

**STATEMENT OF
CHAIRMAN TOM WHEELER**

Re: *City of Wilson, North Carolina Petition for Preemption of North Carolina General Statute Sections 160A-340 et seq.*, WC Docket No. 14-115, *The Electric Power Board of Chattanooga, Tennessee Petition for Preemption of a Portion of Tennessee Code Annotated Section 7-52-601*, WC Docket No 14-116.

Mayor Gary Fuller of Opelika, Alabama recently authored an op-ed in which he asked a very simple, but important, question: “How does Opelika, a city of fewer than 30,000 people, offer Internet speeds 100 times faster than the national average?” The answer, he concluded, was “hard work and the right for a city to determine its own path.” Today, there are simply too many communities across this nation that cannot determine their own path. There are too many community leaders whose hands are tied by what Mayor Fuller calls “state-level red tape” designed to limit competition.

Today, we take an important step to rid these communities of that red tape. Specifically, we act on petitions filed by the leaders of Chattanooga, Tennessee and Wilson, North Carolina asking the FCC to preempt laws enacted by state legislatures that prohibit them from expanding their successful community-owned broadband networks. The issue is simple: these communities want to determine their own path. Their elected local officials want to be able to take action to meet their communities’ needs for high-speed broadband. But the laws at issue today raise barriers to the deployment of and investment in new broadband networks and infrastructure. That is why I support granting these petitions.

Communities across the nation, including these two petitioners, understand that access to fast, fair, and open broadband networks is key to their economic future – and the future of their citizens. But as the Commission’s 2015 Broadband Progress Report makes clear, broadband deployment – especially in rural areas – is not occurring broadly or quickly enough to meet the increasing bandwidth demands of consumers.

Accordingly, many communities across the nation are taking action. They have concluded that existing broadband offerings are not meeting their needs, and the only solution is to become directly involved in broadband deployment.

Many communities work with existing private sector providers to facilitate improved broadband service. But when that doesn’t work, they seek alternatives, including various forms of public-private partnerships and, in some cases, deploying broadband networks themselves.

These efforts are reaping dividends, enabling new economic opportunities and improvements in education, health care, and public safety for the communities that take these steps, a pattern exemplified by the communities of Chattanooga and Wilson. In Chattanooga, large companies like Amazon and Volkswagen have invested in new facilities, citing the city’s world-leading network as a reason why. And Chattanooga is emerging as an incubator for tech start-ups. In Wilson, the area’s top employers all rely on the community broadband network, new companies have located in Wilson because of its network, and residents and businesses in five surrounding counties are all pleading for access to this gigabit-speed connectivity.

However, as their petitions make clear, the leaders of Chattanooga and Wilson are being prevented from expanding their broadband networks to surrounding areas and making their own decisions about their broadband future. In Tennessee and North Carolina, and in 17 other states, community broadband efforts have been blocked or severely curtailed by restrictive state laws – laws often passed due to heavy lobbying support by incumbent broadband providers.

When local leaders have their hands tied, local business and residents endure the consequences.

Jeff Wilson from Holly Springs, North Carolina, can tell you about the healthcare technology company in his city that relocated services to another area because of inadequate access to broadband to do their business. They were simply unwilling to lose business because they were stuck in a digital slow lane.

Matt Shuler from Highlands, North Carolina, can tell you about how local leaders saw the Internet as a way to bring economic opportunity to their isolated town of 1,000 residents. But the red tape of the state law stopped them from doing so.

Richard Thornton can detail the frustration of living only three-quarters of a mile from Chattanooga's gigabit network but still being in the Internet Dark Age. He has to pay \$316 per month for a collage of services that include two mobile hot spots (that require careful monitoring for data usage), satellite TV, and phone service. Yet, less than a mile away gigabit service is available with TV and phone for only \$133. Furthermore, that provider would like to extend its service, but is prohibited from doing so by Tennessee's bureaucratic barriers.

Eva VanHook from Bradley County, Tennessee can explain how she has to drive her son to their church to watch online materials assigned by his biology teacher because state rules keep her from getting the faster – and cheaper – Internet service that Chattanooga EPB wants to deliver to her.

The Commission respects the important role of state governments in our federal system, and we do not take the step of preempting state laws lightly. But it is a well-established principle that state laws that directly conflict with federal laws and policy may be subject to preemption in appropriate circumstances.

Congress instructed the FCC to encourage the expansion of broadband throughout the nation. Consistent with this statutory mandate, the Commission acts today to preempt two restrictive state laws hampering investment and deployment of broadband networks in areas where consumers would benefit from greater levels of broadband service.

This Order reflects our continued commitment to the goals of Section 706 and represents a significant step forward in giving local communities a full range of options for meeting their broadband needs. While the direct effect of our decision today is limited to the two states involved, it sends a clear message: communities should be able to determine their own paths to meet their constituents' needs.