



April 16, 2009

The Honorable Bev Perdue
Governor
State of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Dear Governor Perdue;

On behalf of the Fiber-to-the-Home (“FTTH”) Council, I am writing to express our opposition to Senate Bill 1004/House Bill 1252. The bill establishes unrealistic and ill-defined barriers for deployment of broadband networks by local communities. S1004-HB1252 will limit access by citizens of North Carolina to next-generation broadband networks. The American Recovery and Reinvestment Act (ARRA) included \$4.7 billion in Broadband Stimulus Grants directly for local communities. And, ARRA specifically permits local governments to apply and receive grants for broadband services. S1004-HB1252 is completely at odds with ARRA, and may limit North Carolina access to BTOP grants – and will certainly limit many North Carolina communities access to next-generation broadband.

The FTTH Council is a non-profit organization established in 2001. Its mission is to educate, promote, and accelerate FTTH and the resulting quality of life enhancements. The Council’s members represent all areas of broadband industries, including telecommunications, computing, networking, system integration, engineering, content-provider companies, as well as traditional telecommunications service providers, utilities, and municipalities. As of today, the Council has over 211 companies as members, fourteen of whom have significant operations in North Carolina.

Since 2001, there has been significant progress in the deployment of FTTH networks and technology; yet, in terms of broadband penetration, the United States, and North Carolina continues to lag behind many other countries. If this trend continues, other countries will outperform us in the delivery of information and other activities requiring next-generation broadband capability, harming our ability to create jobs and generate economic growth. The FTTH Council believes this problem can be ameliorated by accelerating entry by all entities into the deployment of next-generation networks, including by lowering barriers to entry by municipalities.

We believe North Carolina’s legislators should be sympathetic to communities throughout the state who are unable to obtain acceptable broadband services from incumbent service providers or hold the rates in check through competition. Typically, this occurs in rural areas and small towns, although it can even occur in larger cities. We believe municipalities must have the right



to ensure that their citizens have access to advanced broadband services. Telephone and cable television operators may not focus their broadband investment on all communities of subscribers. Municipalities who want to invest in their broadband future should be free to do so. To restrict that access to next generation networks puts those North Carolinians at a distinct disadvantage in terms of economic benefit and community welfare.

It is our experience that municipalities generally take on the burden of building a broadband network only when they feel their citizens have failed to receive state-of-the-art services at reasonable rates from the private sector. Typically incumbents cite a weak business case as the reason for not investing in the community. To enforce the same business case conditions on a Municipal operator will almost certainly deprive the community of an all important infrastructure for competitiveness in the 21st Century. When one entity is serving shareholders and investors, and the other entity is serving citizens, “playing field” analogies are inappropriate. Communities deserve the freedom to best serve their constituents.

In a very real sense, entry by municipalities into delivery of communications services fills a major gap in the development of these networks, and so, helps to ensure their citizens have access to critical services. Therefore, when a municipality makes the decision to build a next-generation network, the state government should not stand in its way – nor should it impose conditions that private corporations wish to erect for anti-competitive reasons.

Again, we thank you for your consideration on this issue, and we will endeavor to support your efforts to bring modern broadband infrastructure to all North Carolinians. S1004-HB1252 is exactly the wrong legislation to enact in North Carolina.

The Council would be happy to provide a representative if you think our testimony would be helpful.

A handwritten signature in cursive script that reads "Joseph P. Savage".

Joe Savage
President, FTTH Council
503 635 3114