

**Written Statement of Mr. Joey Durel Jr., City-Parish President of Lafayette,
Louisiana on behalf of the American Public Power Association
To the House Energy and Commerce Committee, Subcommittee on
Telecommunications and the Internet
*H.R. __, a Discussion Draft on Wireless Consumer Protection and Community
Broadband Empowerment*
Wednesday, February 27, 2008**

Good morning Chairman Markey, Ranking Member Stearns and members of the Telecommunications Subcommittee. My name is Joey Durel and I am the City-Parish President of Lafayette, Louisiana. I am testifying today on behalf of the American Public Power Association, of which Lafayette is a member. I am also the current Vice-Chairman of APPA's Policy Makers Council.

The American Public Power Association (APPA) is the national service organization representing the interests of the nation's more than 2,000 state and community-owned electric utilities that collectively serve over 44 million Americans. These utilities include state public power agencies, municipal electric utilities, and special utility districts that provide electricity and other services to some of the nation's largest cities such as Los Angeles, Seattle, San Antonio, and Jacksonville, as well as some of its smallest towns. The vast majority of these public power systems serve small and medium-sized

communities, in 49 states, all but Hawaii. In fact, 75 percent of publicly-owned electric utilities are located in communities with populations of 10,000 people or less.

Many of these public power systems were established largely due to the failure of private utilities to provide electricity to smaller communities, which were then viewed as unprofitable. In these cases, communities formed public power systems to do for themselves what they viewed to be of vital importance to their quality of life and economic prosperity.

This same development is occurring today in the area of advanced communications services just as it did in electricity over 100 years ago. Public power systems in some areas are meeting the new demands of their communities by providing broadband services where such services are unavailable, inadequate, or too expensive. These services, provided with high quality and at affordable prices, are crucial to the economic success of communities across the nation.

Thus, Mr. Chairman, my testimony today will focus exclusively on Title II of the discussion draft regarding community broadband empowerment. APPA has not adopted policy positions on the subjects addressed in Titles I and III of the draft.

Specifically, I am here today, to explain how Lafayette, Louisiana undertook its own efforts to provide reliable and affordable broadband services to its citizens. You've heard similar testimony before. Last October, Wes Rosenbalm of Bristol, Virginia, another

APPA member, testified at your hearing on the Future of Telecommunications Competition regarding Bristol's successful deployment of a system that is benefiting their community. Bristol is a good example of what a successfully deployed system can bring to its region. Lafayette is another example of the hard fought road many communities have to take to be allowed to provide that service.

Lafayette, Louisiana's story began in 1999 when our utility system, Lafayette Utilities System (LUS) needed to upgrade the communications to its electrical substations. After some research and with the urging of our Chamber of Commerce, it was decided that Fiber Optics would be the choice that gave Lafayette the best infrastructure for the future. Once in place, we had a 65 mile fiber loop installed around our city. This gave LUS the opportunity to provide wholesale broadband services to larger businesses in our area. So, when I took office in January of 2004, LUS was already successful in providing these wholesale services.

But, we knew we could do more. One of my first acts in office was to authorize a feasibility study on taking the concept to the next level of public discussion. Having come from the private sector, my first thought was why we would want to compete with something the private sector was doing. However, as I educated myself, my thought was "shame on us if we don't at least look into this." I told my staff that we would move forward until we ran into a hurdle we couldn't jump over. The feasibility study was made public around March of that year, the public discussions began and the hurdles began sprouting up: but none that stopped us. I was visited by our cable and phone companies. I

asked, in fact begged them to do it so we wouldn't have to. But we received the same answer Lafayette received in 1896 when the private utility companies chose not to install that new infrastructure called electricity..."It makes no sense in an area the size of Lafayette." We started informing our community and council. And they started misinforming. Ultimately, the message to our community was that if we didn't do it, we were not going to get it, just like in 1896.

With America falling so quickly behind the rest of the world, we could either lead or we could wait for others to tell us when it was convenient for them. Lafayette chose to lead with a 62% to 38% vote of our citizens. We were drug through court, and ultimately ended up winning a unanimous decision at the Louisiana Supreme Court. This delayed us two years, and don't forget our citizens had voted overwhelmingly for it!

When people ask me how we did it, my simple answer is that we told the truth. You see, what I learned was that we in local government are held to a different standard than the telecom giants. We have to tell the truth. Fortunately for Lafayette our citizens saw through good old boy tactics that don't work like they used to. Our citizens were much smarter than they were given credit for and today, we are installing our fiber to the premise infrastructure and will begin serving our community by January of 2009. And, while we're at it, we are putting up wireless antennas for our emergency services and we will eventually open it up to our citizens. Because they are all connected to our fiber, the consultants tell us we will have the most robust wireless system in America.

And we will have things that no one else in America has, and in fact I would say that 80% to 90% of America won't have some of what we will have 25 years from now. That

is unless we can remove these barriers to entry to prevent what we are doing. Our customers, when communicating with each other will get not 1 or 2mbs, but we will open up the pipe to them and they will have 100mbs at their disposal. Actually, I often say with tongue firmly planted in cheek that I hope that the other 49 states do outlaw what we are doing. Then I will ask them to send their technology companies to Lafayette where we will welcome them with open arms and a big pot of gumbo.

The language included in Title II of the discussion draft provides all communities the ability to provide these services, as we have in Lafayette, if they so desire. This language is virtually identical to H.R. 3281, the Community Broadband Act, introduced by Representatives Rick Boucher (D-VA) and Fred Upton (R-MI). It provides safeguards from potential conflicts, it requires public input on top of an already very open process of municipal government. This same language was vetted through both chambers back in the 109th Congress and was included in part of the large telecommunications package that passed the full House of Representatives and passed out of Senate Commerce Committee. Already this year, identical stand alone language, S. 1853 sponsored by Senators Frank Lautenberg (D-NJ) and Gordon Smith (R-OR), was passed by voice vote out of the Senate Commerce Committee.

On behalf of APPA and my community of Lafayette, we urge the subcommittee to mark up and approve the provisions of Title II of the discussion draft as soon as possible.

Thank you for allowing me to be here today. I look forward to your questions.