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(Original Signature of Member)

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 by State and local governments of requests for modification of certain existing wireless facilities, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mrs. HARSHBARGER introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Middle Class Tax Relief and Job Creation Act of 2012 to provide a timeframe for the consideration by State and local governments of requests 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), by inserting “or instru-  
8 mentality thereof” after “State or local govern-  
9 ment”;

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

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

13 “(4) TIMEFRAME.—

14 “(A) DEEMED APPROVAL.—If a State or  
15 local government or instrumentality thereof  
16 does not, before or on the date that is 60 days  
17 after the date on which a requesting party sub-  
18 mits to the government or instrumentality a re-  
19 quest as an eligible facilities request described  
20 in paragraph (1), approve the request or make  
21 the determination and provide the written no-  
22 tice described in subparagraph (B) with respect  
23 to the request, the request is deemed approved  
24 on the day after the date that is 60 days after  
25 the date on which the requesting party submits  
26 the request.

1                   “(B) DETERMINATION REQUEST IS NOT  
2 COVERED.—

3                   “(i) DETERMINATION DESCRIBED.—

4                   The determination described in this sub-  
5 paragraph is a determination by a State or  
6 local government or instrumentality thereof  
7 that a request described in subparagraph  
8 (A) is not an eligible facilities request de-  
9 scribed in paragraph (1).

10                   “(ii) WRITTEN NOTICE DESCRIBED.—

11                   The written notice described in this sub-  
12 paragraph is a written notice of the deter-  
13 mination described in clause (i) provided  
14 by the government or instrumentality to  
15 the requesting party that clearly describes  
16 the reasons why the request is not an eligi-  
17 ble facilities request described in para-  
18 graph (1) and includes a citation to a spe-  
19 cific provision of this subsection or the reg-  
20 ulations promulgated under this subsection  
21 relied upon for the determination.

22                   “(C) TOLLING DUE TO INCOMPLETE-  
23 NESS.—

24                   “(i) INITIAL REQUEST INCOM-  
25 PLETE.—If, not later than 30 days after

1 the date on which a requesting party sub-  
2 mits to a State or local government or in-  
3 strumentality thereof a request described  
4 in subparagraph (A), the government or  
5 instrumentality provides to the requesting  
6 party a written notice described in clause  
7 (iii) with respect to the request, the 60-day  
8 timeframe under subparagraph (A) is  
9 tolled until the date on which the request-  
10 ing party submits to the government or in-  
11 strumentality a supplemental submission in  
12 response to the notice.

13 “(ii) SUPPLEMENTAL SUBMISSION IN-  
14 COMPLETE.—If, not later than 10 days  
15 after the date on which a requesting party  
16 submits to a State or local government or  
17 instrumentality thereof a supplemental  
18 submission in response to a written notice  
19 under clause (i) with respect to a request  
20 described in subparagraph (A) or a written  
21 notice under this clause with respect to a  
22 subsequent supplemental submission, the  
23 government or instrumentality provides to  
24 the requesting party a written notice de-  
25 scribed in clause (iii) with respect to the

1 supplemental submission, the 60-day time-  
2 frame under subparagraph (A) is further  
3 tolled until the date on which the request-  
4 ing party submits to the government or in-  
5 strumentality a subsequent supplemental  
6 submission in response to the notice.

7 “(iii) WRITTEN NOTICE DE-  
8 SCRIBED.—The written notice described in  
9 this clause is, with respect to a request de-  
10 scribed in subparagraph (A) or a supple-  
11 mental submission described in clause (i)  
12 or (ii) submitted to a State or local govern-  
13 ment or instrumentality thereof by a re-  
14 questing party, a written notice from the  
15 government or instrumentality to the re-  
16 questing party—

17 “(I) stating that all of the infor-  
18 mation (including any form or other  
19 document) required by the govern-  
20 ment or instrumentality to be sub-  
21 mitted for the request to be consid-  
22 ered complete has not been submitted;

23 “(II) identifying the information  
24 described in subclause (I) that was  
25 not submitted; and

1                   “(III) including a citation to a  
2                   specific provision of a publicly avail-  
3                   able rule, regulation, or standard  
4                   issued by the government or instru-  
5                   mentality requiring that such informa-  
6                   tion be submitted with such a request.

7                   “(iv) LIMITATION.—

8                   “(I) INITIAL WRITTEN NOTICE.—

9                   If a written notice provided by a State  
10                  or local government or instrumentality  
11                  thereof to a requesting party under  
12                  clause (i) with respect to a request de-  
13                  scribed in subparagraph (A) identifies  
14                  as not having been submitted any in-  
15                  formation that the government or in-  
16                  strumentality is prohibited by para-  
17                  graph (6) from requiring to be sub-  
18                  mitted, such notice shall be treated as  
19                  not having been provided to the re-  
20                  questing party.

21                  “(II) SUBSEQUENT WRITTEN NO-

22                  TICE.—If a written notice provided by  
23                  a State or local government or instru-  
24                  mentality thereof to a requesting  
25                  party under clause (ii) with respect to

1 a supplemental submission identifies  
2 as not having been submitted any in-  
3 formation that was not identified as  
4 not having been submitted in the prior  
5 written notice under clause (i) or (ii)  
6 in response to which the supplemental  
7 submission was submitted, the subse-  
8 quent written notice shall be treated  
9 as not having been provided to the re-  
10 questing party.

11 “(D) TOLLING BY MUTUAL AGREEMENT.—

12 In addition to any tolling under subparagraph  
13 (C), the 60-day timeframe under subparagraph  
14 (A) may be tolled by mutual agreement between  
15 the State or local government or instrumen-  
16 tality thereof and the requesting party.

17 “(5) WHEN REQUEST CONSIDERED SUB-  
18 MITTED.—

19 “(A) IN GENERAL.—For the purposes of  
20 this subsection, a request described in para-  
21 graph (4)(A) shall be considered submitted on  
22 the date on which the requesting party takes  
23 the first procedural step within the control of  
24 the requesting party—

1                   “(i) to submit such request in accord-  
2                   ance with the procedures established by the  
3                   government or instrumentality for the re-  
4                   view and approval of such a request; or

5                   “(ii) in the case of a government or  
6                   instrumentality that has not established  
7                   specific procedures for the review and ap-  
8                   proval of such a request, to submit to the  
9                   government or instrumentality the type of  
10                  filing that is typically required to initiate a  
11                  standard review for a similar facility or  
12                  structure.

13                 “(B) NO PRE-APPLICATION REQUIRE-  
14                 MENTS.—A State or local government or instru-  
15                 mentality thereof may not require a requesting  
16                 party to undertake any process, meeting, or  
17                 other step prior to or as a prerequisite to a re-  
18                 quest being considered submitted.

19                 “(6) LIMITATION ON REQUIRED DOCUMENTA-  
20                 TION.—A State or local government or instrumen-  
21                 tality thereof may require a requesting party submit-  
22                 ting a request as an eligible facilities request de-  
23                 scribed in paragraph (1) to submit information (in-  
24                 cluding a form or other document) with such request  
25                 only to the extent that such information is reason-

1 ably related to determining whether such request is  
2 an eligible facilities request described in paragraph  
3 (1) and is identified in a publicly available rule, reg-  
4 ulation, or standard issued by the government or in-  
5 strumentality requiring that such information be  
6 submitted with such a request. A State or local gov-  
7 ernment or instrumentality thereof may not require  
8 a requesting party to submit any other documenta-  
9 tion or information with such a request.

10 “(7) ENFORCEMENT.—

11 “(A) IN GENERAL.—A requesting party  
12 may bring an action in any district court of the  
13 United States to enforce the provisions of this  
14 subsection.

15 “(B) EXPEDITED REVIEW.—A district  
16 court of the United States shall consider an ac-  
17 tion under subparagraph (A) on an expedited  
18 basis.”.

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

23 (c) APPLICABILITY.—The amendments made by sub-  
24 section (a) shall apply with respect to any eligible facilities  
25 request described in paragraph (1) of section 6409(a) of

1 the Middle Class Tax Relief and Job Creation Act of 2012  
2 (47 U.S.C. 1455(a)) that is submitted (as determined  
3 under paragraph (5) of such section, as added by sub-  
4 section (a)) by a requesting party on or after the date  
5 of the enactment of this Act.