INTERGOVERNMENTAL ADVISORY COMMITTEE

to the

FEDERAL COMMUNICATIONS COMMISSION

ADVISORY RECOMMENDATION 2014-3

In the Matter of: Petition Pursuant to Section 706 of the Telecommunications Act of 1996 for Removal of State Barriers to Broadband Investment and Competition, WCB Docket Nos. 14-115 and 14-116

The Intergovernmental Advisory Committee ("IAC") to the Federal Communications Commission ("Commission") submits this Advisory Recommendation in connection with WCB Docket Nos. 14-115 and 14-116.

The IAC strongly supports the Commission's efforts to expand the availability, affordability and adoption of high-speed Internet broadband access throughout the United States.[1] The IAC further supports Chairman Wheeler's congressional testimony that promoting competition is a "critical tool" to spur investment in broadband infrastructure, that the Commission should "knock down existing barriers to competition and avoid erecting new ones," and that "if municipal governments want to pursue" broadband "they shouldn't be inhibited by state laws that have been adopted at the behest of incumbent providers looking to limit competition."[2]

Once a leader in communication technologies, the United States has fallen behind in the availability, affordability and adoption of high-speed Internet access.[3] The IAC encourages Federal, State, Local and Tribal policies that promote broadband in the United States. We

[1] *See*, *e.g.,* earlier IAC Recommendations at http://www.fcc.gov/encyclopedia/intergovernmental-advisory-committee-comments.

[2] *See* Statement of Tom Wheeler, Chairman, Federal Communications Commission before the Subcommittee on Communications and Technology, Committee on Energy and Commerce, U.S. House of Representatives, Hearing on "Oversight of the Federal Communications Commission," May 20, 2014, at 4. *See* FCC Chairman Tom Wheeler House Oversight Hearing Testimony

[3] *See* http://www.netindex.com/download/allcountries/

support the key principles of universal availability of affordable high speed broadband and marketplace competition. This is clearly a national priority and is shared at all levels of government.

Communities should have the right and discretion to promote the deployment of broadband networks in any way they deem appropriate, whether that be providing service, creating public/private partnerships or developing incentives for private sector investment. Legislative barriers to such community decision-making, like the North Carolina and Tennessee statutes at issue in these dockets[4] and similar statutes in other states that restrict the traditional authority of local elected officials, unreasonably delay the opportunities of local communities to obtain broadband infrastructure and services for their citizens and businesses.

Historically, local governments have ensured access to essential services by banding together to incentivize or to provide those services that were not offered by the private sector at a reasonable and competitive cost. This involvement has included electrification, public libraries, and other important services. Processes are already in place for local decision making to be open, transparent, and provide for public input. Local governments follow these public processes prior to building parks, recreational facilities roads, public safety facilities, water and sewer facilities and other local assets to enhance the quality of life of their citizens. Building community broadband access should not be more or less restrictive than this. It is contrary to our national interest to create a separate and additional set of restrictions for local governments that decide it is in the community's interest to invest in deploying broadband infrastructure.

In most community/local government broadband networks built to date, the private sector has been involved in helping design, build, and/or operate the network – creating new business opportunities and jobs in the process. Even though local governments might choose to build a broadband network to better serve their communities, they likely will work closely with private sector entities to build, operate and/or utilize the network. We have noticed firsthand that the private sector has provided better and more affordable broadband service in response to communities even considering deploying their own broadband networks.

The economy and public benefit from competitive markets. When only one service provider serves a market, the quality of service, rates for service, and customer satisfaction frequently suffer in comparison with customers living in a competitive market area. When the private sector does not create a competitive market, local governments, on behalf of their residents, should have the option to explore and potentially develop a broadband system that will create a competitive marketplace - either directly or by encouraging a private sector investor.[5]

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[4] *See* Pleading Cycle Established for Comments on Electric Power Board and City of Wilson Petitions, Pursuant to Section 706 of the Telecommunications Act of 1976, Seeking Preemption of State Laws Restricting the Deployment of Certain Broadband Networks, rel. July 28, 2014.

[5] It is our understanding that Chattanooga, one of the communities in this docket, will offer 1Gbps of broadband for approximately $70/month. http://chattanoogagig.com/. The community's commitment to its residents should be commended.

Recommendation:

The Commission should support local authority to deploy, operate and incentivize broadband networks to meet the needs of citizens and businesses to have choices for high-speed, affordable broadband services.

Respectfully submitted,

Mayor Gary Resnick, Chair of the IAC

February 2, 2015