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F.C.C. Moves to Free Up Community Broadband Services.

At the Federal Communications Commission Thursday, the Klieg light of public attention beamed on the net neutrality vote. But there was an earlier vote on another matter, and that was the one that held Harold DePriest's attention.

Mr. DePriest is the chief executive of the Electric Power Board, a community supplier of ultrahigh-speed Internet service in Chattanooga, Tenn. E.P.B. and the city of Wilson, N.C., another municipal broadband provider, last year petitioned the F.C.C. to preempt state laws that limit the build-out of community broadband services. The commission voted 3-2, along political party lines, in favor of using its federal power to override the restrictive laws in those two states.

In the Tennessee case, the result of the restriction, Mr. DePriest said, is that "a tenth of a mile from where my fiber system ends are people who have no Internet service." He wants to extend his fiber-optic cable network to those nearby rural neighborhoods, but the state legal restraints had prevented him.

The law, Mr. DePriest explained, essentially prohibits the power board from offering its broadband service beyond the area the utility traditionally served with electric service. But that often doesn't sync with government jurisdictions or logic. Because of the law, he said, there are two schools in the county without its high-speed broadband service. And E.P.B.'s fiber-optic cable into homes, businesses and schools offers the gold standard of broadband speed — 1 gigabit a second data transfer speeds. That is 40 times faster than the new standard, established by the F.C.C., for high-speed broadband of 25 megabits per second downloads.

The commission action is expected to be challenged in court. And comments from the two Republican commissioners Thursday were a preview of the legal argument. Ajit Pai said he did not believe the agency has the legal right to preempt state laws. Michael O'Rielly, the other Republican commissioner, agreed, saying the F.C.C. move showed "arrogance."

To Mr. DePriest, the goal of the states' rights ideology is to champion local control. "Why is it states' rights to tell local communities what to do?" he asked, and added, "these laws prohibit communities from controlling their own destiny."

Definitions vary, but the F.C.C. says that about 20 states have laws or rules that place restrictions on the freedom of community broadband providers to expand and offer competition to private Internet service providers, mainly cable and telecommunications companies. So while the preemption order only applies to two states, the ruling has wider implications.

Tom Wheeler, chairman of the F.C.C., said the state laws were anti-competitive because they "raise barriers to the deployment of and investment in new broadband networks and infrastructure."

The F.C.C. asserts that it has the power to override the state laws under Section 706 of the Telecommunications Act of 1996, which directs the commission to remove barriers to broadband investment and competition.

There are cities across the country pursuing ultrahigh-speed networks either by building them on their own or in collaboration with companies. So far, the experience has been mixed in terms of offering a high-speed service that is economically viable.

Chattanooga was an early entrant, starting to lay fiber for its gigabit-speed network in 2009. The rationale, Mr. DePriest said, was that cutting-edge broadband service was a crucial tool of economic development. Good intentions, however, hardly guarantee success.

There were struggles, Mr. DePriest said, both with the technology and with generating sufficient demand to support a sustainable business. At the outset, he said, the EPB crews strained to wire one or two houses a day. Recently, they have wired up to 200 new customers in a day. Today, the .E.P.B. broadband network has 9,000 miles of fiber and serves just under 71,000 homes and businesses. The gigabit Internet service costs \$70 a month, and \$57 a month if it is part of a bundle of Internet, video and phone service.

“We’ve gone from nothing to a \$100 million a year enterprise that pays for itself,” Mr. DePriest said.

Asked about the net neutrality rules the F.C.C. adopted Thursday, Mr. DePriest said he was a regulatory minimalist by instinct. But regulation, he added, has a role to play and that the key will be whether the new rules will as light-touch as Mr. Wheeler insists they will be. Still, Mr. DePriest has no trouble with utility-style regulation of Internet service.

“I’ve spent the last 10 years,” he said, “arguing that high-speed Internet service is a utility in the modern world.”

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