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ONE HUNDRED NINETEENTH CONGRESS
Congress of the United States
House of Representatives
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September 16, 2025

MEMORANDUM

To: Members, Energy and Commerce Committee
From: Majority Staff
Re: Communications and Technology Subcommittee Hearing

I. INTRODUCTION

On Thursday, September 18, 2025, at 2:00 p.m. (ET), the Subcommittee on Communications and Technology will hold a hearing in 2123 Rayburn House Office Building entitled, “Examining Solutions to Expedite Broadband Permitting.” The following witnesses are expected to testify:

II. WITNESSES

- Jonathan Spalter, President and CEO, USTelecom—The Broadband Association
- Patrick Halley, President and CEO, Wireless Infrastructure Association
- Staci Pies, Senior Vice President of Government Affairs and Policy, INCOMPAS
- Drew Garner, Director of Policy Engagement, Benton Institute for Broadband & Society

III. BACKGROUND

The United States faces a persistent digital divide. According to the Federal Communications Commission, approximately 5.8 million homes and businesses lack access to fixed broadband at 25 Mbps download/3 Mbps upload, while 31 percent of the geographic area of the United States lacks 4G LTE mobile broadband coverage at speeds of 5 Mbps/1 Mbps.¹ Since 2020, the federal government has dedicated tens of billions of dollars to address this need, most significantly through the Infrastructure Investment and Jobs Act.² But before a broadband

¹ *FCC National Broadband Map*, FED. COMM’N. COMM’N., <https://broadbandmap.fcc.gov/home> (last updated Sept. 3, 2025).

² Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. F, tit. I § 60101 *et seq.* (2021), (codified at 47 U.S.C. §§ 1701 *et seq.*)

provider can begin construction for new or modified broadband infrastructure, it must secure zoning and construction permits, pay application fees, and conduct environmental and historic preservation reviews. This process often requires cooperation among federal agencies, state and local governments, and sometimes, railroad companies or the owners of utility poles. Unfortunately, the unpredictable timelines for permit approvals and high fees for processing applications have delayed broadband deployment and made it more expensive, often including burdensome processes.³ Streamlining these regulations is essential to ensuring that all Americans have access to the connectivity needed to participate fully in the digital economy.

IV. SELECTED ISSUES

A. Federal Barriers

The federal government manages a significant amount of land through the Department of the Interior (Bureau of Land Management (BLM), National Parks Service, Fish and Wildlife Service) and the Department of Agriculture (Forest Service (USFS)), in addition to federal buildings across the country. As a result, these agencies are responsible for reviewing and approving applications to deploy broadband on federal property. Federal agencies, however, often take significant time to review these applications, which results in project delays.⁴ To address this, Congress directed the General Services Administration to develop a common form for applications to place communications facilities on federal property, and set a 270-day shot clock for granting or denying such applications.⁵ Nonetheless, since establishing the shot clock, 36 percent of BLM and USFS permit reviews took more than 270 days.⁶ And despite Congressional direction and interagency recommendations for improvement, many challenges remain unaddressed.⁷ For example, not all federal agencies use an online application portal for processing broadband installation applications, which may result in uncertainty or unnecessary delay.

Other federal laws complicate broadband infrastructure deployment. The National Historic Preservation Act (NHPA)⁸ and the National Environmental Policy Act of 1969 (NEPA)⁹

³ See, e.g., DEP'T OF COMM. OFF. OF INSPECTOR GEN., *Broadband Stakeholders Identified Various Challenges Affecting Broadband Deployment*, OIG-25-014-I at 5-6 (Mar. 20, 2025), <https://www.oig.doc.gov/wp-content/OIGPublications/OIG-25-014-I-SECURED-Final-Report.pdf> (Commerce OIG Report, describing the lengthy and costly permit process).

⁴ *Id.*; See also U.S. GOV'T ACCOUNTABILITY OFF., GAO-24-106157, *Broadband Deployment: Agencies Should Take Steps to Better Meet Deadline for Processing Permits*, at 13 (2024) (GAO Broadband Permitting Report); See also Linda Hardesty, *Whoa – The Fiber Permitting Process Could Crush Digital Divide Dreams*, FIERCE TELECOM (Dec. 9, 2021), <https://www.fiercetelecom.com/broadband/whoa-fiber-permitting-process-could-crush-digital-divide-dreams> (describing federal approvals needed to deploy broadband).

⁵ 47 U.S.C. § 1455(b)(2), (3).

⁶ GAO Broadband Permitting Report, *supra* note 4, at 13.

⁷ See NAT'L TELECOMM. INFO. ADMIN. (NTIA), *Final Report on Status of Implementation of MOBILE NOW Act Section 606(c) Requirements*, at 4 (2020), https://ntia.gov/sites/default/files/publications/mobile_now_act_section_606c_report_2022.pdf.

⁸ 54 U.S.C. §§ 300101 *et seq.*

⁹ 42 U.S.C. §§ 4321 *et seq.*

create obstacles to deployment due to costly and cumbersome required reviews,¹⁰ though federal agencies have attempted to expedite these processes. For example, the National Telecommunications and Information Administration (NTIA) has established 30 categorical exclusions under NEPA (in addition to 11 previously set by the Department of Commerce).¹¹ NTIA also requires states to use the Environmental Screening and Permitting Tracking Tool to expedite NEPA approvals within two weeks for approximately 90 percent of Broadband Equity, Access, and Deployment (BEAD) projects and to eliminate approximately 3-6 months of environmental processing per project.¹² But not all streamlining efforts have succeeded. In 2018, the FCC tried to exempt small-cell wireless antenna construction from NHPA and NEPA reviews,¹³ but the U.S. Court of Appeals for the District of Columbia Circuit vacated that action.¹⁴ In August of this year, the Commission adopted a Notice of Proposed Rulemaking (NPRM) seeking comment on updating its NEPA and NHPA rules related to wireless infrastructure.¹⁵

B. State and Local Government Obstacles

State and local governments play a key role in facilitating, or hindering, broadband infrastructure deployment. They regulate land use, review siting applications, and issue relevant permits. State and local governments' review processes can be inconsistent with each other and costly, which can delay or even effectively prevent broadband deployment. For example, some state and local governments charge excessive fees for applications or to access the public rights-of-way for construction, and they often impose no deadlines for review of applications.¹⁶

These challenges persist notwithstanding federal law preempting state and local authority to regulate communications facilities. Under Section 253 of the Communications Act of 1934, “no State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.”¹⁷ Section 253 requires the Commission to preempt the enforcement of any such law.¹⁸ Similarly, Section 332(c)(7) of the Communications Act states that “[t]he regulation of the placement, construction, and modification of personal wireless service facilities

¹⁰ Commerce OIG Report, *supra* note 3, at 6.

¹¹ NTIA, *Guidance on NTIA National Environmental Policy Act Compliance* (June 2025),

https://broadbandusa.ntia.gov/sites/default/files/2025-06/NTIA_NEPA_Procedures_June_2025.pdf.

¹² NTIA, *Broadband Equity, Access, and Deployment (BEAD) Program: BEAD Restructuring Policy Notice* (June 6, 2025), <https://www.ntia.gov/sites/default/files/2025-06/bead-restructuring-policy-notice.pdf>.

¹³ *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, Second Report and Order, 33 FCC Rcd. 3102 (2018).

¹⁴ *United Keetoowah Band of Cherokee Indians in Oklahoma v. FCC*, 933 F.3d 728 (D.C. Cir. 2019) (vacating an FCC order eliminating NEPA and NHPA requirements as arbitrary and capricious for failing to justify that public interest did not require review of small cell deployments).

¹⁵ *Modernizing the Commission's National Environmental Policy Act Rules*, WT Docket No. 25-217, Notice of Proposed Rulemaking, FCC 25-47 (rel. Aug. 14, 2025) (available in the Federal Register at 90 Fed. Reg. 40295).

¹⁶ *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, WC Docket No. 17-84, Declaratory Ruling and Third Report and Order, 33 FCC Rcd. 9088 (2018).

¹⁷ 47 U.S.C. § 253(a).

¹⁸ *Id.* at § 253(d).

by any State or local government or instrumentality thereof . . . shall not prohibit or have the effect of prohibiting the provision of personal wireless services.”¹⁹

The FCC has used its authority to address state and local barriers to broadband infrastructure deployment, particularly from 2018-2020. In 2018, the Commission streamlined state and local government review of wireless small-cell siting applications by limiting application fees these governments could charge an applicant, setting new shot clocks for small-cell wireless facilities (60 days for collocation of antennas on existing structures and 90 days for new facilities), codifying existing presumptive timeframes for non-small cell wireless deployments, and adopting a new remedy for failing to act within the shot-clock period.²⁰ The FCC also declared that state and local governments cannot ban the deployment of telecommunications services or facilities or enact *de facto* bans, such as blanket refusals to process applications, refusals to issue permits for a category of structures, or frequent and lengthy delays.²¹ In 2020, the FCC clarified when shot clocks begin, how certain aspects of proposed modifications affect eligibility for streamlined review, and when FCC applicants need to submit environmental assessments based only on potential impacts to historic properties.²² Local governments challenged these actions in federal court, but the FCC prevailed each time.²³

Later this month, the FCC will vote on a Notice of Inquiry related to streamlining state and local wireline permitting and an NPRM on further streamlining the state and local wireless permitting process.²⁴

C. Pole Attachments

Deploying broadband infrastructure—particularly fiber infrastructure—sometimes requires access to utility poles. Broadband providers attach their fiber, antennas, and other communications equipment to poles as they build their networks. The regulation of rates and terms and conditions (including timelines for reviewing applications) for pole attachments differ depending on which entity owns a given pole. The FCC regulates attachments to poles owned by investor-owned utilities and private companies in states that do not regulate pole attachments themselves.²⁵ Poles owned by telephone and electric cooperatives, municipalities, and public

¹⁹ 47 U.S.C. § 332(c)(7)(B)(i).

²⁰ *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, WC Docket No. 17-84, Declaratory Ruling and Third Report and Order, 33 FCC Rcd. 9088 (2018).

²¹ *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, WT Docket No. 17-79, Third Report and Order and Declaratory Ruling, 33 FCC Rcd. 7705 (2018); *see also* 47 U.S.C. § 253.

²² *Id.*

²³ *City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020) (generally upholding the 2018 FCC infrastructure orders); *League of Calif. Cities v. FCC*, 118 F.4th 995 (9th Cir. 2024) (upholding the 2020 FCC infrastructure order).

²⁴ *FCC Announces Tentative Agenda for September Open Meeting*, Press Release (rel. Sept. 9, 2025), <https://docs.fcc.gov/public/attachments/DOC-414409A1.pdf>.

²⁵ 47 U.S.C. § 224(b)(1).

utilities, however, are exempt from these regulations,²⁶ as are poles in twenty-three states and the District of Columbia that have certified that their regulations meet certain federal standards.²⁷

Costs, zoning, and other local restrictions limit the construction of new poles. In some areas, cooperatives or municipalities own the only available poles. As a result, attachers face large discrepancies in pole attachment rates and response times. One study found that cooperatives and municipalities charge pole attachment rates that are 2-3 times the rates charged by investor-owned utilities,²⁸ making it more costly to deploy in those areas. And in many areas, cooperatives and municipalities now offer broadband of their own, making them direct competitors with their attachers, which may create an incentive to charge higher rates.²⁹ Cooperatives, on the other hand, argue that factors such as low population density and higher costs associated with deployment in rural areas are the cause of higher rates.³⁰

D. Railroad Crossings

Railroad carriers have also hindered broadband deployment. Broadband providers sometimes need to cross a rail corridor when building out a network, which requires cooperation from the rail carrier that owns the corridor. Unfortunately, this process can be expensive, as the rail carrier may demand excessive fees for reviewing the request or for allowing access to the corridor, and time-consuming because of delays reviewing requests.³¹ This is especially problematic when a broadband provider already has permission to deploy in a public right-of-way that the rail corridor crosses, forcing an additional review and incurring new fees. Some states, including Virginia, Iowa, Nebraska, Minnesota, and Illinois, have passed laws addressing fees and deadlines related to broadband deployment through transportation crossings.³²

V. RELATED LEGISLATION

²⁶ *Id.* at § 224(a)(1) (excluding “any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State” from the definition of “utility.”).

²⁷ *Id.* at § 224(c).

²⁸ Michelle Connolly, Ph.D, *The Economic Impact of Section 224 Exemption of Municipal and Cooperative Poles* (July 12, 2019), <https://ssrn.com/abstract=4267326>.

²⁹ *Id.*

³⁰ Brian O’Hara, *Rural Electric Cooperatives: Pole Attachment Policies and Issues*, NAT’L. RURAL ELECTRIC COOPERATIVE ASS’N. (June 2019), https://www.cooperative.com/programs-services/government-relations/regulatory-issues/Documents/2019.06.05%20NRECA%20Pole%20Attachment%20White%20Paper_FINAL.pdf.

³¹ See Comments of INCOMPAS, FCC GN Docket No. 24-119 at 27-28 (filed June 6, 2024). (Rail carriers cite safety as the main issue. As such, deploying broadband through a rail corridor requires certain precautions, such as flaggers, during construction and other steps to ensure no risks to rail operations. Deployment also requires compensation for reviewing applications, paying workers, and for use of their property.); See also Association of American Railroads, *Freight Rail Rights-of-Way Access*, (last accessed Sept. 16, 2025) <https://www.aar.org/issue/right-of-way-access/> (including permitting chart and fact sheet).

³² Diana Goovaerts, *Virginia Tackles Thorny Issue of Fiber Railroad Crossings*, FIERCE NETWORK (Feb. 1, 2023), <https://www.fierce-network.com/telecom/virginia-tackles-thorny-issue-fiber-railroad-crossings>; See also, *Norfolk Southern Railway Company v. State Corporation Commission*, 915 S.E.2d 305 (Va. 2025) (where the Virginia Supreme Court found the Virginia law unconstitutional under the Constitution of Virginia).

1. H.R. 278, the “BROADBAND Leadership Act” (Rep. Griffith)

This bill would streamline permitting processes for telecommunications service providers by preserving state and local zoning authority subject to reasonable limitations, like shot clocks and cost-based fees, to ensure providers receive an answer on their applications in a timely manner.

2. H.R. 339, the “Broadband Resiliency and Flexible Investment Act” (Rep. Crenshaw)

This bill would expedite the approval process for modifications to wireline facilities that would not substantially expand their existing footprint, including those that would improve public safety and resiliency.

3. H.R. 1343, the “Federal Broadband Deployment Tracking Act” (Reps. Pfluger and Soto)

This bill would require NTIA to submit a plan to Congress on tracking the acceptance, processing, and disposal of requests for communications use authorizations on federal property.

4. H.R. 1541, the “Wireless Broadband Competition and Efficient Deployment Act” (Rep. Rulli)

This bill would remove the requirement to prepare an environmental or historic preservation review to add or upgrade wireless facilities on existing infrastructure.

5. H.R. 1588, the “Facilitating DIGITAL Applications Act” (Reps. Miller-Meeks and Dingell)

This bill would require the NTIA to update Congress on whether the Departments of Interior and Agriculture have established an online portal for the acceptance, processing, and disposal of the common form application to deploy a communications facility on federal property.

6. H.R. 1617, the “Wireless Resiliency and Flexible Investment Act of 2025” (Rep. Langworthy)

This bill would make it easier to improve the resiliency of communications networks by expediting the approval process to modify existing wireless facilities to provide backup power or more reliable connection capabilities.

7. H.R. 1655, the “Wildfire Communications Resiliency Act” (Rep. Bentz)

This bill would remove the requirement to prepare an environmental or historic preservation review to add or upgrade wireless facilities on existing infrastructure.

8. H.R. 1665, the “DIGITAL Applications Act” (Reps. Cammack and Matsui)

This bill would establish an online portal to accept, process, and dispose of the common form application to deploy a communications facility on federal property.

9. H.R. 1681, the “Expediting Federal Broadband Deployment Act” (Reps. Evans and Craig)

This bill would direct NTIA to lead an interagency strike force to help prioritize reviews for requests to deploy broadband on federal land.

10. H.R. 1731, the “Standard FEES Act” (Reps. Palmer and Ryan)

This bill would establish a common fee for processing applications to deploy communications facilities on federal property.

11. H.R. 1836, the “GRANTED Act of 2025” (Rep. Obernolte)

This bill would create a deemed granted remedy for applications to place infrastructure on federal lands that remain pending after 270 days.

12. H.R. 1975, the “BEAD FEE Act of 2025” (Rep. Allen)

This bill would require states accepting BEAD money to ensure that application fees charged by state and local governments are transparent, competitively neutral, and cost-based.

13. H.R. 2289, the “Proportional Reviews for Broadband Deployment Act” (Rep. Carter)

This bill would speed up the process to modify an existing wireless tower or base station through the addition, removal, or replacement of transmission equipment.

14. H.R. 2298, the “Reducing Barriers for Broadband on Federal Lands Act of 2025” (Rep. Fulcher)

This bill would remove the requirement to prepare an environmental or historic preservation review for the deployment of broadband projects on previously disturbed federal lands.

15. H.R. 2817, the “Coastal Broadband Deployment Act” (Rep. Bilirakis)

This bill would remove the requirement to prepare an environmental or historic preservation review for the deployment of broadband projects entirely within a floodplain.

16. H.R. 2975, Broadband Incentives for Communities Act (Rep. Fletcher)

This bill would create a grant program at NTIA to assist local governments and Indian Tribes improve the efficiency of their broadband permitting reviews.

17. H.R. 3960, the “Connecting Communities Post Disasters Act of 2025” (Rep. Dunn)

This bill would accelerate replacing and improving communications facilities in Presidentially declared disaster areas.

18. H.R. 4211, the “Brownfields Broadband Deployment” (Rep. Walberg)

This bill would remove the requirement to prepare an environmental or historic preservation review for the deployment of a broadband project entirely within a brownfields site, which is previously disturbed land.

19. H.R. 4927, the “CABLE Competition Act” (Rep. Houchin)

This bill would streamline the transfer of a franchise from a franchise authority to a cable operator.

20. H.R. 5147, the “Winning the International Race for Economic Leadership and Expanding Service to Support Leadership Act” or the “WIRELESS Leadership Act” (Rep. Latta)

This bill would streamline permitting processes for wireless providers by preserving state and local zoning authority subject to reasonable limitations, like shot clocks and cost-based fees, to ensure providers receive an answer on their applications in a timely manner.

21. H.R. 5170, the “Cable Access for Broadband and Local Economic Leadership Act” or the “CABLE Leadership Act” (Rep. Balderson)

This bill would place shot clocks on a cable franchising authority to act on a request for a new franchise to speed up deployment.

22. H.R. 5264, the “Streamlining Permitting to Enable Efficient Deployment for Broadband Infrastructure or the “SPEED for Broadband Infrastructure Act” (Rep. Goldman)

This bill would reduce federal red tape by exempting broadband facilities from burdensome environmental and historic preservation reviews on federal property where a previous communications facility has already been approved.

23. H.R. 5266, the “5G Using Previously Granted Rulings that Accelerate Deployment Everywhere Act” or the “5G UPGRADE Act” (Rep. Harshbarger)

This bill would speed up the process to modify wireless facilities on existing infrastructure by codifying shot clocks to review and approve applications.

24. H.R. 5273, the “Broadband Competition and Efficient Deployment Act” (Rep. Joyce)

This bill would remove the requirement to prepare an environmental or historic preservation review in order to add or upgrade wireline facilities.

25. H.R. 5290, Cable Transparency Act (Rep. Weber)

This bill would clarify and make more transparent the terms for a cable franchise.

26. H.R. 5311, the Connecting and Building Lines for Expedited Expansion or the “CABLE Expansion Act” (Rep. Fedorchak)

This bill would streamline permitting processes for cable operators by preserving franchising authority subject to reasonable limitations, like shot clocks, to ensure cable operators receive an answer on applications to upgrade or deploy new facilities in a timely manner.

27. H.R. 5318, the “Reducing Antiquated Permitting for Infrastructure Deployment Act” (Rep. Hudson)

This bill would provide clarity and certainty for providers to comply with historical regulations and speed up the deployment of wireless infrastructure.

28. H.R. 5358, the “TRUSTED Broadband Networks Act” (Rep. Fry)

This bill would remove the requirement to prepare an environmental or historic preservation review prior to removing and replacing network equipment that puts our national security at risk.

29. H.R. ____, the Broadband and Telecommunications RAIL Act

This discussion draft is led by Rep. Joyce. It would streamline the process for deploying broadband infrastructure in a public right-of-way that crosses a rail corridor and in railroad rights-of-way by clarifying the notification and application process, applying shot clocks on application reviews, and limiting fees for applications.

VI. KEY QUESTIONS

- How can permitting legislation help expedite broadband deployment?
- Why is it necessary to codify the FCC's existing rules and interpretations streamlining broadband deployment?
- How can we build transparency into the federal permitting process?

VII. STAFF CONTACTS

If you have any questions regarding this hearing, please contact John Lin of the Committee Staff at (202) 225-3641.