

118TH CONGRESS
1ST SESSION

H. R. 3300

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.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2023

Mrs. HARSHBARGER introduced the following bill; which was referred to the Committee on Energy and Commerce

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.

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