



FOR IMMEDIATE RELEASE

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## In Victory for WLF, Sixth Circuit Stops FCC from Commandeering State Governments

*(State of North Carolina v. FCC; State of Tennessee v. FCC)*

**“I’m pleased the Sixth Circuit rejected the Commission’s deeply strained interpretation of the Communications Act. It’s a great victory for the rule of law.”  
—Former FCC Commissioner and WLF client, Harold Furchtgott-Roth**

**“The court correctly concluded that FCC overstepped its bounds by snatching the reins of government from North Carolina and Tennessee and ordering them to allow their municipalities to offer expanded broadband. The Constitution protects the right of States to decide whether to engage in commercial activities. Congress is empowered to regulate people, not to regulate the States.”  
—Richard Samp, WLF Chief Counsel**

WASHINGTON, DC—The U.S. Court of Appeals for the Sixth Circuit today reversed a Federal Communications Commission (FCC) order commanding North Carolina and Tennessee to permit expanded municipal broadband Internet services—despite those state governments’ refusal to allow it. The decision marked a victory for Washington Legal Foundation and its client, former FCC Commissioner Harold Furchtgott-Roth, who filed an *amicus* brief in *State of North Carolina v. FCC* and *State of Tennessee v. FCC*, arguing that the U.S. Constitution forbids federal agencies from commandeering a State’s legislative or administrative apparatus.

North Carolina and Tennessee some years ago authorized cities and other subordinate units of state government to operate broadband Internet services in limited geographical areas. FCC determined in March 2015 that such geographical limitations violated federal policy favoring increased broadband competition. Reversing FCC’s longstanding interpretation of its authority under the Telecommunications Act of 1996, the agency declared invalid the state laws restricting expansion and told municipal broadband Internet service providers they were free to expand.

Furchtgott-Roth and WLF argued that well-established state-sovereignty principles absolutely prohibit the federal government from interfering with the relationship between a State and its political subdivisions. At the very least, our brief argued, FCC may not preempt state laws that set forth how various organs of government are to operate, in the absence of a “clear statement” from Congress authorizing preemption. The Sixth Circuit adopted the latter argument—holding Congress never issued a clear statement authorizing FCC to preempt state law under these circumstances—leaving the broader constitutional argument unaddressed.

In response to the decision, WLF issued the bolded statements at the top of this press release.

*WLF is a free-market, public-interest law firm and policy center that fights for limited government and federalism by enforcing constitutional limits on federal agency regulations.*