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So it is a welcome development to see the Michigan legislature considering HB 5096, HB 5097 and HB 5098 to remove unnecessary impediments to broadband deployment. An important reason why broadband deployment has been delayed is because local governments have been slow to issue permits and licenses, made it difficult for private providers to obtain rights-of-way, and charged fees that far exceed the costs to the local government.[3] Often the municipal governments that complain about the lack of broadband access for their residents are the same local governments that make it unnecessarily difficult for private providers to come into their jurisdictions.

II. Municipal Broadband is Rarely the Answer

Some local governments have considered starting their own government-owned broadband utilities. This approach often has led to serious financial problems for the municipality that owns the broadband utility, and may leave local broadband customers with fewer choices than they would have had if the municipality had not pursued the government-run broadband project.

States have to good reason to be concerned about municipal broadband projects.[4] A recent study by Professor Christopher Yoo of the University of Pennsylvania, a member of FSF's Board of Academic Advisers, and Timothy Pfenninger of the University of Pennsylvania, showed that the financial performance of government-run broadband utilities is very poor, with only two of 20 municipal broadband projects for which transparent financial information was available expected to recover their costs

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[3] *See, e.g.*, Randolph J. May and Seth L. Cooper, Comments of the Free State Foundation, Petition Seeking Preemption of Certain State Restriction on Municipal Broadband Networks (August 29, 2014), available at: http://www.freestatefoundation.org/images/Muni_Broadband_Comments_082814.pdf.

[4] See, e.g., Theodore R. Bolema and Michael J. Horney, "The Problem with Municipal Broadband and Solutions for Promoting Private Investment," Free State Foundation (June 21, 2017), available at: (http://www.freestatefoundation.org/images/The_Problem_with_Municipal_Broadband_and_Solutions_for_Promoting_Private_Investment_062017.pdf.

the incentive and the ability to favor the government-run service over private competitors. Any private firms considering investing in a market with a municipal broadband utility must be concerned that a future local government may try to help a failing broadband utility by favoring it over private providers.[11]

Alternative forms of broadband delivery, particularly wireless[12] and satellite[13] broadband services, are becoming practical alternatives to wireline Internet. This is great news for giving broadband customers more choices, but also a threat to the financial viability of government-run Internet utilities. Even if only some potential municipal broadband subscribers switch to satellite or wireless broadband because those services meet their needs and are cost effective, that could threaten the already questionably financial viability of municipal utilities.

2017), available at: http://www.freestatefoundation.org/images/The_Problem_with_Municipal_Broadband_and_Solutions_for_Promoting_Private_Investment_062017.pdf.

[11] These actions by local governments have been shown to drive off private broadband investment, because private firms know that even if they can operate more efficiently than the municipal provider, the local government will have an incentive to make sure the private firms never get that chance. *See, e.g.*, Jerry Ellig, "A Dynamic Perspective on Government Broadband Initiatives," Reason Foundation (November 2006), available at: http://reason.org/files/cf0c4a2d38f923ab20a190e88b7e877e.pdf.

[12] Similar to the wireline NPRM, the FCC adopted a wireless NPRM with the purpose of identifying regulatory barriers and examining how the Commission could act to remove or reduce those barriers. Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79, (April 20, 2017), available at: https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-38A1.pdf.

[13] Although speeds for satellite broadband are adequate for many consumers who currently have no Internet connection, many satellite connections do not fit the FCC's definition of "broadband" at 25 Mbps downstream and 3 Mbps upstream. But this is quickly starting to change. For example, in March 2016, Hughes Network Systems unveiled a residential broadband plan called HughesNet Gen5, connecting consumers to 25 Mbps down and 3 Mbps up for $49.99 a month. Alex Knapp, "Hughes Network Systems Is Launching High-Speed Satellite Internet For North America," *Forbes*, (March 13, 2017), available at: https://www.forbes.com/sites/alexknapp/2017/03/13/hughes-network-systems-is-launching-high-speed-satellite-internet-for-north-america/#23b607735ace. In May of 2017, the FCC adopted an NPRM to streamline satellite broadband deployment. Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed Satellite Service, IB Docket No. 17-95 (May 18, 2017), available at: http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0522/FCC-17-56A1.pdf.