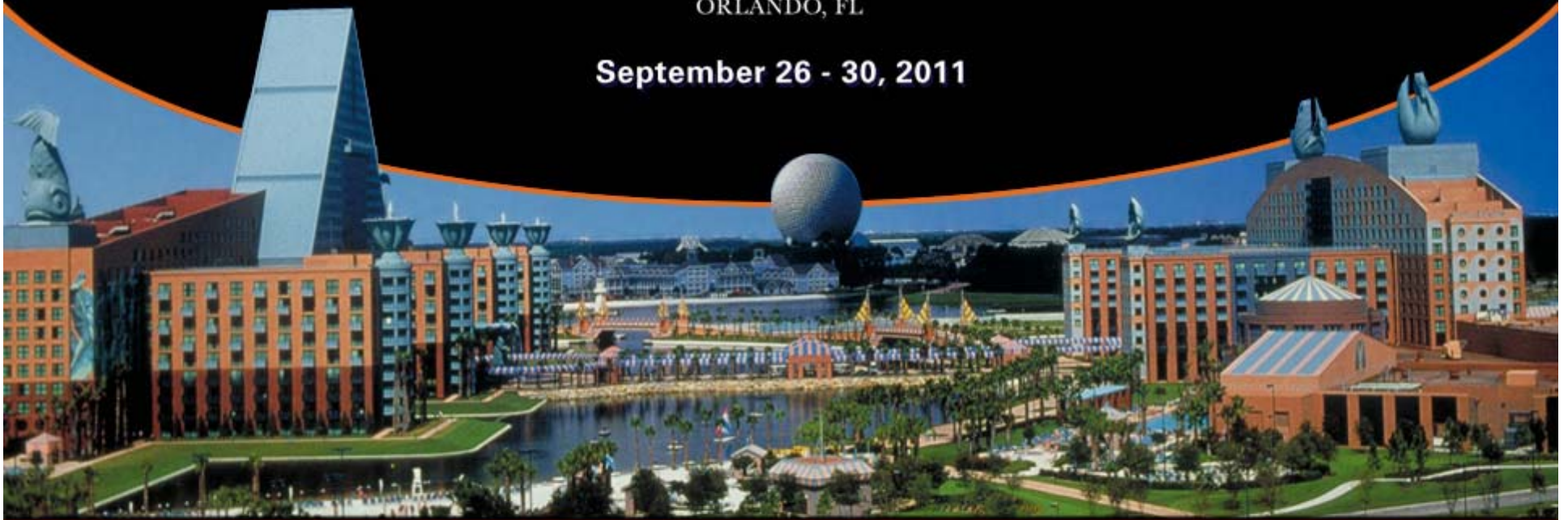


# 2011 FTTH Conference and Expo "Lighting the Economy"

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2011 FTTH Conference and Expo  
"Lighting the Economy"

# FIBER TO THE HOME: STRUCTURING PARTNERSHIPS FOR SUCCESS (PUBLIC AND PRIVATE)

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# FTTH: STRUCTURING PARTNERSHIPS FOR SUCCESS

## Two Basic FTTH Partnership Models

### A. Private Joint Venture or Partnership

Arrangements whereby private entities (typically real estate developers and service providers) contract to create a mutually beneficial communications service platform for individual real estate developments or other communities or large customers.

### B. Public-Private Joint Venture or Partnership

Arrangements whereby the resources of public agencies and private companies are combined to provide greater efficiency, better access to capital, and the furtherance of government initiatives.

1. Government Funding (e.g., broadband stimulus)
2. Government Project Participation / Oversight
3. Private Lease and Use of Government Fiber Infrastructure



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## Private Partnerships: What is offered?

- A. Core Double or Triple Play
- B. Residential or Commercial
- C. Ancillary
  1. Portal/community intranet: Value + revenue
  2. Security, home automation traditional add on
  3. Coming soon: Smart grid, Telework, Cloud Computing, More
  4. Ancillary opportunities – critical value add - dependent in part on strategies to
    - a. Aggregate customer arrangements that facilitate (i.e., smart grid for real estate communities)
    - b. Develop cost and operationally efficient deployment models for individual consumer markets



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## Private Partnerships: Key Service Provider Interests

### A. Business Challenges

1. Subsidies Changing
2. Access lines declining
3. Need for ARPU
4. Hunger for Broadband

### B. Key Answer FTTH

1. But how?

### C. Key: ROI; “sustainability”

1. Nail down revenue stream and customer base
2. Avoid “field of dreams,” i.e., build it, hope they will come
3. Government support – helps; but is not total answer



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## Private Partnerships: Key Service Provider Interests (cont.)

### D. Concerns:

#### 1. Regulatory

- a. Net neutrality – key to ancillary services
- b. Regulatory status of provider, services
- c. Issues associated with favorable customer arrangements – i.e., exclusivity/competition
- d. Franchise

#### 2. Performance



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## Private Partnerships: Key Developer Interests

### A. Key: Increased Value

1. Revenues
2. Amenity / increase in asset value

### B. Concerns

1. Mitigate risk
2. Performance



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## Private Partnerships: Key Consumer Interests

### A. Benefits

1. Broadband
2. Applications (and real value and applicability)
3. "More for less"

### B. Concerns

1. Performance/Service Quality
2. Choice





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## Private Partnerships: Strategic & Regulatory Issues

### A. Competitor Access / Exclusivity

#### 1. Key Regulatory Decisions & Trends

- a. FCC MDU Decision, Second Report & Order on Building Access (March 2010)
  - i. Major Shift in FCC Direction
  - ii. Key Elements
    - (A) Bulk, bundling within HOA dues, OK
    - (B) EMAs OK
    - (C) Consumer benefit
    - (D) Need: Enforceable Standards, "Best Practices" Concept
- b. AT&T Anti-Trust Decision from 5<sup>th</sup> Circuit (February 2010)
  - i. Single MDU does not constitute the market
- c. Lansdowne on the Potomac
  - i. Landowner may exercise "its legitimate 'monopoly' control over its property rights; a landowner's 'monopoly' over his or her land violates neither the letter nor intent of the Pole Act."
- d. Other
  - i. Easements, Competitor Access, State Rules, Wiring Issues
  - ii. Services: Bulk, HOA, EMA
  - iii. Bottom Line: Performance, Disclosure



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## Private Partnerships: Strategic & Regulatory Issues (cont.)

### B. Other Key Issues

#### 1. Performance Standards

- a. Important and valuable for both provider and owner
- b. Differentiator for smaller players
- c. Examples of items covered:
  - i. Technical, operational, and service details (i.e., 108 point matrix)
  - ii. Technology upgrades



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## Private Partnerships: Strategic & Regulatory Issues (cont.)

### B. Other Key Issues (cont.)

#### 2. Transaction Structure

- a. Typical license/vendor-vendee not always suitable
- b. Issues requiring better protections include:
  - i. Access/regulatory/ability to control access through non-regulated entity ownership
  - ii. Financial concerns/creditors rights/bankruptcy protection
  - iii. Allocation of responsibility and control
- c. Solution: venture or joint venture
  - i. Bankruptcy remote, non-regulated JV with easements that terminate tied to operational and financial performance
  - ii. Solves tough issues
  - iii. Tested in court (Lansdowne)



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## Private Partnerships: Strategic & Regulatory Issues (cont.)

### B. Other Key Issues (cont.)

#### 3. Other Regulatory Issues

##### a. Franchise Issues

i. Trend in franchise requirements

ii. Options

(A) Franchised operator

(B) OVS

(C) Alternatives

(1) PCO/private property

(2) De minimis use

(3) Shared use of facilities

(4) Deregulated nature of services

(5) Other

b. Net Neutrality



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## Private Partnerships: Strategic & Regulatory Issues (cont.)

- B. Other Key Issues (cont.)
  - 4. Transaction Economics
    - a. Financing of System
    - b. Revenues from System
    - c. Financial Security
    - d. Pricing of Services
    - e. Asset Value / Buy Out



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## Private Partnerships: Strategic & Regulatory Issues (cont.)

### B. Other Key Issues (cont.)

#### 5. Default / Remedies

- a. Normally: Hobson's Choice of "breach/sue/terminate"
- b. Desire for Flexibility, Options
- c. Solutions:
  - i. Liquidated Damages
  - ii. Loss of Exclusivity / Mandatory Subscription
  - iii. Termination / Buy Out



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## Public Partnerships: Opportunities

### A. Money

1. Stimulus Grants & Government Subsidies (e.g., RUS; Connect America Fund)

### B. Regulation

1. National Broadband Plan
  - a. Regulatory dilemma
  - b. Elements promoting wired community model
    - i. Universal Service and Intercarrier Compensation Reform
    - ii. Broadband Wholesale Access and IP-to-IP Interconnection
    - iii. Access to Poles, Ducts Conduit and Rights of Way
    - iv. Set-Top Boxes
    - v. Data Collection and Disclosure
    - vi. Smart Homes



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## Public Partnerships: Opportunities (cont.)

### B. Regulation (cont.)

#### 2. Promotion of New Consumer-Driven Markets

- a. Digital literacy initiatives
- b. Building connectivity rating system
- c. Collection and publication of broadband connectivity data

#### 3. Promotion of New Services

- a. Video gateway open standards
  - b. Standard interface installation requirement
4. State Joint Venture Initiatives





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## Public Partnerships: Strategic Issues

### A. Property Interest in the Network

1. Exclusivity
2. Government retention of network capacity for public use

### B. Government conditions and limitations

1. Community assistance requirements (e.g., community/government technical support, economic development planning, etc.)
2. Compliance with public funding conditions (e.g., nondiscrimination, interconnection, net neutrality, etc.)
3. Restrictions on pricing for services on network (e.g., discounts to non-profit and/or government agencies)
4. Restrictions on amount of fiber capacity resold to other entities or a single entity
5. Non-compete restrictions (e.g., no fiber deployment in same geographic area)



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## Public Partnerships: Strategic Issues (cont.)

- C. Allocation of deployment/maintenance/network management control
- D. Financial issues and safeguards
  - 1. Security interests held by NTIA or other government grant entity
- E. Performance Standards
  - 1. Required development in coordination with various public agencies (e.g., economic development, public safety, etc.)
- F. Default remedies
- G. Broader issues
  - 1. Government as customer
  - 2. Government as financier



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## Closing Comments

- A. Opportunities great to leverage broadband focus
- B. Opportunities created by new technology
- C. Favorable partnerships



# Thank you

## Please complete the evaluation



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