MARSHA BLACKBURN
7TH DISTRICT, TENNESSEE

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ENERGY AND COMMERCE
VICE-CHAIRMAN

COMMITTEE ON
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June 12, 2014

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

We write to express our deep concern with your comments before the House Energy and Commerce Committee on May 20, 2014, regarding the federal government's involvement over municipal broadband. You stated, "I understand that the experience with community broadband is mixed, that there have been both successes and failures. But if municipal governments want to pursue it, they shouldn't be inhibited by state laws that have been adopted at the behest of incumbent providers looking to limit competition. I believe the FCC has the power– and I intend to ask the Commission to exercise that power– to preempt state laws that ban competition from community broadband."

Without any doubt, state governments across the country understand and are more attentive to the needs of the American people than unelected federal bureaucrats in Washington, D.C. That's why it is so disconcerting that the Federal Communications Commission would seek to bring local municipalities into direct competition with the private sector against the wishes of the states. Inserting the Commission into the states' economic and fiscal affairs as you have suggested sets a dangerous precedent and violates state sovereignty in a manner that warrants deeper examination.

Taxpayers expect all branches of the federal government to respect the rights of the states and the decisions of their elected officials. Unfortunately, it appears the Commission has determined it will move forward without Congress' approval and despite the states' determination to protect their taxpayers. Given our deep concern with any action the Commission might take that would preempt state laws as has been suggested, we request your response to the following questions:

1. If the courts struck down the FCC's ploy to override state laws restricting municipal broadband do you believe that such a decision would weaken the credibility of the FCC?

2. Why does the FCC believe state governors and state legislators should not have a say over how to govern the political subdivisions of their state even though that is what they are elected to do by voters?

3. Does the FCC have any evidence to suggest that facilitating municipal broadband would not impact public debt and would not result in less borrowing for other important state and local projects including pensions, roads, water mains, public safety, and sewers?

4. What level of deference should the FCC give to states who have affirmatively passed laws regarding municipal broadband?

5. Has the FCC conducted a cost-benefit analysis looking at the "crowding out" effect on private investment in broadband deployment and maintenance should private entities be forced to further compete with government owned networks?

6. How does the FCC believe Section 706 authority trumps the states' rights in the Constitution?

7. Did you ever ask Congress for authority to override states' rights with respect to municipal broadband?

8. Will the FCC or the federal government bailout states or municipalities if their muni broadband projects fail? How much does the FCC estimate such bailouts would cost taxpayers?

We look forward to your response by June 30, 2014. Also, we respectfully request that you reevaluate the Commission's future role in influencing government owned networks and how important the role our state elected officials have in this process. Thank you for your prompt attention to this important matter.

Sincerely,

Marsha Blackburn
Member of Congress

Bill Johnson
Member of Congress

Mike Pompeo
Member of Congress

Steve Scalise
Member of Congress

Cynthia Lummis
Member of Congress

Blake Farenthold
Member of Congress

Rob Bishop
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Scott Perry
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Tim Huelskamp
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Thomas Massie
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Phil Roe
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Tom Cotton
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John Fleming
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John Kline
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Tim Murphy
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