



The voice of mid-size communications companies

September 30, 2014

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Ex Parte* Communication: WC Docket Nos. 14-115, 14-116

Dear Ms. Dortch:

On September 29, 2014, Genny Morelli and the undersigned of ITTA met separately with Daniel Alvarez, wireline legal advisor to Chairman Wheeler, and Priscilla Argeris, wireline legal advisor to Commissioner Rosenworcel, to discuss the pending Petitions of the city of Wilson, NC and the Electric Power Board of Chattanooga, TN seeking FCC preemption of North Carolina and Tennessee laws that place certain limitations on municipal broadband entry.¹

At the meeting, ITTA emphasized the harm to consumers and competition that would result from FCC interference with the states' sovereign rights to govern municipal broadband entry as they see fit. The failures of municipal broadband networks are well documented. Studies have shown that almost all government-owned networks are losing money and are mired in debt due to a lack of a sustainable long-term business plan. Not only are taxpayers routinely forced to bail out failing municipal broadband projects, they also are left with inferior and less advanced service than what is available from private sector entities when municipalities do not have the resources to invest in maintenance and necessary upgrades to government-owned networks as technology evolves.

Frequently, municipal networks overbuild existing private sector networks, which is an inefficient use of taxpayer funds and detrimental to competition. Because government-subsidized municipal networks typically enjoy favorable treatment under local laws and are able to operate at an unfair competitive advantage in comparison to private sector entities, they impede competition, innovation, and consumer choice.

¹ See Petition Pursuant to Section 706 of the Telecommunications Act of 1996 for Removal of State Barriers to Broadband Investment and Competition filed by the City of Wilson, North Carolina, WB Docket No. 14-115 (filed July 24, 2014); Petition Pursuant to Section 706 of the Telecommunications Act of 1996 for Removal of State Barriers to Broadband Investment and Competition filed by the Electric Power Board of Chattanooga, Tennessee, WB Docket No. 14-116 (filed July 24, 2014) (collectively, "Petitions").

Perhaps most importantly, municipal broadband projects fail to achieve universal broadband access in the areas they serve. As indicated above, municipalities generally overbuild existing private sector networks and often avoid areas that are sparsely populated and more expensive to serve. Limiting service to areas where it is already available undermines the Commission's universal service objectives and leaves consumers in unserved areas without access to broadband.

For these and a variety of other reasons, nearly half of the states have enacted laws governing municipal broadband entry. States fully understand and appreciate the serious consequences that stem from using taxpayer dollars to bring local municipalities into direct competition with private sector companies. Indeed, North Carolina passed its legislation requiring voter approval for municipal broadband entry largely in response to residents' concerns regarding the financial exposure taxpayers face when such projects are not successful. For example, the towns of Mooresville and Davidson, NC, on the verge of default a few years ago, still owe \$78 million of the more than \$92 million they borrowed to buy and upgrade their jointly-owned municipal broadband network in 2007. Similarly, the city of Salisbury, NC has diverted \$7.6 million from its water and sewer fund to subsidize its municipal broadband network, which has experienced operational and debt payment shortfalls since its inception in 2010.

These and numerous other examples included in ITTA's comments demonstrate that state laws on municipal entry remain essential to protect consumers from the financial risks associated with municipal broadband projects.² The Commission should not interfere with the states' economic and fiscal responsibilities to their citizens and the proper exercise of their jurisdiction over the construction and operation of broadband networks within their local communities.

Please do not hesitate to contact the undersigned with any questions regarding this submission.

Respectfully submitted,



Micah M. Caldwell
Vice President, Regulatory Affairs

cc: Daniel Alvarez
Priscilla Argeris

² See Comments of ITTA, WC Docket Nos. 14-115, 14-116 (filed Aug. 29, 2014), at 8-9.