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## States Should Encourage Community Broadband

Some states support communities that want better broadband. Others don't – and don't realize they're hurting their rural areas.

On August 10, the Sixth Circuit U.S. Court of Appeals reversed the FCC's 2015 action in support of local broadband projects. That action, relying on Section 706 of the Telecommunications Act of 1996, which directs the FCC to remove barriers to broadband investment and competition, preempted state laws in Tennessee and North Carolina that blocked the expansion of community broadband networks. The FCC is not appealing the reversal to the U.S. Supreme Court.

The FCC's 2015 action offered more moral support than practical support to the cause of community broadband. It applied only to Tennessee and North Carolina, and it didn't preempt state laws that banned community broadband outright. Chattanooga and other Tennessee cities never took advantage of the preemption (they've been trying to get their state law changed to give them a clearer mandate), so the direct effect of the reversal will be limited to a small area in which Wilson, North Carolina, expanded its fiber network beyond its electric utility borders.

The fight may not be over at the federal level – depending on the 2016 election results, a new Congress could take action, or a new FCC could try a new tack. After all, it took the FCC three tries to get courts to agree to an open internet order.

But more appropriately, the issue should return to the states, which, in their own interest, should support community broadband. Many already do, sometimes to the extent of awarding

grants to municipal deployers and public-private partnerships. But about 20 make it difficult or impossible for municipalities to get into the telecom business.

Why should the states care? It's not as if many communities want to build their own broadband networks or have the capacity and resources to do so. In all probability, the number of communities that will ever build networks is very small.

No, what communities need is a credible threat of being able to provide broadband. In any industry, the *threat* of competition is what spurs companies to invest. In communities that have little or no competition among private operators, it's up to the public sector to provide that threat.

My colleague at **BROADBAND COMMUNITIES**, editor-at-large Steve Ross, wrote a series of award-winning articles (more are coming on the same subject) that linked population growth and loss in a county with the prevalence of good broadband. He found, not surprisingly, that poor broadband made counties more likely to lose population. He also found that in states that restrict municipal broadband, population in the poor-broadband counties lags even further behind the state averages.

Why do the states that restrict community broadband not care about the fate of their rural counties? ❖

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