

The Advantages of the Cooperative Model for Broadband Services

BY CHARLES T. AUTRY AND ROLAND F. HALL

When the foundations for our modern, international computer networks were laid in the 1960s, no one could have predicted the positive commercial and social impact the internet would have on our lives. But some regions of the country have gained these benefits more quickly than others, as for-profit providers have been slow to enter less-populated markets.

The time is now ripe to use the cooperative model, which brought electric and telephone service to rural areas similarly sparse in population sixty years ago.

But to understand why the cooperative model fits, we must first understand the nature and importance of broadband.

A good, working definition for broadband is: the high-speed transmission of data over a wide variety of technologies, including fiber-optic cable, wireless and satellite. Providers can offer services such as high-speed Internet access, television and telephone service over broadband lines.

Broadband is becoming increasingly important for job creation and retention. State and local governments, universities, hospitals and businesses all are growing to be dependent on high-speed data transfer and Internet access. Many chambers of commerce and development authorities are finding that businesses view the availability of broadband as a key part of their infrastructure requirements.

Yet for users in less populated areas, broadband, if available, is often less reliable and is typically offered at lower speeds. For-profit providers usually find rural markets' sparser population an insufficient (and insufficiently immediate) return on investment. Because robust broadband infrastructure tends to lead to the creation of jobs and business opportunities, the lack of broadband creates a vicious cycle in which less-populated areas are unable to obtain the very infrastructure needed to increase jobs, thus attracting new residents and the interests of for-profit broadband providers.

Those who live in rural America and can't access broadband face the same kind of obstacles that rural America faced in the 1940s, when for-profit companies declined to offer them electricity and telephone services. It wasn't until cooperatives, the perfect vehicles to fill such gaps in the marketplace, received encouragement from the government and formed in large numbers that rural America began to gain access to these services which require substantial capital investment.

In some rural areas, cooperatives are already providing broadband services. Electric or telephone cooperatives have partnered with local governments and others to provide service; people are forming new cooperatives to provide broadband service or

install a broadband infrastructure.

But in many rural areas, broadband is still only in the discussion stages. Interest has intensified as federal stimulus funds have become available for the development of rural broadband. These discussions should keep the cooperative business model in mind for several reasons:

1. Cooperatives exist to serve their members and provide services at near-cost.

While the rates of a cooperative's services might be initially high because of a small customer base and large expenses, such rates would likely be less than those of for-profit providers, and would ultimately decrease as membership rose. Unlike for-profit providers, members have a say over which services the cooperative offers. Because cooperatives do not seek quick profits, they can plan for a long-term rollout of reliable, high-speed broadband infrastructures.

2. Cooperatives are best suited to partner with governmental and developmental agencies.

As the acting chairman of the Federal Communications Commission recognized in a recent report, installing broadband infrastructure in less populated areas is a massive undertaking that requires the cooperation of governmental institutions and the private sector. Members of the public and private sectors recognize the importance of participation in the cooperative, and, because of this, find that partnerships are easier to establish.

"THOSE WHO LIVE IN RURAL AMERICA AND CAN'T ACCESS BROADBAND FACE THE SAME KIND OF OBSTACLES THAT RURAL AMERICA FACED IN THE 1940S, WHEN FOR-PROFIT COMPANIES, IN THE NAME OF PROFIT, DECLINED TO OFFER THEM ELECTRICITY AND TELEPHONE SERVICES."

3. Cooperatives are in a favorable position to obtain federal and state grants, and low-cost loans for broadband development.

A total of \$7.2 billion in federal stimulus funds, set aside for broadband development, will flow through the Department of Agriculture's Rural Utilities Service and the Commerce Department's National Telecommunications and Information Administration. Application guidelines were recently released (you can submit an application online at www.broadbandusa.gov/), and cooperatives that are current or former RUS borrowers receive a preference in applying for grants or loans. Also, cooperatives that partner with local stakeholders, including local governments, will likely obtain preferences under both programs.

4. Cooperatives can aggregate an initial customer base, including school systems and local governments, to provide a steady initial revenue stream.

This initial revenue stream can support the roll-out of

services and the financing of capital improvements.

In one typical scenario, chambers of commerce and development authorities band together with local institutions and business leaders to explore broadband options for their community. If the cooperative model is used, all these participants will be members and customers of the cooperative. This creates a ready-made base of customers for the cooperative.

5. Potential members and customers would already be familiar with the cooperative form of business in most of the areas.

Areas with limited or no broadband service are likely to be served by electric, telephone, or agricultural cooperatives. Not only does this help with the obtaining of initial customers, but it also means that attorneys, accountants, and consultants in the area are already familiar with the cooperative structure.

The Southeast Colorado Power Association, an electric cooperative in Colorado, offers an example of the way an existent cooperative can offer broadband. The cooperative wanted to develop an advanced telecommunications network for its electric infrastructure. It also sought

to provide broadband services to those within its service area who had limited or no broadband access. For-profit providers had not been attracted to the region, which was a large geographic area with a low population density. A group of public schools, libraries and hospitals seeking to introduce broadband had been unsuccessful in partnering with existing providers but found a willing provider in the cooperative. The resulting public-private partnership, funded by a state technology grant/loan program and the cooperative, installed a 630-mile fiber optic network that now provides broadband access to its members.

Maryland offers a good example of the way in which a newly formed cooperative can offer broadband. The Maryland Broadband Cooperative, founded by regional planners and development authorities, has members from both public and private sectors. The cooperative received money from a state




Charles T. Autry



Roland F. Hall

assistance fund to build a fiber optic network in rural communities. The network is "open access" and provides data transport services. This means that for-profit providers can access the network to provide broadband services to the cooperative's members. In other areas, similar proposed cooperatives could also offer other cooperatives access to their open network, providing needed competition.

Now that the importance of broadband infrastructure to less populated areas has been widely recognized, and increased public funding is becoming available, communities should take this opportunity to provide improved services to their residents and attract economic development. Failing to take advantage of the current wave of funding opportunities will place less populated communities at an increasing disadvantage. For communities pursuing these opportunities, we believe that the cooperative model is an excellent model to use when moving forward with broadband, and is best suited for encouraging the joint participation required to achieve affordable, reliable and easily expandable broadband services. 

Charles T. Autry, founding partner, and Roland F. Hall, partner, of Atlanta-based firm Autry, Horton & Cole LLP are co-authors of the newly released book, *The Law of Cooperatives*, published by the American Bar Association. They can be reached at 770-270-6974 or via email at: autry@ahclaw.com and: hall@ahclaw.com.

If you missed it, check out the May-June CBJ's coverage on page 3 of the National Rural Telecommunications Cooperative's developing solution to rural broadband access.