broadband service and have been frustrated by some of the same forces that Mr. Stadter mentions in his discussion. I personally have been involved in efforts to improve broadband service in Oregon for a decade. While I do not have Mr. Stadter's perspective, it appears that he misunderstands some of the forces at play in the area of broadband deployment to rural Oregon.

One problem that Mr. Stadter does not mention that led to some difficulties in the franchise discussions among the cities and Comspan was the cities understanding of federal law and its requirements that all similar telecommunications providers be treated similarly. That led, in some cities cases, to a perceived need on their part to hold real franchise negotiations to make certain that the franchise for Mr. Stadter's company was the same as other telecommunications providers in these cities. The desire of these cities to avoid litigation from incumbent providers was, incorrectly, taken as a rejection by Comspan.

Mr. Stadter also levels some specific criticism at the City of Cottage Grove for having a publicly financed broadband development under weigh, and for having a set of policies that mandate underground construction of facilities in the city. I want to make it clear that I am not speaking on behalf of Cottage Grove. I am familiar with the City and its efforts to develop broadband

services in the city, but what I am saying here is merely my opinion. While the factual characterizations of Cottage Grove's policies may be close to accurate, some of the conclusions that are drawn from them do not match the facts as I am familiar with them. Cottage Grove's publicly supported system is one of many around the state where a city, having grown tired of waiting for the kind of development that it felt was necessary for its residents, decided to undertake some development on its own.

The example of the city's dealings with Comspan are examples of the difficulties of public-private partnerships. Whether it was for technical reasons, or control issues I do not know, but when Cottage Grove offered to partner with Comspan to allow Comspan to use the public system, Comspan rejected the offer. This is an additional instance of what seems to be a long term pattern: when the public sector takes the initiative in developing telecommunications infrastructure it is very hard to get private participation.

Cottage Grove does have a requirement that all new utility construction, whether by incumbents or new additions goes underground. This was a policy choice made by Cottage Grove's elected city council in response to public requests. It predates the development of Comspan. Cottage Grove itself is abiding by this requirement in its telecommunications development. Comspan made no attempt to educate the citizens of Cottage Grove concerning the need for a change to the city's policies, it simply rejected the city when it found the policy in place and received notice from city officials that they were required to enforce laws in place.

Broadband deployment is a shared goal of all the cities that LCOG has worked with. They, like companies such as Comspan, even incumbent carriers, wish that broadband had been deployed yesterday, so that their citizens could be reaping its benefits today. It seems that this desire for rapid deployment is its own worst enemy. Companies develop an ambitious development plan which predicts a quick return on investment. When they encounter a city that is excited about the prospect, but needs to discuss the details of how the deployment will work, the company writes the city off and moves on. When the company encounters a public effort to help the development of broadband, it finds problems with some of the details that the public have put in place to safeguard other public interests. Governments, on the other hand, fail to understand the needs of private enterprise to invest only where there is an assurance of recovering the investment.

To achieve broadband deployment is going to take a new perspective. The models of the past will not work because we no longer live in the past. There must be give on both sides. Governments cannot expect businesses to understand the restrictions that they have, they must explain them and work together to deal with them. Businesses cannot expect government to give them money or to give them permission to use other public resources without expecting something in return. The days of price and service regulation are gone, so government cannot try to rely on them, but business cannot expect that the subsidies and government support that went with the regulation is not also gone. Whether or not anyone likes it, the best chance of success will be some form of public-private partnership. To succeed both the public and the private side need a new business model. And they need an understanding of the other side and the patience to work things.