

Federal appeals court deciding municipal broadband expansion

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A federal appeals court will decide whether to overturn a Federal Communications Commission ruling allowing city-owned broadband services to expand into areas overlooked by commercial providers.

Tennessee and North Carolina both previously passed laws preventing the expansion of super-fast Internet service in their respective cities of Chattanooga and Wilson to surrounding areas.

The FCC last year voted 3-2 to override those laws. 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."

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

At an appeal of the FCC ruling Thursday before the 6th U.S. Circuit Court of Appeals, FCC attorney Matt Dunne called the areas around Chattanooga "digital deserts that are imploring Chattanooga to come to them," according to arguments posted on the court's website.

State lawmakers have argued that private broadband providers will have difficulty competing with service subsidized by local governments. But at Thursday's hearing, attorneys for Tennessee and North Carolina argued the issue is one of state sovereignty. They said the FCC is

unlawfully inserting itself between the states and their subdivisions.

Judge Helene White said Congress has stated clearly that it wants the FCC to remove barriers preventing access to broadband because access affects education and other core government interests. Referring to the FCC's ruling, she asked the attorneys for the states, "Why isn't that exactly what they're doing?"

Joshua Turner, a private attorney representing Tennessee, argued that Congress hasn't given the FCC any special authority to promulgate broadband.

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