

117TH CONGRESS  
1ST SESSION

# H. R. 1051

To amend the Communications Act of 1934 to streamline siting processes for telecommunications service facilities, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2021

Mr. GRIFFITH introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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”.

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

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

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

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

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

9               “(1) PROHIBITION ON UNREASONABLE DIS-  
10 CRIMINATION AMONG PROVIDERS OF FUNCTIONALLY  
11 EQUIVALENT SERVICES.—The regulation of the  
12 placement, construction, or modification of a tele-  
13 communications service facility by any State or local  
14 government or instrumentality thereof shall not un-  
15 reasonably discriminate among providers of function-  
16 ally equivalent services.

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

19                       “(A) IN GENERAL.—A State or local gov-  
20 ernment or instrumentality thereof shall grant  
21 or deny a complete request for authorization to  
22 place, construct, or modify a telecommuni-  
23 cations service facility not later than—

24                               “(i) if the request is for authorization  
25 to place, construct, or modify such facility  
26 in or on eligible support infrastructure, 90

1 days after the date on which the complete  
2 request is received by the government or  
3 instrumentality; or

4 “(ii) for any other action relating to  
5 such facility, 150 days after the date on  
6 which the complete request is received by  
7 the government or instrumentality.

8 “(B) APPLICABILITY.—The applicable  
9 timeframe under subparagraph (A) shall apply  
10 collectively to all proceedings required by a  
11 State or local government or instrumentality  
12 thereof for the approval of the request.

13 “(C) NO TOLLING.—A timeframe under  
14 subparagraph (A) may not be tolled by any  
15 moratorium, whether express or de facto, im-  
16 posed by a State or local government or instru-  
17 mentality thereof on the consideration of any  
18 request for authorization to place, construct, or  
19 modify a telecommunications service facility.

20 “(D) TEMPORARY WAIVER.—The Commis-  
21 sion may temporarily waive the applicability of  
22 subparagraph (A) for not longer than a single  
23 30-day period for any complete request upon a  
24 demonstration by a State or local government  
25 or instrumentality thereof that the waiver would

1 be consistent with the public interest, conven-  
2 ience, and necessity.

3 “(3) DEEMED GRANTED.—

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

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

21 “(4) WRITTEN DECISION AND RECORD.—Any  
22 decision by a State or local government or instru-  
23 mentality thereof to deny a request to place, con-  
24 struct, or modify a telecommunications service facil-  
25 ity shall be—

1 “(A) in writing; and

2 “(B) supported by substantial evidence  
3 contained in a written record.

4 “(5) FEES.—

5 “(A) IN GENERAL.—Notwithstanding any  
6 other provision of law, a State or local govern-  
7 ment or instrumentality thereof may charge a  
8 fee that meets the requirements under subpara-  
9 graph (B)—

10 “(i) to consider a request for author-  
11 ization to place, construct, or modify a  
12 telecommunications service facility; or

13 “(ii) for use of a right-of-way or a fa-  
14 cility in a right-of-way owned or managed  
15 by the government or instrumentality for  
16 the placement, construction, or modifica-  
17 tion of a telecommunications service facil-  
18 ity.

19 “(B) REQUIREMENTS.—A fee charged  
20 under subparagraph (A) shall be—

21 “(i) competitively neutral, technology  
22 neutral, and nondiscriminatory;

23 “(ii) publicly disclosed;

24 “(iii) calculated—

1                   “(I) based on actual and direct  
2 costs, such as costs for—

3                   “(aa) review and processing  
4 of requests; and

5                   “(bb) repairs and replace-  
6 ment of—

7                   “(AA) components and  
8 materials resulting from and  
9 affected by the installation  
10 or improvement of tele-  
11 communications service fa-  
12 cilities; or

13                   “(BB) equipment that  
14 facilitates the installation or  
15 improvement of such facili-  
16 ties; and

17                   “(II) using, for purposes of sub-  
18 clause (I), only costs that are objec-  
19 tively reasonable; and

20                   “(iv) described to a requesting party  
21 in a manner that distinguishes between—

22                   “(I) nonrecurring fees and recur-  
23 ring fees; and

24                   “(II) the use of facilities on  
25 which telecommunications service fa-

1 cilities are already located and those  
2 on which there are no telecommuni-  
3 cations service facilities as of the date  
4 on which the complete request is re-  
5 ceived by the government or instru-  
6 mentality.

7 “(c) JUDICIAL REVIEW.—

8 “(1) IN GENERAL.—Any person adversely af-  
9 fected by a final action or failure to act by a State  
10 or local government or instrumentality thereof that  
11 is inconsistent with this section may, not later than  
12 30 days after the action or failure to act, commence  
13 an action in any court of competent jurisdiction.

14 “(2) TIMING.—A court shall hear and decide an  
15 action described in paragraph (1) on an expedited  
16 basis.

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

1       “(e) PRESERVATION OF STATE AND LOCAL GOVERN-  
2       MENT AUTHORITY.—Nothing in this section affects the  
3       authority of a State or local government or instrumen-  
4       tality thereof to manage the public rights-of-way or to re-  
5       quire fair and reasonable compensation from telecommuni-  
6       cations providers, on a competitively neutral and non-  
7       discriminatory basis, for use of public rights-of-way on a  
8       competitively neutral and nondiscriminatory basis, if the  
9       compensation required meets the requirements of sub-  
10      section (b)(5).

11      “(f) PREEMPTION.—

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

21           “(2) TIMING.—Not later than 60 days after re-  
22      ceiving a petition for preemption of the enforcement  
23      of a statute, regulation, or legal requirement as de-  
24      scribed in paragraph (1), the Commission shall  
25      grant or deny the petition.

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

4       “(h) RURAL MARKETS.—It shall not be a violation  
 5 of this section for a State to require a telecommunications  
 6 carrier that seeks to provide telephone exchange service  
 7 or exchange access in a service area served by a rural tele-  
 8 phone company to meet the requirements in section  
 9 214(e)(1) for designation as an eligible telecommuni-  
 10 cations carrier for that area before being permitted to pro-  
 11 vide such service. This subsection shall not apply—

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

17               “(2) to a provider of commercial mobile serv-  
 18 ices.

19       “(i) WHEN REQUEST CONSIDERED COMPLETE; RE-  
 20 CEIVED.—

21               “(1) WHEN REQUEST CONSIDERED COM-  
 22 PLETE.—

23               “(A) IN GENERAL.—For the purposes of  
 24 this section, a request to a State or local gov-  
 25 ernment or instrumentality thereof shall be con-

1           sidered complete if the requesting party has not  
2           received a written notice from the government  
3           or instrumentality within 10 business days after  
4           the date on which the request is received by the  
5           government or instrumentality—

6                   “(i) stating that all the information  
7                   (including any form or other document) re-  
8                   quired by the government or instrumen-  
9                   tality to be submitted for the request to be  
10                  considered complete has not been sub-  
11                  mitted; and

12                   “(ii) identifying the information re-  
13                   quired to be submitted that was not sub-  
14                   mitted.

15                  “(B) DEFINITION.—In this paragraph, the  
16                  term ‘received by the government or instrumen-  
17                  tality’ means—

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

21                   “(ii) in the case of a request sub-  
22                   mitted in person, on the date on which the  
23                   request is delivered to the individual or at  
24                   the location specified by the government or

1 instrumentality for in-person submission;  
2 and

3 “(iii) in the case of a request sub-  
4 mitted in any other manner, on the date  
5 determined under regulations promulgated  
6 by the Commission for the manner in  
7 which the request is submitted.

8 “(2) WHEN COMPLETE REQUEST CONSIDERED  
9 RECEIVED.—For the purposes of this section, a com-  
10 plete request shall be considered received on the date  
11 on which the requesting party submits to the govern-  
12 ment or instrumentality all information (including  
13 any form or other document) required by the govern-  
14 ment or instrumentality to be submitted for the re-  
15 quest to be considered complete.

16 “(j) DEFINITIONS.—In this section:

17 “(1) ELIGIBLE SUPPORT INFRASTRUCTURE.—  
18 The term ‘eligible support infrastructure’ means in-  
19 frastructure that supports or houses a facility for  
20 communication by wire (or is designed to and capa-  
21 ble of supporting or housing such a facility) at the  
22 time when a complete request to a State or local  
23 government or instrumentality thereof for authoriza-  
24 tion to place, construct, or modify a telecommuni-

1       cations service facility in or on the infrastructure is  
2       received by the government or instrumentality.

3               “(2) TELECOMMUNICATIONS SERVICE FACIL-  
4       ITY.—The term ‘telecommunications service facility’  
5       means a facility for the provision of any interstate  
6       or intrastate telecommunications service.”.

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