



TOP STORY

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Towns caught in clash over Net access

By Joseph Popiolkowski, Stateline.org Staff Writer, and Brian H. Kehrl

Bardwell, Ky., three miles east of the Mississippi River, is so isolated that only in the 1990s were its homes upgraded to private phone lines from a shared party line.

Valerie Davis, a Bardwell resident who suffers from the progressive neurological illness multiple sclerosis, wanted to telecommute on her worst days to her job as an information systems analyst at a hospital 35 miles away, but found her dial-up connection unreliable.

Connect Kentucky (CONNKY), www.connectkentucky.org, a state initiative to make high-speed Internet access ubiquitous, caught Davis, attention. For a one-time installation charge and monthly service fees, a satellite provider in December 2005 extended always-on broadband access to the farm Davis shares with her husband, a state trooper, and their 6-year-old daughter.

“For me this is a necessity—a utility, not a luxury,” Davis told *Stateline.org*.

Davis was invited to Kentucky Gov. Ernie Fletcher’s State of the State address in early January where he introduced her and touted CONNKY’s successes. Maine Gov. John Baldacci (D) recently stumped for a similar program—Connect Maine—in his address. In both states, the initiatives are charged with assessing the penetration of broadband services throughout the state and identifying funding sources and incentives to spur investment in greater high-speed access.

While Kentucky has been a model of public-private cooperation in promoting the spread of high-speed Internet connections, the role of state and local governments in hastening the spread of the technology has proven contentious in many statehouses and in Congress.

In some states, local governments are subsidizing broadband access for residents and businesses, especially those in rural areas underserved by private companies. Conversely, some states have enacted laws limiting municipal involvement, often after telecommunications companies complained about unfair government competition in the free market.

There’s “a crazy quilt of different laws in different places,” said Jim Baller of the Herbst Law Baller Group, www.baller.com, which represents community broadband interests.

While providing dial-up access came easily through use of pre-existing, standard phone lines, broadband requires a large and costly infrastructure of its own. But if dial-up access is a two-lane country road, then broadband is a superhighway, able to handle traffic up to 100 times faster.

Broadband allows users to experience the full spectrum of Internet capability including downloading large files, running multi-media programs and using Internet phone services, all of which are slow and sometimes impossible over dial-up lines.

By 2005, 14 states had laws restricting municipalities, efforts to deploy their own public communications; half of those laws directly apply to the broadband technology. Cities in Arkansas, Florida, Missouri, Minnesota, Nebraska, Nevada, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington and Wisconsin face strict barriers to entry through administrative and legal hurdles, according to the American Public Power Association www.appanet.org/files/PDFs/Telecom-Flyer.pdf?sn.ItemNumber=9965&tn.ItemNumber=10000.

Tempe, Ariz., recently launched a citywide wireless network – which like cable and Digital Subscriber Lines (DSL) falls under the broadband umbrella – to lure young workers and businesses attracted by a tech-friendly environment. Tempe is allowing a contractor to install transmitters atop its light poles. The subscriber cost is expected to be substantially lower than prices proffered by the region's current industry leader, Cox Communications. Arizona has no law banning the city's involvement in providing the service.

Elsewhere, San Francisco is currently soliciting proposals for a citywide wireless network under the watchful eye of all parties. California's Constitution actually authorizes taxpayer-funded utilities, including those offering "means of communication."

According to John Horrigan, an associate director for research at the Pew Internet & American Life Project, www.pewinternet.org, "The general dynamic is that communities get interested in it [extending broadband service] for a lot of reasons. The companies go to the states and say, 'uh, uh,' and the states then go ahead and prohibit it." The Pew Internet Project, like *Stateline.org*, is funded by The Pew Charitable Trusts.

A 2004 U.S. Supreme Court decision, www.justia.us/us/541/125, upheld state laws limiting municipal involvement despite a 1996 federal telecommunications law that says "any entity" is allowed to compete in the marketplace. The court found that the law applies only to private enterprises.

In 2004, Philadelphia's plan to become the first major urban area to propose a city-wide wireless system met resistance from state lawmakers, who introduced a bill to place strict limitations on any municipality's ability to provide a network.

After a heated debate, a law was passed that grandfathered in Philadelphia's proposal but required other Keystone State localities to consult the region's established telecom companies and allow them 14 months to offer high-speed Internet service "the right of first refusal."

The city, in the form of a nonprofit called Wireless Philadelphia, www.wirelessphiladelphia.org, partnered with service provider EarthLink, www.earthlink.net/about/press/pr_wireless_philly, to offer far-reaching inexpensive access. Philadelphia's plan intends to provide an affordable high-speed system for the whole city, including its low-income residents, as well as a unified network for city government and first-responders, according to Bernadine Hawes, a legislative assistant

for Pennsylvania Rep. W. Curtis Thomas, www.legis.state.pa.us/cfdocs/legis/home/member_information/house_bio.cfm?districtnumber=181, past vice-chairman of the National Conference of State Legislatures' Internet caucus.

The argument for public involvement is that government intervention is needed to help bridge the so-called digital divide where economically disadvantaged and rural residents are less likely to have consistent, affordable access than their wealthier, urban counterparts. Connection speed is a determining factor in who uses the Internet, how much they use it and what for, according to a survey by the Pew Internet Project.

"We are in a district that has a large minority constituency and we understand the need to have this broadband access so they're digitally included," Hawes said of Thomas, North Philadelphia district.

Experts also warn of an expanding "international divide" and decry the United States, fall from first to 16th in the 2005 International Telecommunications Union survey of broadband usage, www.itu.int/osg/spu/newslog/ITUs+New+Broadband+Statistics+For+1+January+2005.aspx.

But the argument against municipal participation is that government will only interfere with market forces that will provide high quality, reasonably priced access in due time. Telecom companies such as Verizon, which is the dominant provider in Philadelphia, claim governments actually will slow down progress by undermining the competition that drives the business.

"Verizon does not support bans on municipally backed broadband networks and services. We recognize that circumstances vary, and that local and state governments have a keen interest in ensuring public access to important services. However, we believe primary reliance for deploying and provisioning broadband networks and services can and should be placed on the private sector," according to a Verizon position statement obtained by *Stateline.org*.

Opponents of government involvement also argue that taxpayer dollars will be put at unacceptably high risk because of the unpredictable nature of the industry, where advances in technology may emerge too fast for governments to keep pace.

The issue has leapt to the federal stage as well. U.S. Rep. Pete Sessions (R-Texas) has called for local governments to cease offering the technology. In a bipartisan showing, however, Arizona Sen. John McCain (R) and New Jersey Sen. Frank Lautenberg (D) last June proposed legislation that would ban states from barring municipality-offered broadband.

McCain said his bill is necessary if the country is to achieve President Bush's stated goal of "universal, affordable access for broadband technology by the year 2007."

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