

AMENDMENT TO H.R. 2583

OFFERED BY MS. ESHOO AND MR. PALLONE

[Instructions refer to PROC __03, dated May 28, 2015]

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Communica-
3 tions Commission Process Reform Act of 2015”.

4 **SEC. 2. FCC PROCESS REFORM.**

5 (a) IN GENERAL.—Title I of the Communications Act
6 of 1934 (47 U.S.C. 151 et seq.) is amended by adding
7 at the end the following:

8 **“SEC. 13. TRANSPARENCY AND EFFICIENCY.**

9 “(a) INITIAL RULEMAKING AND INQUIRY.—

10 “(1) RULEMAKING.—Not later than 1 year
11 after the date of the enactment of the Federal Com-
12 munications Commission Process Reform Act of
13 2015, the Commission shall complete a rulemaking
14 proceeding and adopt procedural changes to its rules
15 to maximize opportunities for public participation
16 and efficient decisionmaking.

17 “(2) REQUIREMENTS FOR RULEMAKING.—The
18 rules adopted under paragraph (1) shall—

1 “(A) set minimum comment periods for
2 comment and reply comment, subject to a de-
3 termination by the Commission that good cause
4 exists for departing from such minimum com-
5 ment periods, for—

6 “(i) significant regulatory actions, as
7 defined in Executive Order No. 12866; and

8 “(ii) all other rulemaking proceedings;

9 “(B) establish policies concerning the sub-
10 mission of extensive new comments, data, or re-
11 ports towards the end of the comment period;

12 “(C) establish policies regarding treatment
13 of comments, ex parte communications, and
14 data or reports (including statistical reports
15 and reports to Congress) submitted after the
16 comment period to ensure that the public has
17 adequate notice of and opportunity to respond
18 to such submissions before the Commission re-
19 lies on such submissions in any order, decision,
20 report, or action;

21 “(D) establish procedures for publishing
22 the status of open rulemaking proceedings and
23 proposed orders, decisions, reports, or actions
24 on circulation for review by the Commissioners,
25 including which Commissioners have not cast a

1 vote on an order, decision, report, or action that
2 has been on circulation for more than 60 days;

3 “(E) establish deadlines (relative to the
4 date of filing) for—

5 “(i) in the case of a petition for a de-
6 claratory ruling under section 1.2 of title
7 47, Code of Federal Regulations, issuing a
8 public notice of such petition;

9 “(ii) in the case of a petition for rule-
10 making under section 1.401 of such title,
11 issuing a public notice of such petition;
12 and

13 “(iii) in the case of a petition for re-
14 consideration under section 1.106 or 1.429
15 of such title or an application for review
16 under section 1.115 of such title, issuing a
17 public notice of a decision on the petition
18 or application by the Commission or under
19 delegated authority (as the case may be);

20 “(F) establish guidelines (relative to the
21 date of filing) for the disposition of petitions
22 filed under section 1.2 of such title;

23 “(G) establish procedures for the inclusion
24 of the specific language of the proposed rule or

1 the proposed amendment of an existing rule in
2 a notice of proposed rulemaking; and

3 “(H) require notices of proposed rule-
4 making and orders adopting a rule or amending
5 an existing rule that—

6 “(i) create (or propose to create) a
7 program activity to contain performance
8 measures for evaluating the effectiveness of
9 the program activity; and

10 “(ii) substantially change (or propose
11 to substantially change) a program activity
12 to contain—

13 “(I) performance measures for
14 evaluating the effectiveness of the pro-
15 gram activity as changed (or proposed
16 to be changed); or

17 “(II) a finding that existing per-
18 formance measures will effectively
19 evaluate the program activity as
20 changed (or proposed to be changed).

21 “(3) INQUIRY.—Not later than 1 year after the
22 date of the enactment of the Federal Communica-
23 tions Commission Process Reform Act of 2015, the
24 Commission shall complete an inquiry to seek public

1 comment on whether and how the Commission
2 should—

3 “(A) establish procedures for allowing a bi-
4 partisan majority of Commissioners to place an
5 order, decision, report, or action on the agenda
6 of an open meeting;

7 “(B) establish procedures for informing all
8 Commissioners of a reasonable number of op-
9 tions available to the Commission for resolving
10 a petition, complaint, application, rulemaking,
11 or other proceeding;

12 “(C) establish procedures for ensuring that
13 all Commissioners have adequate time, prior to
14 being required to decide a petition, complaint,
15 application, rulemaking, or other proceeding
16 (including at a meeting held pursuant to section
17 5(d)), to review the proposed Commission deci-
18 sion document, including the specific language
19 of any proposed rule or any proposed amend-
20 ment of an existing rule;

21 “(D) establish procedures for publishing
22 the text of agenda items to be voted on at an
23 open meeting in advance of such meeting so
24 that the public has the opportunity to read the
25 text before a vote is taken;

1 “(E) establish deadlines (relative to the
2 date of filing) for disposition of applications for
3 a license under section 1.913 of title 47, Code
4 of Federal Regulations;

5 “(F) assign resources needed in order to
6 meet the deadlines described in subparagraph
7 (E), including whether the Commission’s ability
8 to meet such deadlines would be enhanced by
9 assessing a fee from applicants for such a li-
10 cense; and

11 “(G) publish each order, decision, report,
12 or action not later than 30 days after the date
13 of the adoption of such order, decision, report,
14 or action.

15 “(4) DATA FOR PERFORMANCE MEASURES.—
16 The Commission shall develop a performance meas-
17 ure or proposed performance measure required by
18 this subsection to rely, where possible, on data al-
19 ready collected by the Commission.

20 “(b) PERIODIC REVIEW.—On the date that is 5 years
21 after the completion of the rulemaking proceeding under
22 subsection (a)(1), and every 5 years thereafter, the Com-
23 mission shall initiate a new rulemaking proceeding to con-
24 tinue to consider such procedural changes to its rules as

1 may be in the public interest to maximize opportunities
2 for public participation and efficient decisionmaking.

3 “(c) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

4 “(1) IN GENERAL.—Notwithstanding section
5 552b of title 5, United States Code, a bipartisan
6 majority of Commissioners may hold a meeting that
7 is closed to the public to discuss official business
8 if—

9 “(A) a vote or any other agency action is
10 not taken at such meeting;

11 “(B) each person present at such meeting
12 is a Commissioner, an employee of the Commis-
13 sion, a member of a joint board or conference
14 established under section 410, or a person on
15 the staff of such a joint board or conference or
16 of a member of such a joint board or con-
17 ference; and

18 “(C) an attorney from the Office of Gen-
19 eral Counsel of the Commission is present at
20 such meeting.

21 “(2) DISCLOSURE OF NONPUBLIC COLLABO-
22 RATIVE DISCUSSIONS.—Not later than 2 business
23 days after the conclusion of a meeting held under
24 paragraph (1), the Commission shall publish a dis-
25 closure of such meeting, including—

1 “(A) a list of the persons who attended
2 such meeting; and

3 “(B) a summary of the matters discussed
4 at such meeting, except for such matters as the
5 Commission determines may be withheld under
6 section 552b(e) of title 5, United States Code.

7 “(3) PRESERVATION OF OPEN MEETINGS RE-
8 QUIREMENTS FOR AGENCY ACTION.—Nothing in this
9 subsection shall limit the applicability of section
10 552b of title 5, United States Code, with respect to
11 a meeting of Commissioners other than that de-
12 scribed in paragraph (1).

13 “(d) ACCESS TO CERTAIN INFORMATION ON COMMIS-
14 SION’S WEBSITE.—The Commission shall provide direct
15 access from the homepage of its website to—

16 “(1) detailed information regarding—

17 “(A) the budget of the Commission for the
18 current fiscal year;

19 “(B) the appropriations for the Commis-
20 sion for such fiscal year; and

21 “(C) the total number of full-time equiva-
22 lent employees of the Commission; and

23 “(2) the performance plan most recently made
24 available by the Commission under section 1115(b)
25 of title 31, United States Code.

1 “(e) FEDERAL REGISTER PUBLICATION.—

2 “(1) IN GENERAL.—In the case of any docu-
3 ment adopted by the Commission that the Commis-
4 sion is required, under any provision of law, to pub-
5 lish in the Federal Register, the Commission shall,
6 not later than the date described in paragraph (2),
7 complete all Commission actions necessary for such
8 document to be so published.

9 “(2) DATE DESCRIBED.—The date described in
10 this paragraph is the earlier of—

11 “(A) the day that is 45 days after the date
12 of the release of the document; or

13 “(B) the day by which such actions must
14 be completed to comply with any deadline under
15 any other provision of law.

16 “(3) NO EFFECT ON DEADLINES FOR PUBLICA-
17 TION IN OTHER FORM.—In the case of a deadline
18 that does not specify that the form of publication is
19 publication in the Federal Register, the Commission
20 may comply with such deadline by publishing the
21 document in another form. Such other form of publi-
22 cation does not relieve the Commission of any Fed-
23 eral Register publication requirement applicable to
24 such document, including the requirement of para-
25 graph (1).

1 “(f) CONSUMER COMPLAINT DATABASE.—

2 “(1) IN GENERAL.—In evaluating and proc-
3 essing consumer complaints, the Commission shall
4 present information about such complaints in a pub-
5 licly available, searchable database on its website
6 that—

7 “(A) facilitates easy use by consumers; and

8 “(B) to the extent practicable, is sortable
9 and accessible by—

10 “(i) the date of the filing of the com-
11 plaint;

12 “(ii) the topic of the complaint;

13 “(iii) the party complained of; and

14 “(iv) other elements that the Commis-
15 sion considers in the public interest.

16 “(2) DUPLICATIVE COMPLAINTS.—In the case
17 of multiple complaints arising from the same alleged
18 misconduct, the Commission shall be required to in-
19 clude only information concerning one such com-
20 plaint in the database described in paragraph (1).

21 “(g) FORM OF PUBLICATION.—

22 “(1) IN GENERAL.—In complying with a re-
23 quirement of this section to publish a document, the
24 Commission shall publish such document on its
25 website, in addition to publishing such document in

1 any other form that the Commission is required to
2 use or is permitted to and chooses to use.

3 “(2) EXCEPTION.—The Commission shall by
4 rule establish procedures for redacting documents
5 required to be published by this section so that the
6 published versions of such documents do not con-
7 tain—

8 “(A) information the publication of which
9 would be detrimental to national security,
10 homeland security, law enforcement, or public
11 safety; or

12 “(B) information that is proprietary or
13 confidential.

14 “(h) TRANSPARENCY RELATING TO PERFORMANCE
15 IN MEETING FOIA REQUIREMENTS.—The Commission
16 shall take additional steps to inform the public about its
17 performance and efficiency in meeting the disclosure and
18 other requirements of section 552 of title 5, United States
19 Code (commonly referred to as the Freedom of Informa-
20 tion Act), including by doing the following:

21 “(1) Publishing on the Commission’s website
22 the Commission’s logs for tracking, responding to,
23 and managing requests submitted under such sec-
24 tion, including the Commission’s fee estimates, fee
25 categories, and fee request determinations.

1 “(2) Releasing to the public all decisions made
2 by the Commission (including decisions made by the
3 Commission’s Bureaus and Offices) granting or de-
4 nying requests filed under such section, including
5 any such decisions pertaining to the estimate and
6 application of fees assessed under such section.

7 “(3) Publishing on the Commission’s website
8 electronic copies of documents released under such
9 section.

10 “(4) Presenting information about the Commis-
11 sion’s handling of requests under such section in the
12 Commission’s annual budget estimates submitted to
13 Congress and the Commission’s annual performance
14 and financial reports. Such information shall include
15 the number of requests under such section the Com-
16 mission received in the most recent fiscal year, the
17 number of such requests granted and denied, a com-
18 parison of the Commission’s processing of such re-
19 quests over at least the previous 3 fiscal years, and
20 a comparison of the Commission’s results with the
21 most recent average for the United States Govern-
22 ment as published on www.foia.gov.

23 “(i) PROMPT RELEASE OF STATISTICAL REPORTS
24 AND REPORTS TO CONGRESS.—Not later than January
25 15th of each year, the Commission shall identify, catalog,

1 and publish an anticipated release schedule for all statis-
2 tical reports and reports to Congress that are regularly
3 or intermittently released by the Commission and will be
4 released during such year.

5 “(j) ANNUAL SCORECARD REPORTS.—

6 “(1) IN GENERAL.—For the 1-year period be-
7 ginning on January 1st of each year, the Commis-
8 sion shall prepare a report on the performance of
9 the Commission in conducting its proceedings and
10 meeting the deadlines established under subsection
11 (a)(2)(E) and the guidelines established under sub-
12 section (a)(2)(F).

13 “(2) CONTENTS.—Each report required by
14 paragraph (1) shall contain detailed statistics on
15 such performance, including, with respect to each
16 Bureau of the Commission—

17 “(A) with respect to each type of filing
18 specified in subsection (a)(2)(E) or (a)(2)(F)—

19 “(i) the number of filings that were
20 pending on the last day of the period cov-
21 ered by such report;

22 “(ii) the number of filings described
23 in clause (i) for which each applicable
24 deadline or guideline established under
25 such subsection was not met and the aver-

1 age length of time such filings have been
2 pending; and

3 “(iii) for filings that were resolved
4 during such period, the average time be-
5 tween initiation and resolution and the
6 percentage for which each applicable dead-
7 line or guideline established under such
8 subsection was met;

9 “(B) with respect to proceedings before an
10 administrative law judge—

11 “(i) the number of such proceedings
12 completed during such period; and

13 “(ii) the number of such proceedings
14 pending on the last day of such period; and

15 “(C) the number of independent studies or
16 analyses published by the Commission during
17 such period.

18 “(3) PUBLICATION AND SUBMISSION.—The
19 Commission shall publish and submit to the Com-
20 mittee on Energy and Commerce of the House of
21 Representatives and the Committee on Commerce,
22 Science, and Transportation of the Senate each re-
23 port required by paragraph (1) not later than the
24 date that is 30 days after the last day of the period
25 covered by such report.

1 “(k) DEFINITIONS.—In this section:

2 “(1) AMENDMENT.—The term ‘amendment’ in-
3 cludes, when used with respect to an existing rule,
4 the deletion of such rule.

5 “(2) BIPARTISAN MAJORITY.—The term ‘bipar-
6 tisan majority’ means, when used with respect to a
7 group of Commissioners, that such group—

8 “(A) is a group of 3 or more Commis-
9 sioners; and

10 “(B) includes, for each political party of
11 which any Commissioner is a member, at least
12 1 Commissioner who is a member of such polit-
13 ical party, and, if any Commissioner has no po-
14 litical party affiliation, at least one unaffiliated
15 Commissioner.

16 “(3) PERFORMANCE MEASURE.—The term ‘per-
17 formance measure’ means an objective and quantifi-
18 able outcome measure or output measure (as such
19 terms are defined in section 1115 of title 31, United
20 States Code).

21 “(4) PROGRAM ACTIVITY.—The term ‘program
22 activity’ has the meaning given such term in section
23 1115 of title 31, United States Code, except that
24 such term also includes any annual collection or dis-
25 tribution or related series of collections or distribu-

1 tions by the Commission of an amount that is great-
2 er than or equal to \$100,000,000.

3 “(5) OTHER DEFINITIONS.—The terms ‘agency
4 action’, ‘ex parte communication’, and ‘rule’ have
5 the meanings given such terms in section 551 of title
6 5, United States Code.”.

7 (b) EFFECTIVE DATES AND IMPLEMENTING
8 RULES.—

9 (1) EFFECTIVE DATES.—

10 (A) REPORT RELEASE SCHEDULES.—Sub-
11 section (i) of such section 13 shall apply with
12 respect to 2016 and any year thereafter.

13 (B) ANNUAL SCORECARD REPORTS.—Sub-
14 section (j) of such section 13 shall apply with
15 respect to 2015 and any year thereafter.

16 (2) RULES.—Except as otherwise provided in
17 such section 13, the Federal Communications Com-
18 mission shall promulgate any rules necessary to
19 carry out such section not later than 1 year after
20 the date of the enactment of this Act.

21 **SEC. 3. CATEGORIZATION OF TCPA INQUIRIES AND COM-**
22 **PLAINTS IN QUARTERLY REPORT.**

23 In compiling its quarterly report with respect to in-
24 formal consumer inquiries and complaints, the Federal
25 Communications Commission may not categorize an in-

1 query or complaint with respect to section 227 of the Com-
2 munications Act of 1934 (47 U.S.C. 227) as being a
3 wireline inquiry or complaint or a wireless inquiry or com-
4 plaint unless the party whose conduct is the subject of
5 the inquiry or complaint is a wireline carrier or a wireless
6 carrier, respectively.

7 **SEC. 4. EFFECT ON OTHER LAWS.**

8 Nothing in this Act or the amendments made by this
9 Act shall relieve the Federal Communications Commission
10 from any obligations under title 5, United States Code,
11 except where otherwise expressly provided.

12 **SEC. 5. APPLICATION OF ANTIDEFICIENCY ACT TO UNI-**
13 **VERSAL SERVICE PROGRAM.**

14 Section 302 of Public Law 108–494 (118 Stat. 3998)
15 is amended by striking “December 31, 2016” each place
16 it appears and inserting “December 31, 2020”.

17 **SEC. 6. REPORT ON IMPROVING SMALL BUSINESS PARTICI-**
18 **PATION IN FCC PROCEEDINGS.**

19 Not later than 1 year after the date of enactment
20 of this Act, the Federal Communications Commission, in
21 consultation with the Administrator of the Small Business
22 Administration, shall submit to Congress a report on—

23 (1) actions that the Commission will take to im-
24 prove the participation of small businesses in the
25 proceedings of the Commission; and

1 (2) recommendations for any legislation that
2 the Commission considers appropriate to improve
3 such participation.

4 **SEC. 7. REPORT ON PENDING REQUESTS FOR ACTION BY**
5 **FCC AND PENDING CONGRESSIONAL INVES-**
6 **TIGATIONS OF FCC.**

7 (a) IN GENERAL.—Section 4 of the Communications
8 Act of 1934 (47 U.S.C. 154) is amended by adding at
9 the end the following:

10 “(p) Not later than 14 days after the end of each
11 quarter of a calendar year, the Commission shall publish
12 on the Internet website of the Commission and submit to
13 Congress a report that contains—

14 “(1) for the petitions, applications, complaints,
15 and other requests for action by the Commission
16 that were pending at the Commission on the last day
17 of such quarter—

18 “(A) the number of such requests, broken
19 down by the bureau primarily responsible for
20 action and, for each bureau, the type of request
21 (such as a petition, application, or complaint);
22 and

23 “(B) information regarding the amount of
24 time for which such requests have been pend-

1 ing, broken down as described in subparagraph
2 (A); and
3 “(2) a list of the congressional investigations of
4 the Commission that were pending on the last day
5 of such quarter and the cost of such investigations,
6 individually and in the aggregate.”.

7 (b) **EFFECTIVE DATE.**—The amendment made by
8 subsection (a) shall apply with respect to the quarter that
9 ends immediately after the date that is 90 days after the
10 date of the enactment of this Act.

11 **SEC. 8. INTERNET PUBLICATION OF CERTAIN FCC POLI-**
12 **CIES AND PROCEDURES.**

13 (a) **IN GENERAL.**—Section 5 of the Communications
14 Act of 1934 (47 U.S.C. 155) is amended by adding at
15 the end the following:

16 “(f) The chairman of the Commission shall—

17 “(1) publish on the Internet website of the
18 Commission any policies or procedures of the Com-
19 mission that—

20 “(A) are established by the chairman; and

21 “(B) relate to the functioning of the Com-
22 mission or the handling of the agenda of the
23 Commission; and

1 “(2) update such publication not later than 48
2 hours after the chairman makes changes to any such
3 policies or procedures.”.

4 (b) **EFFECTIVE DATE.**—The amendment made by
5 subsection (a) shall apply beginning on the date that is
6 30 days after the date of the enactment of this Act.

7 **SEC. 9. OFFICE OF NATIVE AFFAIRS AND POLICY.**

8 The Federal Communications Commission shall
9 maintain as a permanent office within the Commission the
10 Office of Native Affairs and Policy established by the
11 Order adopted by the Commission on July 29, 2010 (FCC
12 10–141).

