

Nov. 21, 2017

The Honorable Ajit Pai
Chairman
Federal Communications Commission
455 12th Street SW
Washington, DC 20544

Re: Ex Parte Submission, Restoring Internet Freedom, WC Docket No. 17-108

Dear Chairman Pai:

We are twelve non-profit municipal broadband Internet service providers (“Muni ISPs”) serving small towns and communities from Braintree, MA to San Bruno, CA, in competition with other providers. Many of us wrote to you earlier this year, commending your plan to initiate a rulemaking to end utility-style common carrier regulation of ISPs based on Title II of the Communications Act, restore the “information service” classification of the service, and reinstate the bipartisan “light touch” approach to Internet regulation that had served our communities and our subscribers so well for nearly two decades.¹ We write again to urge you to move forward with your proposals² without delay, so that we may once again invest in our networks and roll-out innovative features and services without the “dark cloud” of Title II rate regulation hanging over our heads.

Our support for an open Internet is unwavering and we will continue to provide our customers with unfettered access to all endpoints on the Internet, as we always have. The Federal Communications Commission’s decision in 2015 to reclassify broadband Internet access service and subject us to Title II regulation on the basis of our supposed “gatekeeper” power over Internet edge providers’ access to our subscribers was, as we have previously explained, deeply flawed and contrary to record evidence. We are almost invariably not the sole provider of Internet access in our local markets, and our customers can elect to subscribe to one of our private sector competitors if we degrade their Internet experience or fail to keep up with respect to terms and conditions of service. Moreover, as government-run entities, we are not motivated by a need to make a profit, and are directly accountable to our customers as political constituents. Accordingly, we make sure our customers’ interests are the primary drivers of our businesses. We always provide our customers with unfettered access to legal content on the Internet. We never block, throttle, or impair our customers’ traffic, nor engage in paid prioritization of traffic crossing our networks. We have always said we would adhere to any such principles adopted by the Commission, as we have been doing since the Commission first articulated its Internet Policy principles in 2005,³ and reiterate that pledge once again.

¹ Letter from William Bottiggi, General Manager, BELD Broadband, et al., to The Honorable Ajit Pai, Chairman, FCC, WC Docket No. 17-108, at 1-2 (filed May 11, 2017).

² *Restoring Internet Freedom*, Notice of Proposed Rulemaking, WC Docket No. 17-108 (rel. May 23, 2017) (“NPRM”).

³ See *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities et al.*, CC Docket No. 02-33, Policy Statement, 20 FCC Rcd 14986 (2005).

The record before the Commission today demonstrates plainly that the 2015 reclassification decision was counterproductive to the goal of encouraging broadband investment, deployment, and innovation. For nearly three years now, we have incurred additional outside legal and consulting costs to guide us through the maze of Title II obligations and the “unknown and unknowable” Internet General Conduct Standard. Even with this advice aimed at minimizing risk, we often delay or defer rolling out a new feature or service because we cannot afford to deal with a potential complaint and enforcement action, and have held back from upgrading our broadband plant based on our fear that after-the-fact rate regulation will harm our ability to break even on our investment. As a result, our customers lose out on having access to innovations and new capabilities and our communities lose out from lack of upgraded plant.

Rolling back Title II classification will have immediate benefits for Muni ISPs and their customers and communities. Removing the overhang of unreasonable and potentially arbitrary enforcement actions and the threat of rate regulation will bring us greater certainty that our investments and development of new services and features will pay off. We will be able to redirect our resources away from backward-facing regulatory compliance efforts to forward-looking network investment and service improvements. At the same time, our customers and Internet edge providers will continue to have the same open Internet experience the 2015 decision aimed to ensure without substantial and unwarranted costs on ISPs. We see this as a “win-win” proposition and urge you to promptly bring the matter for a vote by the Commission.

Thank you again for initiating this proceeding. You can count on our support.

Sincerely,

/s/

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