

116TH CONGRESS
2D SESSION

H. R. 7352

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2020

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) GENERAL AUTHORITY.—Except as provided in
3 this section, nothing in this Act shall limit or affect the
4 authority of a State or local government or instrumen-
5 tality thereof over decisions regarding the placement, con-
6 struction, and modification of telecommunications service
7 facilities.

8 “(b) LIMITATIONS.—

9 “(1) IN GENERAL.—The regulation of the
10 placement, construction, or modification of a tele-
11 communications service facility by any State or local
12 government or instrumentality thereof—

13 “(A) shall not prohibit or have the effect
14 of prohibiting the ability of any entity to pro-
15 vide any interstate or intrastate telecommuni-
16 cations service; and

17 “(B) shall not unreasonably discriminate
18 among providers of functionally equivalent serv-
19 ices.

20 “(2) TIMEFRAME.—

21 “(A) IN GENERAL.—A State or local gov-
22 ernment or instrumentality thereof shall grant
23 or deny a complete request for authorization to
24 place, construct, or modify a telecommuni-
25 cations service facility not later than—

1 “(i) if the request is for authorization
2 to place, construct, or modify such facility
3 in or on eligible support infrastructure, 90
4 days after the date on which the complete
5 request is received by the government or
6 instrumentality; or

7 “(ii) for any other action relating to
8 such facility, 150 days after the date on
9 which the complete request is received by
10 the government or instrumentality.

11 “(B) APPLICABILITY.—The applicable
12 timeframe under subparagraph (A) shall apply
13 collectively to all proceedings required by a
14 State or local government or instrumentality
15 thereof for the approval of the request.

16 “(C) NO TOLLING.—A timeframe under
17 subparagraph (A) may not be tolled by any
18 moratorium, whether express or de facto, im-
19 posed by a State or local government or instru-
20 mentality thereof on the consideration of any
21 request for authorization to place, construct, or
22 modify a telecommunications service facility.

23 “(D) TEMPORARY WAIVER.—The Commis-
24 sion may temporarily waive the applicability of
25 subparagraph (A) for not longer than a single

1 30-day period for any complete request upon a
2 demonstration by a State or local government
3 or instrumentality thereof that the waiver would
4 be consistent with the public interest, conven-
5 ience, and necessity.

6 “(3) DEEMED GRANTED.—

7 “(A) IN GENERAL.—If a State or local
8 government or instrumentality thereof has nei-
9 ther granted nor denied a complete request
10 within the applicable timeframe under para-
11 graph (2), the request shall be deemed granted
12 on the date on which the government or instru-
13 mentality receives a written notice of the failure
14 from the requesting party.

15 “(B) RULE OF CONSTRUCTION.—In the
16 case of a request that is deemed granted under
17 subparagraph (A), the placement, construction,
18 or modification requested in such request shall
19 be considered to be authorized, without any fur-
20 ther action by the government or instrumen-
21 tality, beginning on the date on which such re-
22 quest is deemed granted under such subpara-
23 graph.

24 “(4) WRITTEN DECISION AND RECORD.—Any
25 decision by a State or local government or instru-

1 mentality thereof to deny a request to place, con-
2 struct, or modify a telecommunications service facil-
3 ity shall be—

4 “(A) in writing; and

5 “(B) supported by substantial evidence
6 contained in a written record.

7 “(5) FEES.—

8 “(A) IN GENERAL.—Notwithstanding any
9 other provision of law, a State or local govern-
10 ment or instrumentality thereof may charge a
11 fee that meets the requirements under subpara-
12 graph (B)—

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

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

22 “(B) REQUIREMENTS.—A fee charged
23 under subparagraph (A) shall be—

24 “(i) competitively neutral, technology
25 neutral, and nondiscriminatory;

1 “(ii) publicly disclosed;

2 “(iii) calculated—

3 “(I) based on actual and direct
4 costs, such as costs for—

5 “(aa) review and processing
6 of requests; and

7 “(bb) repairs and replace-
8 ment of—

9 “(AA) components and
10 materials resulting from and
11 affected by the installation
12 or improvement of tele-
13 communications service fa-
14 cilities; or

15 “(BB) equipment that
16 facilitates the installation or
17 improvement of such facili-
18 ties; and

19 “(II) using, for purposes of sub-
20 clause (I), only costs that are objec-
21 tively reasonable; and

22 “(iv) described to a requesting party
23 in a manner that distinguishes between—

24 “(I) nonrecurring fees and recur-
25 ring fees; and

1 “(II) the use of facilities on
2 which telecommunications service fa-
3 cilities are already located and those
4 on which there are no telecommuni-
5 cations service facilities as of the date
6 on which the complete request is re-
7 ceived by the government or instru-
8 mentality.

9 “(c) RULE OF CONSTRUCTION.—Except as provided
10 in subsection (b)(3), nothing in this section shall be con-
11 strued to prevent any State or local government or instru-
12 mentality thereof from imposing any additional limitation
13 or requirement relating to consideration by the govern-
14 ment or instrumentality of a request for authorization to
15 place, construct, or modify a telecommunications service
16 facility.

17 “(d) APPLICABILITY.—This section shall apply to any
18 request to a State or local government or instrumentality
19 thereof for authorization to place, construct, or modify any
20 telecommunications service facility, including a request for
21 authorization to place, construct, or modify a tele-
22 communications service facility in or on eligible support
23 infrastructure.

24 “(e) JUDICIAL REVIEW.—

1 “(1) IN GENERAL.—Any person adversely af-
2 fected by a final action or failure to act by a State
3 or local government or instrumentality thereof that
4 is inconsistent with this section may, not later than
5 30 days after the action or failure to act, commence
6 an action in any court of competent jurisdiction.

7 “(2) TIMING.—A court shall hear and decide an
8 action described in paragraph (1) on an expedited
9 basis.

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

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

1 compensation required meets the requirements of sub-
2 section (b)(5).

3 “(h) PREEMPTION.—If, after notice and an oppor-
4 tunity for public comment, the Commission determines
5 that a State or local government or instrumentality there-
6 of has permitted or imposed any statute, regulation, or
7 legal requirement that violates or is inconsistent with sub-
8 section (b), (f), or (g), the Commission shall preempt the
9 enforcement of such statute, regulation, or legal require-
10 ment to the extent necessary to correct such violation or
11 inconsistency.

12 “(i) COMMERCIAL MOBILE SERVICE PROVIDERS.—
13 Nothing in this section shall affect the application of sec-
14 tion 332(c)(3) to commercial mobile service providers.

15 “(j) RURAL MARKETS.—It shall not be a violation of
16 this section for a State to require a telecommunications
17 carrier that seeks to provide telephone exchange service
18 or exchange access in a service area served by a rural tele-
19 phone company to meet the requirements in section
20 214(e)(1) for designation as an eligible telecommuni-
21 cations carrier for that area before being permitted to pro-
22 vide such service. This subsection shall not apply—

23 “(1) to a service area served by a rural tele-
24 phone company that has obtained an exemption, sus-
25 pension, or modification of section 251(c)(4) that ef-

1 fectively prevents a competitor from meeting the re-
2 quirements of section 214(e)(1); and

3 “(2) to a provider of commercial mobile serv-
4 ices.

5 “(k) WHEN REQUEST CONSIDERED COMPLETE; RE-
6 CEIVED.—

7 “(1) IN GENERAL.—For purposes of this sec-
8 tion, a request to a State or local government or in-
9 strumentality thereof shall be considered—

10 “(A) complete if—

11 “(i) the requesting party makes the
12 request by submitting to the government
13 or instrumentality the form required to be
14 used for making the request;

15 “(ii) the form submitted contains all
16 of the information specified by the form as
17 being required to be included in the form;
18 and

19 “(iii) the requesting party has not re-
20 ceived a written notice from the govern-
21 ment or instrumentality within 10 business
22 days after the date on which the request is
23 received by the government or instrumen-
24 tality—

1 “(I) stating that the form does
2 not contain all of the information re-
3 quired to be included in the form; and

4 “(II) identifying the information
5 required to be included in the form
6 that was not included; and

7 “(B) received by the government or instru-
8 mentality—

9 “(i) in the case of a request submitted
10 electronically, on the date on which the
11 form required to be used for making the
12 request is transmitted;

13 “(ii) in the case of a request sub-
14 mitted in person, on the date on which the
15 form required to be used for making the
16 request is delivered to the individual or at
17 the location specified in the form for in-
18 person submission; and

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

24 “(2) TREATMENT OF MULTIPLE FORMS.—If a
25 State or local government or instrumentality thereof

1 requires the use of multiple forms for making a re-
2 quest, such forms shall be treated as a single form
3 for purposes of paragraph (1).

4 “(1) DEFINITIONS.—In this section:

5 “(1) ELIGIBLE SUPPORT INFRASTRUCTURE.—
6 The term ‘eligible support infrastructure’ means in-
7 frastructure that supports or houses a facility for
8 communication by wire (or is designed to and capa-
9 ble of supporting or housing such a facility) at the
10 time when a complete request to a State or local
11 government or instrumentality thereof for authoriza-
12 tion to place, construct, or modify a telecommuni-
13 cations service facility in or on the infrastructure is
14 received by the government or instrumentality.

15 “(2) TELECOMMUNICATIONS SERVICE FACIL-
16 ITY.—The term ‘telecommunications service facility’
17 means a facility for the provision of any interstate
18 or intrastate telecommunications service.”.

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