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~ Harry S. Truman



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Lancaster city's plans for a municipal broadband network have floundered over the last several years as the private company hired to build it got bogged down with legal issues. Now, seven years after the city partnered with Reading-based MAW Communications to install the fiber optic system, city officials are making plans to move forward without the company.

A tentative settlement agreement between Lancaster city and MAW Communications would give the city full control of the 16 miles of fiber optic cable, existing infrastructure and the accounts of roughly 200 residential customers who get internet services through LanCity Connect. In exchange, the city will make a \$1.2 million payment to MAW and forgive the balance of the \$1.5 million loan it made to the company. MAW previously paid off about \$180,000 of the loan.

If the settlement agreement is approved, city officials say they plan to run the system "as is" until they can find a different private company to fulfill a long-held vision for a high-speed, low-cost internet service that also streamlines city services such as meter readings, traffic lights and security cameras. "We had the right concept, what we didn't have was the right partner," Lancaster city solicitor Barry Handwerger told city council last week.

The proposed settlement agreement, which was discussed during a city finance committee meeting Monday, will be reviewed by city council Tuesday, before expected action at the Feb. 23 council meeting. If approved, city officials say they will only then begin to study what to do next. "There's not even a thought about who the partner or partners in this effort could be moving forward," Mayor Danane Sorace said. "We have to own it before we can move anything further." MAW Communications declined to comment on the proposed settlement.

In February 2015, the city hired Reading-based MAW Communications to install a municipal fiber-optic network for the city, culminating discussions with the company that began around 2006. Half the bandwidth for the new system was reserved for city functions such as remote water readings and traffic signals. The rest was to be used for a consumer broadband offering called LanCity Connect. Infrastructure work began in 2017, followed by residential customer sign-ups, a residential rollout plan and the start of customer hookups. But in late 2017, the project stalled when workers from electricity provider PPL saw MAW contractors installing equipment on PPL utility poles.

That December, PPL sued MAW in Lehigh County court, claiming MAW had made unauthorized and unsafe attachments to its poles. That put a halt to new customer hookups or an expansion of the network. The legal issues were settled in June 2020 with MAW agreeing to pay \$370,000 to PPL and bring its use of poles into compliance.

During that lawsuit, the city says it learned MAW may have violated its original agreement with the city by not getting proper approvals. MAW had also stopped paying back its loan from the city, which triggered another legal battle. The tentative settlement reviewed by city council on Monday would end all outstanding disputes between MAW and the city. The tentative settlement was reached in late November, just before binding arbitration was scheduled. Monday's meeting was the first time the tentative settlement was made public.

Currently, the most basic service for LanCity Connect is \$48 a month, including fees, for a service that offers 50 Mbps of speed. A plan with 100 Mbps of speed costs \$125 a month. The city says it will maintain pricing and service arrangements if it takes over. The proposed settlement agreement gives the city the option to contract with MAW to maintain LanCity Connect for 90 days. If the settlement is approved, the city will have spent \$4.3 million for the system, a cost that includes professional services, legal bills and other expenses incurred during the past five years.

City officials say that cost is reasonable given the potential for such a broadband network. "The value of the fiber really is significantly more than the

cost we've incurred for the fiber," said Patrick Hopkins, city business administrator. Christopher Mitchell, director of community broadband networks at the nonprofit Institute for Local Self-Reliance, said the amount the city has paid is "within the ballpark of reasonable." "It's not what I would call a bargain," he said. "But if it results in finding a partnership that in two years has a lot of the city connect, it will have been worth it." Mitchell, who has followed the Lancaster city broadband project and did a 2017 podcast segment on it, said running into problems with making pole connections is not unusual when municipalities try to build a new network from the ground up. — **Lancaster New Era**

Liberals are pressuring Democrats newly in power to pass net neutrality legislation, push for state-level internet regulations, and reinstate Obama-era Federal Communications Commission rules — the last of which they say is only a matter of time.

Net neutrality is the principle that internet service providers should treat all data on the internet the same and not discriminate or charge differently based on where it's coming from or to whom it's going. Under Republican FCC Chairman Ajit Pai, the FCC in 2017 voted down rules created by the commission in 2015 that classified internet service providers such as AT&T and Comcast as Title II public utilities, subject to FCC control.

Democrats at the FCC are expected to reinstate the 2015 Title II regulations on internet service providers after President Biden nominates a fifth commissioner and gives them the majority. The rules were meant to ensure the providers could not block or inhibit access to certain types of web services from different providers or create pay-to-play fast lanes for certain content. "We will get net neutrality, and Title II will happen," said Gigi Sohn, a former FCC adviser and a fellow at the Georgetown Law Institute for Technology Law and Policy.

Sohn said that the bigger challenge would be pressing Congress to enact legislation, preventing industries from challenging regulations in court. "We can stop this ping pong game between both sides on net neutrality that no one likes," said Sohn, one of the most prominent liberal advocates for Title II regulations. There is broad bipartisan support for the basic net neutrality protections of prohibiting providers from blocking legal content and services, throttling internet speeds, and charging for prioritization for certain websites.

Yet, Democrats say the Title II regulations are needed in order to provide basic oversight of internet providers and to ensure affordability and access to the internet. Republicans, on the other hand, say the rules would stifle the broadband industry and slow down the growth and expansion of internet services. Liberal proponents of the Title II protections say that they don't need to compromise with Republicans and will not settle for narrow net neutrality legislation in Congress that would ban blocking, throttling, and paid prioritization. "Legislation is better than the ping-ponging, but we're not going to settle for bad legislation because that's harder to reverse," said John Bergmayer, legal director at the public interest group Public Knowledge, which advocates for net neutrality protections.

Bergmayer noted that some states have enacted [net neutrality regulations](#), and more are being pressured to do so by advocates. The state-level effort, combined with the Title II protections the Democratic-controlled FCC will put in place later this year, "gives a lot of leverage for net neutrality people not to settle for legislation that's not enough," Bergmayer said. Bergmayer is pushing for FCC acting Chairwoman Jessica Rosenworcel to "publicly express" her plans for Title II protections. Doing so, he said, would deter internet providers from charging higher prices or changing their services in the meantime and encourage the Democratic majorities in Congress to aim for strong legislation.

Most Democrats in Congress, including House Speaker Nancy Pelosi, support the Title II regulations. Democrats introduced legislation to [bring back](#) the regulations along with other net neutrality protections in 2019, but because of

Republican opposition, the bill did not pass. "We need to stop having net neutrality ping pong from one administration to the next and pass a law to ensure an open and fair internet for everyone," Democratic Rep. Ro Khanna of California told the *Washington Examiner*. Khanna represents Silicon Valley, home to tech companies such as Apple, Intel, and Yahoo.

Other liberal advocates for Title II regulations say they are urgently needed so that the FCC can oversee internet providers at a time when millions of people are working from home and sending their kids to school online. "Kids should not be sitting outside Taco Bell in order to do their homework," said Evan Greer, deputy director of the advocacy group Fight for the Future, a liberal organization that supports the Title II rules.

However, Republicans are staunchly opposed to the Title II regulations, in part, because the Title II protections would allow the federal government to regulate or control broadband internet prices if it wanted to. Furthermore, Republicans like Pai often use Europe as an example of the Title II utility-style regulations gone wrong. Pai said last month that "parts of the digital divide in Europe are not getting addressed because there's simply not an incentive to build those networks." Pai endorsed a "light touch" regulation of the internet on the basis that it boosts competition and infrastructure investment. – ***Washington Examiner***

The attorneys general from 16 states and the District of Columbia sent a letter to the FCC urging the agency to request additional information from Verizon about its planned TracFone Wireless acquisition. Verizon announced last fall that it plans to acquire TracFone from Mexico-based América Móvil in a deal worth up to \$6.9 billion. TracFone is an MVNO using the network of Verizon and others but most of its traffic is on Verizon's LTE network.

TracFone is one of the largest providers of Lifeline, the program that provides services for about 1.7 million low-income subscribers in 43 states and the District of Columbia. By contrast, Verizon only offers its mobile services to Lifeline customers in parts of four states, the AGs wrote in their letter to the FCC on Thursday. "The potential for Verizon to pursue additional profits by reducing the access and/or quality of Lifeline services could shut out millions of low-income Americans from adequate communications services," they wrote. "Considering the fundamental role that cellular telephones play in accessing modern society and the modern economy, it is imperative that Lifeline services be protected and maintained if this transaction is approved."

The AGs want the FCC to adopt specific conditions that protect Lifeline customers, such as a commitment by Verizon to provide Lifeline services at an affordable rate and at a quality commensurate with modern standards. Alternatively, it could require that Verizon offer, for a period of years, Lifeline service packages that are at least as consumer friendly or more than TracFone's existing lowest cost Lifeline packages. They also point out that a merger of the leading mobile network operator and the leading MVNO in an "already concentrated mobile wireless market" would see the last significant MVNO integrated into a national facilities-based provider.

Their concerns are similar to what the Communications Workers of America (CWA) union has raised in previous FCC filings. In December, CWA filed comments demanding a commitment from Verizon to participate in the Lifeline program for a minimum of five years. CWA also demanded a commitment from Verizon to continue to market to, and provide customer services for Lifeline and prepaid customers, including non-English-speaking customers.

In addition to Virginia Attorney General Mark Herring and D.C. AG Karl Racine, the attorneys general of the following states joined in signing the letter: Colorado, Connecticut, Delaware, Iowa, Massachusetts, Michigan, Minnesota, Nevada, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont and Washington. Verizon provided the following statement in

response Fierce's inquiry on Friday: "Verizon's proposed acquisition will benefit existing TracFone customers, offering them access to our award-winning network and comprehensive suite of products and services. As we said when we announced the agreement in September, we will continue to offer Lifeline service through TracFone and further develop its core brands, products and distribution channels. Strengthening and growing TracFone will benefit value-conscious consumers, and we look forward to continuing to work with the FCC to obtain regulatory approval."

Verizon filed reply comments with the FCC's International Bureau in late December, saying there's no basis to impose conditions or seek further information about the deal. Verizon argued that a combined Verizon/Tracfone will need to earn customers' business given the fierce competition in the prepaid segment. The vertically-integrated "flanker brands" of Verizon's rivals – T-Mobile's Metro and AT&T's Cricket – enjoy integrated advantages, including lower costs and access to better equipment offerings, according to Verizon. "As a result, these flanker brands have substantially increased their subscriber base in the last several years while standalone TracFone's subscriber count has declined. The proposed transaction will make a combined Verizon/TracFone a stronger competitor for prepaid customers against AT&T and T-Mobile, as well as DISH," Verizon told regulators.

But the CWA says Verizon is basically avoiding its concerns and those raised by public interest groups. "They have been incredibly vague" in their responses, saying they "intend" to continue TracFone in its current business model but haven't made any binding commitments, said Brian Thorn, senior researcher at CWA, in a recent interview. Verizon traditionally has not focused on the prepaid market, opting to court the higher-end postpaid market. However, its acquisition of TracFone would put it ahead of both T-Mobile and AT&T in terms of total prepaid customers. At the end of 2020, Verizon reported a prepaid base of about 4 million whereas T-Mobile had about 20.7 million and AT&T had about 18 million in total. TracFone at last check had about 21 million customers.

T-Mobile last year urged the FCC not to give Verizon's TracFone application any streamlined treatment, and also said the commission must consider the competitive impact of the transaction and, more broadly, the potential benefits and harms. At the time, T-Mobile said it doesn't take a position on the merits of the proposed transaction, but the application raises a number of issues that the FCC must carefully evaluate. – *Fierce Wireless*

