

April 14, 2009

The Honorable Ty Harrell  
Chairman  
Committee on Science and Technology  
House of Representatives  
North Carolina General Assembly, Room 2121  
Raleigh, NC 27601-2808

**RE: Alcatel-Lucent's opposition to HB 1252, The Level Playing Field/Cities/Service Providers Act.**

Dear Chairman Harrell:

On behalf of Alcatel-Lucent, I am writing to request withdrawal of support for HB 1252, the Level Playing Field/Cities/Service Providers Act. HB 1252, which is currently pending before the Science and Technology Committee, would prevent municipalities from delivering the promise of next generation broadband to the residents of North Carolina through the application of burdensome financial and administrative regulations, and competition policy that deprives North Carolinians of the benefits of next generation broadband infrastructure deployment.

Alcatel-Lucent is the leading supplier of broadband access networks worldwide, with over 20,000 employees in the United States, including approximately 1000 employees in North Carolina at our Cary, Raleigh, Charlotte, McLeansville and Winston-Salem facilities. Our North Carolina facilities play a leading role in Alcatel-Lucent's wireline technology leadership worldwide, including in current generation broadband technologies, such as Digital Subscriber Line (DSL), and next generation broadband technologies, such as Fiber-to-the-Node (FTTN) and Fiber-to-the-Home (FTTH). Alcatel-Lucent has provided equipment for a number of municipal FTTH broadband networks in the United States, including the FTTH network being constructed in Wilson, North Carolina. Municipal broadband networks contribute to our continued growth as the world leader in broadband access, as well as our investments in North Carolina. Next generation broadband access that is both robust and widely available is, in turn, important for the continued growth of the economy, both in North Carolina and throughout the United States.

Alcatel-Lucent supports a level playing field between public and private service providers. HB 1252, however, only serves to endanger the ability of municipalities to offer next generation broadband services where private service providers have not made next generation broadband investments or are not providing next generation broadband service.

HB 1252 would create extraordinary financial accounting and administrative burdens on municipal broadband providers that would render their existence fiscally difficult, if not impossible. The bill also subjects municipalities to the new jurisdiction of the North Carolina Utilities Commission, while not requiring the same of private providers. Also troubling is the injunctive relief provision, which could encourage litigation for purposes of gaining competitive advantage. Furthermore, the legislation appears to prevent municipalities from pursuing alternative funding sources, such as broadband grant programs included in the Federal stimulus bill, the American Recovery and Reinvestment Act of 2009.

HB 1252 includes exemptions that appear to allow for municipal broadband in markets unserved by the private sector. Those exemptions, however, fail to distinguish current generation broadband – DSL or cable modem service, for instance – from next generation broadband, such as FTTN and FTTH. It seems counterintuitive for a market with only current generation broadband available to be considered as “served,” and foreclosed to municipal entry, when a municipal service provider is prepared to deploy next generation broadband FTTH networks enabling speeds of 50 to 100 Megabits per second downstream. It should be noted, particularly in these difficult economic times, that the overwhelming majority of the cost of building FTTH networks – approximately 70 to 90 percent – goes towards labor and construction employment, not to broadband equipment itself.

While there may be ways to address some real and perceived advantages municipal service providers have over the private sector, HB 1252 achieves no such result.

Again, Alcatel-Lucent encourages withdrawal of support for HB 1252. Municipal provision of next generation broadband is an important component to ensuring that all residents of North Carolina have access to next generation broadband services. A number of cities and counties across the United States have already begun providing next generation broadband services to their constituents, as service providers or through partnerships with the private sector. Alcatel-Lucent hopes that by opposing HB 1252, you and your fellow lawmakers will give the residents of North Carolina the same benefits that an increasing number of American consumers receive from their local governments where appropriate.

Sincerely,



Michael A. Dobbs  
Vice President  
Alcatel-Lucent  
2301 Sugar Bush Rd  
Raleigh NC 27612