

PRESS RELEASE

Wiley Rein Argues on Behalf of Tennessee in High-Profile Sixth Circuit Case Involving FCC's Attempt to Preempt State Rules on Municipal Broadband

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Washington, DC — Joshua S. Turner, a partner in Wiley Rein LLP's Telecommunications, Media & Technology Practice, argued before a federal appeals court last week on behalf of the State of Tennessee, in its challenge to an FCC order preempting state regulation of municipal broadband services. The Wiley Rein team in the case also includes partner Megan L. Brown and associates Christen B'anca Glenn and Meredith G. Singer.

The case before the U.S. Court of Appeals for the Sixth Circuit involves challenges, by both Tennessee and North Carolina, to the Federal Communications Commission's (FCC) March 2015 order asserting preemption of the states' laws governing municipal broadband (*Tennessee v. FCC* and *North Carolina v. FCC*). The states are advancing basic Constitutional objections to the FCC's interference with state superintendence of local authority, and challenging the FCC's assertion of authority under Section 706 of the Telecommunications Act. Over a dozen organizations, entities, and states filed opening briefs last Fall, participating as *amicus* in support of Tennessee.

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Practice Areas

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Judicial Review of Agency Action

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Yesterday, members of a three-judge Sixth Circuit panel questioned counsel for both the FCC and the states about the FCC order. Mr. Turner told the panel that the FCC had violated Tennessee's core state sovereignty, lacked a "plain statement" of congressional intent required under Supreme Court precedent, and did not have the authority to act under Section 706. "The federal government has no power to dictate the way in which states organize themselves," Mr. Turner said. "This is a bedrock principle of state sovereignty."

Mr. Turner's oral argument has been covered by news outlets including *Law360*, *Communications Daily*, and *TR Daily*.