

How to Bring Broadband to Unserved Areas in Tennessee

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STATE LAW

Broadband Business Certainty Act of 2006.

In order to ensure that Tennessee provides an attractive environment for investment in broadband technology by establishing certainty regarding the regulatory treatment of that technology, consistent with the decisions of the federal communications commission to preempt certain state actions that are not in accordance with the policies developed by the federal communications commission, the Tennessee regulatory authority shall not exercise jurisdiction of any type over or relating to broadband services, regardless of the entity providing the service, except as provided in § 65-5-202(a).

[But]

(d) Nothing in this part shall alter or affect any jurisdiction or authority of the Tennessee regulatory authority to act in accordance with federal laws or regulations of the federal communications commission.....

FEDERAL LAW

Section 706(a) of the Federal Telecommunications Act:

The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.

A MODEST PROPOSAL

(a) Pursuant to Section 706 of the federal Telecom Act, the Tennessee Regulatory Authority may authorize any of the nonutilities listed in T.C.A. 65-4-101(6) to offer “broadband internet access service” as defined by the Federal Communications Commission to customers in a defined, geographic area outside of the nonutility’s existing service territory if the TRA determines, following a hearing, that there is a public need for broadband internet access service in that area and that the nonutility has the managerial, technical and financial capabilities to offer the service.

(b) Any nonutility authorized to offer broadband internet access service pursuant to this section shall also offer interconnection and wholesale broadband internet access service on reasonable, non-discriminatory terms and conditions to qualified carriers.

(c) Nothing in this section is intended to affect the right of a nonutility to offer broadband internet access service within its existing service territory or to give the TRA jurisdiction over nonutilities except as necessary to implement this section.