

Tenn. AG wants court to set aside municipal broadband ruling

March 24 2015, by Erik Schelzig

Tennessee's attorney general wants a federal appeals court to set aside a recent decision by the Federal Communications Commission to allow cities like Chattanooga to offer municipal broadband beyond their normal service area.

State Attorney General Herbert Slatery said in the filing with the 6th U.S. Circuit Court of Appeals that the FCC had "unlawfully inserted itself between the state of Tennessee and the state's own subdivisions."

Slatery had been among several prominent Tennessee Republicans who had urged the FCC not to override a state law that blocks Chattanooga's electric utility from expanding its super-fast Internet network to surrounding areas. Other letter writers included Tennessee Gov. Bill Haslam and the state House and Senate speakers.

The FCC nevertheless voted 3-2 last month in favor of the utilities in Chattanooga and Wilson, North Carolina. President Barack Obama had pushed for the FCC's decision, saying the state laws stifled competition and economic development.

FCC Chairman Tom Wheeler, who voted with the majority, said at the time that some states have created "thickets of red tape designed to limit competition." The ruling was opposed by the commission's two Republican members, who argued it was outside the panel's authority, violated states' rights and undermined private [enterprise](#).

"We are confident that our decision to pre-empt laws in two [states](#) that prevented community broadband providers from meeting the needs and demands of local consumers will withstand judicial scrutiny," FCC spokesman Mark Wigfield said in an email.

Chattanooga markets itself as the "Gig City" for the widespread availability of gigabit-speed Internet service, which is about 50 times the national broadband average—or enough bandwidth to download an entire movie in about two minutes.

Mayor Andy Berke expressed disappointment in the state's efforts to overturn the FCC ruling, saying it could hurt people living in underserved areas.

"We don't think the artificial barriers should stand that keep people from right around the corner from accessing the same service," Berke said in a phone interview.

Berke called on state lawmakers to enact a state law to rescind the restrictions on municipal broadband, but legislation seeking to do so has yet to gain traction at the state Capitol.

Haslam spokesman David Smith said the governor left the decision about whether to file a legal challenge to the [attorney general](#). But Smith added that Haslam "believes that encouraging investment in broadband is the right thing to do and that those decisions are best made at the state level."

Google earlier this year announced it had selected Nashville, Atlanta and Raleigh-Durham and Charlotte in North Carolina to receive its fiber optic Internet service. AT&T has also said it plans to bring gigabit-speed service to Nashville, but has not said when.

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