

# EDUCAUSE POLICY 2004

## Crafting Broadband Policy To Serve the “Public Good”

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# Overview

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Common Goals and Common Interests

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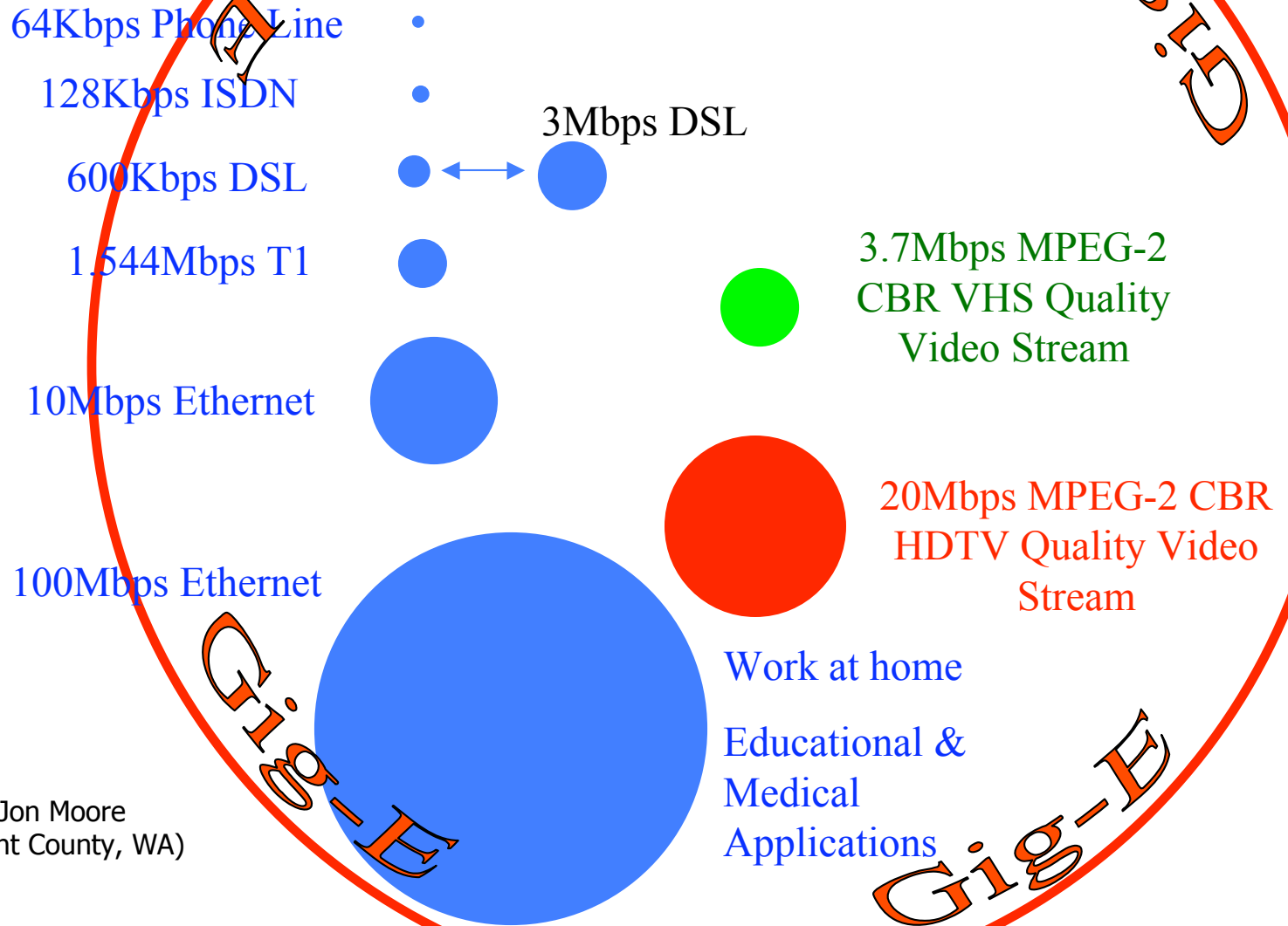
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# Broadband Today

“It is important to note here that the current generation of broadband technologies (**cable and DSL**) may prove **woefully insufficient** to carry many of the advanced applications driving future demand. **Today’s broadband will be tomorrow’s traffic jam**, and the need for speed will persist as new applications and services gobble up existing bandwidth.”

Office of Technology Policy, United States Department of Commerce, *Understanding Broadband Demand: A Review of Critical Issues*, at 6 (Sept. 2002)

# Bandwidth Comparisons



Prepared by Jon Moore  
Zipp System (Grant County, WA)

# Major Goals of Local Governments

Economic development

Educational and occupational opportunity

Local, regional, and national competitiveness

Affordable modern health care

Reduced traffic and environmental harms

Preservation of public resources

High quality of life

Control of own destiny

# Our Common Goals and Interests

## Localities

- Goal: true broadband for all at affordable rates
- Have: ability to provide, especially where private sector not offering services or prices
- Need: “anchor tenants,” expertise, “hands on” involvement; political support

## Colleges/Universities

- Goal: true broadband for all at affordable rates
- Need: true broadband, especially where private sector not offering services or prices
- Have: huge bandwidth demand, expertise, “hands on” involvement; political clout

# Status of Community Broadband

## Surge of interest in community broadband

- Variety of involvement models, technologies
- Utilities – APPA statistics ([www.appanet.org](http://www.appanet.org))
- High % FTTH deployments (Render & Associates)
- Great Results: Kutztown, PA; Bristol, VA; Dalton, GA
- Many more projects in works – e.g., UTOPIA; Jackson, TN; Truckee, CA ...etc.

Progress & Freedom Foundation (Oct. 2003):  
“Disturbing Growth Trend Continues Unabated”

# Examples of Cooperative Efforts

## Growing list of successful collaborations

Virginia Tech – SW Va communities

Univ. Florida – Gainesville Regional Utilities

Kutztown State – Kutztown, PA

Carnegie Mellon – WV and PA

Case Western Reserve – OneCleveland

SUNY (Plattsburgh) – Clinton & Essex Counties

Univ. Oregon – Eugene, OR

## Other Successful Collaborations

Univ. Texas – Greater Austin Area Telecom Net + wireless

Texas Tech – Western Texas and NM

Univ. Calif. (SD) – HPWREN

Brigham Young Univ. – iProvo

Univ. Georgia – Athens wireless project

Wake Forest – WinstonNet

Univ. Colo. (+others) – Denver Inst. Area Network Environ.

Many others ...

## The *Missouri* Case

“No State or local statute ... may prohibit or have the effect of prohibiting the ability of **any entity** to provide any interstate or intrastate telecommunications service.”

**Telecommunications Act of 1996, § 253(a)**

## The *Missouri* Case (continued)

Missouri, FCC and SBC + 3 telco *Amici* v.  
MML, APPA, et al. + 10 *Amici*

- Educause
- High Tech Broadband Coalition/FTTH Council
- Consumers Federation of America
- IMLA-NATOA-NLC-NACO-USCM
- Utility Telecom Council
- VA and TX Municipal Groups
- Lincoln Electric System (NE)
- Knology, Inc.
- Rep. Rick Boucher

# Missouri Decision

- ✓ Supreme Court Decision:
  - Section 253(a) Not Clear Enough
  - Not a Ruling on Merits
  - Localities have “Respectable Position”
  - FCC “denounced” Missouri policy
  - Three FCC Commissioners said such laws contrary to purposes of Telecom Act
  - *Amici* supported municipal involvement

## Implications of *Missouri* Decision

- Existing barriers stand
- More incumbent efforts to obtain new barriers or toughen barriers
- Municipalities in for long haul
- Need help from allies

# The *Missouri* Case (continued)

## Existing state barriers (not including Dillon's Rule)

- AR, FL, GA, MO, MN, NE, NV, SC, TN, TX, UT, WA, WI

## Battles in 2004

- FL, GA, IA, LA, NE, WA, WI

## Incumbent challenges at state PUC/PSCs

## Vicious incumbent campaigns at local level

- e.g., [www.tricitybroadband.com](http://www.tricitybroadband.com), Palo Alto, CA;
- Concord, MA

# Other Challenges

## Anti-competitive incumbent practices

- Predatory pricing
- Targeted rate discrimination
- Withholding critical programming
- Refusal to deal with contractors, suppliers
- Refusal to carry advertising
- Delay or refusal to honor interconnection, UNE commitments
- Destruction of property
- Other dirty tricks

## Closing Thoughts

“[T]he very fact that a community can, by vote of the electorate, create a utility of its own, will, in most cases, guarantee good service and low rates to its population. I might call the right of the people to own and operate their own utility a birch rod in the cupboard, to be taken out and used only when the child gets beyond the point where more scolding does any good.”

Franklin D. Roosevelt, Portland, OR (1932)