"THE BROADBAND OPPORTUNITY PLAN FOR NEW YORK STATE"

January 31st, 2008

Presented by:
Open Infrastructure Alliance (OIA)

Open Infrastructure Alliance (OIA) is a loosely formed coalition of broadband, Internet, technology and telecommunications analysts, as well as policy, technology and legal experts. Teletruth is acting as the coordinator of the OIA coalition members and this grant.

There are 6 MODULES being presented in this package. Each one has its own submissions.

PROPRIETARY ANALYSIS AND INFORMATION: PAGES 14-18

Project Coordinators:
Bruce Kushnick, Chairman, Teletruth, Executive Director New Networks Institute
Tom Allibone, President LTC Consulting, Director of Audits, Teletruth

OIA Advisors and Experts:
Tom Allibone
Peter Cattaneo
Gordon Cook
Bob Frankston
John Friedman, Esq.
Fred Goldstein
David Isenberg
Bruce Kushnick
Dean Landsman
Kate Lynch
W. Scott McCullough, Esq.
Joe Plotkin
David Rosen
Dana Spiegel
Tim Wu

Correspondence:
Teletruth
568 Broadway Suite 404
New York, NY 10012
718-238-7191
bruce@newnetworks.com

TABLE OF CONTENTS

"THE BROADBAND OPPORTUNITY PLAN FOR NEW YORK STATE"

Executive Summary:

Open Infrastructure Alliance, OIA, presents a totally unique proposal to create "The Broadband Opportunity Plan for New York State" by a team of experts.

The Goal: We are proposing a practical, real world, multifaceted research and implementation plan to fund, without raising new taxes or even matching funds, the State's stated goal --- to deploy to ALL New York state citizens and businesses 100 mbps services to urban areas, (potentially 1 gigabit) and 20 mbps in rural areas (or higher), not to mention underserved areas, by 2015. These services would be open to all competitors. We are also proposing to create in New York State new areas of economic development using the Governor's broadband initiative.

If we are correct in our analysis, awarding this grant to complete this research could lead to the entire $5 million dollar expenditure by the state to be repaid, and supplemented with millions of dollars annually.

We seek funding to answer the following questions:

- How does the State of New York create a robust, multifaceted plan that by the year 2015 has upgraded 100% of the state's networks to be able to handle broadband services capable of 100 Mbps (in both directions), 20Mbps in rural areas?;
- How can the State "facilitate an open access (service-provider/network-neutral) environment to promote competition and provide consumers with choice;
- "Increase New Yorker's universal access to high speed, affordable broadband;
- "Foster economic development throughout the State;
- "Increase digital literacy in unserved and underserved urban and rural communities; "

We agree with the principle of and support as a valuable policy objective the provision of universal access to broadband services throughout the State. However, other questions arise:

- How does New York State raise the $10-$20 billion required to pay for such a plan?
- Can we create a plan that offers "gigabit" speeds, making New York State a leader in broadband?
- What are the technology, regulatory and legal hurdles the State must overcome to deploy these networks?
- How do we create active, incentivized projects designed to bring economic growth to the entire State?

- Are the incumbents utilities or free market companies? What is their role in implementing the plan? What is the role of, and how should the State support competitors and their entrants?

Open Infrastructure Alliance believes that New York State and America needs to have a plan for the digital future that is comparable to other countries which have taken the lead in broadband, innovation and services. More to the point, in order to fulfill providing ubiquitous high speed broadband, the State needs to create innovative funding that does not require extra burdens on customers, including raising taxes.

As Governors' recent report makes clear, the Executive knows something is wrong:

> "New York State has an inadequate infrastructure for the Information Age."

And

> "Nearly two-thirds of people living in New York City lack access to affordable, high-speed broadband. Some neighborhoods—like Sunset Park, Red Hook and Hunts Point—don't even have affordable access beyond a dial-up connection."

This is not news to the OIA experts. We agree with the Governor that a plan to upgrade New York State's infrastructure and create very fast broadband connectivity is essential to the future of New York's economy. Working with the State, OIA believes we can create a viable and affordable plan for the future that can actually accomplish those goals.

We present the following outline for our proposed "Broadband Opportunity Plan for New York State" and hope that the State will fund the work necessary to fulfill a robust, multifaceted, well documented plan for the future, created by some of the leading experts in the field with both technical as well as regulatory and legal specialties.

THE BROADBAND OPPORTUNITY PLAN FOR NEW YORK STATE

Module 1: Part 1: New Revenue Sources to Fund Broadband Deployment
Part 2: Setting Baselines
Module 2 A) Competitive Baselines for Internet Service Provisioning
Module 3 B) Competitive Baselines on Usage and Competition
Part 3 Design and Implementation
Module 4 A) Broadband Models to Examine: Models to Avoid
Module 5 B) Next Steps to Implementation; New Visions.
Module 6 Part 4: Economic Growth Areas for New York State.
Team of Experts to Deliver a Plan to Reach the Stated Goal

OIA is a new coalition of technology, telecommunications, broadband, Internet and content, applications and network experts, analysts, innovators, lawyers and visionaries who have come together to create this plan for the future.

Appendix One lists the experts and the credentials for this project. Some examples include:

- Broadband (voice, video and data) Infrastructure expert
- Broadband deployment expert, market research
- Next generation infrastructure expert
- Independent film, programming and technology expert
- Legal state regulatory issues expert
- Wireless expert
- Municipalities and legal issues expert
- Social Networks expert
- Forensic telecom auditor
- Technology and security expert
- State and Federal regulatory issues expert
- Telecommunications lawyers.

Our proposal has four primary areas. Part 1 examines the potential new revenues streams to start this implementation plan. Part 2 outlines some of the required research and data baselines of market competition and cost models. Part 3 supplies design and implementation plans, including regulatory, legal and technology plans. Part 4 proposes new economic development areas in New York State, leveraging NY's unique arts, music, entertainment, film, interactive-gaming, and IT expertise.

Part 1: New revenue sources to fund broadband deployment
Part 2: Setting baselines
Part 3: Design and implementation plans, including regulatory, legal and technology plans.
Part 4: Economic development areas for New York State and broadband.

New York needs to immediately start implementing the creation of very high speed ubiquitous wireline infrastructure than can bring New York into the 21st century with tools currently available throughout Asia and Europe today. We believe this plan will bring new opportunities and educational possibilities, but also economic growth and high-quality jobs, not to mention facilitate new services New Yorkers want.

Part 1: New Revenue Sources to Fund Broadband Deployment

With over 10 million phone lines in New York State representing business and residential customers, any plan to supply ubiquitous, very high speed service will require infrastructure upgrades costing $10-$20 billion dollars.

The experts have worked in multiple states on broadband issues and have uncovered hundreds of questionable areas that the State could recover hundreds of millions of dollars annually. Some of these surround giving of public interest perks that were part of the original utility to companies that are now in a competitive market. This includes 'free' or discounted use of various services, rights of way, taxes and other financial incentives through deregulation. This also includes other related items including telecommunications expenditure overcharging for municipalities, new network revenues, and other potential revenue streams for the State's broadband plans.

The Experts believe the total package could help fund most of the State's broadband networks. This model not only examines the specific areas in question, but will supply the legal and regulatory information necessary to take specific steps to recover the monies.

Part 2: Setting Baselines

In our questions posed to the State about the information OIA needs to implement a plan of action, we note that the State admits it has not created most of the required baseline data to answer basic questions about competition, the current price of service, the cost of offering service, much less the condition and location of wiring plant in the State. including the current networks' 'dark' fiber optic (not in use currently). It also has decided that it would use the incumbents' information without audits or other caveats.

See http://www.newnetworks.com/NYstatebroadbandanswers.htm

> "CIO/OFT Response: This response is applicable to the questions you have asked regarding the telephone (local exchange) companies and the franchised cable television companies currently operating in New York State. The CIO/OFT does not have this information at the present time and we are beginning to work with the incumbent service providers to voluntarily provide this data."

The State needs its own objective data to make decisions that could impact millions of customers and the spending of billions of dollars, not to mention economic growth and the State of competition in New York State. Here are two areas we are proposing to collect immediately.

A) Competitive Baseline for Internet Service Provisioning:

The State plan calls for customers to have the choice for Internet Service Providers, regardless of the network.

> ”The State’s broadband strategy is based on the principle that competition and consumer choice are paramount to sustaining an effective broadband program into the future. To achieve our broadband strategic objectives, service providers must work together in an open framework where each consumer may choose their broadband Internet Service Provider regardless of who actually delivers the service across their traditional (wired or wireless) infrastructure.”

Yet the State has not collected data on the current issues surrounding independent ISP provisioning. We are suggesting that the State immediately corrects this data issue. As some of our data shows, since 2000, over US 7000 ISPs have gone out of business and there are serious problems with the Governor’s plan because the current independent ISP markets are prohibited from using the telephone company, wireless company or cable networks and the impacts of this must be dealt with immediately.

B) Competitive Baseline on Usage and Competition.

The State has no available information pertaining to this topic and is relying on unreliable information supplied by the FCC, and unaudited information supplied by the carriers. The State needs to have an objective examination of the current, problematic state of competition in New York. For example, there has been a 54% drop in competitive companies’ lines (known as UNE-P), using the current Verizon networks since 2004. Thus, competition has been falling at an alarming rate on the wireline networks. As we have documented elsewhere, less competition has meant less choice and higher prices in New York State.

Part 3 Design and Implementation: Making the New York State Competitive with the Rest of the World.

The Governor’s report outlined that New York State’s broadband networks are woefully slower and more expensive than the rest of the world.

- The median U.S. download speed now is 1.97 megabits per second (Mbps) – a fraction of that enjoyed by consumers in Japan (61 Mbps), South Korea (45 Mbps), France (17 Mbps) or Canada (7 Mbps)
- For $30 per month, Japanese consumers can get 50 Mbps, a speed which is not available to residential consumers in the U.S. For the same amount of money, U.S. consumers can only get up to 4 Mbps per month

And the condition of the networks is not adequate for even current speed.

> "New York State has an inadequate infrastructure for the Information Age",

Or:

> "Nearly two-thirds of people living in New York City lack access to affordable, high-speed broadband." Some neighborhoods—like Sunset Park, Red Hook and Hunts Point—don't even have affordable access beyond a dial-up connection."

Meanwhile, phone companies in Hong Kong and France are starting to offer gigabit speed services (1000 Mbps.)

Besides the economic imperative to fund the next generation networks there are two other questions we intend to answer.

A) `Broadband Models to Examine: Models to Avoid:

What can be learned from these countries as 'successful' models to emulate? These international successful models brought speeds of 100 mbps for only $40.00. What forms of regulation are necessary to create these new models? How were they funded? What steps did they take to insure that the networks were built? Also, what are the plans of these countries in the next 8 years – By 2015, where will these countries be in terms of broadband speeds and applications?

Meanwhile, some cities in the US have been on the front line of trying to upgrade to a higher-world standard. What should municipalities in New York State be thinking, assuming funding could be arranged?

Most importantly, we must examine the models to avoid ---Why did America end up 15th in the world in broadband? Did the US and New York State deregulatory policies help or hinder the deployment of broadband in the state and the nation? What needs to be changed as we move forward based on historical modeling?

B) Next Steps to Implementation; New Visions.

Part three combines the research from the US and the world's broadband deployments, with potential 'next generation' regulatory and technology scenarios to make New York State a world leader, not 15th and falling behind. The topics will explore how the State of New York could start implementing plans to deploy very high-speed networks.

- Can New York have Gigabit speeds by 2015 to match Asia? -- Projecting the current course if nothing is done.
- Lighting up the dark, unused fiber optic wiring today,
- Using wireless and next generation spectrum to supplement the wiring plan to provide universal broadband.
- Building from the ground up --- the municipality plan.
- Using public assets for deploying services.
- Opening the networks to full competition – Divestiture II or structural separation?
- Immediate fixes for underserved areas.
- Innovative Solutions: "Community Clusters", "yo-yo-nets", "stupid network" principles, mesh networks, removing micro-billing, topologies for high-speed access peering points.
- Regulatory and legal hurdles for each plan.
- Universal Service Issues
- Returning the utility from free market enterprises.

It is clear that doing nothing or relying on the incumbents will further make the US and New York States a 3rd rate broadband power. The State can't simply want 100 mbps services by 2015 when the rest of the world is now starting to deploy 1 gigabit services. There are multiple technologies and plans that need to be implemented as one size does not fit all needs, both in technology as well networks. The rest of this implementation plan lays out the regulatory hurdles that must be met in order to create very fast, ubiquitous, competitive and affordable broadband. It is also a roadmap that can be implemented if the funding was made available through Part 1.

Part 4: Economic Growth Areas for New York State.

Our experts have identified multiple areas of New York State's economy that could be stimulated with the advent of very high speed broadband. New York's Silicon Alley used to be the center for the world's Internet, while New York now has major film, entertainment, art, theatre, music and video and gaming being developed throughout New York State. Our proposal is to grow these economic areas, tying broadband deployment and entertainment development.

Addressing the State's Questions:

- The merits of the proposed grant application;
- A brief description of the partners applying for the grant and their roles in the collaboration;
- The proposed broadband solution and programs;
- The expected impact of the proposed solution;
- The feasibility, goals and objectives of the Application;
- The total resource requirements, including matched resources;
- The proposed implementation timetable; and
- The measures to track progress and status.

First, we asked the State if our grant proposal was appropriate.

"CIO/OFT Response: From what you have stated above, your proposal could qualify to compete for these funds, but please be advised that the intent of the Grant Program is to provide state funding as a catalyst to encourage accessibility to and affordability of broadband services. There is a minimum $1 matching commitment by private or other governmental entities for each $1 of State grant funding applied for."

And we wrote "as analysts, including experts, lawyers, et al, our matching funds will be in the form of in-kind work – i.e., work being done below normal costs, as well as marketing through our organization. Does that qualify as matching funds?"

"CIO/OFT Response: In-kind goods and services may include labor/professional services."

Therefore we are applying with the understanding that we are experts supplying a very valuable proposal to create the catalyst to encourage accessibility to and affordability of broadband services.

- The merits of the proposed grant application;

We've created a package that is cutting edge, yet real world and if our analysis is on target, it will not only refund the entire $5 million put up by the State but will also supply hundreds of millions in new funding to pay for broadband upgrades and access.

We doubt that any other proposal comes close to even asking the proper questions to ensure that the Governor's plan --- 100mbps, ubiquitous service, can be obtained.

- A brief description of the partners applying for the grant and their roles in the collaboration;

Because we are committed to this project, we put together some of the leading experts to address the issues of funding as well as implementation, including technology, regulatory and legal issues. -- See our description of the team in Appendix One.

- The proposed broadband solution and programs; The expected impact of the proposed solution;

If the State chooses our proposal, and if the State decides investigate our well documented claims, hundreds of millions of dollars will be made available to upgrade the networks. We have also added 'baseline' requirements that the State MUST address if it intends to fulfill the requirements laid out in the Governor's plans.

And, if the other baselines we have specifically requested in our questions, which the State currently does not have, we will be able to supply an in-depth, build out analysis by experts.

- The feasibility, goals and objectives of the Application;

The feasibility is 100% available today for implementation. For example, in just one of the many proposals we will put forth to pay for broadband, the State could receive 10-20 million dollars annually, or in another case, a multi-million dollar lump sum payment equally 50-100 times the current $5 million sum the State is offering. Having this funding could then be used to pay for broadband. We also quote reputable secondary sources to explain the likelihood of feasibility.

On our ability to create the reports and do the surveys in question, the groups publishing and research capabilities, or even the legal or regulatory information, or the technology or network implementation is unparalleled. The experts in each area are the experts in the areas they discuss.

- The total resource requirements, including matched resources;

The Project Modules, Costs and In-Kind (Matching Funds).

		Our Fee	Retail Cost	In-kind matching funds
	Module 1 New Revenues			2.78
	Module 2 ISP Provisioning			2.50
	Module 3 Competition			3.33
	Module 4 Models			1.86
	Module 5 New Visions			2.06
	Module 6 Economic Growth			2.78
	Total Package:			
	Proposal Creation:			

*(The actual in-kind is 22 times matching funds as similar reports by Deloitte & Touche were sold to the incumbents priced at $1.2 million --- In 1991-1993, Deloitte created reports --- “Opportunity New Jersey”, Opportunity Pennsylvania, “Advantage Illinois” Opportunity Indiana and Advantage Ohio”.--- which were designed to outline the case for deregulatory policies to rewire the state. Our analysis could be equally as beneficial to the State, though priced at a discount.)

The State can pick and choose separate modules instead of funding the entire project. Our ‘in-kind ranges from 1.86 to 3.33 times what the market value is – i.e., we are charging below market rates as our ‘in-kind’ contribution.

More to the point, if our analysis is correct, and major refunds and new revenues are found to fund broadband, then the value of what we are presenting is obviously the most cost effective.

We have also spent over XXXXX to date in preparing this document, which, as independent consultants and analysts, is not being reimbursed by a corporation or larger organization.

- The proposed implementation timetable; and
- The measures to track progress and status.

These studies are intended to be done simultaneously with each other and take 3-6 months on average to complete. We would expect that once the results are presented to the State, we would meet with the State to discuss our continued work on these issues.

NOTE 1: We believe that the timeframes set by the State to reply to this RPF were too short to do the detailed analysis and presentation we would have liked to have completed. We stand ready to answer any questions the committee may have.

NOTE 2: Antiquated RFP Procedures in the Digital Age. If the State is promoting broadband use, then the filing of this should have been done electronically, without various 'hard copy' components. The RFP requires that hard copies are sent to the State in triplicate. Then there is the cost of filing including mailings that can be tracked. Worse, it is getting participants, especially those who are time constrained, to also use 'snail' mail.

The State should redo this process.

DISCUSSION OF EACH MODULE:

MODULE 1: Part 1: New Revenue Sources to Fund Broadband Deployment

There are approximately 10.7 phone million lines in New York State, not counting special access and other data services. If each line was upgraded, the cost would be approximately $10 billion-$20 billion dollars, estimated at $1000-$2000 per line.

The "Broadband Opportunity Plan', Part 1, has been developed to explore a very specific issue: How does the state pay for broadband upgrades?

The experts have worked in multiple states on broadband issues and have uncovered hundreds of questionable areas that the State could recover hundreds of millions of dollars annually. Some of these surround the giving of public interest perks that were part of the original utility to companies that are now in a competitive market. This includes 'free' or discounted use of various services, rights of way, taxes and other financial incentives through deregulation. This also many other related items including telecommunications expenditure overcharging for municipalities, new network revenues, and other potential revenue streams for the State's broadband plans.

We believe we have identified hundreds of deregulatory perks that should be returned or refunded to the utility of the public interest, as well as new revenue areas.

--PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY--
A few examples:

1) New Revenues: Put 411 Networks Up for Bid.

The 411 networks should be put up for bid, the long distance portion sold separately, the names used to be rented by the telco. A National Association of Regulatory Utility Commissioners, (NARUC) Telecommunications Staff Subcommittee Report on Directory Assistance, November, 2003 made some of the same points:

> "Allow the States to individually bid out DA provision. State public utility commissions have traditionally imposed requirements related to DA service for quality of service, speed of answer, price, number of free DA calls per month, or in the case of people with disabilities, free DA service. Consider giving them the authority to issue "requests for bids" among the qualified competitors…The 411 dialing code should be preserved as it is a universally recognized access code….Through the bid process, the state commissions could lower DA rates for consumers and possibly use some of the excessive

> profits that are currently being generated through monopoly control of the DA market to support fund such programs as… state universal service funds."

--PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY--

The "411" dialing code, is a very valuable public asset. Universally known and easy to remember, Verizon currently is able to receive a free advertisement, and the ability to supply both local and long distance information, not to mention a fee for connecting the call. In the case of New York, the incumbent even receives revenue from a 'measured' service phone call or the 'access fee' a part of the long distance connection or even the wireless connection.

It was originally given to the incumbents to use because the Verizon was required to give free directory assistance calls to the customer as part of local service. In New York before divestiture (1984), local service came with 6 free directory assistance calls, then $.10 cents each. Also, on the same call the customer could ask for more than one 'request'. And if the cost didn't make over 3 calls, they received a $.30 cent credit toward local service.

As of 2008, not only are there no longer any free directory calls with local service, but the companies have been able to charge 400% above cost, not counting taxes. It cost $.15-$.30 to offer, Verizon charges $1.25 per call. And the costs continue to drop through automation. They have also been able to offer long distance directory on this same call, which was not part of he original tariff.

If the companies are free market and competitive, why should the incumbent get the right to use this valuable asset for free? Why should it not be put up for bid?

As of 2004, Directory assistance was a $6 billion dollar marketplace and yes, phone bills reveal that customers still call directory assistance.

OIA experts have done a great deal of work on this topic. New Networks Institute's research and expertise helped Cox Newspapers launch the first successful N11 (3 digit dialing) network service – "511" in 1992, and the report quoted above was based on an interview with New Networks pertaining to potential revenues for N11 services. And NNI helped American Express sell 900-WEATHER to the Weather Channel in 1991 for millions of dollars, thus understanding the value of a phone number.

The "411" could fetch $20-$50 million dollars annually if put up for bid or requiring the incumbent to pay rental fees. Like the wireless "spectrum" auctions which generate billions of dollars, this network dialing plan is a valuable public interest asset, and not private property. --- Thus $100 million to $250 million over 5 years could be accrued by this action.

--PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY--

B) Continue the Continuing Property Record Audits and Get Massive Refunds.

In 1999, the New York Attorney General filed comments with the FCC pertaining to audits of New York Telephone/NYNEX's inventory of the equipment in the networks. As pointed out, the price of service is based on the capital investments. The AG's office suggested that $631 million in rates could be effected, accounting for a $1.2 billion dollar write-off. (CC Docket 99-117, Comments in Response to April 6th, 1999 Notice of Inquiry, ASD file No. 99-22, Audit of Continuing Property Records of NYNEX Telephone Operating Companies also, Known as Bell Atlantic North.)

> "The New York State Attorney General is an advocate on behalf of New York State's residential and small business utility ratepayers, before both the FCC and the New York State `Public Service Commission ("NYPSC"). The interest of New York consumers in the FCC's audit of NYNEX/Bell Atlantic North's continuing property records is manifest. Approximately half of NYNEX/Bell Atlantic North's reported costs represent capital investment recorded in the continuing property records. The FCC and the NYSPSC use these cost figures to set NYNEX/Bell Atlantic North's rates. The audit shows that NYNEX/Bell Atlantic North's costs are inflated. New York State telephone customers, both commercial and residential, are adversely affected if the various charges which comprise their rates are inflated because of overstated capital investment figures. In rough terms, as much as $631 million of NYNEX/Bell Atlantic North's New York intrastate rate base could be affected by a potential $1.18 billion write-off of NYNEX/Bell Atlantic North's capital investment accounts recommended by the auditors. This estimate is based upon the fact that New York Telephone Company represents approximately two-thirds of NYNEX/Bell Atlantic North's operations and about 80% of this is contained in the intrastate jurisdiction. Thus, the auditors' findings, if adopted by the FCC, could lead to significant adjustments in the intrastate and interstate rates paid by New York businesses and residents."

The FCC turned over the audits to the states in a deal that was even questioned by some of the Commissioners. The New York State Public Service Commission issued a report outlining that $634 million of equipment was missing. This was only ¼ of the potential missing equipment that had been added to rates. Thus, $2 5 billion in missing equipment may be at stake and the State should continue the audits.

This money not only impacts virtually all telephone costs including the costs to long distance carriers for 'access' fees, and even wireless costs, where the wireless service connects to a

wireline service, to mention local rates charged to municipalities and government offices, or the costs to schools and libraries as part of Universal Service. And it impacts the taxes Verizon paid starting in 1984 through 2008.

The State also should have concerns as the accounting books had serious flaws that went past simple book keeping issues. And yet, the State not only didn't continue the audits to find out exactly how much money was involved, even though current rates were set using the original accounting records.

OIA experts have worked on this issue for almost a decade having filed with the State's Attorney General's Office, three state Commissions, (NY, NJ and MA), the IRS, the SEC and multiple filings at the FCC. Links to some of our materials.

--PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY—

C) Hundreds of Millions in Telecom Overcharges

LTC Consulting and New Networks Institute estimates that hundreds of millions of dollars should be refunded to municipalities, school boards, and other government agencies, not to mention the States' small business and residential customers.

In a recent study in New Jersey, it was found that 28 out of 30 municipalities had serious errors on their telecom charges, including everything from package cramming to the addition of non-existent lines being charged to customers.

A recent Teletruth investigation found 92 Truth-in-Billing errors on just one New York State small business customer's Verizon phone bill, which covered over the fact that this one customer was paying over $1000 a year in services the customer did not order or need.

OIA members LTC Consulting has gotten over $20 million dollars in the State of New Jersey through phone bill audits. LTC Consulting and New Networks Institute have also helped to successfully take 2 New Jersey based Class Action suits pertaining to phone bill errors, each resulting in settlements worth millions of dollars.

In 2008, LTC Consulting and New Networks Institute are working with the respected consumer advocacy group, UCAN, under a grant from the California Consumer Protection Fund to study phone bills in San Diego.

--PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY—

--PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY—

D) Deregulation Investigation Based On Failed Fiber Optic Upgrades.

Why is America 15th in broadband? How did New York State lose its edge? Starting in 1992, NYNEX and Bell Atlantic both made statements that they would rewire their entire territory. In 1992, NYNEX presented the State with a report

- **NYNEX** claimed in 1993 it would be rolling out 'fiber to the curb' - NYNEX 1993 Annual Report. http://www.newnetworks.com/nynexfibercurb1993.htm
- **NYNEX** claimed it would have 1.5-2 million lines installed by 1996 - NYNEX 1993 Annual Report http://www.newnetworks.com/nynex2millionlines1993.htm
- **NYNEX** also snowed the Public and the public service commissions. Here is the PSC "Staff Report Assessing Network Modernization Needs", based on a NYNEX report "Vision of the Future" 1992. http://www.newnetworks.com/nypscfiberreport1992.htm
- **NYNEX** was supposed to have about 16% of the State finished by 2000. http://www.newnetworks.com/nypscfibernumbers.htm

OIA experts believe that state laws were changed based on the premise that NYNEX (now Verizon) would rewire the entire state. These stated commitments led directly to deregulatory policies that essentially gave NYNEX financial incentives, tax perks, depreciation perks, etc. to build out the plant. Instead, NYNEX was able to use these funds to not only roll out other non-infrastructure related projects, but to pay for overseas investments as well as perks to senior executives. OIA believes that some of these 'perks' need to be questioned or removed as many are part of current law.

E) Hundreds of Other Areas have been Identified.

OIA experts have uncovered hundreds of potential areas which include the rights of way, property taxes, poles and attachments costs, advertising costs, shared network costs, customer service costs, etc., new network opportunities, deregulatory perks vs utility perks.

We will be glad to discuss other areas once the State has agreed to sign an NDA and we are being seriously considered for the grant.

--PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY ---- PROPRIETARY—

PART 2: BASELINE MODULES

Module 2: A) Competitive Baseline for Internet Service Provisioning:
Module 3: B) Competitive Baseline on Usage and Competition.

Module 2: A) Competitive Baseline for Internet Service Provisioning:

The State plan calls for customers to have the choice for Internet Service Providers, regardless of the network.

> ”The state’s broadband strategy is based on the principle that competition and consumer choice are paramount to sustaining an effective broadband program into the future. To achieve our broadband strategic objectives, service providers must work together in an open framework where each consumer may choose their broadband Internet Service Provider regardless of who actually delivers the service across their traditional (wired or wireless) infrastructure.”

Yet the State has collected no data on the current issues surrounding independent ISP provisioning. --- We are suggesting that the state immediately corrects this data issue. As some of our data shows, since 2000, over US 7000 ISPs have gone out of business and there are serious problems with the Governor’s plan because the current independent ISP markets are prohibited from using the telephone company, wireless company or cable networks and the impacts of this must be dealt with immediately.

In fact, others asked if the State if they had performed an ISP survey:

QUESTION TO STATE: “Your website indicates that a survey has been sent to current ISPs asking "What are the primary barriers preventing you from providing internet access to your remote and low populated areas?" Has this survey been conducted, and, if so, where can we review the results?”

> **“CIO/OFT:** The CIO/OFT did not conduct an actual survey. We provided these questions to the vendor community in advance of our broadband roundtable discussion in October. Approximately 120 participants attended the roundtable meeting and were asked these questions in an open forum. Feedback was mixed as many providers were hesitant to speak publicly with their competitors sitting across the aisle. A summarization of these questions and the service provider responses are posted on our website under the title of Summary Comments from CIO/OFT Broadband Roundtable (October 16, 2007).”

However, the report in question explains nothing about the current marketplace or the current issues surrounding independent ISPs use of the networks.

If the State does nothing about this, hundreds of remaining Internet Service Providers could be forced out of business, and the goal for open use of the networks will become a New York urban myth.

PROPOSED WORK:

New Networks Institute, working with small independent ISPs including Bway.net, a woman-owned independent broadband ISP, will conduct a survey of ISPs to examine the current issues surrounding their business issues.

New Networks Institute is highly qualified to do such a survey as we have done survey and research work for the leading ISP associations including CIX, USISPA, Texas ISP Association since 1999, market research and survey work since 1993.

Our research and data was used by the Small Business Administration's Office of Advocacy dealing with ISP issues. Teletruth helped SBA's Advocacy create a roundtable and supplied data to file comments on behalf of ISPs.

Teletruth, with the Texas ISP Association and the National Internet Alliance, of which Kate Lynch is Chairman, has also filed over 10 different FCC dockets, as well as complaints with the New York State AG's office and Commission. Sampling of filings:

- Small Business Impact Study: 2002
- http://www.newnetworks.com/smallbusinessimpactstudy.html
- 4th Annual ISP Survey, 2003
- http://www.teletruth.org/docs/ISPsurvey2003.doc
- Teletruth's FCC petition with the Texas ISP Association, 2003
- http://www.newnetworks.com/PRISPPETITIONS.html
- New York State Complaint with ISPs, 1999
- http://newnetworks.com/nyispcomplaint.htm

The survey will interview ISPs as well as aggregate the issues so that the State can help create new effective policies – policies that will give customer's choice of ISPs on any networks.

B) Competitive Baseline on Usage and Competition.

The State has no available information pertaining to the topic of usage of services and competition, and is relying on unreliable information supplied by the FCC, and unaudited information supplied by the carriers. The State needs to have an objective examination of the current, problematic state of competition in New York. For example, there has been a 54% drop in competitive companies' lines (known as "UNE-p") using the current Verizon networks since 2004. Thus, competition has been falling at an alarming rate on the wireline networks. As we have documented to date, less competition has meant less choice and higher prices in New York State.

What are customers' actually paying for service? Are there competitors and if so for what services? How much customer overcharging is continuing?

Why are these questions important? Broadband is not one service but is sold as a bundle with local, long distance, connection to the internet (ISP), the speed of the connection (broadband) and cable service. As the State moves forward, these are not only potential revenue streams that need to be examined but more importantly, the competition data will indicate whether there is competition today and what is happening in the marketplace.

In New York State, local phone rates have increased 472% and it is clear that many of the expenses are now being dumped into local rates. Read our mini-report on phone rate increases in New York and New Jersey:
http://www.newnetworks.com/VerizonATTincreases.htm

Worse, because the FCC has rewrote portions of the Telecom Act, the incumbent companies are now not required to rent out their networks to competitors and have created illegal tying of products, vertically integrating multiple services to block competition.

This vertical integration of products allows the incumbents to control not only the speed of transmission but the services over the 'pipe', which is the foundation of Net Neutrality issues.

The State CAN NOT depend on either the FCC or the State's incumbents for accurate data and should immediately be creating its own data sources.

Work Product: We are proposing a full survey of wireline, wireless, broadband, Internet and cable bills, including lifeline customers for 1500 residential as well as 1500 small business customers. (We would expect the State to help with the bill collection process. Teletruth will then selectively interview these customers to get specific information about usage, competition, pricing and understanding of the charges, thus giving us a baseline of usage, competition and costs for the State.

As previously stated, New Networks Institute has been doing telecom, broadband and Internet related surveying work since 1993. Teletruth has also received grants (2004, 2008) from the California Consumer Protection Fund to work with UCAN, a San Diego-based consumer advocacy organization to conduct similar surveys.

Part 3 Design and Implementation

Module 4	A)	Broadband Models to Examine: Models to Avoid
Module 5	B)	Next Steps to Implementation; New Visions.

Module 4 A) Broadband Models to Examine: Models to Avoid

America is currently 15th in the world in broadband. These international successful models brought speeds of 100 mbps for only $40.00. What can be learned from these countries as 'successful' models to emulate? What forms of regulation are necessary to create these new models? How were they funded? What steps did they take to insure that the networks were built?

Also, some cities in the US have been on the front line of trying to upgrade to a higher-world standard. What should municipalities in New York State be thinking, assuming funding could be arranged?

If New York is going to be a leader we need to know the plans of these countries in the next 8 years – By 2015, where will these countries be in terms of broadband speeds and applications?

More importantly, we must examine the models to avoid. Did the US and New York State deregulatory policies help or hinder the deployment of broadband in the State and the nation? Why did America end up 15th in the world in broadband? What needs to be changed as we move forward based on historical modeling.

Work: This project will outline, in detail, international deployments in various Asian and European countries, and other world areas. The Report will include interviews with broadband-world leaders to understand the specific dynamics that allowed other countries to pass the US in broadband capabilities.

It will also highlight the US wireline and wireless municipality deployments, examining each model in detail. A specific New York State model of deregulation and the upgrades of the State's PSTN, Public Switched Telephone Networks, will be done starting from 1984, as well as a discussion of the Telecom Act and the FCC regulatory policies.

Module 5 B) Next Steps to Implementation; New Visions.

1) Regulatory Issues

In order to actually rewire the entire state with fiber optic services, (the only technology that can deliver 100 mbps-1 gigabit services) as well as allowing competitors to use the networks, the State will have to take a seriously hard look at the current regulatory environment, both on the state as well as federal level.

Conflicts with the incumbents and the current laws need to be vetted. Today, Verizon is not obligated to build out their networks. And FiOS, Verizon's current product, is defined as an 'interstate information service' and not open to competitors. Time Warner and the other cable companies also have no obligations to open their networks to competitors, including video programming.

Also, as incumbent, if Verizon does not upgrade its plant, is it the intention of the state to do that part themselves or using competitors?

2) Technology Issues

There are multiple aspects of technology issues that are important.

- Mapping the current networks to an upgrade plan within the budget.
- Current network technology and what is coming in the next 8 years – and being able to accommodate changes without serious revision.
- Knowing what software and applications needs are current and coming in the next 8 years
- Taking care of vendor concerns, security concerns,

3) Combining Technology with Regulatory Issues for Deployment Plans

OIA will present a series of innovative next steps, combining the materials created in the baseline.

- Can New York have Gigabit speeds by 2015 to match Asia? -- Projecting current course if nothing is done.
- Lighting up the dark, unused fiber optic wiring today. Over 40% of the fiber optic wiring in New York State was not in use as of 2004. (source: FCC 2004)
- Using wireless and next generation spectrum to supplement the wiring plan to provide "universal' broadband.
- Building from the ground up --- the municipality plan.

- Using public assets for deploying services.
- Opening the networks to full competition – Divestiture II or structural separation? Many countries are examining new ways to deal with the incumbent's control over the Public Switched Telephone Networks (PSTN), including divesting the companies from control of the wiring plant, to separating out applications from infrastructure.
- Immediate fixes for underserved areas. – The State could take specific actions to ensure that areas without sufficient service availability to be fixed immediately.
- Innovative Alternatives: "Community Clusters", "yo-yo-nets", "stupid network" principles, mesh networks, removing micro-billing, topologies for high-speed access peering points. Our experts lead in current design and analysis of network designs, as well as regulatory and technology upgrades. From community clusters and yo-Yo-nets, where groups of homeowners group together to take care of their own broadband needs through local cooperative groups, to network concepts, such as the pioneering "stupid networks' – the technology solution that is now highly considered cutting edge where the networks are very fast and the intelligence for services resides at the ends of the networks.
- Regulatory and legal hurdles for each plan.
- Universal Service issues
- Returning the utility from free market enterprises.

Each of these plan areas will discuss both technology and regulatory issues that need to be addressed, as well as cost models. We note that one size does not fit all and that these plans need to be tempered with existing networks, regulatory constraints, and budgetary issues, among others.

Work Product will include an in-depth analysis of each area discussed as well as targets for immediate implementation, assuming funding was available.

Module 6 Part 4: Economic Growth Areas for New York State.

While very fast, open infrastructure is critical to handle the next generation of technology, it is really the applications people use that drive broadband use.

OIA's members believe that economic growth in the state can be driven by leveraging current underutilized assets within the state. These include

A) Video programming economic development
B) Tech and media services economic development
C) Entertainment economic development, developed in New York State.

OIA's proposal includes multiple innovative ways to help make New York become an international hub for these areas, leveraging on the current assets of New York's talent pool of entrepreneurs and business.

Data about the Film Industry and Potential Tie-Ins to 'Video Programming Economic Development'

1. New York State film business -- a report released in 2007 by Cornell City and Regional Planning and the Fiscal Policy Institute, "New York's Big Picture: Assessing New York's Position in Film, Television and Commercial Production," estimated that film, television and commercial production at $13.3 billion in 2005.

2. Unreleased films – We assess the competitive environment as the number of films submitted to Sundance festival and those actually screened -- in 2004, 2,613 were submitted and 122 were screened.

3. Indie release -- the best way to look at this is using MPAA numbers: The MPAA reports that, between 1999 and 2006, the total number of films released in the US increased 35 percent, up to 599 from 442 releases. However, over the same period, non-MPAA (i.e., non-studio) releases increased to 66 percent (396) from 52 percent (229) of the total releases. In 1985, non-studio releases accounted for only 43 percent of all releases.

4. Other NY State -- there is much competition among states and localities for Hollywood bucks for entertainment production dollars -- NY State and City offer what's called the "Film Production Tax Credit" which can provide qualifying film and television productions tax credit equal to up to 15% of production expenditures. (Other states, like NM and Conn. are more attractive.)

5. NY as hub -- in addition we include broadband videogames, location-based entertainment venues (including microcinema outlets like coffeehouses and bars), specialty entertainment

venues (movie theatres for opera screenings), etc., which all need broadband for production and delivery.

Work: This would start as a report, based on a series of interviews with New York's leading producers and outlets for entertainment, music, film, theatre, gaming, IT and software development, that will conclude with next steps to generate more economic growth – Be it incubators of new technologies merged with creators, migrating the current outlets for talent with new broadband distribution models.