

116TH CONGRESS
1ST SESSION

H. R. 4229

To require the Federal Communications Commission to issue rules relating to the collection of data with respect to the availability of broadband services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2019

Mr. LOEBSACK (for himself, Mr. LATTA, Mr. MCEACHIN, and Mr. LONG) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require the Federal Communications Commission to issue rules relating to the collection of data with respect to the availability of broadband services, 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 “Broadband Deploy-
5 ment Accuracy and Technological Availability Act” or the
6 “Broadband DATA Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) BROADBAND INTERNET ACCESS SERVICE.—

2 The term “broadband internet access service” has
3 the meaning given the term in section 8.1(b) of title
4 47, Code of Federal Regulations, or any successor
5 regulation.

6 (2) BROADBAND MAP.—The term “Broadband
7 Map” means the map created by the Commission
8 under section 3(e)(1)(A).

9 (3) CELL EDGE PROBABILITY.—The term “cell
10 edge probability” means the likelihood that the min-
11 imum threshold download and upload speeds with
12 respect to broadband internet access service will be
13 met or exceeded at a distance from a base station
14 that is intended to indicate the ultimate edge of the
15 coverage area of a cell.

16 (4) CELL LOADING.—The term “cell loading”
17 means the percentage of the available air interface
18 resources of a base station that are used by con-
19 sumers with respect to broadband internet access
20 service.

21 (5) CLUTTER.—The term “clutter” means a
22 natural or man-made surface feature that affects the
23 propagation of a signal from a base station.

24 (6) COMMISSION.—The term “Commission”
25 means the Federal Communications Commission.

1 (7) FABRIC.—The term “Fabric” means the
2 Broadband Serviceable Location Fabric established
3 under section 3(b)(1)(B).

4 (8) FORM 477.—The term “Form 477” means
5 Form 477 of the Commission relating to local tele-
6 phone competition and broadband reporting.

7 (9) INDIAN TRIBE.—The term “Indian Tribe”
8 has the meaning given the term “Indian tribe” in
9 section 4 of the Indian Self-Determination and Edu-
10 cation Assistance Act (25 U.S.C. 5304).

11 (10) MOBILITY FUND PHASE II.—The term
12 “Mobility Fund Phase II” means the second phase
13 of the proceeding to provide universal service sup-
14 port from the Mobility Fund (WC Docket No. 10–
15 90; WT Docket No. 10–208).

16 (11) PROPAGATION MODEL.—The term “propa-
17 gation model” means a mathematical formulation
18 for the characterization of radio wave propagation as
19 a function of frequency, distance, and other condi-
20 tions.

21 (12) PROVIDER.—The term “provider” means a
22 provider of fixed or mobile broadband internet access
23 service.

24 (13) QUALITY OF SERVICE.—The term “quality
25 of service” means information regarding offered

1 download and upload speeds and latency of a pro-
2 vider’s broadband internet access service as deter-
3 mined by and to the extent otherwise collected by
4 the Commission.

5 (14) SHAPEFILE.—The term “shapefile” means
6 a digital storage format containing geospatial or lo-
7 cation-based data and attribute information—

8 (A) regarding the availability of broadband
9 internet access service; and

10 (B) that can be viewed, edited, and
11 mapped in geographic information system soft-
12 ware.

13 (15) STANDARD BROADBAND INSTALLATION.—
14 The term “standard broadband installation”—

15 (A) means the initiation by a provider of
16 new fixed broadband internet access service
17 with no charges or delays attributable to the ex-
18 tension of the network of the provider; and

19 (B) includes the initiation of fixed
20 broadband internet access service through rou-
21 tine installation that can be completed not later
22 than 10 business days after the date on which
23 the service request is submitted.

24 **SEC. 3. BROADBAND MAPS.**

25 (a) RULES.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the Commis-
3 sion shall issue final rules that shall—

4 (A) in a manner that balances public ac-
5 cess to data with adequate protections for pri-
6 vacy and for confidential or competitively sen-
7 sitive information, require the collection and
8 dissemination of granular data, as determined
9 by the Commission—

10 (i) relating to the availability and
11 quality of service of terrestrial fixed, fixed
12 wireless, satellite, and mobile broadband
13 internet access service; and

14 (ii) that the Commission shall use to
15 compile the maps created under subsection
16 (c)(1) (referred to in this section as “cov-
17 erage maps”), which the Commission shall
18 make publicly available; and

19 (B) establish—

20 (i) processes through which the Com-
21 mission can verify the accuracy of data
22 submitted under subsection (b)(2);

23 (ii) processes and procedures through
24 which the Commission, and, as necessary,
25 other entities or persons submitting infor-

1 mation under this Act, can protect the se-
2 curity, privacy, and confidentiality of—

3 (I) information contained in the
4 Fabric;

5 (II) the dataset created under
6 subsection (b)(1) supporting the Fab-
7 ric; and

8 (III) the data submitted under
9 subsection (b)(2);

10 (iii) the challenge process described in
11 subsection (b)(5); and

12 (iv) the process described in section
13 4(b).

14 (2) OTHER DATA.—In issuing the rules under
15 paragraph (1), the Commission shall develop a proc-
16 ess through which the Commission can collect
17 verified data for use in the coverage maps from—

18 (A) State, local, and Tribal governmental
19 entities that are primarily responsible for map-
20 ping or tracking broadband internet access
21 service coverage for a State, unit of local gov-
22 ernment, or Indian Tribe, as applicable;

23 (B) third parties, including industry anal-
24 ysis mapping or tracking broadband internet
25 access service coverage and quality of service, if

1 the Commission determines that it is in the
2 public interest to use such data in—

3 (i) the development of the coverage
4 maps; or

5 (ii) the verification of data submitted
6 under subsection (b); and

7 (C) other Federal agencies.

8 (3) UPDATES.—The Commission shall revise
9 the rules issued under paragraph (1) to—

10 (A) reflect changes in technology;

11 (B) ensure the accuracy of propagation
12 models, as further provided in subsection
13 (b)(3); and

14 (C) improve the usefulness of the coverage
15 maps.

16 (b) CONTENT OF RULES.—

17 (1) ESTABLISHMENT OF A SERVICEABLE LOCA-
18 TION FABRIC REGARDING FIXED BROADBAND.—

19 (A) DATASET.—

20 (i) IN GENERAL.—The Commission
21 shall create a common dataset of all loca-
22 tions in the United States where fixed
23 broadband internet access service can be
24 installed, as determined by the Commis-
25 sion.

1 (ii) CONTRACTING.—

2 (I) IN GENERAL.—Subject to
3 subclauses (II) and (III), the Commis-
4 sion may contract with an entity with
5 expertise with respect to geographic
6 information systems (referred to in
7 this subsection as “GIS”) to create
8 and maintain the dataset under clause
9 (i).

10 (II) APPLICATION OF THE FED-
11 ERAL ACQUISITION REGULATION.—A
12 contract into which the Commission
13 enters under subclause (I) shall in all
14 respects comply with applicable provi-
15 sions of the Federal Acquisition Regu-
16 lation.

17 (III) LIMITATIONS.—With re-
18 spect to a contract into which the
19 Commission enters under subclause
20 (I)—

21 (aa) the entity with which
22 the Commission contracts shall
23 be selected through a competitive
24 bid process that is transparent
25 and open; and

1 (bb) the contract shall be for
2 a term of not longer than 5
3 years, after which the Commis-
4 sion may enter into a new con-
5 tract—

6 (AA) with an entity,
7 and for the purposes, de-
8 scribed in clause (i); and

9 (BB) that complies
10 with the requirements under
11 subclause (II) and this sub-
12 clause.

13 (B) FABRIC.—The rules issued by the
14 Commission under subsection (a)(1) shall estab-
15 lish the Broadband Serviceable Location Fab-
16 ric, which shall—

17 (i) contain geocoded information for
18 each location identified under subpara-
19 graph (A)(i);

20 (ii) serve as the foundation upon
21 which all data relating to the availability of
22 fixed broadband internet access service col-
23 lected under paragraph (2)(A) shall be re-
24 ported and overlaid;

1 (iii) be compatible with commonly
2 used GIS software; and

3 (iv) at a minimum, be updated every
4 6 months by the Commission.

5 (C) IMPLEMENTATION PRIORITY.—The
6 Commission shall prioritize implementing the
7 Fabric for rural and insular areas of the United
8 States.

9 (2) COLLECTION OF INFORMATION.—The rules
10 issued by the Commission under subsection (a)(1)
11 shall include uniform standards for the reporting of
12 broadband internet access service data that the
13 Commission shall collect—

14 (A) from each provider of terrestrial fixed,
15 fixed wireless, or satellite broadband internet
16 access service, which shall include data that—

17 (i) documents the areas where the
18 provider—

19 (I) has actually built out the
20 broadband network infrastructure of
21 the provider such that the provider is
22 able to provide that service; and

23 (II) could provide that service, as
24 determined by identifying where the
25 provider is capable of performing a

1 standard broadband installation, if ap-
2 plicable;

3 (ii) includes information regarding
4 download and upload speeds, at various
5 thresholds established by the Commission,
6 and if applicable, latency with respect to
7 broadband internet access service that the
8 provider makes available;

9 (iii) can be georeferenced to the GIS
10 data in the Fabric;

11 (iv) the provider shall report as—

12 (I) with respect to providers of
13 fixed wireless broadband internet ac-
14 cess service—

15 (aa) propagation maps and
16 propagation model details that—

17 (AA) satisfy standards
18 that are similar to those ap-
19 plicable to providers of mo-
20 bile broadband internet ac-
21 cess service under subpara-
22 graph (B) with respect to
23 propagation maps and prop-
24 agation model details, taking
25 into account material dif-

1 ferences between fixed wire-
2 less and mobile broadband
3 internet access service; and

4 (BB) reflect the speeds
5 and latency of the service
6 provided by the provider; or

7 (bb) a list of addresses or lo-
8 cations that constitute the service
9 area of the provider, except that
10 the Commission—

11 (AA) may only permit,
12 and not require, a provider
13 to report the data using that
14 means of reporting; and

15 (BB) in the rules
16 issued under subsection
17 (a)(1), shall provide a meth-
18 od for using that means of
19 reporting with respect to
20 Tribal areas; and

21 (II) with respect to providers of
22 terrestrial fixed and satellite
23 broadband internet access service—

24 (aa) polygon shapefiles; or

1 (bb) a list of addresses or lo-
2 cations that constitute the service
3 area of the provider, except that
4 the Commission—

5 (AA) may only permit,
6 and not require, a provider
7 to report the data using that
8 means of reporting; and

9 (BB) in the rules
10 issued under subsection
11 (a)(1), shall provide a meth-
12 od for using that means of
13 reporting with respect to
14 Tribal areas; and

15 (v) the Commission determines is ap-
16 propriate with respect to certain tech-
17 nologies in order to ensure that the
18 Broadband Map is granular and accurate;
19 and

20 (B) from each provider of mobile
21 broadband internet access service, which shall
22 include propagation maps, and the propagation
23 models on which those maps are based, that in-
24 dicate the current (as of the date on which the
25 information is collected) fourth generation

1 Long-Term Evolution (commonly referred to as
2 “4G LTE”) mobile broadband internet access
3 service coverage of the provider, which shall—

4 (i) take into consideration the effect
5 of clutter; and

6 (ii) satisfy—

7 (I) the requirements of having—

8 (aa) a download speed of 5
9 megabits per second and an
10 upload speed of 1 megabit per
11 second with a cell edge prob-
12 ability of not less than 90 per-
13 cent; and

14 (bb) cell loading of 50 per-
15 cent; and

16 (II) any other parameter that the
17 Commission determines to be nec-
18 essary to create a map under sub-
19 section (c)(1)(C) that is more precise
20 than the map produced as a result of
21 the submissions under the Mobility
22 Fund Phase II information collection.

23 (3) UPDATE OF REPORTING STANDARDS FOR
24 MOBILE BROADBAND INTERNET ACCESS SERVICE.—

25 For the purposes of paragraph (2)(B), if the Com-

1 mission determines that the reporting standards
2 under that paragraph are insufficient to collect accu-
3 rate propagation maps and propagation model de-
4 tails with respect to future generations of mobile
5 broadband internet access service technologies, the
6 Commission shall immediately commence a rule-
7 making to adopt new reporting standards with re-
8 spect to those technologies that—

9 (A) shall be the functional equivalent of
10 the standards required under paragraph (2)(B);
11 and

12 (B) allow for the collection of propagation
13 maps and propagation model details that are as
14 accurate and granular as, or more accurate and
15 granular than, the maps and model details col-
16 lected by the Commission under such paragraph
17 (2)(B).

18 (4) CERTIFICATION AND VERIFICATION.—With
19 respect to a provider that submits information to the
20 Commission under paragraph (2)—

21 (A) the provider shall include in each sub-
22 mission a certification from a corporate officer
23 of the provider that the officer has examined
24 the information contained in the submission
25 and that, to the best of the officer's actual

1 knowledge, information, and belief, all state-
2 ments of fact contained in the submission are
3 true and correct; and

4 (B) the Commission shall verify the accu-
5 racy and reliability of the information in ac-
6 cordance with measures established by the
7 Commission.

8 (5) CHALLENGE PROCESS.—

9 (A) IN GENERAL.—In the rules issued
10 under subsection (a), and subject to subpara-
11 graph (B), the Commission shall establish a
12 user-friendly challenge process through which
13 consumers, State, local, and Tribal govern-
14 mental entities, and other entities may submit
15 coverage data to the Commission to challenge
16 the accuracy of—

17 (i) the coverage maps;

18 (ii) any information submitted by a
19 provider regarding the availability of
20 broadband internet access service; or

21 (iii) the information included in the
22 Fabric.

23 (B) CONSIDERATIONS; VERIFICATION; RE-
24 SPONSE TO CHALLENGES.—In establishing the

1 challenge process required under subparagraph
2 (A), the Commission shall—

3 (i) consider—

4 (I) the types of information that
5 an entity submitting a challenge
6 should provide to the Commission in
7 support of the challenge;

8 (II) the appropriate level of gran-
9 ularity for the information described
10 in subclause (I);

11 (III) the need to mitigate the
12 time and expense incurred by, and the
13 administrative burdens placed on, en-
14 tities in—

15 (aa) challenging the accu-
16 racy of a coverage map; and

17 (bb) responding to chal-
18 lenges described in item (aa); and

19 (IV) the costs to consumers and
20 providers resulting from a
21 misallocation of funds because of a re-
22 liance on outdated or otherwise inac-
23 curate information in the coverage
24 maps;

1 (ii) include a process for verifying the
2 data submitted through the challenge proc-
3 ess in order to ensure the reliability of that
4 data;

5 (iii) allow providers to respond to
6 challenges submitted through the challenge
7 process; and

8 (iv) develop an online mechanism,
9 which—

10 (I) shall be integrated into the
11 coverage maps; and

12 (II) allows for an entity described
13 in subparagraph (A) to submit a chal-
14 lenge under the challenge process.

15 (C) USE OF CHALLENGES.—The rules
16 issued to establish the challenge process under
17 subparagraph (A) shall include—

18 (i) a process for the speedy resolution
19 of challenges; and

20 (ii) a process for the regular and ex-
21 peditious updating of the coverage maps
22 and granular data the Commission dis-
23 seminate as challenges are resolved.

24 (6) REFORM OF FORM 477 PROCESS.—

1 (A) IN GENERAL.—Not later than 180
2 days after the date on which the rules issued
3 under subsection (a) take effect, the Commis-
4 sion shall—

5 (i) reform the Form 477 broadband
6 deployment service availability collection
7 process of the Commission to achieve the
8 purposes of this Act and in a manner that
9 enables the comparison of data and maps
10 produced before the implementation of this
11 Act with data and coverage maps produced
12 after the implementation of this Act; and

13 (ii) harmonize reporting requirements
14 and procedures regarding the deployment
15 of broadband internet access service that,
16 as of the date on which the rules issued
17 under subsection (a) take effect, are in ef-
18 fect.

19 (B) CONTINUED COLLECTION AND RE-
20 PORTING.—On and after the date on which the
21 Commission carries out subparagraph (A), the
22 Commission shall continue to collect and pub-
23 licly report subscription data that the Commis-
24 sion collected through the Form 477 broadband

1 deployment service availability process, as in ef-
2 fect on July 1, 2019.

3 (c) MAPS.—The Commission shall—

4 (1) create—

5 (A) the Broadband Map, which shall de-
6 pict—

7 (i) the extent of the availability of
8 broadband internet access service in the
9 United States, without regard to whether
10 that service is fixed broadband internet ac-
11 cess service or mobile broadband internet
12 access service, which shall be based on
13 data collected by the Commission from all
14 providers; and

15 (ii) the areas of the United States
16 that remain unserved by providers;

17 (B) a map that depicts the availability of
18 fixed broadband internet access service, which
19 shall be based on data collected by the Commis-
20 sion from providers under subsection (b)(2)(A);
21 and

22 (C) a map that depicts the availability of
23 mobile broadband internet access service, which
24 shall be based on data collected by the Commis-
25 sion from providers under subsection (b)(2)(B);

1 (2) use the maps created under paragraph
2 (1)—

3 (A) to determine the areas in which terres-
4 trial fixed, fixed wireless, mobile, and satellite
5 broadband internet access service is and is not
6 available; and

7 (B) when making any new award of fund-
8 ing with respect to the deployment of
9 broadband internet access service;

10 (3) update the maps created under paragraph
11 (1) not less frequently than biannually using the
12 most recent data collected from providers under sub-
13 section (b)(2);

14 (4) establish a process requiring the Depart-
15 ment of Agriculture and the National Telecommuni-
16 cations and Information Administration to consult
17 the maps created under paragraph (1) when, as of
18 the date on which the process is established or on
19 any future date, distributing funds relating to the
20 deployment of broadband internet access service
21 under any program administered by the Rural Utili-
22 ties Service or the Administration, respectively;

23 (5) establish a process to make the data col-
24 lected under subsection (b)(2) available to the Na-

1 tional Telecommunications and Information Admin-
2 istration; and

3 (6) make public at an appropriate level of gran-
4 ularity—

5 (A) the maps created under paragraph (1);
6 and

7 (B) the data collected by the Commission
8 with respect to broadband internet access serv-
9 ice availability and quality of service.

10 (d) DELAYED EFFECTIVE DATE OF QUALITY OF
11 SERVICE RULES.—Any requirement of a rule relating to
12 quality of service issued under subsection (a) shall take
13 effect not earlier than the date that is 180 days after the
14 date on which the Commission issues such rule.

15 **SEC. 4. IMPROVING DATA ACCURACY.**

16 (a) AUDITS.—The Commission shall conduct regular
17 audits of information submitted to the Commission by pro-
18 viders under section (3)(b)(2) to ensure that the providers
19 are complying with this Act.

20 (b) CROWDSOURCING.—

21 (1) IN GENERAL.—The Commission shall de-
22 velop a process through which persons in the United
23 States may submit specific information about the de-
24 ployment and availability of broadband internet ac-
25 cess service in the United States so that the infor-

1 information may be used to verify and supplement infor-
2 mation provided by providers of broadband internet
3 access service for inclusion in the maps created
4 under section 3(e)(1).

5 (2) COLLABORATION.—As part of the efforts of
6 the Commission to facilitate the ability of persons to
7 submit information under paragraph (1), the Com-
8 mission shall issue guidance and other information
9 as appropriate to ensure that the information sub-
10 mitted is uniform and consistent with the data sub-
11 mitted by providers under section 3(b)(2).

12 (c) TECHNICAL ASSISTANCE TO INDIAN TRIBES.—

13 (1) IN GENERAL.—Subject to paragraph (2),
14 the Commission shall hold workshops for Tribal gov-
15 ernments in each of the 12 Bureau of Indian Affairs
16 regions to provide technical assistance with the col-
17 lection and submission of data under section 3(a)(2).

18 (2) ANNUAL REVIEW.—Each year, the Commis-
19 sion, in consultation with Indian Tribes, shall review
20 the need for continued workshops required under
21 paragraph (1).

22 (d) TECHNICAL ASSISTANCE TO SMALL SERVICE
23 PROVIDERS.—The Commission shall establish a process
24 through which a provider that has fewer than 100,000 ac-
25 tive broadband internet access service connections may re-

1 quest and receive assistance from the Commission with re-
2 spect to geographic information system data processing to
3 ensure that the provider is able to comply with the require-
4 ments under section 3(b) in a timely and accurate manner.

5 **SEC. 5. COST.**

6 (a) **IN GENERAL.**—Beginning with the first full fiscal
7 year after the date of enactment of this Act, the Commis-
8 sion shall include in the budget submission of the Commis-
9 sion to the President under sections 1105(a) and 1108
10 of title 31, United States Code, amounts sufficient to en-
11 sure the proper and continued functioning of the respon-
12 sibilities of the Commission under this Act.

13 (b) **COST OF FABRIC.**—

14 (1) **USF.**—The Commission may not use funds
15 from the universal service programs of the Commis-
16 sion established under section 254 of the Commu-
17 nications Act of 1934 (47 U.S.C. 254), and the reg-
18 ulations issued under that section, to pay for any
19 costs associated with this Act.

20 (2) **OTHER FUNDS.**—The Commission may re-
21 cover costs associated with this Act under section 9
22 of the Communications Act of 1934 (47 U.S.C. 9)
23 to the extent provided for in an appropriation Act,
24 as required under subsection (a) of that section.

1 **SEC. 6. OTHER PROVISIONS.**

2 (a) OMB.—Notwithstanding any other provision of
3 law, the initial rulemaking required under section 3(a)(1)
4 shall be exempt from review by the Office of Management
5 and Budget.

6 (b) PRA.—Chapter 35 of title 44, United States
7 Code (commonly known as the “Paperwork Reduction
8 Act”) shall not apply to the initial rulemaking required
9 under section 3(a)(1).

10 (c) EXECUTION OF RESPONSIBILITIES.—Except as
11 provided in section 3(b)(1)(A)(ii), the Commission—

12 (1) including the offices of the Commission,
13 shall carry out the responsibilities assigned to the
14 Commission under this Act; and

15 (2) may not delegate any of the responsibilities
16 assigned to the Commission under this Act to any
17 third party, including the Universal Service Adminis-
18 trative Company.

19 (d) REPORTING.—Each fiscal year, the Commission
20 shall submit to the Committee on Commerce, Science, and
21 Transportation of the Senate and the Committee on En-
22 ergy and Commerce of the House of Representatives a re-
23 port that summarizes the implementation of this Act and
24 associated enforcement activities conducted during the
25 previous fiscal year.

○