LUS Fiber — Response to Mr. Steven Titch, ‘Lessons in Municipal Broadband from Lafayette Louisiana’

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I. Introduction

Mr. Steven Titch, a paid analyst, and formerly a news editor in the telecommunications industry, has been criticizing LUS Fiber and other municipal broadband systems for virtually the past decade.

In his most recent publication on the subject, Mr. Titch purports to offer advice to municipal utilities that are assessing whether municipal broadband is the correct path for their communities, by presenting his evaluation and negatively-biased views concerning LUS Fiber, which he terms as “the largest municipal broadband system to date.” In actuality, Chattanooga, Tennessee is the largest – but that is just the tip of the mountain of errors and distortions in his “study.”

It is notable that deeply embedded and interspersed within Mr. Titch’s continuing criticisms of municipal broadband systems, he does acknowledge that:

“Compared to FTTH [Fiber-To-The-Home] projects of the past, LUS Fiber is in good shape. It has thus far navigated many of the same challenges that have faced previous efforts, while completing its build-out and achieving positive cash flow.” (Titch, page 26)

“To be fair, the transparency of LUS Fiber, along with the entire Lafayette Consolidated Government, is commendable.” (Titch, page 24)

However, despite these tokens of praise offered by Mr. Titch for the LUS Fiber operations, it is important to evaluate his commentary on LUS Fiber and correct a number of mischaracterizations presented by his interpretations and views.

II. Lack of Objectivity

For the sake of context, it is important to understand that Mr. Titch has made clear that his paper was intended at the outset as a critical response to previous publications which have commended the success of LUS Fiber in establishing broadband services for the City of Lafayette, such as a paper written by the Institute for Local Self-Reliance,\(^1\) and discussion in a book written by a former White House telecommunications advisor.\(^2\) In fact, Mr. Titch made clear in his communications with LUS Fiber beginning in December 2012, virtually a year prior to his publication, that his paper would be critical of LUS Fiber, and both he and The Reason

\(^1\) Broadband at the Speed of Light: How Three Communities Built Next Generation Network
\(^2\) Captive Audience: the Telecom Industry and Monopoly Power in the New Gilded Age, by Susan Crawford
Foundation for whom he works take a more skeptical attitude toward municipal broadband and believe there is significant evidence that the value these projects return to the community do not justify the costs they incur.

Mr. Titch’s negative views concerning municipal broadband systems are certainly nothing new — he wrote to disparage the Bristol Virginia Optinet system while it was in the early stages of deployment in 2005, yet he fails to even discuss in his Lafayette study that the Bristol Virginia System has since become quite successful. Neither does Mr. Titch mention another successful municipal broadband system, EPB Fiber Optics, which is currently operating in Chattanooga, Tennessee.

Review of Mr. Titch’s past efforts against municipal broadband shows that his research and writings dating back to 2005 have been strongly criticized by others. A previous study by Mr. Titch challenging the financial viability of the municipal broadband networks in Bristol and in Lafayette was criticized as being rife with “mistakes, misinterpretations, unsupported and insupportable claims, irrelevancies, innuendos, key omissions and obvious untruths.” Similarly a separate study by Mr. Titch on another municipal broadband system in Utah resulted in a public official describing Mr. Titch’s research as “fatally flawed” and “based on erroneous and unsubstantiated conclusions.” Also noted, was the fact that Mr. Titch’s criticisms were a conflict of interest, as he previously did work for a competing telecommunications carrier.

While Mr. Titch attempts to set himself apart and paint his paper as a more balanced and accurate picture of municipal broadband’s risks and challenges than provided by media and consultants, his background and writings tell a different story. Mr. Titch is the President of a company called Expert Editorial Inc., which has described its services as follows:

Expert Editorial offers a critical “third-party” (quotation marks in original) viewpoint for media and customer marketing campaigns. We can provide your target audience with the context, background and significance of your technology from an analytical perspective and detached from your own marketing and sales personnel.

In other words, Expert Editorial offers to hold itself out as a “third party” (wink) that would advance the views of its clients while enabling them to pretend to be “detached” from Expert Editorial’s statements on their behalf to the media and potential customers.

Mr. Titch also previously served as a Senior Fellow at the Heartland Institute, where, among other things, he edited a monthly digest that claimed to focus on “the best free-market telecom policy writing delivered to legislators and PUC commissioners in all 50 states.” He is now an analyst paid by the Reason Foundation, a policy organization that describes itself on its website as advancing “a free society by developing, applying, and promoting libertarian principles, including individual liberty, free markets, and the rule of law.” More information on the Reason Foundation and its sources of funding and ties to conservative organizations is available at http://www.sourcewatch.org/index.php/Reason_Foundation.

3 Munis hit back at Heartland, Connected Planet, June 24, 2005
4 Provo lashes iProvo critics, Deseret News, December 29, 2006
Much like his past writings from a decade ago, Mr. Titch’s latest paper regarding LUS Fiber can hardly be described as lacking in bias against LUS Fiber, and LUS provides its responses below to various mischaracterizations presented in the paper.

As a starting point, it is important to briefly outline the facts regarding the background and current status of LUS Fiber as a start-up system in Lafayette. Never once in his study does he mention the level of legal activity brought on by the incumbent cable TV and phone companies, or the other additional legal obstacles those companies placed on Lafayette – obstacles that these large companies do not face. In just five years since serving its first Fiber-To-The-Home customer, LUS Fiber has reached a cash-positive status for the past two years and is already serving over a third of the total market in Lafayette. The competition introduced by LUS Fiber has forced the incumbents to become more customer and community focused and has saved Lafayette’s citizens and businesses many millions of dollars each year.

III. Misstatements of Facts

A. LUS Fiber Complies With the Local Government Fair Competition Act and Public Service Commission Cost Allocation and Affiliate Transaction Rules

Mr. Titch boldly claims that while the LUS electric utility is not allowed to use its resources to subsidize LUS Fiber, there are indications that it “might be bending the rules” and he suggests in a topic heading, without support, that the City Government “Props Up LUS Fiber, While Cutting Corners and Transparency.” (page 23) While, Mr. Titch does not identify a single rule violation by LUS Fiber, he questions three topics in his discussion — (1) whether LUS Fiber is paying an appropriate portion of its expenses for website support, programming, customer payment processing, employee resource allocations, and customer service centers; (2) whether LUS Fiber is inappropriately including promotional materials with LUS electric bills; and (3) whether it is inappropriate for LUS Fiber to increase its services to and annual revenues from the City from the $484,000 budgeted in the 2012/2013 fiscal year to $1.3 million budgeted for the 2013/2014 fiscal year.

Each of these questions by Mr. Titch is addressed below, and as indicated, LUS Fiber has followed the rules established to ensure fair competition between LUS and other providers. In fact, LUS Fiber is required to and obtains annually an audit conducted by an independent CPA firm selected from a list approved by the Louisiana legislative auditor, and the CPA firm conducts an examination in accordance with attestation standards established by the American Institute of Certified Public Accountants and provides a written opinion as to whether LUS complied with the Louisiana Local Government Fair Competition Act and Cost Allocation and Affiliate Transaction Rules proscribed by the Louisiana Public Service Commission (LPSC). These audits of LUS Fiber have been completed for Fiscal Years 2009-2012, with LUS Fiber receiving virtually clean audits for each year. In total, LUS Fiber may have likely had to incur more mandatory audits than any telecommunications system in the state of Louisiana.
1. LUS Fiber pays its own expenses

LUS Fiber’s finances are public records which are easily accessed online – consistent with Mr. Titch’s positive comment about the transparency of LUS Fiber and the Lafayette Consolidated Government. LUS Fiber budgets and pays all its own expenses and, through detailed full-cost accounting, pays its share of allocable costs within the remainder of Lafayette Consolidated Government, as required by the LPSC Cost Allocation and Affiliate Transaction Rules.

2. LUS Fiber follows rules on promotional materials

LUS Fiber pays all of its costs for promotional materials that it uses to attract more customers to its system, as well as allocated costs for any related support from the Lafayette Consolidated Government, as required by LPSC Cost Allocation and Affiliate Transaction Rules and the Local Government Fair Competition Act. The Lafayette Consolidated Government does not pay for promotional materials for LUS Fiber or costs of printing the materials.

3. LUS Fiber follows rules on services provided to the City:

LUS Fiber has consistently followed the LPSC Cost Allocation and Affiliate Transaction Rules and the Louisiana Local Government Fair Competition Act concerning any services it provides to any part of the Lafayette Consolidated Government.

B. LUS Fiber Is Not Paid For With Taxpayer Subsidies

While Mr. Titch acknowledges that pursuing broadband sales to businesses that deliver more revenues at equal or less upfront costs is simply business-as-usual for private providers, he contends that LUS Fiber can rely on tax subsidies to underprice competitors and win these business customers. (page 22) Actually, LUS Fiber does not receive any tax subsidies. In addition, the Louisiana Local Government Fair Competition Act and the LPSC Cost Allocation and Affiliate Transaction Rules require LUS Fiber to pay “imputed taxes,” which are based on the taxes its private sector competitors pay.

Mr. Titch also questions whether the benefits of LUS Fiber justify the costs that have been and will be paid by local taxpayers, after concluding that LUS Fiber does not offer special service to disadvantaged communities and questioning whether municipal broadband delivers economic development benefits to the community. (pages 14-15 and 16-19) While LUS Fiber is still in the early stages of its business, it has already provided reduced cost Internet to customers who wish to take advantage of that service, in addition, many public entities, unrelated to Lafayette Consolidated
Government, have saved money and received higher quality services by purchasing services from LUS Fiber. In addition, a number of private businesses have cited LUS Fiber as a reason why they continue to remain in Lafayette to expand their businesses.

IV. Erroneous Deductions and Conclusions

Mr. Titch contends that LUS Fiber’s business plan was predicated on its competition being “utilities;” suggesting LUS did not fully anticipate competition it would face in achieving its forecasted market penetration from various sources. Moreover, Mr. Titch notes in particular that once LUS Fiber launched, “...Cox responded aggressively by cutting prices and offering new triple-play packages”, and “...if a Cox subscriber threatened to switch, Cox would counter-offer with a more attractive offer, such as extending a discount or adding a service tier. [footnote omitted]” (pages 11-12) Mr. Titch seems to be getting his rhetoric mixed up with other communities he tries to disparage. From the beginning, LUS recognized that although its utility system provided it with substantial knowledge and skills to build and operate a telecommunications entity, LUS Fiber was fully cognizant that this endeavor would be very competitive. LUS Fiber anticipated in its feasibility study that its competition would try to decrease its prices and upgrade its systems to retain its market share. There were few surprises, as Cox followed the same playbook as other private companies did in reaction to municipal competition. LUS Fiber contends that the entire Lafayette community has finally been able to reap the benefits that true competition brings to a community. Ironically, many residents and business outside of the LUS Fiber service territory comment that the pricing and service quality of these same competitive providers are not as attractive as they are in Lafayette.

Mr. Titch claims that LUS Fiber revenues do not seem to be able to keep up with the tenacious growth in costs, and persistent losses experienced by LUS are becoming problematic. (page 5) This assertion is merely dramatic, as the growth of LUS Fiber costs over the past two years has been far less than its growth in revenues.

Mr. Titch claims that LUS Fiber revenues were 53% below its goal in 2010, 41.6% below its goal in 2011, and 29% below its goal in 2012. (page 6) Certainly, delays and costs associated with the numerous lawsuits sponsored by its competitors did slow down LUS Fiber’s initial momentum. While LUS Fiber was tied up in expensive and extensive lawsuits, its competitors took advantage of their orchestrated delay by making major upgrades in their systems, then tying up customers in contracts that initially pre-empted LUS Fiber’s ability to serve those customers once its system was ready to do so. In the last two years, the impacts of those factors have subsided greatly, as LUS Fiber’s growth in revenues and customer counts has increased significantly.

While acknowledging LUS Fiber revenues have been strong enough to provide a positive cash flow, Mr. Titch claims that cash flow alone misinterprets the true financial situation. According to Mr. Titch, because cash flow omits the cost of non-operating expense, particularly interest, depreciation and amortization, it is more correctly read as a short-term snapshot, and less as an indicator of long term financial performance. (page 7) Mr. Titch fails to note that many financial institutions give greater focus to EBITDA (Earnings Before Interest, Taxes,
Depreciation and Amortization) in the early formative years of a business. Although Mr. Titch does not acknowledge it, he likely knows that all financial reports are a “snapshot”, and that a more meaningful evaluation of the success of a business is its growth trend over time. In that regard, LUS Fiber has consistently shown significant positive financial progress in each of the past two years.

While acknowledging that LUS Fiber has the capability to deliver higher speeds on its system than coaxial cable and wireless service of competitors, Mr. Titch contends that Cox has surpassed these speeds on download and for most consumers the download speed is what matters. (page 12) Mr. Titch is wrong – and twisted – in his logic. This statement may be one of the strongest indicators of his extreme bias in this study. LUS Fiber offers far greater speeds than does any provider in Louisiana. The largest growth segment in LUS Fiber’s offerings is Internet, not only because of its superior download and upload speeds, but just as importantly its low latency and high reliability. By fundamental design, Fiber-To-The-Premise systems are far superior to conventional copper coax and twisted wire systems.

Although Mr. Titch concedes that LUS Fiber is “not about to go belly-up leaving city taxpayers with a huge bill and little else”, he posits that if LUS cannot get expenses under control, the most viable exit strategy would be a sale, in which the City of Lafayette would stand to recover most, if not all, of its investment. (page 24) This is a pretty high compliment from Mr. Titch, as despite his heavy rhetoric against LUS Fiber, this statement shows him virtually acknowledging that the LUS Fiber is very likely to succeed in the long term. His suggestion that through a sale of the system Lafayette could “stand to recover most, if not all, of its investment” indicates that he realizes the LUS Fiber system has acquired, and will continue to acquire, a strong enough customer and revenue base to be able to become very successful and self-sustaining. What Mr. Titch does not mention is that any sale of the LUS Fiber system would require a public referendum, and with so many satisfied customers of LUS Fiber services, successful passage of a referendum to sell the system is highly unlikely.

V. Omissions of Facts

A. LUS Fiber Is Making Progress as a Start-Up Company As Planned

Mr. Titch claims that six years into the operation, LUS Fiber is 30% short of revenue projections set forth in its business plan, more than $160 million in debt, losing $45,000 a day as of last year, and struggling to compete with cable, telephone, wireless and satellite service providers in terms of price, performance and service options. (Executive Summary and page 20)

Actually, the remaining balance on LUS Fiber’s bond debt is $115 million. LUS Fiber has paid each principal and interest note and remains on-schedule to make its future payments on that debt. Mr. Titch makes numerous mentions about the comment from the independent auditor that LUS Fiber was losing “$45,000 a day” in the 3rd year of its existence. What he fails to mention is that the LUS Fiber feasibility
study predicted that LUS Fiber would incur its most difficult year in its 3rd year in operation. The reason for this is that LUS Fiber, or any other start-up telecom company, had to make a considerable investment in assets before it could serve even its first customer and that it would take several years to become cash positive. What Mr. Titch conveniently fails to mention (even though the financial audits he received from Lafayette Consolidated Government reflect those results) is that LUS Fiber’s financial position has consistently shown significant improvement since that third year and that the same auditor has stated on-record numerous occasions that LUS Fiber is on track to become self-sufficient. An independent illustration of that success is reflected in strong bond industry support for LUS Fiber’s sale of nearly $15 million in bonds in 2012, five years after the initial bonds for the project were issued. During agency visits, the bond rating agencies were pleased with LUS Fiber’s initial progress, despite the adversity it had to overcome at the behest of its competitors. Concerning price, performance and service options, LUS Fiber continues to offer its services at rates that are lower than the published video and phone rates offered by its competitors, and Internet services that are more dependable and financially attractive than those offered by the competition. LUS Fiber’s slate of service offerings has clearly made it competitive enough to attract a large part of its competitors’ market share and generate over $27 million in gross revenues for FY 2012-2013.

B. LUS Fiber Positions the City of Lafayette for the Future of Telecommunications

LUS Fiber is the only telecom entity in its service territory offering Internet speeds of 1 Gbps to any resident and 10 Gbps to any business in its service territory. It is doing so with a much superior and reliable infrastructure than its competition. While none of LUS Fiber’s competitors are offering a 1 Gbps residential product, their competitors’ business product offerings at this speed are much more costly than LUS Fiber’s service offerings. LUS Fiber has drawn considerable national and international attention to Lafayette and provides Lafayette a distinct advantage in economic development.

VI. Conclusions

In contrast to Mr. Titch’s attempt to use the LUS Fiber system as a platform to discourage other municipalities from pursuing broadband projects, LUS Fiber is very proud of the successes that it has achieved for the City of Lafayette. LUS Fiber has created a truly competitive telecommunications environment in Lafayette. LUS Fiber’s superior infrastructure, competitive prices and hometown service practices have set a standard that its competitors are trying to meet. Despite a reported $14 million customer service center investment made by one of its major competitors in order to “dazzle the community” shortly after Lafayette announced its intentions to offer telecom services, this same competitor recently announced that it was reducing staffing in this facility by 58 employees and offering those employees jobs in Baton Rouge. In the meantime, LUS Fiber has attracted a skilled labor force of over 65 employees and has provided its community a strong differentiating factor in economic development and business retention. LUS Fiber has provided Lafayette’s University of Louisiana with fiber
connectivity to connect its campuses. The entire Lafayette Parish public school system has connected all its campuses to LUS Fiber to provide greater efficiencies in operations and offer more avenues for advanced education techniques. Major hospitals in Lafayette have chosen LUS Fiber because of its superior technology and the ability to network all of their medical facilities to not only their main locations, but also to allow their medical professionals to have direct access to their hospitals due to LUS Fiber’s unique 1 Gbps Intranet. Lafayette representatives are regularly invited to meet with broadband leaders in the nation to share their story and collaborate with others on ways to raise the Internet standards in the US. Google and other fiber communities are already working with Lafayette on the Internet of the future. The fact that Mr. Titch has made such an effort to disparage LUS Fiber is a strong indicator that private providers already recognize LUS Fiber’s success.