

[DISCUSSION DRAFT]

118TH CONGRESS
1ST SESSION

H. R. _____

To amend the Middle Class Tax Relief and Job Creation Act of 2012 to provide a timeframe for the consideration of requests by State and local governments for modification of certain existing wireless facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Middle Class Tax Relief and Job Creation Act of 2012 to provide a timeframe for the consideration of requests by State and local governments for modification of certain existing wireless 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 “5G Using Previously
5 Granted Rulings that Accelerate Deployment Everywhere
6 Act of 2023” or the “5G UPGRADE Act of 2023”.

1 **SEC. 2. TIMEFRAME FOR CONSIDERATION OF REQUESTS**
2 **FOR MODIFICATION OF CERTAIN EXISTING**
3 **WIRELESS FACILITIES.**

4 (a) IN GENERAL.—Section 6409(a) of the Middle
5 Class Tax Relief and Job Creation Act of 2012 (47 U.S.C.
6 1455(a)) is amended—

7 (1) in paragraph (1)—

8 (A) by inserting “or instrumentality there-
9 of” after “State or local government”; and

10 (B) by inserting “complete” before “eligi-
11 ble facilities request”;

12 (2) in paragraph (3), by striking “paragraph
13 (1)” and inserting “this subsection”; and

14 (3) by adding at the end the following:

15 “(4) TIMEFRAME.—

16 “(A) IN GENERAL.—Not later than 60
17 days after the date on which a requesting party
18 submits to a State or local government or in-
19 strumentality thereof a complete request de-
20 scribed under paragraph (1), the government or
21 instrumentality shall approve such request.

22 “(B) DEEMED APPROVAL.—If a State or
23 local government or instrumentality thereof
24 does not approve a complete request described
25 under paragraph (1), the request is deemed ap-
26 proved on the day after such date.

1 “(C) DETERMINATION REQUEST IS NOT
2 COVERED.—If a State or local government or
3 instrumentality thereof determines that a re-
4 quest submitted by a requesting party as a re-
5 quest described under paragraph (1) is not such
6 a request, the government or instrumentality
7 shall, not later than 60 days after the date on
8 which the request is submitted, provide written
9 notice to the requesting party clearly describing
10 the reasons why the request is not a request de-
11 scribed under paragraph (1) and citing the pro-
12 visions of this subsection or the regulations pro-
13 mulgated under this subsection relied upon for
14 the determination.

15 “(5) WHEN REQUEST CONSIDERED COMPLETE;
16 SUBMITTED.—

17 “(A) WHEN REQUEST CONSIDERED COM-
18 PLETE.—

19 “(i) IN GENERAL.—For the purposes
20 of this subsection, a request to a State or
21 local government or instrumentality thereof
22 shall be considered complete if the request-
23 ing party—

1 “(I) has taken the first proce-
2 dural step within the control of the re-
3 questing party—

4 “(aa) to submit such a re-
5 quest in accordance with the pro-
6 cedures established by the gov-
7 ernment or instrumentality for
8 the review and approval of such a
9 request; or

10 “(bb) in the case of a gov-
11 ernment or instrumentality that
12 has not established specific pro-
13 cedures for the review and ap-
14 proval of such a request, to sub-
15 mit to the government or instru-
16 mentality the type of filing that
17 is typically required to initiate a
18 standard zoning or siting review
19 for a similar facility or structure;
20 and

21 “(II) has not received a written
22 notice from the government or instru-
23 mentality within 10 business days
24 after the date on which the request is
25 submitted by the requesting party—

1 “(aa) stating that all of the
2 information (including any form
3 or other document) required by
4 the government or instrumen-
5 tality to be submitted for the re-
6 quest to be considered complete
7 has not been submitted, except
8 that if the statement under this
9 item refers only to missing infor-
10 mation that the government or
11 instrumentality is prohibited by
12 paragraph (6) from requiring to
13 be submitted, such notice shall be
14 treated as not having been re-
15 ceived by the requesting party;

16 “(bb) identifying the infor-
17 mation described in item (aa)
18 that was not submitted; and

19 “(cc) identifying the publicly
20 available rules, regulations, or
21 standards issued by the govern-
22 ment or instrumentality requiring
23 that such information be sub-
24 mitted with such a request.

1 “(ii) DEFINITION.—In this subpara-
2 graph, the term ‘the date on which the re-
3 quest is submitted by the requesting party’
4 means—

5 “(I) in the case of a request sub-
6 mitted electronically, the date on
7 which the request is transmitted;

8 “(II) in the case of a request
9 submitted in person, the date on
10 which the request is delivered to the
11 individual or at the location specified
12 by the government or instrumentality
13 for in-person submission; and

14 “(III) in the case of a request
15 submitted in any other manner, the
16 date determined under regulations
17 promulgated by the Commission for
18 the manner in which the request is
19 submitted.

20 “(B) WHEN COMPLETE REQUEST CONSID-
21 ERED SUBMITTED.—For the purposes of this
22 subsection, a complete request shall be consid-
23 ered submitted—

24 “(i) except as provided in clause (ii),
25 on the date on which the requesting party

1 submits to the government or instrumen-
2 tality all information (including any form
3 or other document) required by the govern-
4 ment or instrumentality to be submitted
5 for the request to be considered complete,
6 except for any information that the govern-
7 ment or instrumentality is prohibited by
8 paragraph (6) from requiring to be sub-
9 mitted; or

10 “(ii) in the case of a request with re-
11 spect to which all such information is not
12 submitted and that is considered complete
13 under subparagraph (A)(i) because the re-
14 questing party has not received a written
15 notice from the government or instrumen-
16 tality within the period described in such
17 subparagraph, on the day after the last
18 day of such period.

19 “(C) NO PRE-APPLICATION REQUIRE-
20 MENTS.—A State or local government or instru-
21 mentality thereof may not require a requesting
22 party to undertake any process, meeting, or
23 other step prior to or as a prerequisite to a
24 complete request being considered submitted.

1 “(6) LIMITATION ON REQUIRED DOCUMENTA-
2 TION.—A State or local government or instrumen-
3 tality thereof may require a requesting party submit-
4 ting a request as a request described under para-
5 graph (1) to submit information (including a form
6 or other document) with such request only to the ex-
7 tent that such information is reasonably related to
8 determining whether such request is a request de-
9 scribed under paragraph (1) and is identified in pub-
10 licly available rules, regulations, or standards issued
11 by the government or instrumentality requiring that
12 such information be submitted with such a request.
13 A State or local government or instrumentality
14 thereof may not require a requesting party to submit
15 any other documentation or information with such a
16 request.

17 “(7) ENFORCEMENT.—

18 “(A) IN GENERAL.—A requesting party
19 may bring an action in any district court of the
20 United States to enforce the provisions of this
21 subsection.

22 “(B) EXPEDITED REVIEW.—A district
23 court of the United States shall consider an ac-
24 tion under subparagraph (A) on an expedited
25 basis.”.

1 (b) IMPLEMENTATION.—Not later than 180 days
2 after the date of the enactment of this Act, the Federal
3 Communications Commission shall issue final rules to im-
4 plement the amendments made by subsection (a).

5 (c) APPLICABILITY.—The amendments made by sub-
6 section (a) shall apply with respect to any complete eligible
7 facilities request described under paragraph (1) of section
8 6409(a) of the Middle Class Tax Relief and Job Creation
9 Act of 2012 (47 U.S.C. 1455(a)) that is submitted (as
10 determined under subparagraph (B) of paragraph (5) of
11 such section, as added by subsection (a)) by a requesting
12 party on or after the date of the enactment of this Act.