



## **Rebuttal to the Statement by the Massachusetts Broadband Institute of December 1, 2015**

**MBI said:** “The MBI is committed to working with you to develop a sustainable plan for governance and operation of a regional network, and therefore will be prepared to partner with towns on new pathways to successfully expand broadband service as needed.”

**WW replies:** The only way that MBI can work and partner with the towns is on the basis of respect for the towns and WiredWest. “New pathways” is merely a code word for detouring around WiredWest. That is not the route the towns have chosen to take. By releasing its statement of December 1, MBI has sown confusion in the towns, thrown the project into chaos, and subjected it to further delays. This will only prolong the frustration of people in western Mass. at their lack of broadband. MBI must become part of the solution, not part of the problem.

**MBI:** “The Massachusetts Broadband Institute at Mass Tech Collaborative (MBI) is committed to partnering with towns to extend broadband service to residents and businesses. WiredWest was an early supporter of a regional solution and has sought to complement MBI’s efforts to promote aggregation of towns and to educate them about the benefits of a common, regional approach. Those efforts have been successful in instilling early and sustained energy and providing information about many of the issues involved with building and operating a fiber network for the citizens of western Massachusetts.”

**WW:** For more than four years, the WiredWest cooperative has been working with its 44 member towns to bring “last mile” high-speed internet service to the people in western Mass., long before MBI became involved in such an effort. MBI is now “partnering” with the towns only to the extent that towns do so on MBI’s terms.

**MBI:** “More recently, WiredWest has extended beyond these educational and outreach efforts to develop and propose a plan and agreement under which WiredWest would own and operate the network on behalf of the towns.”

**WW:** Since its formation in 2011, the Bylaws of WiredWest have stated that the purpose of the cooperative was “planning, building and operating a regional fiber-optic network.” That is why towns joined WiredWest. It is misleading to imply that WiredWest has changed its mission, or that is an entity separate from the towns which would operate the network on their behalf. *It is a cooperative of the towns, by the towns and for the towns.* WiredWest is nothing but the towns. It is governed by a Board of Directors, representing each of the member towns, which has supported and continues to support this purpose.

**MBI:** “It [WiredWest] has informed towns that it will be seeking the towns’ execution of the proposed agreement in early January. We are writing to provide you an update on our ongoing review of the WiredWest regional fiber network proposal, in order to support your upcoming decision-making around signing the proposed Operating Agreement.”

**WW:** Numerous drafts of the Agreement have been subject to extensive review and input from the Board, town officials and counsels, town broadband committees and others. The board

unanimously approved the proposed Operating Agreement. MBI is not acting to “support” the towns’ decision-making, but to thwart it.

**MBI:** “The MBI has been reviewing the WiredWest operating agreement and business plan, which propose a new, independent, regional, municipal cooperative in the telecommunications business. While WiredWest continues to revise both the operating agreement and business plan, it is important for the MBI to provide local officials with preliminary feedback now based upon our review.”

**WW:** WiredWest continues to adjust our governance and business plan, *by design*, in response to multi-year discussions and feedback from towns and industry experts. The changes embodied in the Operating Agreement change the form of the existing WiredWest cooperative from a corporation, formed according to state law governing such coops, to a Limited Liability Company. Operating as an LLC would not only give the towns *continued control of the coop*, but *actual ownership* of it in shares proportional to their investment in the network.

**MBI:** “The MBI believes that the current draft WiredWest operating agreement is not compatible with the best interests of the Commonwealth, the towns, or their residents. The operating agreement coupled with the business plan would require substantial, in some ways fundamental, revision in order to succeed as a reliable framework for the startup and operation of broadband service in the region.”

**WW:** It is not up to MBI, a bureaucracy in eastern Massachusetts, to decide what is in the best interests of the towns and their residents in western Massachusetts. It is the responsibility of the towns to determine the course that is in our best interests. The MBI's letter follows a long series of actions that are not in the town's best interest. The revisions MBI seeks are for the purpose of furthering its attempt to control the last mile project, despite the fact that the towns are providing nearly two-thirds of the funding, while threatening to withhold funding from the organization which the towns themselves created.

**MBI:** “Operating Agreement Review: The WiredWest Operating Agreement includes basic elements that contradict MBI’s Last Mile Broadband Policy as passed by its boards on July 30, 2015. The program policy was established to mitigate financial and operational risk to towns and taxpayers, and ensure that any project receiving state and local funds had a pathway to sustainability.”

**WW:** The Director of MBI told representatives of WiredWest that they would have input into the Policy. They did not. WiredWest believes that elements of the Policy increase, rather than mitigate, the risk to towns and their taxpayers. The assessment of such risk must ultimately be that of the towns who are undertaking an unprecedented financial commitment to the project, and not a dictate of the state. The MBI claims that the WiredWest business model is not sustainable, but provides absolutely no evidence to support its claim. On the contrary, the WiredWest model has been fully vetted by many experts including a nationally recognized network consultant.

**MBI:** “For example, the WiredWest Operating Model requires towns/MLPs to transfer ownership of the network to WiredWest in perpetuity, while retaining ultimate responsibility for the local debt obligation for construction of the network. Towns/MLPs are required to maintain membership in WiredWest for a minimum of 10 years, and if the towns leave WiredWest they will lose all rights to the broadband network in their towns with no assurance of full repayment of their municipal debt.”

**WW:** The towns and their MLPs (Municipal Light Plants) are not transferring ownership of the network to WiredWest. The towns are choosing to jointly own the network and WiredWest serves as the mechanism to manage it. WiredWest is committed to repaying the debts of its Members, which no other provider of internet service is proposing to do. When a town withdraws from WiredWest, after a sufficient period of time to enable it to achieve financial stability, the Operating Agreement stipulates that it will be reimbursed in full for its outstanding debt for the project. The 10-year membership requirement in the Operating Agreement includes four years of construction and six years of operation, which is necessary to build reserves to repay any town that choose to leave the co-op.

**MBI:** “In addition, the Operating Agreement contains no clear means of resolving unbudgeted financial shortfalls or obligations such as may be expected in the start-up of a challenging business. Such shortfalls could lead to sale or mortgaging of the network without any return of funds or control to the towns.”

**WW:** This is false. Under the Agreement, the members of WiredWest are fully empowered to address any financial difficulties. The net proceeds from sale of the network, the necessity of which will be decided by the members, will be returned to the towns. And of course, it goes without saying that if the network were sold, the towns would no longer control it.

**MBI:** “Some practical concerns from the operating agreement review include:

- Towns lose direct managerial and policy control over their network when substantial unknowns exist that may cause towns to want or need to modify plans;
- Towns lose flexibility to respond to the interests of their respective residents in the future, despite any business conditions or market factors that may arise; and
- The proposed structure of WiredWest creates unnecessary financial and operating risks for the towns.”

**WW:** The towns’ ownership and control of the regional network *mitigates, not creates,* risks. Again, the towns own and control the network, and are empowered to respond to any such concerns through their representatives on the Board of Directors.

**MBI:** “Business Plan Review: The MBI has also engaged many industry experts, led by a consultant team from Wipro, to evaluate elements of WiredWest’s business plan, and to explore and further test various operating models. We will be providing more information in the weeks ahead, and believe WiredWest continues to adjust certain elements of the plan, but preliminary analysis demonstrates that the current draft plan understates challenges and expenses and overstates the amount and timing of anticipated revenues.”

**WW:** It is disappointing that in its rush to stop towns from signing the Operating Agreement, MBI would hint at the conclusions of a report, by a company having little experience with municipal broadband projects, that has not been finalized nor made available for examination. On the other hand, WiredWest just released a report by CTC, a leading communications consultancy which has also consulted to MBI. It concludes: “The WiredWest financial model has been well designed and is a reasonable portrayal of its business.” The full report is available at [wiredwest.net/2015/12/02/ctc](http://wiredwest.net/2015/12/02/ctc).

**MBI:** “Some practical concerns from the business plan review include:

- WiredWest has developed a model which starts up and runs the business independently, rather than relying on professional or technical partners who can bring organizational experience in the business,

which is risky given the challenges associated with operation of rural fiber-to-the-home networks;

- WiredWest plans a fully-insourced model of administration, staffing and services, which is expensive and very challenging to sustain. MBI's review indicates a sustainable approach must include contracting out many administrative, service and maintenance operations”

**WW:** These statements are *simply not true*. The aim of the WiredWest business model is to minimize the costs to towns not maximize profits to private industry. The WiredWest Board will determine who WiredWest will or will not partner with, and which functions should be performed inhouse versus outsourced, on the basis of their financial and operating costs and benefits. The main business of MBI's consultant Wipro is outsourcing, so it is not surprising, if not a conflict of interest, that they would advocate that WiredWest do so.

**MBI:** “WiredWest's plan to repay debt service to the towns will be difficult or impossible to achieve at reliable subscription rates (including WiredWest's proposed ranges from 40 percent to 55 percent subscribers). Towns should assume that they will have to repay most if not all of the debt they borrow.”

**WW:** The CTC report states that the take rate of 55% required for WiredWest to repay town debt service is feasible, citing municipal broadband projects that exceed 60% take rates. In fact, as a result of WiredWest's presubscription campaign, nearly 40% of all households in its service area have already signed up for service and made a \$49 deposit two or more years before they will be connected. That is already two-thirds toward 60%, which WiredWest is likely to surpass by time service is available to customers.

**MBI:** “Our obligation to the towns, policymakers, and taxpayers investing state and local funds is to support sustainable and successful approaches which will expand broadband service for the region. Because of overall concerns with project operations and sustainability, the MBI will not authorize expenditure of state funds for a project with core elements as proposed in this draft operating agreement and business plan. Therefore, the MBI recommends towns not sign the WiredWest operating agreement as currently planned for January 9, 2016.”

**WW:** MBI has an obligation to towns and their taxpayers to respect their opinions and decisions, which regrettably MBI's actions have shown that it does not. Nor are its concerns justifiable, as demonstrated above. In fact, MBI's desire to control the project and minimize the ability of towns to oversee its expenditure of their funds, despite the towns providing most of the money, is the reason MBI is stepping in at this late date to block the implementation of the Operating Agreement. Refusing to fund the solution chosen by the towns is bureaucratic blackmail.

**MBI:** “Moving Forward: This modeling and analysis also convinces MBI that there are viable approaches to building and operating broadband service in the region. As Leverett's success shows, a single-town approach to broadband service can work. However, MBI believes that a regional approach to policy making, procurement and shared services is the preferred pathway, and that there are ways to make a regional model work.”

**WW:** Leverett is a unique case, because of the demographics and location of the town. Individual, single-town networks are higher cost and lower risk. WiredWest agrees with MBI that a regional approach is preferable. Our business plan for a regional network has been more painstakingly developed—substantially based on work done by consultants to MBI—and more exhaustively

reviewed than any other so-called “viable approaches” which thus far MBI has not revealed.

**MBI:** “If WiredWest can demonstrate flexibility to align with the towns’ interests and the state’s policies, we can all continue to work together on a substantial, municipally-owned regional project.”

**WW:** WiredWest is prepared to continue to work together with MBI, provided that MBI demonstrate flexibility in recognizing the legitimacy of WiredWest as the grassroots voice of its member towns, and the decision of the people in those member towns as to how best to use their funds for a regional solution.