



April 9, 2019

Hon. April N.M. Baskin
Economic Development Committee, Chair
Erie County Legislature
92 Franklin Street – 4th Floor
Buffalo, New York 14226

Dear Legislator Baskin,

As you are aware, the County Executive has proposed the construction of a countywide broadband infrastructure to allow access to high-speed internet for otherwise underserved county residents. As a topic, the Legislature has passed resolutions over the past several years supporting the improvement of broadband to rural and underserved areas of Erie County. The Executive's preliminary proposal is to spend upwards of \$20 million to construct a fiber-optic cable 'spine' to be constructed by the taxpayers. The taxpayer constructed 'spine' would then be accessible by service providers who would bridge the last mile from the county line to the individual homes of residents and rural businesses.

The proposal to create and operate a government owned broadband network raises a number of serious questions and potential issues that need to be thoroughly vetted by all involved parties. Most reports involving government owned networks show that such endeavors are risky and expensive. These municipal programs often fail to achieve the size or return that was initially promised and end up costing taxpayers dearly. Failure of such endeavors is a catastrophic waste of taxpayer resources, frequently leaving the municipality with an ineffective system and a hefty amount of debt or large losses. A short sale of a non-functioning network for pennies on the dollar is not even the worst case scenario. By failing to independently examine this issue we may be complicit with the creation of a new Water Authority type burden on the residents of Erie County with millions of dollars in recurring personnel expenses and tens or hundreds of millions of dollars in debt for a system that could be rendered obsolete with the creation of 5g wireless technology.

Two recent attempts to construct and operate municipal broadband in other areas of the country show the potential pitfalls of such programs. The state of Kentucky proposed a Kentucky Wired program that was intended to provide broadband access to residents across the state. Parts of the program were supposed to be up and running in 2016 but any operation is delayed until the end of 2020 at the earliest. The program is \$100 million over budget on the

construction end, and the state is contractually obligated to spend \$30 million per year to attract service providers, despite the lack of functionality. Moreover, the state of Kentucky has been unable to drop the project, not because of the \$300 million in sunk costs, but because doing so would lead to legal liability of an additional \$500 million and untold millions in future lawsuits for failure to deliver as promised.¹ In a similarly failed project, Massachusetts is on the hook for an additional \$12 million from lawsuits stemming from the failure of their \$90 million network. Massachusetts failure resulted from lower than expected participation to pay for the continued operation of their broadband internet 'middle mile' network.² These are very real consequences for Erie County if we fail to properly vet this program.

As any proposal to construct a government network would necessarily need to come before the Legislature. Given the practice of the current administration to withhold critical information from the Legislature as long as possible, this honorable body must conduct its own research as soon as possible. I am hereby requesting the Legislature hold a discussion on the construction of an Erie County high-speed broadband network.

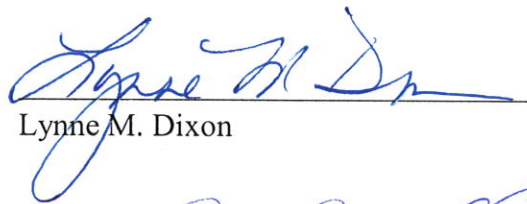
We should plan to invite subject matter experts including representatives from the cable and internet industry, like Verizon and Spectrum, who would be responsible for the 'last mile' and would provide actual service. It is also relevant to the conversation to hear from the Department of Public Works and the Department of Information and Support Services. Specifically in regards to their expertise in the construction and placement of fiber optic cables, their view on the emergence of 5g technology and its impact on traditional internet service provision, as well as their proposals for partnering with actual service and content providers once the spine is properly constructed.

I appreciate your attention in this matter and look forward to having a positive discussion on the matter.

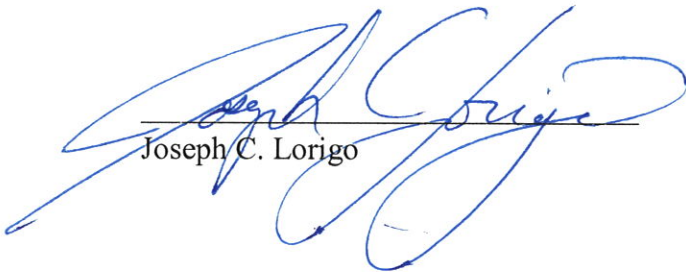
Sincerely,




Edward A. Rath, III



Lynne M. Dixon



Joseph C. Lorigo



John J. Mills

¹ <https://www.wkms.org/post/lawmakers-respond-scathing-kentucky-wired-broadband-audit#stream/0>

² <https://www.berkshireeagle.com/stories/mass-to-pay-122-million-in-dispute-over-middle-mile-network,552092>