

118TH CONGRESS
1ST SESSION

H. R. 3295

To amend the Communications Act of 1934 to streamline siting processes for telecommunications service facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2023

Mr. GRIFFITH introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to streamline siting processes for telecommunications service facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Barriers and Regu-
5 latory Obstacles Avoids Deployment of Broadband Access
6 and Needs Deregulatory Leadership Act” or the
7 “BROADBAND Leadership Act”.

8 **SEC. 2. REMOVAL OF BARRIERS TO ENTRY.**

9 Section 253 of the Communications Act of 1934 (47
10 U.S.C. 253) is amended to read as follows:

1 **“SEC. 253. REMOVAL OF BARRIERS TO ENTRY.**

2 “(a) IN GENERAL.—No State or local statute or reg-
3 ulation, or other State or local legal requirement, may pro-
4 hibit or have the effect of prohibiting the ability of any
5 entity to provide or enhance the provision of any interstate
6 or intrastate telecommunications service.

7 “(b) PLACEMENT, CONSTRUCTION, OR MODIFICA-
8 TION OF TELECOMMUNICATIONS SERVICE FACILITIES.—

9 “(1) PROHIBITION ON DISCRIMINATION.—The
10 regulation of the placement, construction, or modi-
11 fication of a telecommunications service facility by a
12 State or local government or instrumentality thereof
13 may not discriminate—

14 “(A) among telecommunications service fa-
15 cilities—

16 “(i) based on the technology used to
17 provide services; or

18 “(ii) based on the services provided;
19 or

20 “(B) against telecommunications service
21 facilities, as compared to the regulation of the
22 placement, construction, or modification of
23 other facilities.

24 “(2) TIMEFRAME TO GRANT OR DENY RE-
25 QUESTS.—

1 “(A) IN GENERAL.—A State or local gov-
2 ernment or instrumentality thereof shall grant
3 or deny a complete request for authorization to
4 place, construct, or modify a telecommuni-
5 cations service facility not later than—

6 “(i) if the request is for authorization
7 to place, construct, or modify such facility
8 in or on eligible support infrastructure, 90
9 days after the date on which the complete
10 request is received by the government or
11 instrumentality; or

12 “(ii) for any other action relating to
13 such facility, 150 days after the date on
14 which the complete request is received by
15 the government or instrumentality.

16 “(B) APPLICABILITY.—The applicable
17 timeframe under subparagraph (A) shall apply
18 collectively to all proceedings, including permits
19 and authorizations, required by a State or local
20 government or instrumentality thereof for the
21 approval of the request.

22 “(C) NO TOLLING.—A timeframe under
23 subparagraph (A) may not be tolled by any
24 moratorium, whether express or de facto, im-
25 posed by a State or local government or instru-

mentality thereof on the submission, acceptance, or consideration of requests for authorization to place, construct, or modify a telecommunications service facility.

“(3) DEEMED GRANTED.—

“(A) IN GENERAL.—If a State or local government or instrumentality thereof has neither granted nor denied a complete request within the applicable timeframe under paragraph (2), the request shall be deemed granted on the date on which the government or instrumentality receives a written notice of the failure to grant or deny from the requesting party.

“(B) RULE OF CONSTRUCTION.—In the case of a request that is deemed granted under subparagraph (A), the placement, construction, or modification requested in such request shall be considered to be authorized, without any further action by the government or instrumentality, beginning on the date on which such request is deemed granted under such subparagraph.

“(4) WRITTEN DECISION AND RECORD.—A decision by a State or local government or instrumentality thereof to deny a request to place, construct,

1 or modify a telecommunications service facility shall
2 be—

3 “(A) in writing;

4 “(B) supported by substantial evidence
5 contained in a written record; and

6 “(C) publicly released, and provided to the
7 requesting party, on the same day such decision
8 is made.

9 “(5) FEES.—

10 “(A) IN GENERAL.—To the extent per-
11 mitted by law, a State or local government or
12 instrumentality thereof may charge a fee that
13 meets the requirements under subparagraph
14 (B)—

15 “(i) to consider a request for author-
16 ization to place, construct, or modify a
17 telecommunications service facility; or

18 “(ii) for use of a right-of-way or a fa-
19 cility in a right-of-way owned or managed
20 by the government or instrumentality for
21 the placement, construction, or modifica-
22 tion of a telecommunications service facil-
23 ity.

24 “(B) REQUIREMENTS.—A fee charged
25 under subparagraph (A) shall be—

1 “(i) competitively neutral, technology
2 neutral, and nondiscriminatory;

3 “(ii) established in advance and pub-
4 licly disclosed;

5 “(iii) calculated—

6 “(I) based on actual and direct
7 costs for—

8 “(aa) review and processing
9 of requests; and

10 “(bb) repairs and replace-
11 ment of—

12 “(AA) components and
13 materials resulting from and
14 affected by the placement,
15 construction, or modification
16 (including the installation or
17 improvement) of tele-
18 communications service fa-
19 cilities; or

20 “(BB) equipment that
21 facilitates the placement,
22 construction, or modification
23 (including the installation or
24 improvement) of such facili-
25 ties; and

1 “(II) using, for purposes of sub-
2 clause (I), only costs that are objec-
3 tively reasonable; and

4 “(iv) described to a requesting party
5 in a manner that distinguishes between—

6 “(I) nonrecurring fees and recur-
7 ring fees; and

8 “(II) the use of facilities on
9 which telecommunications service fa-
10 cilities or infrastructure for compat-
11 ible uses are already located and fa-
12 cilities on which there are no tele-
13 communications service facilities or
14 infrastructure for compatible uses as
15 of the date on which the complete re-
16 quest is received by the government or
17 instrumentality.

18 “(c) JUDICIAL REVIEW.—

19 “(1) IN GENERAL.—A person adversely affected
20 by a State or local statute, regulation, or other legal
21 requirement, or by a final action or failure to act by
22 a State or local government or instrumentality there-
23 of, that is inconsistent with this section may com-
24 mence an action in any court of competent jurisdic-
25 tion.

1 “(2) TIMING.—

2 “(A) EXPEDITED BASIS.—A court shall
3 hear and decide an action commenced under
4 paragraph (1) on an expedited basis.

5 “(B) FINAL ACTION OR FAILURE TO
6 ACT.—An action may only be commenced under
7 paragraph (1) on the basis of a final action or
8 failure to act by a State or local government or
9 instrumentality thereof, if commenced not later
10 than 30 days after such action or failure to act.

11 “(d) PRESERVATION OF STATE REGULATORY AU-
12 THORITY.—Nothing in this section shall affect the ability
13 of a State to impose, on a competitively neutral and non-
14 discriminatory basis and consistent with section 254, re-
15 quirements necessary to preserve and advance universal
16 service, protect the public safety and welfare, ensure the
17 continued quality of telecommunications services, and
18 safeguard the rights of consumers.

19 “(e) PRESERVATION OF STATE AND LOCAL GOVERN-
20 MENT AUTHORITY.—Nothing in this section affects the
21 authority of a State or local government or instrumen-
22 tality thereof to manage, on a competitively neutral and
23 nondiscriminatory basis, the public rights-of-way or to re-
24 quire, on a competitively neutral and nondiscriminatory
25 basis, fair and reasonable compensation from tele-

1 communications providers for use of public rights-of-way,
2 if the compensation required meets the requirements of
3 subsection (b)(5).

4 “(f) PREEMPTION.—

5 “(1) IN GENERAL.—If, after notice and an op-
6 portunity for public comment, the Commission deter-
7 mines that a State or local government or instru-
8 mentality thereof has permitted or imposed a stat-
9 ute, regulation, or legal requirement that violates or
10 is inconsistent with this section, the Commission
11 shall preempt the enforcement of such statute, regu-
12 lation, or legal requirement to the extent necessary
13 to correct such violation or inconsistency.

14 “(2) TIMING.—Not later than 120 days after
15 receiving a petition for preemption of the enforce-
16 ment of a statute, regulation, or legal requirement
17 as described in paragraph (1), the Commission shall
18 grant or deny the petition.

19 “(g) COMMERCIAL MOBILE SERVICE PROVIDERS.—
20 Nothing in this section shall affect the application of sec-
21 tion 332(c)(3) to commercial mobile service providers.

22 “(h) RURAL MARKETS.—It shall not be a violation
23 of this section for a State to require a telecommunications
24 carrier that seeks to provide telephone exchange service
25 or exchange access in a service area served by a rural tele-

1 phone company to meet the requirements in section
 2 214(e)(1) for designation as an eligible telecommuni-
 3 cations carrier for that area before being permitted to pro-
 4 vide such service. This subsection shall not apply—

5 “(1) to a service area served by a rural tele-
 6 phone company that has obtained an exemption, sus-
 7 pension, or modification of section 251(c)(4) that ef-
 8 fectively prevents a competitor from meeting the re-
 9 quirements of section 214(e)(1); and

10 “(2) to a provider of commercial mobile serv-
 11 ices.

12 “(i) WHEN REQUEST CONSIDERED COMPLETE; RE-
 13 CEIVED.—

14 “(1) WHEN REQUEST CONSIDERED COM-
 15 PLETE.—

16 “(A) IN GENERAL.—For the purposes of
 17 this section, a request to a State or local gov-
 18 ernment or instrumentality thereof shall be con-
 19 sidered complete if the requesting party—

20 “(i) has taken the first procedural
 21 step within the control of the requesting
 22 party—

23 “(I) to submit such request in
 24 accordance with the procedures estab-
 25 lished by the government or instru-

1 mentality for the review and approval
2 of such request; or

3 “(II) in the case of a government
4 or instrumentality that has not estab-
5 lished specific procedures for the re-
6 view and approval of such request, to
7 submit to the government or instru-
8 mentality the type of filing that is
9 typically required to initiate a stand-
10 ard review for a similar facility or
11 structure; and

12 “(ii) has not received a written notice
13 from the government or instrumentality
14 within 30 days after the date on which the
15 request is received by the government or
16 instrumentality—

17 “(I) stating that all the informa-
18 tion (including any form or other doc-
19 ument) required by the government or
20 instrumentality to be submitted for
21 the request to be considered complete
22 has not been submitted;

23 “(II) identifying the information
24 required to be submitted that was not
25 submitted; and

1 “(III) citing a specific provision
2 of a publicly available rule, regulation,
3 or standard of the government or in-
4 strumentality that requires the infor-
5 mation identified under subclause (II)
6 to be submitted.

7 “(B) DEFINITION.—In this paragraph, the
8 term ‘the date on which the request is received
9 by the government or instrumentality’ means—

10 “(i) in the case of a request submitted
11 electronically, the date on which the re-
12 quest is transmitted;

13 “(ii) in the case of a request sub-
14 mitted in person, the date on which the re-
15 quest is delivered to the individual or at
16 the location specified by the government or
17 instrumentality for in-person submission;
18 and

19 “(iii) in the case of a request sub-
20 mitted in any other manner, the date de-
21 termined under regulations promulgated by
22 the Commission for the manner in which
23 the request is submitted.

1 “(2) WHEN COMPLETE REQUEST CONSIDERED
2 RECEIVED.—For the purposes of this section, a com-
3 plete request shall be considered received—

4 “(A) except as provided in subparagraph
5 (B), on the date on which the requesting party
6 submits to the government or instrumentality
7 all information (including any form or other
8 document) required by the government or in-
9 strumentality to be submitted for the request to
10 be considered complete; or

11 “(B) in the case of a request with respect
12 to which all such information is not submitted
13 and that is considered complete under para-
14 graph (1)(A) because the requesting party has
15 not received a written notice from the govern-
16 ment or instrumentality within the period de-
17 scribed in such paragraph, on the day after the
18 last day of such period.

19 “(j) DEFINITIONS.—In this section:

20 “(1) ELIGIBLE SUPPORT INFRASTRUCTURE.—
21 The term ‘eligible support infrastructure’ means in-
22 frastructure that supports or houses a telecommuni-
23 cations service facility (or that is designed for or ca-
24 pable of supporting or housing such a facility) at the
25 time when a complete request to a State or local

1 government or instrumentality thereof for authoriza-
2 tion to place, construct, or modify a telecommuni-
3 cations service facility in or on the infrastructure is
4 received by the government or instrumentality.

5 “(2) TELECOMMUNICATIONS SERVICE FACIL-
6 ITY.—The term ‘telecommunications service facil-
7 ity’—

8 “(A) means a facility that is designed or
9 used to provide or facilitate the provision of any
10 interstate or intrastate telecommunications
11 service; and

12 “(B) includes a facility described in sub-
13 paragraph (A) that is used to provide other
14 services.”.

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