



The voice of mid-size communications companies

September 26, 2014

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

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

Dear Ms. Dortch:

On September 24, 2014, Genny Morelli and the undersigned of ITTA met separately with Amy Bender, wireline legal advisor to Commissioner O’Rielly, and Nick Degani, wireline legal advisor to Commissioner Pai, 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.<sup>1</sup>

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.

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<sup>1</sup> 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”).

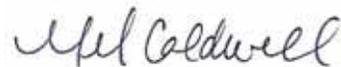
Perhaps most importantly, municipal broadband projects fail to achieve universal broadband access in the areas they serve. As indicated above, municipalities generally overbuild existing private sector networks and often avoid areas that are sparsely populated and more expensive to serve. Limiting service 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 limiting or prohibiting 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 the city of Wilson to obtain approval in order to provide service beyond the boundaries of its home county in 2011, several years after the city began operating the network. The legislation was enacted in large part to protect consumers from the financial exposure taxpayers face when municipal broadband systems are not successful, as happened with the network jointly owned by the towns of Mooresville and Davidson, NC. This network, called Mi-Connection, still owes \$78 million of the more than \$92 million the towns borrowed to buy and upgrade the network in 2007.

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.<sup>2</sup> 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: Amy Bender  
Nick Degani

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