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Baller Herbst Stokes & Lide Statement on the Federal Communications Commission’s Decision to Remove North Carolina and Tennessee Barriers to Community Broadband Initiatives

*On July 24, 2014, The Electric Power Board of Chattanooga, Tennessee (EPB), and the City of Wilson, North Carolina (Wilson), petitioned the Federal Communications Commission to remove certain State laws that impose barriers to broadband investment and competition. Today, the FCC granted the petitions.*

Washington (February 26, 2015) – Baller Herbst Stokes & Lide, lead counsel to Wilson and EPB in their proceedings before the FCC, applauds the Commission for removing the protectionist provisions of North Carolina and Tennessee law that have prevented Wilson and EPB from investing in advanced communications capabilities and bringing competition to areas outside their current broadband Internet access service areas, including unserved and underserved areas.

As FCC Chairman Thomas Wheeler stated at today’s hearing, “You can’t say you’re for following Congress’s explicit instructions to remove barriers to broadband investment and then turn around endorse restrictions on such investments. You can’t say you’re for competition and then turn around and deny local governments the ability to provide competitive services. As they say in North Carolina, ‘That dog don’t hunt.’”

Section 706 of the Telecommunications Act of 1996 requires the FCC to ensure that broadband is being deployed on a reasonable and timely basis to all Americans. If the FCC determines that advanced communications capabilities are not being deployed to all Americans in a reasonable and timely manner, Section 706 requires the FCC to “take immediate action to accelerate deployment…by removing barriers to infrastructure investment and by promoting competition.” In removing the provisions of NC and TN law that prevented Wilson and EPB from expanding their networks, the FCC is acting in accordance with the dictates of Section 706 and is paving the way for many businesses and residents of North Carolina and Tennessee to gain access to Wilson’s and EPB’s state-of-the-art fiber networks and services.

“This is an important moment for communities in North Carolina, Tennessee, and other states that have barriers to local investments in advanced communications networks,” said Jim Baller, senior principal of Baller Herbst Stokes & Lide. “Not only has the Commission confirmed that it has authority to remove such barriers, but it has also compiled a massive record documenting the critical role that local Internet choice can play in fostering strong, vibrant communities and in ensuring that the United States will remain a leading nation in the emerging knowledge-based global economy.”

“Communities across the Nation have recognized that advanced communications networks can drive and support parallel progress in just about every area of traditional local responsibility, including economic development, education, public safety, health care, transportation, government service, environmental protection, and much more.

“That’s why so many communities are now seeking prompt, affordable access to advanced communications capabilities, by working with willing incumbent carriers, entering into public-private partnerships with new entrants, establishing their own networks, or developing innovative new strategies that may work for them.

“Barriers to local Internet choice, such as the North Carolina and Tennessee laws that the Commission has removed today, are bad for America’s communities, bad for the private sector, particularly high-technology companies, and bad for America’s global competitiveness.”