

## **Sixth Circuit Court of Appeals Overturns FCC Net Neutrality Order**

Late last week, the U.S. Court of Appeals for the Sixth Circuit issued a [decision](#) overturning the FCC's [Safeguarding and Securing the Open Internet Order](#) (i.e., latest net neutrality rules). The Sixth Circuit found that the FCC's net neutrality rules contradicted the plain language of the Communications Act by regulating Broadband Internet Service Providers as Title II telecommunications carriers. The court found that a Broadband Internet Service Provider should be classified as an unregulated "information service" provider, as defined in section 153(24) of the Communications Act. The court specifically found that section 153(24) defined an information service as the "*offering of the capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications,*" and it concluded that a Broadband Internet Service provider should be classified as an information service provider because it offers subscribers the capability to manipulate and retrieve information from the Internet. The court further concluded that the FCC's view that broadband should be regulated as a telecommunications service was contrary to the context of the statute as a whole, as well as its legislative history, because other provisions within the Communications Act emphasized the importance of deregulating information services and encouraging broadband deployment. Finally, the Sixth Circuit also found that mobile broadband should not be regulated as a "commercial mobile service", and instead should be classified as a private mobile service based upon the definitions contained within section 332(d)(1) of the Communications Act.

The decision is significant for the future of broadband, and it is consistent with the position of the next administration. Commissioner Brendan Carr, who will become the next FCC Chairman this month, stated that "Today's decision is a good win for the country," and "I am pleased that the appellate court invalidated President Biden's Internet power grab by striking down these unlawful Title II regulations." Meanwhile, Chairwoman Rosenworcel issued a statement that consumers want "internet that is fast open and fair", and she called for Congress to "take up the charge for net neutrality, and put open internet principles in federal law" now that the Sixth Circuit has overturned the FCC's net neutrality regulations. Looking ahead, Commissioner Carr expressed his intent to further deregulate broadband under the next administration.

UTC will continue to advocate for policies that promote opportunities for utilities to deploy broadband infrastructure and provide broadband services. We are looking forward to working with the next administration towards that goal.

