

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Build America: Eliminating Barriers to
Wireline Deployments

)
)
)
)
)
)

WC Docket No. 25-253

COMMENTS OF THE WIRELESS INFRASTRUCTURE ASSOCIATION

Stephen Keegan
Senior Counsel, Government & Legal
Affairs

**WIA – The Wireless Infrastructure
Association**
2111 Wilson Blvd., Suite 210
Arlington, VA 22201
800.759.0300

Contents

I.	INTRODUCTION AND SUMMARY	1
II.	THE COMMISSION POSSESSES CLEAR AUTHORITY TO ADOPT THE PROPOSED REFORMS AND THERE IS SUBSTANTIAL EVIDENCE FOR THE NEED OF THESE REFORMS.	2
A.	CONGRESS PROVIDED THE COMMISSION WITH CLEAR AND SUFFICIENT AUTHORITY TO ENSURE PREDICTABLE PERMITTING PROCESSES NATIONALLY.	2
B.	THE RECORD DEMONSTRATES PERSISTENT AND SIGNIFICANT BARRIERS TO WIRELINE DEPLOYMENT.	3
III.	THE COMMISSION SHOULD ADOPT ITS PROPOSED REFORMS TO ENSURE A PREDICTABLE, PROPORTIONATE, AND TIMELY PERMITTING LANDSCAPE.....	4
A.	EXCESSIVE DELAY REMAINS ONE OF THE MOST SIGNIFICANT BARRIERS TO COMMUNICATIONS INFRASTRUCTURE DEPLOYMENT THAT CAN BE ADDRESSED THROUGH PRESUMPTIVELY REASONABLE TIMEFRAMES.....	4
B.	THE COMMISSION SHOULD REIGN IN EXCESSIVE FEES THAT MATERIALLY INHIBIT DEPLOYMENT BY ADOPTING ITS PROPOSED COST-BASED FEE FRAMEWORK.....	5
i.	The Proposed Cost-Based Standard Represents the Best Interpretation of Section 253...	6
ii.	Safe Harbors Will Promote Certainty and Reduce Disputes Where Properly Implemented.	7
iii.	Consultant Costs and Third-Party Review Charges Merit Particular Scrutiny.	8
IV.	ENSURING REFORMS APPLY TO MODERN COMMUNICATIONS INFRASTRUCTURE BEST SERVES THE COMMISSION’S STATUTORY OBLIGATIONS TO FACILITATE THE TIMELY DEPLOYMENT OF ADVANCED TELECOMMUNICATIONS CAPABILITIES.....	9
V.	THE COMMISSION SHOULD CONTINUE TO EVALUATE POTENTIAL IMPROVEMENTS TO THE SITING PROCESS.....	11
VI.	CONCLUSION.....	11

I. INTRODUCTION AND SUMMARY

The Wireless Infrastructure Association (“WIA”)¹ respectfully submits these Comments in response to the Commission’s Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding.² WIA strongly supports the Commission’s continued efforts under its Build America Agenda to eliminate unnecessary regulatory barriers that impede the deployment of communications infrastructure essential to economic growth, technological leadership, and universal connectivity. The proposals contained in the NPRM represent an important and well-supported next step in advancing these objectives.

As the Commission recognized in the NPRM, modern networks depend upon extensive and increasingly interconnected wireline infrastructure.³ Fiber transport networks, middle-mile facilities, backhaul connections, and other wireline assets provide the foundational connectivity upon which advanced communications services, including next generation wireless networks, depend. The deployment barriers identified throughout this proceeding therefore affect not only traditional wireline providers but the broader communications ecosystem that leverages and builds upon these facilities.

The need for Commission action is especially acute as the United States seeks to maintain global leadership in wireless, artificial intelligence, advanced broadband deployment, and other next-generation communications networks. Broadband connectivity will be foundational to both the development and deployment of AI technologies.

¹ The Wireless Infrastructure Association (“WIA”) represents the businesses that build, develop, own, and operate the nation’s wireless infrastructure. Members include infrastructure providers, wireless carriers, and professional services firms that are responsible for telecommunications facilities around the globe.

² *Build America: Eliminating Barriers to Wireline Deployments*, Notice of Proposed Rulemaking, WC Docket No. 25-253 (rel. June 26, 2026) [“Wireline NPRM”].

³ See Wireline NPRM at paras. 2-4.

For these reasons, WIA generally supports the Commission's proposals to:

- Establish a rebuttable presumption that state and local governments have effectively prohibited the provision of telecommunications services when they fail to act on required authorizations within 120 days;
- Adopt a cost-based fee framework that limits compensation to objectively reasonable costs associated with rights-of-way management;
- Ensure that in-kind compensation demands are subject to the same statutory limitations that apply to monetary compensation;
- Apply Section 253 protections to infrastructure that supports commingled telecommunications and non-telecommunications services; and
- Extend these protections to requests involving government-owned facilities located within public rights-of-way.

Collectively, these reforms would promote the predictable, proportionate, and transparent permitting processes necessary to support continued private investment in communications infrastructure while preserving legitimate state and local interests in managing public resources and protecting public safety. WIA therefore encourages the Commission to move forward with rules substantially consistent with the NPRM.

II. THE COMMISSION POSSESSES CLEAR AUTHORITY TO ADOPT THE PROPOSED REFORMS AND THERE IS SUBSTANTIAL EVIDENCE FOR THE NEED OF THESE REFORMS.

A. CONGRESS PROVIDED THE COMMISSION WITH CLEAR AND SUFFICIENT AUTHORITY TO ENSURE PREDICTABLE PERMITTING PROCESSES NATIONALLY.

Section 253 reflects Congress's determination that state and local requirements may not prohibit or have the effect of prohibiting the provision of telecommunications services. As the Commission explains, that authority extends beyond explicit prohibitions and reaches regulatory requirements that materially impede deployment through excessive delay, unreasonable compensation demands, or other burdens. The NPRM's proposals are firmly grounded in both Commission precedent and judicial decisions recognizing these principles. Importantly, the Commission is not displacing legitimate state and local authority to manage rights-of-way or protect public safety, but rather clarifying the line between appropriate administration and barriers

that frustrate federal deployment objectives. Indeed, by providing clearer expectations, more predictable standards, and workable safe harbors, the Commission's proposals should reduce disputes and provide greater certainty for providers and governmental entities alike.

B. THE RECORD DEMONSTRATES PERSISTENT AND SIGNIFICANT BARRIERS TO WIRELINE DEPLOYMENT.

The record leaves little doubt that significant deployment barriers remain. Providers, trade associations, and other stakeholders consistently identified excessive permitting delays, fragmented approval processes, unpredictable rights-of-way requirements, unreasonable fees, and burdensome in-kind demands in the record leading up to the NPRM.⁴ The broad agreement among commenters from across the communications ecosystem demonstrates that these obstacles are systemic rather than isolated and continue to inhibit investment and deployment nationwide. The Commission also correctly recognizes that these barriers often produce effects extending well beyond any single jurisdiction by delaying multi-jurisdictional projects, diverting capital, and increasing deployment uncertainty across entire network builds.⁵

For these reasons, WIA agrees with the Commission's tentative conclusion that Congress provided ample authority to adopt the proposed reforms and establish administrable standards governing wireline deployment. The Commission should not hesitate to exercise that authority in furtherance of Congress's longstanding objective of ensuring that communications infrastructure can be deployed efficiently and competitively throughout the nation.

⁴ Wireline NPRM at para. 11 (discussing record support developed in response to the Notice of Inquiry).

⁵ *Id.* ("The record is also clear that the barriers created by such state and local governments have a ripple effect, with excessive delays, fees, and conditions in one jurisdiction impacting a provider's ability to complete a deployment and provide services in other jurisdictions.").

III. THE COMMISSION SHOULD ADOPT ITS PROPOSED REFORMS TO ENSURE A PREDICTABLE, PROPORTIONATE, AND TIMELY PERMITTING LANDSCAPE.

A. EXCESSIVE DELAY REMAINS ONE OF THE MOST SIGNIFICANT BARRIERS TO COMMUNICATIONS INFRASTRUCTURE DEPLOYMENT THAT CAN BE ADDRESSED THROUGH PRESUMPTIVELY REASONABLE TIMEFRAMES.

WIA strongly supports the Commission’s proposal to establish a rebuttable presumption that a state or local government has effectively prohibited the provision of telecommunications services when it fails to act on required authorizations within 120 days.⁶ The Commission appropriately recognizes that modern communications networks cannot be built efficiently where deployment schedules remain subject to indefinite or unpredictable governmental review.

As WIA previously explained, uncertainty itself can operate as a deployment barrier because applicants cannot efficiently plan capital expenditures, construction schedules, or network expansion when review timelines remain open-ended.⁷ The proposed deadline is not an arbitrary benchmark; rather, it reflects the point at which delay becomes presumptively inconsistent with Section 253 while preserving ample flexibility for legitimate review, engineering, safety, and right-of-way management functions. The fact that many jurisdictions already process comparable applications in less than 120 days further demonstrates the reasonableness of the Commission’s proposal.⁸

WIA also supports the Commission’s tentative conclusion that all authorizations necessary for deployment within a particular right-of-way should be subject to the same overall review

⁶ Wireline NPRM at paras. 12-15.

⁷ See Reply Comment of WIA, WC Docket No. 25-253, Notice of Inquiry (Dec. 17, 2025) [“WIA NOI Reply Comments”].

⁸ Wireline NPRM at para 17.

timeline.⁹ The effectiveness of any deadline would be severely undermined if jurisdictions could require providers to navigate sequential approval processes that extend indefinitely through multiple permitting stages.

Modern infrastructure projects often require numerous approvals, including right-of-way agreements, construction permits, excavation permits, traffic-control permits, restoration approvals, inspections, and other authorizations. A provider cannot proceed with construction until this entire process is complete. The deployment impacts associated with delay therefore arise from total processing time rather than the timeline applicable to any individual approval.

B. THE COMMISSION SHOULD REIGN IN EXCESSIVE FEES THAT MATERIALLY INHIBIT DEPLOYMENT BY ADOPTING ITS PROPOSED COST-BASED FEE FRAMEWORK.

WIA strongly supports the Commission's proposal to codify a cost-based standard for wireline deployment fees imposed by state and local governments. The record overwhelmingly demonstrates that excessive and unpredictable fees continue to impede investment and deployment decisions throughout the country. Numerous commenters described projects delayed, scaled back, or abandoned because fee demands bore little relationship to actual governmental costs.¹⁰ The NPRM correctly concludes that such requirements can constitute effective prohibitions under Section 253.

The problem is particularly acute because communications infrastructure is typically planned and financed across broad geographic areas. Providers must make investment decisions using finite pools of capital. Excessive charges imposed by one jurisdiction frequently affect a provider's ability to deploy infrastructure elsewhere. The aggregate burdens identified in the

⁹ *Id.* at paras. 20-21.

¹⁰ *See id.* at 35 (highlighting examples of delays that providers have experienced).

record therefore have consequences extending well beyond individual localities. The Commission's focus on cumulative deployment effects is therefore entirely appropriate.

Moreover, excessive fees frequently introduce uncertainty that itself inhibits deployment. Investors, lenders, project planners, and network operators all rely upon reasonably predictable cost assumptions. Jurisdictions that reserve broad discretion to impose novel or excessive charges create additional investment risk that can influence whether projects proceed. This concern was repeatedly identified throughout the NOI record and remains highly relevant to the Commission's decision-making in this proceeding.

i. The Proposed Cost-Based Standard Represents the Best Interpretation of Section 253.

WIA supports the Commission's tentative conclusion that compensation permitted under Section 253(c) should be tied to objectively reasonable governmental costs associated with management of the public rights-of-way.¹¹ This interpretation is fully consistent with statutory text, Commission precedent, and judicial decisions discussed extensively throughout the NPRM.

In adopting Section 253, Congress preserved authority to manage rights-of-way and recover fair and reasonable compensation while simultaneously prohibiting requirements that have the effect of prohibiting telecommunications services. The Commission reasonably reconciles these statutory directives through the proposed cost-based framework. Under that approach, governments remain fully capable of recovering legitimate costs while providers remain protected against burdens that transform rights-of-way management into a revenue-generating mechanism unrelated to deployment impacts.

¹¹ *Id.* at paras. 36-37.

The Commission's proposal also appropriately reflects the economic realities of communications infrastructure deployment. Providers do not object to paying legitimate costs associated with review, inspection, management, and administration. Rather, concerns arise when fee demands substantially exceed any rational connection to those activities. By anchoring compensation to actual and direct costs, the Commission provides a practical, administrable framework that respects both governmental and deployment interests.

ii. Safe Harbors Will Promote Certainty and Reduce Disputes Where Properly Implemented.

WIA strongly supports the Commission's proposal to establish fee safe harbors. Safe harbors offer substantial advantages for providers and governmental entities alike. Most importantly, they provide predictability. Jurisdictions operating within safe harbor thresholds obtain assurance that their practices are presumptively compliant. Providers benefit from reduced uncertainty and improved investment planning. Litigation incentives diminish. Administrative costs decrease. Deployment can proceed more efficiently.

For these safe harbors to have the intended impact, WIA encourages the Commission to include ancillary costs, particularly in-kind contributions, in the calculation of the costs or fees charged to the applicant. As the Commission notes in the NPRM, the cost to providers to deploy infrastructure may include things beyond the dollar amount on the application.¹² When utilized, in-kind contributions can often become a hidden fee foisted on infrastructure providers. It is therefore logical and important that any reforms the Commission adopts regarding limits on fees charged to providers includes these ancillary costs. WIA supported the Commission's efforts to

¹² Wireline NPRM at para. 63-65.

reasonably limit these costs as part of its Small Cell Order and urges it to similarly implement these rules for wireline deployments.

The Commission's approach is particularly attractive because it preserves flexibility. The NPRM does not propose rigid nationwide caps disconnected from actual costs. Instead, it contemplates presumptions that can be rebutted where necessary. Jurisdictions that incur demonstrated costs above safe harbor levels would retain an opportunity to justify those costs. This balanced structure should encourage broad compliance while preserving necessary flexibility.

iii. Consultant Costs and Third-Party Review Charges Merit Particular Scrutiny.

One issue deserving particular Commission attention involves consultant fees and third-party review charges. WIA's members have substantial experience across communications infrastructure sectors with consultant-driven review processes that can dramatically increase deployment costs without providing corresponding public benefits.¹³

While outside expertise may occasionally be appropriate, jurisdictions should not be permitted to use consultants in ways that undermine the objectives of Section 253. Consultant fees must remain subject to the same cost-recovery principles that govern other governmental charges. Excessive consultant rates, duplicative review activities, open-ended consulting engagements, and consultant fees disconnected from actual project needs should not qualify as objectively reasonable costs recoverable from applicants.

The Commission specifically seeks comment regarding objectively reasonable costs and expressly raises the possibility that exorbitant consultant charges should be excluded from recoverable cost calculations. WIA agrees that consultant expenses warrant heightened scrutiny,

¹³ See Comments of WIA, *Build America: Eliminating Barriers to Wireless Deployment*, WT Docket No. 25-276 at 27, (Dec. 31, 2025). See also Wireline NPRM at para. 49-50 (providing record support of excessive fees and particularly emphasizing the relationship to third-party consultants).

particularly where consultant activities duplicate governmental review functions or materially increase deployment costs without corresponding benefits.

Such practices can be especially problematic because consultant expenses often lack transparency and may be difficult for applicants to predict during project planning. Incorporating appropriate safeguards regarding consultant cost recovery would further strengthen the effectiveness of the Commission's proposed framework.

IV. ENSURING REFORMS APPLY TO MODERN COMMUNICATIONS INFRASTRUCTURE BEST SERVES THE COMMISSION'S STATUTORY OBLIGATIONS TO FACILITATE THE TIMELY DEPLOYMENT OF ADVANCED TELECOMMUNICATIONS CAPABILITIES.

WIA strongly supports the Commission's proposal to clarify that infrastructure capable of providing telecommunications services remains protected under Section 253 even when that infrastructure also supports broadband, cloud, enterprise, AI-related, or other non-telecommunications services. This issue is particularly important given the architecture of modern communications networks and represents one of the most consequential proposals contained in the NPRM.

As numerous parties explained during the NOI proceeding, communications networks today are rarely constructed for a single service.¹⁴ Fiber networks routinely transport telecommunications traffic, broadband Internet traffic, enterprise communications traffic, cloud connectivity, and a growing array of data-intensive applications using the same physical facilities. Network operators design infrastructure to accommodate changing consumer demand, evolving

¹⁴ See, e.g., Wireline Deployment NOI Multi-Association Letter, WC Docket No. 25-253 (Dec. 17, 2025) (representing the views of several communications-focused trade associations on the need for clear rules to facilitate next generation deployments).

technology, and future service offerings that may not be fully known at the time of deployment. The practical reality is that communications infrastructure is increasingly multi-purpose by design.

As the Commission correctly observes, that inquiry focuses on the capability of infrastructure to support telecommunications services rather than the particular mix of traffic moving across the network at any specific moment in time.¹⁵ Requiring providers, regulators, or local governments to continually determine whether specific facilities retain sufficient telecommunications functionality to qualify for federal protection would create significant uncertainty and invite unnecessary disputes. The Commission's proposed rule sensibly avoids those problems.

The Commission's proposal will also help support continued investment in next-generation communications infrastructure. Networks supporting advanced computing, AI development, cloud services, and other emerging technologies increasingly rely upon infrastructure capable of supporting both telecommunications and non-telecommunications traffic.¹⁶ The Commission correctly recognizes that these deployment realities must inform the interpretation and application of Section 253.

Establishing a clear rule on this issue will provide significant benefits to providers, governments, investors, and consumers. It will eliminate uncertainty regarding the status of integrated communications networks, reduce opportunities for inconsistent treatment among jurisdictions, and help ensure that future infrastructure deployment decisions are made based on engineering and market considerations rather than avoidable regulatory uncertainty. WIA

¹⁵ Wireline NPRM at para. 69.

¹⁶ See generally Wireline Deployment NOI Multi-Association Letter.

therefore strongly supports adoption of the Commission's proposed framework governing commingled facilities.

V. THE COMMISSION SHOULD CONTINUE TO EVALUATE POTENTIAL IMPROVEMENTS TO THE SITING PROCESS.

While WIA supports the Commission's incremental approach in this proceeding, WIA also believes the Commission is correct to seek further comment regarding enforcement mechanisms, including the potential future implementation of a deemed-granted remedy for any shot clocks the Commission may implement.¹⁷

The purpose of a shot clock is to provide certainty and accountability. Experience across infrastructure sectors demonstrates that timelines are most effective when accompanied by enforceable outcomes. Deadlines that lack practical enforcement can become aspirational rather than operational. The Commission appropriately recognizes that questions regarding statutory authority and implementation deserve further record development before adopting a deemed-granted framework in this proceeding.

WIA therefore supports the NPRM's approach while encouraging the Commission to continue evaluating whether additional remedies may ultimately be necessary to ensure full compliance with any timelines and other requirements adopted in the final rules.

VI. CONCLUSION

The record demonstrates that excessive permitting delays, unreasonable fees, burdensome in-kind compensation requirements, and uncertainty regarding modern integrated communications networks continue to inhibit deployment throughout the country. The Commission's proposals appropriately address these barriers while preserving legitimate state and local authority to manage

¹⁷ See Wireline NPRM at para. 32.

public rights-of-way and protect public safety. Adoption of the NPRM's core reforms will provide greater certainty, improve investment conditions, accelerate deployment of critical wireline infrastructure, and ultimately benefit the consumers, businesses, and communities that depend upon advanced communications networks. WIA therefore respectfully urges the Commission to adopt final rules substantially consistent with the proposals set forth in the NPRM.

Respectfully submitted,

/s/ Stephen Keegan
Stephen Keegan
Senior Counsel, Government & Legal
Affairs

**WIA – The Wireless Infrastructure
Association**
2111 Wilson Blvd., Suite 210
Arlington, VA 22201
800.759.0300

September 21, 2026