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November 3, 2011

Missouri Public Service Commission
Attn: Mr. Steven C. Reed, Secretary
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102-0360

**Re: Missouri Public Service Commission Report on Broadband Services –
Case No. TW-2010-0362**

Dear Mr. Reed,

This document is being filed in Case No. TW-2010-0362, In the Matter of a Repository File in which to Gather Information and Assess the Availability of Broadband Services in the State of Missouri, which was opened in response to a request by the Senate Committee on Commerce, Consumer Protection, Energy and the Environment.

The Commission solicited specific comments on the following issues:

- a) Recommendations and potential public policy decisions on how to maximize broadband developments in Missouri including increasing deployment and availability of broadband services;
- b) An identification of barriers to broadband deployment in unserved and underserved areas; and
- c) Assessing advertised versus actual broadband speeds.

Google Inc. (“Google”) provides online search services and other software applications and content. Google’s mission is to organize the world's information and make it universally accessible and useful. In furtherance of our mission, Google recently announced plans to build an ultra-high-speed broadband network, Google Fiber, in Kansas City, Missouri and Kansas City, Kansas.

In this submission, Google will discuss the importance of ultra-high-speed broadband and the critical role that regulation can play in creating or detracting from

favorable conditions for deployment or adoption of broadband service, as well as promoting innovation in the broadband space.

Innovation and Google Fiber

Approximately fifteen years ago, initial broadband network deployments transformed the “kilobit web” to the “megabit web.” This advancement from dial-up to broadband connections led to countless innovations that have transformed communication and commerce, including streaming online video, digital music sales, and online video conferencing.

Despite this progress, however, Google believes that we are just beginning to realize the sheer potential of the web. Key to continuing to promote further innovations is making widely available step function increases in broadband speeds to users. This belief in the potential for speed to spur innovation is at the core of Google Fiber.

In spring 2011, Google announced that it would deploy an ultra-high-speed fiber-to-the-home network in Kansas City, Kansas and Kansas City, Missouri. The Google Fiber network will provide Internet access to consumers at speeds up to one gigabit per second -- more than 100 times faster than what most Americans have access to today. Moreover, Google will offer this service at a competitive price point. Looking toward the future to the “gigabit web,” Google is eager to see what new products and services will emerge as Kansas City moves from traditional broadband to ultra-high-speed fiber optic connections.

Google Fiber also demonstrates how partnerships with local governments and communities to make broadband more widely available can help communities be better places to live, work, and learn.

Maximizing Broadband Development

A positive local and state regulatory environment that (a) promotes competition and quality infrastructure and (b) encourages partnerships between the public and private sectors, is critical to furthering the Commission’s broadband goals. For example, certain types of regulation deter investment and inhibit broadband providers’ ability to deploy next-generation network infrastructure. In particular, state laws, ordinances, and regulations related to physical infrastructure, such as rights-of-way, utility poles, conduit, and ducts, can act as significant barriers to broadband deployment.

A. Rights-Of-Way

Governments often control access to the rights-of-way that private companies need in order to deploy fiber. Government regulation of these rights-of-way can result in unreasonable fees, anti-investment terms and conditions, and long and unpredictable build-out timeframes. The expense and complexity of obtaining access to public rights-

of-way in many jurisdictions increase the cost and slow the pace of broadband network investment and deployment.

Removing overly restrictive regulations associated with rights-of-way access would significantly further broadband deployment. Some local governments manage rights-of-way more efficiently than others. One of the many reasons we selected Kansas City for Google Fiber was because of the cities' interest in collaborating with us to craft real partnerships to efficiently utilize rights-of-way.

"Dig once" policies provide common sense ways to leverage rights-of-ways to foster development and deployment of infrastructure projects. By requiring the installation of conduit anytime a roadway is opened for any purpose, "dig once" policies could reduce costs for subsequent fiber deployment by *90% or more* in some cases. The savings are so high because the cost to install conduit lies almost entirely with the labor cost to open up and later close the street; the conduit itself costs almost nothing. By installing conduit whenever construction occurs, costs are amortized over all projects that later utilize the conduit. The end result is dramatically reduced costs and minimized disruption to drivers.

Restrictions on usage of private rights-of-way can have a chilling effect on business. Missouri statutory law authorizes the construction and laying of fiber within state highway rights-of-way in accordance with the rules of the State Highways and Transportation Commission.¹ The same authority, however, is not granted for access to, and use of, private rights-of-way. For entities that are not regulated public utilities and do not have the power of eminent domain, this lack of access to private rights-of-way can inhibit the ability to provide and expand broadband services to Missourians. State laws, ordinances, and regulations should not hinder a company's ability to deploy fiber, but rather, encourage availability of broadband services to all areas.

B. Pole Attachments

Outdated pole attachment rules also have the potential to create substantial delays and can result in access to utility poles being delayed or blocked. The Federal Communications Commission ("FCC") has recognized that the lack of reliable, timely,

¹ Section 227.240, RSMo, states, "1. The location and removal of all telephone, cable television, and electric light and power transmission lines, poles, wires, and conduits and all pipelines and tramways, erected or constructed, or hereafter to be erected or constructed by any corporation, municipality, public water supply district, sewer district, association or persons, within the right-of-way of any state highway, insofar as the public travel and traffic is concerned, and insofar as the same may interfere with the construction or maintenance of any such highway, shall be under the control and supervision of the state highways and transportation commission."

and affordable access to physical infrastructure, especially utility poles, is a significant barrier to deploying broadband services.²

The FCC recently clarified the rights of common carriers and cable operators to attach equipment to poles at reasonable rates. The FCC's order, however, did not take action to allow companies wanting to provide pure broadband Internet access service (without a telecommunications or cable service offering) to access poles.³ Because pure broadband Internet access service does not fit under the auspices of Title II or Title VI of the Communications Act of 1934, providers of those services do not receive the automatic right to attach to poles afforded to common carriers and cable operators.⁴ Failure to provide pure broadband providers with pole attachment rights decreases the potential for competition, innovation, and achievement of the goals of greater broadband availability and adoption. This Commission should reevaluate pole attachment regulations to allow communities to reap the full benefits of broadband competition.

Potential Barriers to Broadband Deployment

Google Fiber's experience in Kansas City highlights many positive examples of how government regulation can promote competition and how the public and private sectors can partner to enable competition, innovation, and infrastructure deployment. Of course, government regulation also can have a chilling effect on business and innovation.

A. Time Efficiencies

Regulators (including local governments) should strive to implement more efficient decision-making and policymaking processes. Time is one of a company's most valuable assets. Initiating regulatory processes can create ambiguity that can freeze markets for investment. On the other hand, optimizing regulatory processes for speed allows ambiguities to be resolved quickly, allowing both the market and companies to react and move forward.

B. Procedural Efficiencies

Regulators also should make procedural efficiency a top priority. Open-ended processes not bound by time limits materially impact the ability to develop and deploy projects. The result is uncertainty, which is bad for business, bad for innovation, and bad for investment.

² FCC, *In the Matter of Implementation of Section 224 of the Act; A Broadband Plan for Our Future*, WC Docket No: 07-245, GN Docket No. 09-51, Report and Order and Order of Reconsideration (Apr. 7, 2011).

³ *Id.*

⁴ 47 U.S.C. §§ 153, 224, 522.

Conclusion

In summary, regulation at all levels can help or hinder investment and innovation. As a result, when regulation is determined to be necessary, this Commission should encourage and quickly adopt clear rules that promote efficient markets for investment and efficient utilization of existing infrastructure.

Thank you for the opportunity to submit comments on the Commission's report.

Respectfully,



Megan Anne Stull
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Google Inc.