

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Petitions Pursuant to Section 706 of the )  
Telecommunications Act of 1996 )  
for Removal of State Barriers to ) WC Docket No. 14-115 (Wilson)  
Broadband Investment ) WC Docket No. 14-116 (Chattanooga)  
and Competition )  
 )

**Comments of the  
Schools, Health & Libraries Broadband (SHLB) Coalition**

**I. INTRODUCTION**

The Schools, Health & Libraries Broadband Coalition (“SHLB Coalition”)<sup>1</sup> submits these comments in full support of the dual Petitions of the City of Wilson, North Carolina (“Wilson”)<sup>2</sup> and the Electric Power Board of Chattanooga, Tennessee (“EPB”)<sup>3</sup> (collectively “Petitioners”) filed on July 24, 2014 and released for public comment on July 28, 2014, in the above-captioned proceedings.

The SHLB Coalition is a broad-based coalition consisting of representatives of schools, health care providers, libraries, private sector companies, for-profit and not-for-profit broadband providers, state and national research and education (R&E) networks, state mapping agencies, municipalities, philanthropic foundations, consumer organizations and others.<sup>4</sup>

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<sup>1</sup> “SHLB Coalition” is pronounced “SHELL-Bee Coalition.”

<sup>2</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 City of Wilson, North Carolina, WC Docket No. 14-115 (filed July 24, 2014) (Wilson, NC Petition).

<sup>3</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 Electric Power Board, Chattanooga, Tennessee, WC Docket No. 14-116 (filed July 24, 2014) (EPB Petition).

<sup>4</sup> See [www.shlb.org](http://www.shlb.org) for a current list of the members of the SHLB Coalition.

## **II. STATEMENT OF SUPPORT**

The SHLB Coalition supports and encourages the Federal Communications Commission (Commission) to preempt these state laws to the extent requested in the respective Petitions on the grounds that they create artificial barriers to broadband infrastructure investment, deployment, competition and innovation. These state laws severely restrict and unreasonably delay the options available to local communities to obtain broadband infrastructure and modern services for anchor institutions.

### **A. State Broadband Laws like those in North Carolina and Tennessee Create Artificial Barriers to Broadband Infrastructure Investment, Deployment, Competition and Innovation.**

Both the state laws identified in the Wilson and the EPB Petitions are state-imposed barriers to broadband infrastructure investment and deployment that have the purpose and effect of preventing municipalities from providing exactly the kind of high-capacity network and modern services that Community Anchor Institutions (CAIs) need to remain competitive in the emerging knowledge-based global economy. As the Petitions note, high-capacity broadband networks provide countless benefits to their communities – including enhanced economic development and competitiveness, educational opportunity, public safety, homeland security, energy efficiency, environmental protection and sustainability, affordable modern health care, quality government services, and many other advantages that contribute to a high quality of life.

### **B. Congress Provided the FCC the Authority to Preempt.**

As the Petitioners clearly describe, Congress foresaw as far back as 1994 that access to advanced telecommunications capabilities would become critically important to all Americans in the years ahead. By enacting Section 706(a) of the Telecommunications Act of 1996, Congress gave the Commission broad authority and discretion to determine when, where, and how to ensure that “all Americans would have such access ...on a reasonable and timely basis.”<sup>5</sup> In Section 706(b), Congress also required the Commission to take affirmative action to acquire information about the pace of deployment of advanced telecommunications capabilities, to

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<sup>5</sup> Wilson, NC Petition at pages 3-5; EPB Petition at page 14.

decide whether such deployment was occurring on a reasonable and timely basis, and, if the Commission ever answered that question in the negative, to act immediately to remove barriers to infrastructure investment and to promote competition.<sup>6</sup> The Petitioners note that, in charging the Commission with this responsibility, Congress was well aware of the significant contributions that municipalities could make and undoubtedly understood that it would be impossible to make the benefits of broadband connectivity available to all Americans without the participation of municipalities, particularly in areas in which the private sector found investment un-remunerative.<sup>7</sup> As Justice Silberman stated in the net-neutrality ruling, “a barrier to infrastructure investment would be state laws that prohibit municipalities from creating their own broadband infrastructure to compete against private companies.”<sup>8</sup>

### **C. Local Communities Must be Able to Make Their Own 21st Century Broadband Infrastructure Deployment Choices.**

In today’s global knowledge-based economy, all local communities -- rural, tribal, and urban – must have access to modern broadband Internet infrastructure to foster economic and democratic activity. Modern broadband Internet infrastructure is the lifeblood of our 21st century global knowledge economy. Likewise, local communities are the lifeblood of America. Towns, counties, and cities are where economic activity and civic engagement happen. Local communities are best positioned to determine the best options for their citizens, businesses and institutions, whether this means working with willing incumbents, entering into public-private partnerships, developing their own networks, or being served by other local communities who have the capacity to provide Gigabit services.

As Wilson succinctly stated:

[A]t the end of the day local governments, accountable to local citizens understand their own needs and should have the freedom to find local solutions to local problems. We should not require citizens to beg big corporations to deploy systems when these citizens have the power to take matters into their own hands. Section 160A-340 thoroughly undermines these principles.<sup>9</sup>

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<sup>6</sup> Wilson, NC Petition at page 5; EPB Petition at page 41.

<sup>7</sup> Wilson, NC Petition at pages 3-5; EPB Petition at page 15.

<sup>8</sup> *Verizon vs FCC*. No. 11-1355. DC Court of Appeals. 2014 slip op. p. 66

<sup>9</sup> Wilson, NC Petition at page 43.

### III. CONCLUSION

The SHLB Coalition supports the Commission's removal of these artificial state barriers to broadband infrastructure investment, deployment, competition, and innovation. Ultimately it is about preserving local choice. At this critical time in our country's history, when the rest of the world is rapidly deploying essential 21st century broadband infrastructure, all options must be on the table for our country to remain globally competitive. Removing the barriers to broadband investment and competition as requested in the Petitions will enable more communities to be self-reliant, and better enable America to maximize all resources so that no one is left behind and unable to participate in this knowledge-based global economy.

Respectfully submitted by,

Sincerely,



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