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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To amend the Communications Act of 1934 to streamline siting processes for telecommunications service 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 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”.

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

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

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

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

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

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

17 “(A) among telecommunications service fa-
18 cilities—

19 “(i) based on the technology used to
20 provide services; or

21 “(ii) based on the services provided;
22 or

23 “(B) against telecommunications service
24 facilities, as compared to the regulation of the
25 placement, construction, or modification of
26 other facilities.

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

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

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

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

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

24 “(C) NO TOLLING.—A timeframe under
25 subparagraph (A) may not be tolled by any

1 moratorium, whether express or de facto, im-
2 posed by a State or local government or instru-
3 mentality thereof on the submission, accept-
4 ance, or consideration of requests for authoriza-
5 tion to place, construct, or modify a tele-
6 communications service facility.

7 “(3) DEEMED GRANTED.—

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

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

1 “(4) WRITTEN DECISION AND RECORD.—A de-
2 cision by a State or local government or instrumen-
3 tality thereof to deny a request to place, construct,
4 or modify a telecommunications service facility shall
5 be—

6 “(A) in writing;

7 “(B) supported by substantial evidence
8 contained in a written record; and

9 “(C) publicly released, and provided to the
10 requesting party, on the same day such decision
11 is made.

12 “(5) FEES.—

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

18 “(i) to consider a request for author-
19 ization to place, construct, or modify a
20 telecommunications service facility; or

21 “(ii) for use of a right-of-way or a fa-
22 cility in a right-of-way owned or managed
23 by the government or instrumentality for
24 the placement, construction, or modifica-

1 tion of a telecommunications service facil-
2 ity.

3 “(B) REQUIREMENTS.—A fee charged
4 under subparagraph (A) shall be—

5 “(i) competitively neutral, technology
6 neutral, and nondiscriminatory;

7 “(ii) established in advance and pub-
8 licly disclosed;

9 “(iii) calculated—

10 “(I) based on actual and direct
11 costs for—

12 “(aa) review and processing
13 of requests; and

14 “(bb) repairs and replace-
15 ment of—

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

24 “(BB) equipment that
25 facilitates the placement,

1 construction, or modification
2 (including the installation or
3 improvement) of such facili-
4 ties; and

5 “(II) using, for purposes of sub-
6 clause (I), only costs that are objec-
7 tively reasonable; and

8 “(iv) described to a requesting party
9 in a manner that distinguishes between—

10 “(I) nonrecurring fees and recur-
11 ring fees; and

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

22 “(c) JUDICIAL REVIEW.—

23 “(1) IN GENERAL.—A person adversely affected
24 by a State or local statute, regulation, or other legal
25 requirement, or by a final action or failure to act by

1 a State or local government or instrumentality there-
2 of, that is inconsistent with this section may com-
3 mence an action in any court of competent jurisdic-
4 tion.

5 “(2) TIMING.—

6 “(A) EXPEDITED BASIS.—A court shall
7 hear and decide an action commenced under
8 paragraph (1) on an expedited basis.

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

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

23 “(e) PRESERVATION OF STATE AND LOCAL GOVERN-
24 MENT AUTHORITY.—Nothing in this section affects the
25 authority of a State or local government or instrumen-

1 tality thereof to manage, on a competitively neutral and
2 nondiscriminatory basis, the public rights-of-way or to re-
3 quire, on a competitively neutral and nondiscriminatory
4 basis, fair and reasonable compensation from tele-
5 communications providers for use of public rights-of-way,
6 if the compensation required meets the requirements of
7 subsection (b)(5).

8 “(f) PREEMPTION.—

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

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

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

1 “(h) RURAL MARKETS.—It shall not be a violation
2 of this section for a State to require a telecommunications
3 carrier that seeks to provide telephone exchange service
4 or exchange access in a service area served by a rural tele-
5 phone company to meet the requirements in section
6 214(e)(1) for designation as an eligible telecommuni-
7 cations carrier for that area before being permitted to pro-
8 vide such service. This subsection shall not apply—

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

14 “(2) to a provider of commercial mobile serv-
15 ices.

16 “(i) WHEN REQUEST CONSIDERED COMPLETE; RE-
17 CEIVED.—

18 “(1) WHEN REQUEST CONSIDERED COM-
19 PLETE.—

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

1 “(i) has taken the first procedural
2 step within the control of the requesting
3 party—

4 “(I) to submit such request in
5 accordance with the procedures estab-
6 lished by the government or instru-
7 mentality for the review and approval
8 of such request; or

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

18 “(ii) has not received a written notice
19 from the government or instrumentality
20 within 30 days after the date on which the
21 request is received by the government or
22 instrumentality—

23 “(I) stating that all the informa-
24 tion (including any form or other doc-
25 ument) required by the government or

1 instrumentality to be submitted for
2 the request to be considered complete
3 has not been submitted;

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

7 “(III) citing a specific provision
8 of a publicly available rule, regulation,
9 or standard of the government or in-
10 strumentality that requires the infor-
11 mation identified under subclause (II)
12 to be submitted.

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

16 “(i) in the case of a request submitted
17 electronically, the date on which the re-
18 quest is transmitted;

19 “(ii) in the case of a request sub-
20 mitted in person, the date on which the re-
21 quest is delivered to the individual or at
22 the location specified by the government or
23 instrumentality for in-person submission;
24 and

1 “(iii) in the case of a request sub-
2 mitted in any other manner, the date de-
3 termined under regulations promulgated by
4 the Commission for the manner in which
5 the request is submitted.

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

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

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

24 “(j) DEFINITIONS.—In this section:

1 “(1) ELIGIBLE SUPPORT INFRASTRUCTURE.—

2 The term ‘eligible support infrastructure’ means in-
3 frastructure that supports or houses a telecommuni-
4 cations service facility (or that is designed for or ca-
5 pable of supporting or housing such a facility) at the
6 time when a complete request to a State or local
7 government or instrumentality thereof for authoriza-
8 tion to place, construct, or modify a telecommuni-
9 cations service facility in or on the infrastructure is
10 received by the government or instrumentality.

11 “(2) TELECOMMUNICATIONS SERVICE FACIL-
12 ITY.—The term ‘telecommunications service facil-
13 ity’—

14 “(A) means a facility that is designed or
15 used to provide or facilitate the provision of any
16 interstate or intrastate telecommunications
17 service; and

18 “(B) includes a facility described in sub-
19 paragraph (A) that is used to provide other
20 services.”.