

STATE OF TENNESSEE

Office of the Attorney General



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Representative Greg Walden
Chairman House Subcommittee on Communication and Technology
U.S. House of Representatives
2185 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Walden,

It has come to our attention that the Communication and Technology Subcommittee of the House Energy and Commerce Committee will conduct an oversight hearing on November 17, 2015, with the Federal Communications Commission (FCC).

As the Committee evaluates the circumstances surrounding the FCC's decision to circumvent State law in issuing its Memorandum and Order dated March 12, 2015 in the Matter of the Electric Power Board of Chattanooga, Tennessee (EPB), I ask the Committee to consider the arguments detailed in the Brief of Petitioner (State of Tennessee) filed with the U.S. Court of Appeals for the Sixth Circuit on September 18, 2015 by my office on behalf of the State of Tennessee.

As I further stated in my letter to Ms. Marlene H. Dortch, FCC's Secretary, dated February 5, 2015, the FCC did not have the authority to grant EPB's petition to have its territorial scope of operations expanded outside the limitations set forth by existing State law. The FCC's order granting EPB's petition attempts to preempt State law and is a clear challenge to State sovereignty.

While increasing the availability of broadband is a laudable policy objective, it should not come at the expense of nullifying legitimate State regulation of an entity the State authorized. We appreciate the Committee reviewing this Order and we encourage the Committee to take whatever corrective action is necessary to preserve the State's authority in this matter.

Sincerely,

Handwritten signature of Herbert H. Slatery III in black ink.
Herbert H. Slatery III