H. R. 4229

To require the Federal Communications Commission to issue rules relating to the collection of data with respect to the availability of broadband services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2019

Mr. LOEBSACK (for himself, Mr. LATTA, Mr. McEACHIN, and Mr. LONG) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require the Federal Communications Commission to issue rules relating to the collection of data with respect to the availability of broadband services, 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 “Broadband Deployment Accuracy and Technological Availability Act” or the
5 “Broadband DATA Act”.

6 SEC. 2. DEFINITIONS.

7 In this Act:
(1) **BROADBAND INTERNET ACCESS SERVICE.**—The term “broadband internet access service” has the meaning given the term in section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation.

(2) **BROADBAND MAP.**—The term “Broadband Map” means the map created by the Commission under section 3(c)(1)(A).

(3) **CELL EDGE PROBABILITY.**—The term “cell edge probability” means the likelihood that the minimum threshold download and upload speeds with respect to broadband internet access service will be met or exceeded at a distance from a base station that is intended to indicate the ultimate edge of the coverage area of a cell.

(4) **CELL LOADING.**—The term “cell loading” means the percentage of the available air interface resources of a base station that are used by consumers with respect to broadband internet access service.

(5) **CLUTTER.**—The term “clutter” means a natural or man-made surface feature that affects the propagation of a signal from a base station.

(6) **COMMISSION.**—The term “Commission” means the Federal Communications Commission.
(7) **Fabric.**—The term “Fabric” means the Broadband Serviceable Location Fabric established under section 3(b)(1)(B).

(8) **Form 477.**—The term “Form 477” means Form 477 of the Commission relating to local telephone competition and broadband reporting.

(9) **Indian Tribe.**—The term “Indian Tribe” has the meaning given the term “Indian tribe” in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(10) **Mobility Fund Phase II.**—The term “Mobility Fund Phase II” means the second phase of the proceeding to provide universal service support from the Mobility Fund (WC Docket No. 10–90; WT Docket No. 10–208).

(11) **Propagation Model.**—The term “propagation model” means a mathematical formulation for the characterization of radio wave propagation as a function of frequency, distance, and other conditions.

(12) **Provider.**—The term “provider” means a provider of fixed or mobile broadband internet access service.

(13) **Quality of Service.**—The term “quality of service” means information regarding offered
download and upload speeds and latency of a provider’s broadband internet access service as determined by and to the extent otherwise collected by the Commission.

(14) SHAPEFILE.—The term “shapefile” means a digital storage format containing geospatial or location-based data and attribute information—

(A) regarding the availability of broadband internet access service; and

(B) that can be viewed, edited, and mapped in geographic information system software.

(15) STANDARD BROADBAND INSTALLATION.—The term “standard broadband installation”—

(A) means the initiation by a provider of new fixed broadband internet access service with no charges or delays attributable to the extension of the network of the provider; and

(B) includes the initiation of fixed broadband internet access service through routine installation that can be completed not later than 10 business days after the date on which the service request is submitted.

SEC. 3. BROADBAND MAPS.

(a) Rules.—
(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall issue final rules that shall—

(A) in a manner that balances public access to data with adequate protections for privacy and for confidential or competitively sensitive information, require the collection and dissemination of granular data, as determined by the Commission—

(i) relating to the availability and quality of service of terrestrial fixed, fixed wireless, satellite, and mobile broadband internet access service; and

(ii) that the Commission shall use to compile the maps created under subsection (c)(1) (referred to in this section as “coverage maps”), which the Commission shall make publicly available; and

(B) establish—

(i) processes through which the Commission can verify the accuracy of data submitted under subsection (b)(2);

(ii) processes and procedures through which the Commission, and, as necessary, other entities or persons submitting infor-
mation under this Act, can protect the security, privacy, and confidentiality of—

(I) information contained in the Fabric;

(II) the dataset created under subsection (b)(1) supporting the Fabric; and

(III) the data submitted under subsection (b)(2);

(iii) the challenge process described in subsection (b)(5); and

(iv) the process described in section 4(b).

(2) OTHER DATA.—In issuing the rules under paragraph (1), the Commission shall develop a process through which the Commission can collect verified data for use in the coverage maps from—

(A) State, local, and Tribal governmental entities that are primarily responsible for mapping or tracking broadband internet access service coverage for a State, unit of local government, or Indian Tribe, as applicable;

(B) third parties, including industry analysis mapping or tracking broadband internet access service coverage and quality of service, if
the Commission determines that it is in the public interest to use such data in—

(i) the development of the coverage maps; or

(ii) the verification of data submitted under subsection (b); and

(C) other Federal agencies.

(3) Updates.—The Commission shall revise the rules issued under paragraph (1) to—

(A) reflect changes in technology;

(B) ensure the accuracy of propagation models, as further provided in subsection (b)(3); and

(C) improve the usefulness of the coverage maps.

(b) Content of Rules.—

(1) Establishment of a Serviceable Location Fabric Regarding Fixed Broadband.—

(A) Dataset.—

(i) In General.—The Commission shall create a common dataset of all locations in the United States where fixed broadband internet access service can be installed, as determined by the Commission.
(ii) Contracting.—

(I) In General.—Subject to subclauses (II) and (III), the Commission may contract with an entity with expertise with respect to geographic information systems (referred to in this subsection as “GIS”) to create and maintain the dataset under clause (i).

(II) Application of the Federal Acquisition Regulation.—A contract into which the Commission enters under subclause (I) shall in all respects comply with applicable provisions of the Federal Acquisition Regulation.

(III) Limitations.—With respect to a contract into which the Commission enters under subclause (I)—

(aa) the entity with which the Commission contracts shall be selected through a competitive bid process that is transparent and open; and
(bb) the contract shall be for a term of not longer than 5 years, after which the Commission may enter into a new contract—

(AA) with an entity, and for the purposes, described in clause (i); and

(BB) that complies with the requirements under subclause (II) and this subclause.

(B) FABRIC.—The rules issued by the Commission under subsection (a)(1) shall establish the Broadband Serviceable Location Fabric, which shall—

(i) contain geocoded information for each location identified under subparagraph (A)(i);

(ii) serve as the foundation upon which all data relating to the availability of fixed broadband internet access service collected under paragraph (2)(A) shall be reported and overlaid;
(iii) be compatible with commonly used GIS software; and

(iv) at a minimum, be updated every 6 months by the Commission.

(C) IMPLEMENTATION PRIORITY.—The Commission shall prioritize implementing the Fabric for rural and insular areas of the United States.

(2) COLLECTION OF INFORMATION.—The rules issued by the Commission under subsection (a)(1) shall include uniform standards for the reporting of broadband internet access service data that the Commission shall collect—

(A) from each provider of terrestrial fixed, fixed wireless, or satellite broadband internet access service, which shall include data that—

(i) documents the areas where the provider—

(I) has actually built out the broadband network infrastructure of the provider such that the provider is able to provide that service; and

(II) could provide that service, as determined by identifying where the provider is capable of performing a
standard broadband installation, if applicable;

(ii) includes information regarding download and upload speeds, at various thresholds established by the Commission, and if applicable, latency with respect to broadband internet access service that the provider makes available;

(iii) can be georeferenced to the GIS data in the Fabric;

(iv) the provider shall report as—

(I) with respect to providers of fixed wireless broadband internet access service—

(aa) propagation maps and propagation model details that—

(_AA) satisfy standards that are similar to those applicable to providers of mobile broadband internet access service under subparagraph (B) with respect to propagation maps and propagation model details, taking into account material dif-
ferences between fixed wireless and mobile broadband internet access service; and

(BB) reflect the speeds and latency of the service provided by the provider; or

(bb) a list of addresses or locations that constitute the service area of the provider, except that the Commission—

(AA) may only permit, and not require, a provider to report the data using that means of reporting; and

(BB) in the rules issued under subsection (a)(1), shall provide a method for using that means of reporting with respect to Tribal areas; and

(II) with respect to providers of terrestrial fixed and satellite broadband internet access service—

(aa) polygon shapefiles; or
(bb) a list of addresses or locations that constitute the service area of the provider, except that the Commission—

(AA) may only permit, and not require, a provider to report the data using that means of reporting; and

(BB) in the rules issued under subsection (a)(1), shall provide a method for using that means of reporting with respect to Tribal areas; and

(v) the Commission determines is appropriate with respect to certain technologies in order to ensure that the Broadband Map is granular and accurate; and

(B) from each provider of mobile broadband internet access service, which shall include propagation maps, and the propagation models on which those maps are based, that indicate the current (as of the date on which the information is collected) fourth generation
Long-Term Evolution (commonly referred to as “4G LTE”) mobile broadband internet access service coverage of the provider, which shall—

(i) take into consideration the effect of clutter; and

(ii) satisfy—

(I) the requirements of having—

(aa) a download speed of 5 megabits per second and an upload speed of 1 megabit per second with a cell edge probability of not less than 90 percent; and

(bb) cell loading of 50 percent; and

(II) any other parameter that the Commission determines to be necessary to create a map under subsection (c)(1)(C) that is more precise than the map produced as a result of the submissions under the Mobility Fund Phase II information collection.

(3) UPDATE OF REPORTING STANDARDS FOR MOBILE BROADBAND INTERNET ACCESS SERVICE.—

For the purposes of paragraph (2)(B), if the Com-
mission determines that the reporting standards
under that paragraph are insufficient to collect accu-
rate propagation maps and propagation model de-
tails with respect to future generations of mobile
broadband internet access service technologies, the
Commission shall immediately commence a rule-
making to adopt new reporting standards with re-
spect to those technologies that—

(A) shall be the functional equivalent of
the standards required under paragraph (2)(B);
and

(B) allow for the collection of propagation
maps and propagation model details that are as
accurate and granular as, or more accurate and
granular than, the maps and model details col-
lected by the Commission under such paragraph
(2)(B).

(4) Certification and verification.—With
respect to a provider that submits information to the
Commission under paragraph (2)—

(A) the provider shall include in each sub-
mission a certification from a corporate officer
of the provider that the officer has examined
the information contained in the submission
and that, to the best of the officer’s actual
knowledge, information, and belief, all statements of fact contained in the submission are true and correct; and

(B) the Commission shall verify the accuracy and reliability of the information in accordance with measures established by the Commission.

(5) CHALLENGE PROCESS.—

(A) IN GENERAL.—In the rules issued under subsection (a), and subject to subparagraph (B), the Commission shall establish a user-friendly challenge process through which consumers, State, local, and Tribal governmental entities, and other entities may submit coverage data to the Commission to challenge the accuracy of—

(i) the coverage maps;

(ii) any information submitted by a provider regarding the availability of broadband internet access service; or

(iii) the information included in the Fabric.

(B) CONSIDERATIONS; VERIFICATION; RESPONSE TO CHALLENGES.—In establishing the
challenge process required under subparagraph (A), the Commission shall—

(i) consider—

(I) the types of information that an entity submitting a challenge should provide to the Commission in support of the challenge;

(II) the appropriate level of granularity for the information described in subclause (I);

(III) the need to mitigate the time and expense incurred by, and the administrative burdens placed on, entities in—

(aa) challenging the accuracy of a coverage map; and

(bb) responding to challenges described in item (aa); and

(IV) the costs to consumers and providers resulting from a misallocation of funds because of a reliance on outdated or otherwise inaccurate information in the coverage maps;
(ii) include a process for verifying the data submitted through the challenge process in order to ensure the reliability of that data;

(iii) allow providers to respond to challenges submitted through the challenge process; and

(iv) develop an online mechanism, which—

(I) shall be integrated into the coverage maps; and

(II) allows for an entity described in subparagraph (A) to submit a challenge under the challenge process.

(C) USE OF CHALLENGES.—The rules issued to establish the challenge process under subparagraph (A) shall include—

(i) a process for the speedy resolution of challenges; and

(ii) a process for the regular and expeditious updating of the coverage maps and granular data the Commission disseminates as challenges are resolved.

(6) REFORM OF FORM 477 PROCESS.—
(A) In general.—Not later than 180 days after the date on which the rules issued under subsection (a) take effect, the Commission shall—

(i) reform the Form 477 broadband deployment service availability collection process of the Commission to achieve the purposes of this Act and in a manner that enables the comparison of data and maps produced before the implementation of this Act with data and coverage maps produced after the implementation of this Act; and

(ii) harmonize reporting requirements and procedures regarding the deployment of broadband internet access service that, as of the date on which the rules issued under subsection (a) take effect, are in effect.

(B) Continued collection and reporting.—On and after the date on which the Commission carries out subparagraph (A), the Commission shall continue to collect and publicly report subscription data that the Commission collected through the Form 477 broadband
deployment service availability process, as in effect on July 1, 2019.

(c) MAPS.—The Commission shall—

(1) create—

(A) the Broadband Map, which shall depict—

(i) the extent of the availability of broadband internet access service in the United States, without regard to whether that service is fixed broadband internet access service or mobile broadband internet access service, which shall be based on data collected by the Commission from all providers; and

(ii) the areas of the United States that remain unserved by providers;

(B) a map that depicts the availability of fixed broadband internet access service, which shall be based on data collected by the Commission from providers under subsection (b)(2)(A); and

(C) a map that depicts the availability of mobile broadband internet access service, which shall be based on data collected by the Commission from providers under subsection (b)(2)(B);
(2) use the maps created under paragraph (1)—

(A) to determine the areas in which terrestrial fixed, fixed wireless, mobile, and satellite broadband internet access service is and is not available; and

(B) when making any new award of funding with respect to the deployment of broadband internet access service;

(3) update the maps created under paragraph (1) not less frequently than biannually using the most recent data collected from providers under subsection (b)(2);

(4) establish a process requiring the Department of Agriculture and the National Telecommunications and Information Administration to consult the maps created under paragraph (1) when, as of the date on which the process is established or on any future date, distributing funds relating to the deployment of broadband internet access service under any program administered by the Rural Utilities Service or the Administration, respectively;

(5) establish a process to make the data collected under subsection (b)(2) available to the Na-
tional Telecommunications and Information Admin-
istration; and

(6) make public at an appropriate level of gran-
ularity—

(A) the maps created under paragraph (1);

and

(B) the data collected by the Commission

with respect to broadband internet access serv-

ice availability and quality of service.

(d) **DELAYED EFFECTIVE DATE OF QUALITY OF
SERVICE RULES.**—Any requirement of a rule relating to
quality of service issued under subsection (a) shall take
effect not earlier than the date that is 180 days after the
date on which the Commission issues such rule.

**SEC. 4. IMPROVING DATA ACCURACY.**

(a) **AUDITS.**—The Commission shall conduct regular
audits of information submitted to the Commission by pro-
viders under section (3)(b)(2) to ensure that the providers
are complying with this Act.

(b) **CROWDSOURCING.**—

(1) **IN GENERAL.**—The Commission shall de-
velop a process through which persons in the United
States may submit specific information about the de-
ployment and availability of broadband internet ac-
cess service in the United States so that the infor-
mation may be used to verify and supplement information provided by providers of broadband internet access service for inclusion in the maps created under section 3(c)(1).

(2) COLLABORATION.—As part of the efforts of the Commission to facilitate the ability of persons to submit information under paragraph (1), the Commission shall issue guidance and other information as appropriate to ensure that the information submitted is uniform and consistent with the data submitted by providers under section 3(b)(2).

(c) TECHNICAL ASSISTANCE TO INDIAN TRIBES.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall hold workshops for Tribal governments in each of the 12 Bureau of Indian Affairs regions to provide technical assistance with the collection and submission of data under section 3(a)(2).

(2) ANNUAL REVIEW.—Each year, the Commission, in consultation with Indian Tribes, shall review the need for continued workshops required under paragraph (1).

(d) TECHNICAL ASSISTANCE TO SMALL SERVICE PROVIDERS.—The Commission shall establish a process through which a provider that has fewer than 100,000 active broadband internet access service connections may re-
quest and receive assistance from the Commission with re-
spect to geographic information system data processing to
ensure that the provider is able to comply with the require-
ments under section 3(b) in a timely and accurate manner.

SEC. 5. COST.

(a) IN GENERAL.—Beginning with the first full fiscal
year after the date of enactment of this Act, the Commis-
sion shall include in the budget submission of the Commis-
sion to the President under sections 1105(a) and 1108
of title 31, United States Code, amounts sufficient to en-
sure the proper and continued functioning of the respon-
sibilities of the Commission under this Act.

(b) COST OF FABRIC.—

(1) USF.—The Commission may not use funds
from the universal service programs of the Commis-
sion established under section 254 of the Commu-
nications Act of 1934 (47 U.S.C. 254), and the reg-
ulations issued under that section, to pay for any
costs associated with this Act.

(2) OTHER FUNDS.—The Commission may re-
cover costs associated with this Act under section 9
of the Communications Act of 1934 (47 U.S.C. 9)
to the extent provided for in an appropriation Act,
as required under subsection (a) of that section.
SEC. 6. OTHER PROVISIONS.

(a) OMB.—Notwithstanding any other provision of law, the initial rulemaking required under section 3(a)(1) shall be exempt from review by the Office of Management and Budget.

(b) PRA.—Chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”) shall not apply to the initial rulemaking required under section 3(a)(1).

(c) EXECUTION OF RESPONSIBILITIES.—Except as provided in section 3(b)(1)(A)(ii), the Commission—

(1) including the offices of the Commission, shall carry out the responsibilities assigned to the Commission under this Act; and

(2) may not delegate any of the responsibilities assigned to the Commission under this Act to any third party, including the Universal Service Administrative Company.

(d) REPORTING.—Each fiscal year, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that summarizes the implementation of this Act and associated enforcement activities conducted during the previous fiscal year.