

## **PROTEC & MUNICIPAL PERSPECTIVES ON BROADBAND**

### **What is PROTEC and Who is Mike Watza and Why are we here today?**

**What & Who:** Our experience includes regularly representing well over 100 Cities, Villages, Townships and their affiliated organizations (MML and MTA) across Michigan on various telecommunication issues since 1996, at the State and National levels. This is done primarily by way of the governmental consortium known as PROTEC <https://www.protec-mi.org/> which is led by board member Cities of Dearborn, Livonia and Southfield.

This work includes assisting on a ½ dozen Municipal Broadband (BB) projects around the state. We have also been involved in every major telecom legislative or regulatory matter affecting municipalities dating back to the Metro Act in 2002. This includes more recent work on the Small Cell legislation and implementation and appeal of related FCC orders at the US 9<sup>th</sup> Circuit Court of Appeals. I have also instructed on telecommunications law and policy at MSU Law School and the MSU IPU.

**Why:** To answer some of the questions posed for today and to seek a permanent seat at this table.

### **Our Ask: Municipalities should in every respect be added to the Governor's BB Task Force.**

- i. Procedurally:** After all, municipalities have been treated in many respects by all 3 branches of State Government as State Subdivisions, little different, if at all, from the Agencies that currently make up this group. And, certainly municipal government has standing to be here at least equal to others in the room, who are neither an agency of the State nor a Constitutionally recognized form of government.
- ii. Substantively:** Municipal BB systems are routinely identified as the best ISP's in America offering Gig Speeds, universal buildout, high quality service and at very low prices compared to the monopoly industry.
  - And -We have much in the way of grass roots experience and contacts to offer in this critical BB effort.
  - And – President Biden's just announced "American Jobs Plan" picks up where the Obama Administration and FCC left off: Endorsing Municipal BB as a significant answer to the lack of

competition in the BB marketplace. So we are directly in line for significant Federal support which can benefit all of us.

- And finally, in as much as BB is now a universally acknowledged essential service, municipalities have vast experience providing such services to our residents.

**Your Specific Questions:** *The group would like to hear:*

1. *The municipal perspective on broadband;*
2. *What barriers they're facing;*
3. *What issues they have;*
4. *How they've possibly partnered with the private sector to expand availability;*
5. *What are some of the ROW/permitting pain points;*
6. *Recommendations and solutions for solving these challenges; and*
7. *What real policy changes can be made to empower locals to better participate in the broadband ecosystem.*

**Our Answers:**

1. **Municipal Perspective:** COVID has dramatically clarified the lack of adequate BB across all communities
  - a. The 1<sup>st</sup> thing to note is that not a single municipal mayor, supervisor, councilperson, administrator or resident, that I have talked with over 20 years wants to add to their existing local burden, by way of now building and running a BB system
  - b. The reason this is a “thing” for Municipals here and nation-wide, is due to resident demand - grassroots - as a result of the wholly inadequate systems the monopolistic industry has been allowed to proffer to this point in time.
  - c. Choices: Of providers, quality of service and pricing is typically poor – Notwithstanding industry generated misleading maps, actual consumer choice is almost universally - 1 Cable provider. Meanwhile, AT&T is very hit and miss.
  - d. This is all due to lack of competition.
2. **Barriers and Issues:**
  - a. Money: Municipal Bonding is available in the marketplace but, respective debt obligations are the greatest impediment to Municipal BB

- i. Alternatives do not currently exist, though Congressional action is hopefully en route
  - b. Industry language about: 5G, Municipal's legally barred from building their own
  - c. MCL 484.3114 and 484.2252
    - i. 60 day delay
    - ii. Limits on expanding to neighbors
  - d. "unserved/underserved" Limitation on funding/support is industry code for keeping competition out of the industry breadbasket – middle and upper income suburbs – yet those communities need significant improvement, but don't qualify for help due to these limitations...State must not limit aid/support to these classic middle class regions which constitute a majority of our residents.
  
- 3. **Partnering with the private sector:** Cities typically start by asking incumbent major ISP's to enhance product – typically met with silence/denial – no projects to date have partnered significantly with incumbent ISP's. But lots of partnering with smaller industry members to connect to backbone for instance. (Though not technically private sector, MERIT has been a good resource in some instances.)
  
- 4. **RIGHT-OF-WAY (ROW)/permitting "pain points":**
  - a. For industry? -0- . The Metro Act and Small Cell Acts have rendered ROW access at near -0- cost (nickel/foot and \$20/year) and timing is all set with short shot clocks. The complained-of 'pain points' are industry speak and used as an excuse to avoid its own failings to build what they promise when and after legislation is offered/passed.
  - b. For Municipalities? Huge.
    - i. Giveaway of taxpayer supported ROW yields a taxpayer underwrite of a private industry
    - ii. Corresponding further reductions in Municipal revenue
    - iii. Loss of control, particularly on the "Small Cells", will lead to dramatic aesthetic problems and corresponding property value reductions leading again, to reduced local revenue.
  
- 5. **Policy changes to empower locals to better participate in the broadband ecosystem:**
  - i. Funding
  - ii. Eliminate broad "unserved/underserved" limits on state and federal funding

- iii. Include Municipalities in competition for funding (2020 PA 224 - example of anti-competitive legislation)
- iii. Less “planning” which suggests progress, and more actual progress toward more, faster, better service and
- iv. Legislation/Programs handing money or ROW access to industry (and municipalities alike) must contain quantifiable obligations of provisioning high quality, high speed, universal build out, at low (or at least competitive) cost
- v. Goal Must be GIG Service at reasonable rates and consumer friendly service standards and universal buildout. 25/3mbps is decades old tech. Our Global competitors have GIG speed and service at less than our current 25/3 mbps standard which the new FCC will be increasing to at least 100mbps very soon.

Thank you for inviting and allowing us to address the group. We hope you will decide to add your Municipal partners to this important Task Force on a permanent basis.



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