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
	)	

REPLY COMMENTS OF THE COLORADO COMMUNICATIONS AND UTILITY ALLIANCE; ASSOCIATION OF WASHINGTON CITIES; THE CITIES OF AURORA, BOULDER AND COLORADO SPRINGS, COLORADO AND SEATTLE, TACOMA, TUMWATER, AND REDMOND, WASHINGTON; AND KING AND THURSTON COUNTIES, WASHINGTON

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I. INTRODUCTION

The Colorado Communications and Utility Alliance[1] ("CCUA"), the Association of Washington Cities[2] ("AWC"), the Cities of Aurora[3], Boulder[4], Colorado Springs[5], Colorado, the Cities of Seattle[6], Tacoma[7], Tumwater[8], and Redmond[9] and King[10] and Thurston[11] Counties, Washington (collectively, the "Colorado – Washington Coalition" or "Coalition") submits these Reply Comments in response to the Federal Communications Commission's ("Commission") Notice of Inquiry dated September 30, 2025 in the Matter of Build America: Eliminating Barriers to Wirelines Deployments (the "Notice"). In the Notice, the Commission seeks input on: (1) whether right-of-way regulations, permits, and other generally-applicable public safety regulations imposed by local governments on wireline providers are effectively prohibiting the deployment of telecommunications facilities; and (2) whether the Commission has the legal authority and should preempt traditional areas of state and local authority by establishing shot clocks and deemed granted remedies for wireline applications, as well as capping or outright prohibiting certain fees

[1] CCUA is a nonprofit corporation whose members are municipalities, counties, school districts, and regional government organizations currently totaling 58 entities and representing most of Colorado's population and have been working together since 1992 to protect the interests of their communities in local telecommunications and broadband issues. CCUA is the Colorado Chapter of the National Association of Telecommunications Officers and Advisors, and an affiliate of the Colorado Municipal League.

[2] The Association of Washington Cities is a private, nonprofit, nonpartisan organization that represents the interests of all 281 cities and towns in the State of Washington in legislative and regulatory advocacy.

[3] Aurora is Colorado's third largest city with a diverse population of approximately 400,000 and spanning Arapahoe, Adams, and Douglas counties.

[4] Boulder is home to the University of Colorado with a population of approximately 100,000. Boulder is the seat of the county of the same name.

[5] Colorado Springs is second largest city in Colorado with a population of just under half a million. Colorado Springs also operates the state's largest municipal utility.

[6] Seattle is the 18th most populous city in the United States, and is the hub of the Pacific Northwest region, with a population of approximately 800,000.

[7] Tacoma is a port city located along the Puget Sound with a population of approximately 200,000.

[8] Tumwater is located near the southernmost point of Puget Sound with a population of approximately 25,000.

[9] Redmond is the home of both Microsoft and Nintendo of America, with a population of approximately 75,000.

[10] King County is the most populous county in the state of Washington with just over 2.2 million residents.

[11] Thurston County is the home county of the state capital, Olympia, and has a population of approximately 300,000.

charged by local governments in connection with right-of-way access or construction of wireline facilities.

The Coalition shares the Commission's goal of accelerating broadband deployment and closing the digital divide but submits that there is little to no evidence in the record thus far that establishes that proposed preemptions are warranted, or within the Commission's legal authority to adopt. The Coalition welcomes this opportunity to correct the record on its members' experience and efforts working with telecommunications and broadband providers in Colorado and Washington, and urges the Commission to (1) refrain from preempting traditional areas of local authority necessary to protect public health and safety, and (2) until such time that competent evidence exists of a widespread national problem, use the other tools that Congress has provided to address allegations against individual jurisdictions when and if they occur.

II. ARGUMENT

A. The proposals in the Notice clearly exceed the bounds of the Commission's authority under Section 253

As other local government commenters have pointed out, the Commission's legal authority to preempt local regulations was clearly defined by Congress in the plain text of 47 U.S.C. § 253 (hereinafter, "Section 253").[12] The League of Oregon Cities notes, as originally adopted by Congress, Section 253 only authorizes the Commission to preempt local regulations that: (a)

[12] *In the Matter of Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253: Comments of the League of Oregon Cities at pgs. 3-4; League of Minnesota Cities; Minnesota Association of Telecommunications Administrators; Northwest Suburbs Cable Communications Commission; North Metro Telecommunications Commission; South Washington County Telecommunications Commission; Ramsey/Washington Counties Suburban Cable Communications Commission II; City of Coon Rapids, MN; and the City of Northfield, MN (collectively, the "Minnesota LFAs") at pgs. 4-9; s*ee also:* Comments of the City of Austin, TX at pg. 2; Comments of the City of San Jose, CA at pg. 2; Comments of the National Association of Towns and Townships, pgs. 8-9; Comments of the United States Conference of Mayors, the National Association of Counties, the National League of Cities, and the National Association of Telecommunications Officers and Advisors at pgs. 2-3; Comments of the Pennsylvania State Association of Township Supervisors at pg. 1; Comments of the People of the State of California and the California Public Utilities Commission at pgs. 8-9; Comments of the Village of Schaumburg, IL at pgs. 1-2.

prohibit or effectively prohibit the provision of *telecommunications service*; or (b) are not competitively neutral or *discriminate amongst providers* or classes of *telecommunications service*.[13] Moreover, even in granting the Commission the authority to preempt certain local regulations, Congress additionally ***withheld*** from the Commission the authority to preempt or prevent local governments from regulating access to and use of public rights-of-way – including by allowing local governments to charge for access to said rights-of-way where authorized by local laws.[14] The Coalition agrees with the League of Oregon Cities that the Commission's proposals in the Notice clearly abrogate Congress' unambiguous intent to preserve local authority over public rights-of-way under the unambiguous text of the Telecommunications Act.

Both the Minnesota LFAs and League of Oregon Cities correctly note that the Commission's authority to preempt specific local regulations under Section 253 only protects providers of "*telecommunications* services" and therefore must be read in context of the Commission's determination that broadband is not a telecommunications service.[15] As the they both point out, the Commission has recently and unambiguously held that broadband providers are not telecommunications providers, and concluded that the Commission has "no jurisdiction" to regulate broadband providers.[16] Chairman Carr has noted his opinion multiple times that broadband services cannot and should not be considered telecommunications services.[17]

In the 1996 Telecommunications Act, Congress was clear that providers of telecommunications services should be treated as "common carriers" under the law.[18] Both in 1996 and today, common carriers are, *by definition,* entities that accept a regulatory compact which

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[13] *Id.*; *see also* 47 U.S.C. §§ 253(a) and (b).
[14] 47 U.S.C. § 253(c).
[15] *See e.g. supra* note 12: Minnesota LFAs at pgs-34; League of Oregon Cities at pgs. 10-13.
[16] *Id.*
[17] *See* Statement of Chairman Carr, *FCC Continues Deregulatory Efforts to Remove Unnecessary Rules, Jul 11, 2025* https://www.fcc.gov/document/fcc-continues-deregulatory-efforts-remove-unnecessary-rules.
[18] 47 U.S.C. § 153 (51).

includes both obligations and benefits.[19] The benefits of being "clothed in the public interest" as a telecommunications provider includes being shielded by the Commission's authority to preempt state and local regulations which prohibit or effectively prohibit service or unfairly discriminate amongst providers.[20] But in exchange, telecommunications providers also accept certain obligations such as rate regulation, mandatory interconnection, and universal service obligations.[21] This regulatory compact is written into the plain text of the Telecommunication Act, and cannot be changed absent an act of Congress.[22] Yet despite insisting emphatically that broadband providers cannot and should not be subject to the *obligations* of this regulatory compact, the Commission now seeks to shield those same providers with the *benefits* meant only to benefit those firms which accept the regulatory compact and agree to uphold the public interest. This interpretation by the Commission is directly contrary to the plain language of Section 253 which limits the Commission's authority to preempt only to those rules which impact "telecommunications" service.

Moreover, the Commission's authority to preempt local regulations which interfere with the provision of telecommunications service is limited to ***individual*** regulations or laws enacted by local authorities. The full text of 47 U.S.C. § 253(d) provides that:

> "[i]f, after notice and an opportunity for public comment, the Commission determines that ***a*** State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission shall preempt the enforcement of ***such*** statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency." (emphasis added)

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[19] *See Smyth v. Ames*, 169 U.S. 466, 544 (1898) (holding that public utilities are "created for public purposes" and "perform a function of the state" and thus may be held to public interest obligations).

[20] *Munn v. Illinois,* 94 U.S. 113, 131-132 (1876) (tracing the long tradition of heightened regulation for common carriers under common law, and holding that common carriers which are "clothed in the public interest" are subject to heightened regulation and public interest standards by voluntarily placing themselves "in the very gateway of commerce and tak[ing] toll from all who pass").

[21] *Id*.; *see also* 47 U.S.C. §§ 201-276 (titled "Common Carriers").

[22] *See generally* 47 U.S.C. §§ 201-276.

Read in the appropriate context, paragraph (d) limits the Commission's authority to preempt by determining whether "***a*** State or local government" has regulations inconsistent with Section 253 (a) and (b). Additionally, the Commission's authority to preempt individual state or local governments is limited to "***such*** statute, regulation, or legal requirement[s]" the Commission determines inconsistent with Section 253. Nowhere in this section did Congress intend to grant to the Commission the authority to adopt one size fits all rules applying to ***every*** state and local government in the country as a result of allegations against a ***single or limited*** number of entities.

B. The record does not demonstrate that local government permit processes or fees are effectively prohibiting deployment of wireline telecommunications facilities

Even if the Commission had the legal authority to adopt the proposals in the Notice, these proposals are not supported by the limited information in the record. The allegations of "issues" with local laws is both inadequate and frequently mischaracterizes the realities of permitting and review of wireline telecommunications projects.

1. Due process prohibits the Commission from preempting local authority based on unspecific allegations against unidentified jurisdictions

It is a fundamental principle of our legal system that "no person shall be deprived of [their] liberty without opportunity, at some time, to be heard."[23] This principle is not just grounded in over two hundred years of American jurisprudence, but arises from a "feeling of just treatment which has been evolved through centuries of Anglo-American constitutional history and civilization."[24] In a court of law, the defendant must be offered an opportunity to respond to the allegations made against them before the court may exercise its judgment. Here, Congress clearly intended to limit the Commission's authority to preempt only ***specific*** local regulations which

[23] *Yamataya v. Fisher* **(***The Japanese Immigrant Case)*, 189 U.S. 86, 100-101 (1903).
[24] *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 162 (1951) (Frankfurter, J., concurring).

prohibit service or unfairly discriminate against providers.[25] In proceedings where the Commission proposes to preempt specific local regulations, due process requires that the affected local governments would be given notice and an opportunity to respond.

Review of comments filed by industry representatives disclose that in many cases, commenters support the Commission exercising its authority under Section 253(d) to preempt the authority of *every* state and local government in the Country based upon unsubstantiated claims that an unnamed number of unidentified jurisdictions are engaged in practices that prohibit or effectively prohibit the provision of telecommunications services. As noted in more detail below, there are scores of unspecific allegations against unnamed jurisdictions. Many of these broad and unspecific allegations are made by commenters who have also identified specific jurisdictions or specific policies in other parts of their comments. If there are truly widespread issues, why not include more examples of specific incidents and practices and why keep many of the allegedly offending parties anonymous? This is clearly an attempt by some commenters to lure the Commission into preemption by taking a few isolated, out of context incidents and attempting to create the illusion of a nationwide problem – perhaps because these commenters know or suspect that they are misstating or overstating the facts, and the full context would not present as clear and convincing an argument in favor of preemption. As far back as 1997, the Commission's own Local and State Government Advisory Committee recommended that when state or local actions were cited in Commission proceedings as a basis for federal preemption of state or local authority, the Commission should require that notice of the allegations be served on accused state or local entity.[26] It is time for the Commission to heed that advice.

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[25] 47 U.S.C. § 253(d).

[26] FCC State and Local Government Advisory Committee, Recommendation #2: Notification to States and Localities Names in Commission Proceedings, https://transition.fcc.gov/statelocal/rec2.pdf (finding that when "jurisdictions are cited as an example of a problem the petitioner requires federal preemption," that failure to notify those jurisdictions

In the fifteen different filed comments by entities that support the Commission's preemption proposals in the Notice, the Coalition has identified a variety of allegations made against local governments with different levels of specificity and context. Within these comments there are no more than thirty allegations of delays or fees amounting to effective prohibition arguments which are sufficiently detailed to identify both the community and specific regulations for the Commission to appropriately exercise jurisdiction under Section 253(d). Based on the experience of the Coalition members who were named amongst that select group of alleged bad actors, the Coalition can confidently say that in each of these cases, there is undoubtedly another side to the story. Far more of the "record" before the Commission is populated by general allegations that some unspecific number of local governments have imposed ordinances or regulations which have allegedly had the effect of prohibiting service, but without detail to identify the specific community in question.[27] As noted above, fundamental principles of due process preclude the Commission from even considering allegations against unnamed entities, let alone using these allegations as the basis for adopting rules that restrict or limit the authority of all local governments to manage the rights-of-way. Concerning allegations against specific entities, the same fundamental rules of due process require the Commission to offer those communities an opportunity to respond to the allegations and present their side of the story.

The Commission must also scrutinize the allegations made by industry commenters and its own allegations contained in the Notice. There are approximately 90,837 units of local

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or provide them with an opportunity to respond "leads to misunderstanding of local and state interests and interferes with the Commission's ability to act in the public interest."

[27] *In the Matter of Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253: Comments of NCTA – The Internet & Television Association at pgs. 6-7, 9-14, and 16-19; Comments of NTCA – The Rural Broadband Association at pgs. 9-12; Comments of U.S. Telecom – The Broadband Association at pgs. 4-12 (all making general allegations based on reports that their members – predominantly providers of non-telecommunications services – have encountered "issues" with local governments, without providing sufficient detail to identify the local government or policy at issue).

government in the United States.[28] If the Commission decides that this Notice should be followed by a Notice of Proposed Rulemaking to preempt traditional areas of state and local control, and even if the Commission accepted every allegation made against an unnamed party to be factual, the Commission would be proposing to preempt local authority based upon "evidence" that less than 0.03% of the nation's local governments are prohibiting deployment of telecommunications service. Such a tiny percentage does not justify penalizing every local jurisdiction in the nation. At best, if supported by credible evidence, these allegations would merely suggest the need for the Commission to address alleged prohibitions of telecommunications service *only on a case-by-case basis*.

2. Specific industry comments make claims not supported by facts or present situations out of context

The comments filed by industry representatives in this proceeding demonstrate that, contrary to the Commission's assumptions, there is no overwhelming, credible evidence that most or even many local governments are obstructing broadband deployment. The only credible "issues" identified in the record are a few isolated incidents which have been, at best, taken out of context. Worse still, some of the allegations cite to studies or reports that do not even address – let alone support – the conclusion being asserted by the commenter.

ACA Connects

At the beginning or its comments, ACA Connects claims that its members – approximately 500 smaller telecommunications, video, and broadcast providers – "often" encounter delays when trying to build out their services.[29] They claim that this is supported by a "survey" of their

[28] Local Governments in the U.S.: A Breakdown by Number and Type, FEDERAL RESERVE BANK OF ST. LOUIS, Mar. 14, 2024. https://www.stlouisfed.org/publications/regional-economist/2024/march/local-governments-us-number-type.

[29] *In the Matter of Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253, Comments of ACA Connects at pg. 2., note 5.

members, but do not include any more details on the overall results of that survey. Continuing to rely on a survey it did not produce, ACA Connects comments continue to make vague and unspecific allegations such that "one" or "some" member(s) have had issues without specifying *where* that issue occurred. At times ACA Connects does manage to give vague descriptions such as delays in a "Western city" or permit issues entering "a new market in the Southeast" that while more specific, these descriptions and the allegations they support are no better than hearsay and provide no opportunity for the unnamed entities to respond.[30] All told ACA Connects make only one *specific* allegation concerning a state law in New York, which its members – two rural telephone companies – claim is inhibiting their efforts to expand their networks to include broadband.[31]

Connect AI

Connect AI makes a host of unsupported allegations and makes additional statements out of context without providing complete facts. For example, Connect AI supports federal preemption of state and local authority because "a state transportation agency often has different regional managers responsible for processing right-of-way applications for different portions of the state.[32] It complains that multiple regional managers may impose different permit requirements on a project. Yet the reasons for different requirements for rights-of-way access within a state are both obvious and logical. The conditions under road pavement along an ocean coastline in places like Washington or North Carolina are completely different than the conditions under pavement in the Cascades or Great Smoky Mountains. Regional managers for state transportation departments absolutely should be able to determine what requirements exist for right-of-way access based upon

[30] *Id*. at pg. 15.
[31] *Id*. at pgs. 28-29.
[32] *In the Matter of Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253, Comments of Connect AI at pg. 13.

their local conditions. Connect AI additionally claims, without citing any factual basis or other authority that "[u]nreasonable processes can be caused, in part, by jurisdictions lacking understanding about the impact of their fees, delays, and the inconsistent treatment and policies among jurisdictions."[33] Such unsupported allegations are not evidence supporting federal preemption. Even if true, these kinds of allegations would support a need for education, not preemption.

Connect AI's unsupportable allegations go a step further when it claims, "[i]n many jurisdictions, Fiber Huts are subject to the same permitting and zoning requirements as a 250-unit housing development because Fiber Huts are treated as buildings rather than telecommunications facilities."[34] The article cited as supporting this allegation does not even come close to making the kind of claim regarding Fiber Huts referenced in the Comments. Fiber Huts are not even mentioned in article. The Commission simply cannot trust these unsupported allegations, let alone use such allegations as evidence supporting federal preemption of state and local authority.

Crown Castle

Crown Castle's comments allege that multiple local governments, including Coalition member King County, Washington, have demanded unreasonable fees as a condition to occupy the rights-of-way. One of the reasons local governments strongly encourage the Commission to ignore allegations where the party complained of is not named, is because it is not uncommon for commenters to allege "facts" to the Commission which turn out to be inaccurate. Crown Castle alleges that the County "sought to impose a franchise upon Crown Castle that requires payment of 10% of Crown Castle's annual gross revenues."[35] This is simply not true. King County's franchise

[33] *Id*.
[34] *Id*. at pg. 14.
[35] *In the Matter of Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253, Comments of Crown Castle at pg. 21.

agreements do not require revenue-based fees for entities deploying wireline facilities if they are using that infrastructure for their own network operations. Rather, the County's franchise fee only applies to entities that (1) are not providing any service; (2) seek to install conduit, dark fiber, or similar facilities, and (3) seek to profit from the use of public property by charging other entities a fee to use this public property. In these cases, the County requires that the franchisee compensate the County by paying 10% of the revenue received from a commercial tenant. In the wireless context, this compensation is no different than the kind of compensation that Crown Castle itself and other infrastructure owners pay to landlords on a regular basis for co-locators on its towers. Under Crown Castle's proposed scenario, it should be entitled to use public property for free, and then with Commission authority, resell the value of that property's use to other parties, without any compensation to the underlying property owner.

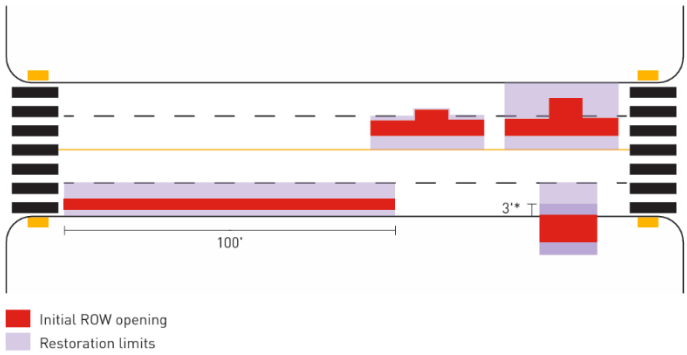
Crown Castle also errs in its allegations against Coalition member Seattle. Crown Castle claims that "[i]n the City of Seattle, depth and restoration requirements, specifically a requirement to replace the entire roadway concreted substructure beyond the area immediately impacted by construction activity, create significant costs, with restoration costs running from $550 to $3,400 per foot of fiber installed."[36] Seattle notes that roadway construction would require a full street reconstruction only if it involved crossing all lanes. Crown Castle previously undertook a Seattle project spanning over two miles of roadway, which primarily involved full-depth repaving of a single lane. However, additional restoration was needed due to factors such as delay in restoring the hard surface and adverse grading by Crown Castle, which resulted in deterioration of the interim patching and standing water. This particular project was also along a transit corridor, where the concrete panels were originally tied structurally to prevent movement. The impacts of

[36] *Id*. at pg. 22.

Crown Castle's project required the panels to be fully replaced to prevent floating and shifting with the transit vehicle weight. There were also pavement sections that were full depth asphalt, but still classified as "Arterial" which indicates high volume vehicle loads. It has been Seattle's standard restoration requirement that pavement patching must be expanded so that cuts in the asphalt do not occur in the wheel path. The wheel path receives the highest use in a vehicle lane and any erroneous pavement cuts in the street surface will cause it to fail quickly, especially in Seattle's wet climate.

This Crown project was specific to one area of Seattle and does not reflect Crown Castle's current approach to project design or the requirements Seattle imposes on Crown Castle's approach to project design. Seattle notes it is also awaiting completion of repairs for right-of-way damage caused by work that Crown Castle performed in 2018 (over seven years ago). Examples of just some of the City's generally applicable restoration requirements for all work impacting public rights-of-way[37] are as follows:

Figure 1: Impacts to flexible pavement that exceed 100 feet in length must repair from lane line to lane line:



[37] Chapters 3.02 and 15.32 of the Seattle Municipal Code authorize the Director of the Seattle Department of Transportation to adopt regulations including pavement restoration requirements and standards for all entities conducting work within City rights-of-way. *See* Seattle Department of Transportation Director's Rule 01-2017, *Right-of-Way Opening and Restoration Rules*, Section 9 – Restoration Limits and Permanent Restoration Requirements.

Figure 2: Impacts to pavement that are smaller than the pavement patch is expanded as such for flexible pavement:

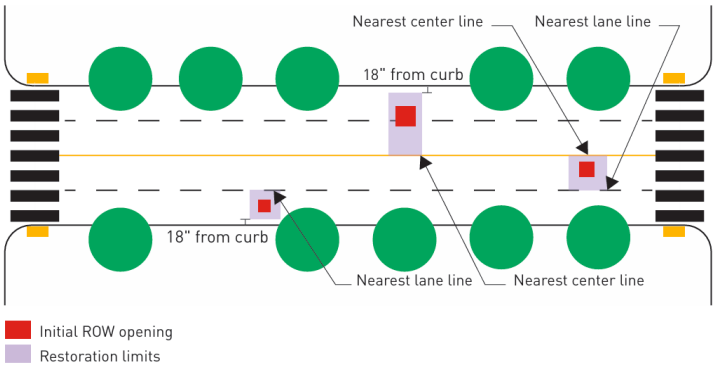
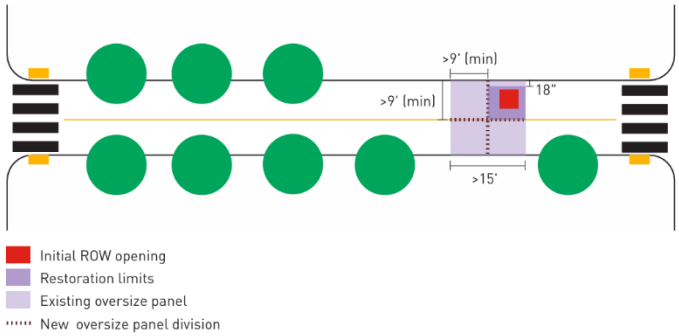


Figure 3: Impacts on rigid pavement requires full replacement and is dependent on the amount of damage to the panels:



Intrepid

In its comments, BIF IV Intrepid OpCo ("Intrepid") makes a number of allegations against cities in California, Illinois, Massachusetts, and Minnesota. Due process requires that the Commission refrain from considering these allegations without some form of notice provided to those communities, to give them an opportunity to respond. Intrepid also suggests that delays have been caused by unnamed jurisdictions within Boulder County, Colorado, claiming that these jurisdictions will not issue permits for fiber installations that cross ditches owned and controlled by a variety of ditch companies.[38] Intrepid alleges these ditch companies ignore their requests or

[38] *In the Matter of Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253 at Comments of BIF IV Intrepid OpCo at pg. 8.

impose unreasonable conditions like "unique insurance" which Intrepid claims to be a *de facto* local government moratorium. While Intrepid might be commended for naming the jurisdictions it is complaining about in other states, Intrepid provides no such courtesy to Colorado communities. We do not know if Intrepid is complaining about Boulder County, one or more of the ten incorporated municipalities including Coalition member the City of Boulder, or any number of other special districts (quasi-governmental entities under Colorado law) located within the County. We do not know if Intrepid is complaining about one ditch company or 17 ditch companies. Intrepid's allegations against these unnamed Colorado jurisdictions and unnamed ditch companies should be ignored until such time as it puts the names of the jurisdictions in the record, provides them notice, and the Commission gives those entities an opportunity to respond. Basic due process demands nothing less.

Even if Intrepid had named specific jurisdictions, it substantively misstates Colorado law when claiming that local government requirements for a permit applicant to demonstrate it has ditch company approval amounts to a *de facto* moratorium. Colorado's arid climate and the importance of agriculture in the state have resulted in ditch companies being given broad and specific legal authority to protect their water rights.[39] Under Colorado law ditch companies operate as quasi-public entities and have a right to condition *any* utility installation which impacts their ditch or their ability to deliver water to their shareholders or customers.[40] Additionally, activities including construction, boring, trenching, or placement of utility-like facilities across, above, or beneath a ditch company's property requires the ditch company's prior written permission.[41] Ditch

[39] *Roaring Fork Club v. St. Jude's Co*., 36 P.3d 1229, 1231 (Colo. 2001) (noting that ditches were essential to the development of Colorado and have had special legal rights since before statehood); s*ee also* C.R.S. §§ 37-84-101, *et seq*.

[40] *Osborn & Caywood Ditch Co. v. Green*, 673 P.2d 380 (Colo. App. 1983) (authorizing other property-interest holders to cross ditches, provided such crossings do not damage the ditch or inhibit its use); *see also* C.R.S. §§ 38-5-101, *et seq*.

[41] *Roaring Fork Club v. St. Jude's Co*, 36 P. 3d at 1234.

companies may impose conditions on these utility crossings to ensure no interference with ditch operations and water quality.[42] Local Governments have no control over the conditions and requirements that a ditch company has the legal right to impose on a user of their property. However, a Local Government can and should require an applicant demonstrate that it has all necessary legal authority to perform the work it is seeking a permit for. In this context, a local government requirement that a permit applicant must demonstrate ditch company approval for ditch crossings before the permit issues is analogous to a requirement that an applicant demonstrates it has the approval of the Federal Aviation Administration to construct a tower near an airport. It would be grossly negligent to require a local government to issue a permit to an applicant for work which the applicant did not have the legal authority to perform.

INCOMPAS

While INCOMPAS makes a number of general and unspecific allegations that local governments are responsible for delays in permitting broadband deployments, the few specific local policies they actually do reference are all touted as examples of *pro-industry* local laws which they say have encouraged development.[43] To the extent that INCOMPAS is stating the local governments know best how to encourage network deployment, the Coalition agrees.

INCOMPAS also alleges that Coalition member Seattle, Washington "requires full street restorations for essentially all trenching, which can impact project costs by up to $550 per foot of fiber installation.[44] This is false. Restoration requirements are not for a "full street." As noted above in response to Crown Castle's misstatements about City requirements, a street can be multiple lanes. The only way a project would be required to restore a "full street" would be if the

[42] *Id.* at 1238.
[43] *In the Matter of Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253, Comments of INCOMPAS at pgs 9-10.
[44] *Id*. at Annex B, pg. 3.

project would be damaging multiple lanes, which is extremely rare. Instead, the restoration is based only on the extent of the right-of-way impacted by the opening.[45]

ITIF

The Information Technology and Innovation Foundation ("ITIF") claims that "[e]xcessive fees and lengthy right-of-way authorizations consume resources that could otherwise be spent on connectivity."[46] However, the article ITIF cited as supporting this allegation has nothing to do with excessive fees. The significant conclusion from the article is:

> "[e]nsuring access to infrastructure is the first line of attack, but U.S. broadband deployment rates are strong, and a combination of emerging low-Earth-orbit satellite constellations—which may be able to provide cheaper access to remote households—and billions of dollars allocated through new and ongoing broadband deployment programs have set the remaining unserved population on track for full connectivity. At this point, the digital divide is largely driven by low adoption rates among subsets of the population, some of which are caused by surmountable barriers to access. Broadband policies should step in to fill these gaps."[47]

The author concludes that the best way to fill gaps in service is to re-fund the Commission's Affordable Connectivity Program, not preempt local authorities. Additionally, the article cited as supporting the argument that local government fees are inhibiting wireline investment makes no such claims and primarily argues that the best strategy for closing coverage gaps is increasing broadband adoption rates, not regulating local fees.[48]

ITIF further alleges that "state and local governments sometimes prioritize a short-term local revenue bump by charging excessive fees for right-of-way access."[49] Even here the

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[45] *See* Seattle response to allegations by Crown Castle, *supra*, pgs. 11-12.

[46] *In the Matter of Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253, Comments of the Information Technology and Innovation Foundation ("ITIF") at pg. 2, note 4, citing Jessica Dine, *Enabling Equity: Why Broadband Access Rates Matter*, ITIF (August 2023) https://www2.itif.org/2023-value-of-universal-connectivity.pdf.

[47] Jessica Dine, *Enabling Equity: Why Broadband Access Rates Matter*, ITIF (August 2023) https://www2.itif.org/2023-value-of-universal-connectivity.pdf.

[48] Comments of ITIF, *supra* note 46, at pg. 2.

[49] *Id.*, citing Joe Kane and Jessica Dine, *Ten (Suggested) Commandments for Closing the Digital Divide*, ITIF (May 2022) https://itif.org/publications/2022/05/23/ten-suggested-commandments-closing-digital-divide/.

allegation is that "sometimes" local governments charge excessive fees. Not "a majority of times." Not even "often." Just "*sometimes*." This is not evidence supporting federal preemption of every state and local government. Moreover, the article cited by ITIF lists ten actions that can be taken to promote closing the digital divide. One of those ten recommendations is to impose shot clocks and limit fees for state and local permits. The evidence cited for this recommendation to limit local authority of 90,837 jurisdictions is a statement that three Missouri cities have been ordered by the Commission to eliminate duplicative fees.[50] In other words, the article's "evidence" actually supports addressing these isolated and limited problems through declaratory proceedings. ITIF provides no credible evidence justifying broad, national preemption of every local government.

T-Mobile and Connect AI

In T-Mobile's comments, it attempts to have the Commission only consider one side of the story by alleging that "a city in Colorado denied a fiber partner access to rear easements throughout the city, forcing the company to use front-of-property rights-of-ways that would have doubled the cost of deployment absent a lawsuit to gain access to the rear easements."[51] In comments filed by Connect AI, similar allegations were made about the same entity, where at least the commenter had the courtesy to identify the community as Colorado Springs, and the applicant as Metronet.[52] What neither T-Mobile nor Connect AI informed the Commission was the reason why Metronet's costs were so much higher when it installed facilities in the streets. As Metronet is well aware, it had in fact been deploying facilities in the public rights-of-way for some time prior to its requests to use rear yard easements, and it is true that its costs to deploy in the streets were significantly

[50] *See Id:* Kane and Dine at pg. 6, note 21.
[51] *In the Matter of Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253, Comments of T-Mobile at pg. 8.
[52] Connect AI, *supra* note 32, at pgs. 12-13.

higher than if it did not have to use the streets and could deploy in residents' rear yards. The reason for this fact, however, was that Metronet's contractor repeatedly cut and damaged the underground electric utility facilities located in those streets resulting in significant repair costs.

Despite a statutory process designed to allow contractors to determine where other underground utilities are located, Metronet's contractors repeatedly, over many months, damaged the electric utility system, which in turn caused the deployment costs to almost double due to damage repair costs. In response, Metronet and Colorado Springs engaged in negotiations to allow for the use of rear and side yard easements, subject to reasonable requirements to protect the private property being impacted and to create a process for payment of damages to private property owners when it occurred. Metronet grew impatient and filed litigation over the issue, and the matter was quickly resolved, essentially by Metronet being allowed to use these easements ***and*** agreeing to comply with the regulations to protect private property that the City had proposed prior to the litigation being filed.

U.S. Chamber of Commerce

The U.S. Chamber of Commerce criticized the State of Colorado for passing SB-205, a law which regulates the development and use of a narrow subset of "high risk" AI models by firms conducting business in Colorado.[53] As the law has yet to go into effect, any claims about the lost investment in AI investment are entirely speculative. Moreover, even *if* SB-205 were to have *any* impact on AI investment in Colorado, AI is not a telecommunications service within the Commission's jurisdiction to regulate, nor does it have any relevance to local government regulation of the right-of-way.

[53] *In the Matter of Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253, Comments of the US Chamber of Commerce at pg. 4.

3. Many local governments act in a timely manner to review wireline applications and only impose reasonable, cost-based fees

Despite the Commission's misconception to the contrary, most local governments act in a timely manner to review applications for wireline deployments in their communities. CCUA's members include two city and county governments, five counties, thirty-eight cities, nine towns, two school districts and two regional government entities. Its two regional government members are comprised of an additional eleven counties and thirty-three municipalities. AWC represents the interests of all of Washington's 281 cities and towns. Of the combined 380 jurisdictions represented by Coalition members, only three jurisdictions have been specifically identified as obstructing broadband deployment,[54] and neither CCUA nor AWC are aware of such allegations being made against its members in other contexts. The member communities of the Coalition process rights-of-way permit applications efficiently and effectively. Moreover, fees for permits of telecommunications and broadband providers are cost-based, pursuant to state law.[55] The examples below capture a far better picture of the on-the-ground realities of deploying telecommunications facilities in public rights-of-way.

Airway Heights, WA

Airway Heights, an AWC member, is a small community with a population of about 12,000. It is located in eastern Washington, about 8 miles from downtown Spokane. As a small community, Airway Heights has a small staff, and its ability to address permit applications of any kind depends in part on how many applications are in the queue when a new application is filed. When necessary, the City utilizes on-call consultants to help review and comment on development proposals. Thorough vetting of proposals takes time to ensure the community's codes and

[54] The allegations made against King County are discussed *supra*, at pgs. 10-11. Allegations made against Seattle are addressed *supra*, at pgs.11-13. Allegations made against Colorado Springs are addressed, *supra*, at pgs. 17-18.
[55] C.R.S. §§ 38-5.5-101, *et seq*.; R.C.W. 35.21.860.

standards are followed thereby protecting the City's residents, property, and motoring public. Generally speaking, when applications are complete and information required by the City Code is provided, the process is timely and efficient. Each round of permit review generally takes about three weeks from start to finish. Review comments are provided to the applicant as quickly as possible within that 3-week timeframe. City permits are valid for 180 days, and an applicant may ask for a one-time extension.

Auburn, WA

Auburn, Washington, an AWC member located in King County, is a suburban community of approximately, 85,000 people. As with other Washington cities, telecom companies are typically required to obtain a master permit or franchise agreement to install facilities in the rights-of-way by state law. To facilitate this process, the Auburn City Code requires that the City perform first reviews for franchise application completeness within 30 days of submittal. Subsequent reviews for additional information must be performed within 14 days of submittal. These 30/14-day review times do not account for the time an applicant takes to review and address comments they receive from the City and then resubmit for additional review. Pursuant to state law, Auburn has 120 days from the date the franchise application is determined complete to grant or deny the franchise except with the agreement of the applicant or if it requires the action of the City Council and such action cannot reasonably be obtained within that timeframe. All franchise agreements require action by the Auburn City Council including a public hearing. The City Council process generally takes between 30 and 60 days plus time for final reviews and scheduling.

The City of Auburn currently has one franchise agreement that is near execution and nine franchise agreements that have been executed and active with various companies for wireline or fiber optic telecommunications facilities in the City's public way. Timelines associated with the

City's review, processing, and approval of the near execution franchise agreement and several new agreements that were applied for in the last five years are outlined below. Total City time noted for each agreement is the total number of days that the application and agreement was with the City for Application Completeness reviews and includes multiple reviews, drafting of final documents City Council agendas, scheduling for City Council meetings, and City Council process for review and consideration including the public hearing. Total Applicant time noted for each agreement is the total number of days that the application and agreement was with the Applicant to address any City comments on the application and resubmit for additional review, any extension of time applicants may have requested for resubmittal, any time applicants spent reviewing the draft franchise language, and the time it took them to execute the franchise agreement after it was approved by City Council.

- Hyperfiber of Washington, LLC dba Ripple Fiber – Citywide Wireline Telecommunications Franchise - Near Execution
    - Total Time from application submittal to deadline for applicant to finalize is 149 Days (4 months and 26 days).
        - Total City Time: 88 Days.
            - Application processing: 41 Days (2 Reviews)
            - Final document review and scheduling: 17 Days
            - City Council Process: 30 Days
        - Total Applicant Time: 61 Days
- Ezee Fiber Texas, LLC – Citywide Wireline Telecommunications Franchise
    - Total Time from application submittal to Applicant execution of the approved agreement was 264 Days (8 months and 22 days).
        - Total City Time: 126 Days
            - Application processing: 54 Days (3 Reviews)
            - Final document review and scheduling: 37 Days
            - City Council Process: 35 Days
        - Total Applicant Time: 138 Days

- Ziply Fiber Pacific, LLC dba Ziply Fiber – Citywide Wireline Telecommunications Franchise
    - Total Time from application submittal to Applicant execution of the approved agreement was 201 Days (6 months and 18 days)
        - Total City Time: 108 Days
            - Application processing: 43 Days (2 Reviews)
            - Final document review and scheduling: 35 Days
            - City Council Process: 30 Days
        - Total Applicant Time: 93 Days
- Fatbeam, LLC – Citywide Wireline Telecommunications Franchise
    - Total Time from application submittal to Applicant execution of the approved agreement was 161 Days (5 months and 9 days)
        - Total City Time: 78 Days
            - Application processing: 15 Days (2 Reviews)
            - Final document review and scheduling: 27 Days
            - City Council Process: 36 Days
        - Total Applicant Time: 83 Days

Aurora, CO

Aurora has a track record of working promptly to comply with changes in federal and state laws to encourage telecommunications and broadband deployment and has established a positive record of working with applicants constructing and operating networks and providing these services in the City. Aurora has created a Fiber and Dry Utilities Standard Operating Procedures document, which is a summary/checklist of the requirements stated in the City's Roadway Manual condensed into relevant information that is directly applicable to utility/broadband applicants. It has also created a custom Plan & Profile ("P&P") permitting folder to process P&Ps quickly and efficiently on an expedited timeline. These processes have been very effective in educating applicants and ensuring that most applications are submitted with all required information, thereby helping to expedite the permit review process. Information provided by the City describing review timelines is as follows:

Standard Civil Plan Timelines

Development Review Timelines

Planning and Business Development Application Review Timelines

Review Process	Schedule 1	Schedule 2	Schedule 3	Schedule 3x
	Minor Site Plan Amendments, Conditional Use Approvals; Cellular installations; Sign Variances	Site Plans and Amendments; Redevelopment Plans; Plats; Street Vacations, Zonings, & Neighborhood Plans	Zonings under 50 acres in conjunction with any categories 1 or 2 application types	All FDPs or Master Plans, zonings over 50 acres
1st City Review	15 days	15 days	15 days	20 days
2nd City Review		15 days	15 days	20days
Other Processing Tasks	12 days	12 days	12 days	15 days
3rd City Review			15 days	20 days
Total working days	**27 days**	**42 days**	**57 days**	**75 days**
Total weeks	**5.4 weeks**	**8.4 weeks**	**11.4 weeks**	**15 weeks**

*Please note that these are city timelines, and they do not factor in the time it takes for consultants to address any necessary corrections.

Civil Construction Plan Review Timelines

Civil Construction Plans	1-20 sheets	21-50 sheets	51-100 sheets	101-200 sheets	201-350 sheets	351 plus
Pre acceptance	City will complete pre-acceptance check. Incomplete submittals will be rejected.					
First Submittal Review	10 days	20 days	25 days	35 days	45 days	55 days
Subsequent Submittal Review	10 days	15 days	20 days	25 days	30 days	40 days
Subsequent Submittal Review*	10 days	15 days	20 days	25 days	30 days	30 days
Signature Submittal Processing	7 days	7 days	7 days	10 days	10 days	10 days

Subsequent Submittal Notes:
Most submittals will require three rounds of review prior to signature set.
Revision sets; up to 10-sheets including new sheets, 1-week signature set. Otherwise full review process defined by sheet #'s. Full review applies if drainage report is needed.
*Subsequent review prior to signature set if needed.
**Design Changes will require additional submittals.
***Unaddressed comments will require additional submittals.
****Any changes to plans identified at the time of signature set will be rejected and submittal process will start over.

Utility P&P Review Timelines

Plan Set Review Time Frame	Up to 3,000 linear feet	3,001 to 15,000 linear feet	15,001 and above linear feet
Pre-Acceptance	2 days	2 days	2 days
1st City Review	10 days	15 days	30 days
2nd City Review	5 days	7 days	10 days
3rd City Review	5 days	5 days	5 days
Final City Review and Approval	10 days	10 days	10 days
Total Working Days	**32 days**	**39 days**	**57 days**
Total Weeks	**6.4 weeks**	**7.8 weeks**	**11.4 weeks**

At no time shall the City allow for any EXPEDITED reviews as the City shall treat every Company or Applicant the same and in a non-discriminatory manner

Breckenridge, CO

Located in the heart of the Colorado Rockies with a permanent population of approximately 5,000, CCUA member, the Town of Breckenridge is a thriving community featuring a wide array of year-round recreational, cultural and arts activities.

Breckenridge distributes rights-of-way permits in an equitable and timely manner to all applicants. All applications are thoroughly reviewed for scope of work (SOW), traffic control plans and restoration requirements. Permit review typically takes 2-3 days, given all documents are received and the SOW is straight forward and traffic control plans are appropriate. The time to review traffic control plans is necessary to ensure notices go out to the public and all guidelines required by the Manual on Uniform Traffic Control Devices are followed.

The Town's current right-of-way permit fee is $386.00. When projects run effectively, this fee is minimal compared to the inspection hours and contractor follow-ups. And in cases where a project is delayed due to contractor errors or a provider's failure to effectively manage its contractor, the permit fee does not begin to cover the actual costs incurred by the Town for the inspection hours and contractor follow-up required of Town staff for completion of the permitted work. In addition to the permit fee, a two-year refundable warranty bond of $1,000 is also required to ensure that all restoration of work is completed. If all restorations have passed the two-year bond inspection period without failing the permit conditions, the bond is released to the applicant.

Breckenridge, communities in Summit County, and entities in other parts of the country prohibit right-of-way construction during cold weather months. This helps maintain public safety, and ensure adequate roadway restoration during freezing temperatures. During this period where construction is prohibited, emergency right-of-way work allowed, subject to conditions to address wintertime challenges. On the following page is an example of the Town's system for tracking permit times, inspections and progress.

Permit #A1:B1	Applicant	Job Location	Job Dates		Work Description	Access Rqrd	Traffic Control	Cut Info			Completed Inspection Date	2 Year Inspection Date	Bond Certificate Expiration	Permit Fee	Bond Deposit	NOTES	2-Year Bond Release Pass/Fail - Date	Admin Returned Signed Permit to Applicant	Inspection Notes
2025-015	Pauley Construction	100 S. Main St	5/1/2025	6/1/2025	Access to exsisting utilities for splicing only-no excavation		X				6/1/2025	6/1/2027	6/1/2027	$386.00	$1,000.00	Cash bond to be refunded upon 2 year inspection date.		4/28/2025	Block one way access into alley without Traffic control or detour
2025-018	Comcast/ITG	620 Four Oclock Rd	5/5/2025	5/9/2025	Replacement of 625 coax from node to first ped. Bore 160' and trench 60'-6' potholes and 2 bore pits		X				5/9/2025	5/9/2027	5/9/2027	$386.00	$1,000.00	Cash bond to be refunded upon 2 year inspection date.		4/28/2025	No Issues
2025-024	JCB	405 Village Rd & S. Park Ave	5/5/2025	5/26/2025	Bore work to begin at existing comcast pedestal located just north of address 405 Village Rd. JCB Energy Services will bore E - N.E. placing 2 - 2" Comcast conduits & new 48ct fiber cable in the ROW		X	X	X		5/26/2025	5/26/2027				Did not start work			Did not start work
2025-038	Sturgeon/Comcast	451 Lincoln Ave	5/27/2025	5/30/2025	Replace 130' of Comcast conduit in Harris st alley north of Lincoln Ave between exsisting peds		X				5/30/2025	5/30/2027	5/30/2027	$386.00	$1,000.00			5/27/2025	Coax cable hung from residental trees from Nov 2024-June 2025, Multiple residental complaints
2025-040	Surgeon/Comcast	Ski Hill Rd-btw Zepplin and	5/27/2025	6/15/2025	Relocate 2666' if comcast conduit along Ski Hill Rd as forced relaocation in coordination with planned project including placement of 10 new peds and 3 repowering plants		X				6/15/2025	6/15/2027							Permit located in County limits
2025-043	Pauley Construction	1979 Ski Hill Rd	5/27/2025	6/27/2025	Access to exsisting utilities for splicing only-no excavation		X				6/27/2025	6/27/2027	6/27/2027	$386.00	$1,000.00	Cash bond to be refunded upon 2 year inspection date.		5/27/2025	No Issues
2025-044	Pauley Construction	1625 Airport Rd	5/27/2025	6/27/2025	Access to exsisting utilities for splicing only-no excavation		X				6/27/2025	6/27/2027	6/27/2027	$386.00	$1,000.00	Cash bond to be refunded upon 2 year inspection date.		5/27/2025	Did not have traffic control
2025-065	~~JCB/Comcast~~	~~Broken Lance Dr & Columbine~~	~~8/4/2025~~	~~9/5/2025~~	~~Our work is reflected on Page 6, 7, 8 of the UEB. Total in ROW: Bore 1062', place 2x2" conduit, pull cable, install 4 peds at 64sq ft disturbed soft landscape. JB# 566530~~		~~X~~				~~9/5/2025~~	~~9/5/2027~~	~~9/5/2027~~	~~$386.00~~	Permit voided. Bond applied to 2025-067, 2025-068, 2025	Permit voided. New permit is 2025-067		7/31/2025	
2025-067	JCB/Comcast	Broken Lance Dr/1097 CO RD 770	8/11/2025	8/15/2025	Part 1 of 3 Pull new fiber through exsisting conduit, Place 3 new vaults, Place new node ped						8/15/2025	8/15/2027	7/14/2027	$386.00	$3,500.00	Danny approved the bond expiration date of 7/14/27. Please ask him to inspect before the bond expires.jo		8/12/2025	Multiple issues with scheduling
2025-068	JCB/Comcast	104 Village Point Rd	8/11/2025	8/22/2025	Part 2-Bore Phase-JB#566350 Bore 650', Place (2) 2" conduits, pull 24B ct fiber through. Total cuts:1 vault(4'x4'),13 soft surfaces potholes('x3')		X				8/22/2025	8/22/2027	7/14/2027	$386.00	$1,000.00	Danny approved the bond expiration date of 7/14/27. Please ask him to inspect before the bond expires.jo		8/12/2025	Multiple issues with scheduling and potholes excavtions left exposed
2025-069	JCB/Comcast	1427 Broken Lance Dr	9/1/2025	10/17/2025	Part 3 of 3-Trench Phase- JB#566350 Trench 450', Place 2x2' conduit,		X	X			10/17/2025	10/17/2027	7/14/2027	$386.00	$3,500.00	Danny approved the bond expiration date of 7/14/27. Please ask him to inspect before the bond expires.jo		8/12/2025	Multiple issues with scheduling, did not have right equipment to do work
2025-071	JCB/Comcast	843 Tiger Rd	8/26/2025	10/8/2025	JB#U57937 = BK11 On attached plan and profile, we are completing the work shown from SHT C1 to SHT C12, this is illustrated from page 6 to page 17		X	X			10/8/2025	10/8/2027	7/30/2027	$386.00	$4,020.00	Danny approved the bond expiration date of 7/31/27. Please ask him to inspect before the bond expires.jo		8/25/2025	Multiple issues with scheduling and potholes excavtions left exposed
2025-105	Pauley Construction	200 Ski Hill Rd	11/24/2024	12/1/2025	Utility Access only-no excavation		X				12/1/2025	12/1/2027				Pending CDOT approval			

Cashmere, WA

AWC member Cashmere, located in Chelan County is a community of just over 3,000 located in the geographical center of the state at the base of the Cascade Mountains and on the banks of the scenic Wenatchee River. Until early 2024, when the City was approached by Intermountain Infrastructure Group ("IIG"), they had never been asked by a broadband company for an agreement to access City rights-of-way and were unfamiliar with both the governing law and industry practices in developing such an agreement. At the outset, the City notes that the reason city oversight and coordination is so important is that local governments must ensure that the infrastructure that these companies are installing must be done safely, as it will impact other critical infrastructure in the right-of-way. If a deemed granted remedy allows companies to begin excavating and installing wherever it decides the facilities should be located, such action will put other facilities at risk.

Developing the franchise agreement requested by IIG was a new process for existing city employees, but the City was focused on educating itself and the agreement was completed in May 2025. The City contracted with legal and engineering consultants to help develop the agreement and work with IIG to determine appropriate routes. Part of the costs that IIG incurred was the cost of these consulting services. This allowed the City to address its steep learning curve, determine that under state law, the appropriate authorization that IIG needed was a franchise, and then following the process to complete negotiations for that agreement. While the fees received from IIG covered the consulting costs, it did not cover the time incurred by the small number of staff members who needed to participate in this educational and operational project.

Cashmere notes that shot clocks with deemed granted remedies would have worked against the successful completion of this franchise negotiation. Cities need time to address how a proposed

installation impacts other utilities in the area, and the ability to reach those other facilities for repairs or improvements. Facing a deemed granted remedy, the City would not have had sufficient time to complete the process and would have been forced to reject the application. Federal limits on cost recovery that precludes the ability to retain consultants when needed and be compensated for those costs would be contrary to the interests in bringing broadband to smaller communities. Local governments must continue to retain the flexibility to address these issues in a manner that takes into account their unique circumstances and gives them the time to understand and act consistent with applicable state and federal law.

Federal Heights, CO

CCUA member Federal Heights is a suburban community of just under 15,000, in Adams County, a short drive north of Denver along the busy I-25 corridor and the proud home of Water World, one of the largest water parks in the county. When complete applications are filed, the City generally processes permits timely, and it has a track record of good relations with the utility, telecom and broadband entities that locate facilities in City rights-of-way. If the Commission is intent on imposing federal shot clocks on local permit review, Federal Heights urges the Commission to consider the need to preserve a local government's ability to grant an application with conditions, where the actual construction permits will not be issued until the conditions are met. For example, the granting of a permit is often conditioned upon providing a bond or certificate of insurance, ensuring that the City and its residents are protected from any damage that might be caused by the construction activities. It is not uncommon for companies to take weeks or even months to provide the requested bond or insurance confirmation.

With regards to fees, Federal Heights' experience demonstrates why federal agencies do not have the expertise or the experience to determine one-size-fits-all fee caps for every local jurisdiction in the nation. Local governments must retain the authority to recover costs that go

beyond permit application reviews and processing. Significant labor costs are also incurred related to utility locate requests processing and completion, in-field monitoring, pre- and post-construction inspections of projects, utility crossings, and restoration repairs. Street pavement damage and degradation are also associated long-term costs. If fees are limited, local taxpayers will absorb the costs incurred by the community by private, for-profit entities' use of public property. Local governments also must retain authority to withhold permit approvals if an applicant has any outstanding issues with other current projects, such as site clean-up or repair of damage.

Greenwood Village, CO

CCUA member Greenwood Village is a formerly rural community in Arapahoe County of just under 12,000 which has developed into a dynamic blend of urban and suburban residential communities and also houses nationally recognized business parks. Greenwood Village has an excellent track record of reviewing and acting on permits and had generally had no problems with the three primarily broadband network owners using city streets – Comcast, CenturyLink/Lumen and Intrepid. The City reports that even with its right-of-way coordinator position being vacant in January and February, most permit reviews are completed in a reasonably short period of time. The City's 2025 year-to-date permit statistics, as of November 2025, reflect that initial completeness reviews were done on 235 new applications and 92% were completed within 5 days. 93% of complete applications for excavation permits that were not considered "major" installations were completed in 10 days. 83% of applications for permits for major installations were completed in 15 days. While most of these permits work their way efficiently through the process, the Commission should note that there are still permits that may involve unique facts or special circumstances, and even within the efficient processes managed by Greenwood Village, there are always permits that will take more time. It would be wholly unreasonable to create shot

clocks applicable to every jurisdiction of every size, without consideration of budget or staffing, and presume that it is "reasonable" for tens of thousands of jurisdictions to act within the same time periods. The evidence suggests that most jurisdictions do in fact work timely and effectively in managing permits, and the Commission certainly has the tools to address individual problems that may occur in the minority of communities on a case-by-case basis.

Issaquah, WA

Issaquah, an AWC member, is city of over 40,000 located in King County and within the Seattle metropolitan area. Consistent with Washington state law, the City processes permits for broadband facilities as right-of-way franchise utility permits. Data for all franchise utility permits issued in 2024 and 2025 (through December 3, 2025) are shown in the table below:

City of Issaquah - Franchise Utility Permitting

Franchise Utility Permits Issued in 2024 and 2025 (thru 12/3)	**2024** **All Franchises**	**2025** **All Except One Entity**	**2025 One Problem Entity (addressed below)**	**2025** **All Franchises**
No. of Right-of-Way Franchise Utility Permits Issued	115	125	9	134
Average No. of Review Days to Issuance	11	14	80	14/19[56]
Max No. of Review Days	29	37	279	279
Min No. of Review Days	0	2	1	1

As shown here, in the vast majority of cases, Issaquah processes permits timely and efficiently. At the same time, there can be (and in Issaquah, there have been) limited examples of permit

[56] 14 days is the average number of days for the City to review a wireline permit across for all applicants ***excluding*** the "Problem Entity". Including the Problem Entity, the City's average review timeline was 19 days. The City's issues with this entity are discussed in more detail on pgs. 37 and 47-48.

applicants whose actions are the cause of delay and damage. Local governments must maintain the authority to manage all of these projects in a way that best protects public safety and ensures that the public is not subsidizing private providers.

Lacey, WA

AWC member Lacey is a suburb Washington's state capitol, Olympia, located at the southern tip of Puget Sound in Thurston County with a population of approximately 53,500. City staff report complete permit applications in situations without complicated issues are generally acted upon within a matter of days. There are, however, exceptions if there are more complex issues that require review from other departments such as a project requiring a water shutdown, major traffic impacts and detours, or variances to do night work or shut down a road. In the vast majority of cases however, when permits take longer than a few days, it is due to applications with incomplete information, such as plans that do not contain necessary information on the work that is being done, or missing traffic control plans.

Richland, WA

AWC member Richland is located in southeastern Washington at the confluence of the Yakima and the Columbia Rivers and has a population of approximately 60,560. Along with the nearby cities of Pasco and Kennewick, Richland forms the Tri-Cities metropolitan area. Richland is committed to processing broadband facility permits efficiently and effectively. The City maintains an online permitting portal that guides applicants for complete permit submission. City staff provide support to ensure that applicants are able to access and submit the permit application. The portal also gives the applicant information on the stage of the permit process that their permit is in. Richland offers pre-application meetings with applicants to assist them in preparing their documentation and project planning. The City unofficially also performs cursory reviews before applications are submitted.

After an application is submitted, the initial review period timeline is set for six days and begins only after all required documentation has been received. For most broadband projects, the City completes its review within two days, while larger or more complex projects may take a bit longer. After review, permits are either released or returned with comments for resubmittal.

For resubmittal, the review period timeline is ten days. The City typically provides turnaround within one to two days, ensuring timely processing and minimal delays in project delivery. The City charges a flat permit fee at permit issuance. No review fees are charged for utility installations, including broadband/fiber/telecom. Depending on the size and complexity of the project (for example, if City utilities are being relocated), the City will require a hybrid in-person/virtual preconstruction meeting which is typically scheduled within two weeks of permit release.

The City also hosts utility coordination meetings twice annually to update utilities on new City policies and procedures, review upcoming City capital or large development projects, and provide the utility companies the ability to discuss their own upcoming projects to assist utilities (including our broadband providers) with their own planned capital and maintenance work before permitting.

Seattle, WA

Coalition and AWC member Seattle has done yeoman's work in preparing for and managing wireline installations. The Seattle Department of Transportation ("SDOT"), as the City's rights-of-way manager, works closely with industry to foster an efficient and successful application process, offering technical coaching sessions, online resources, and utilizing an online permitting system (Accela).[57] SDOT has two types of Street Use permits for utility work (utility

[57] *See* Utility Work in the Right of Way, CITY OF SEATTLE, https://www.seattle.gov/transportation/permits-and-services/permits/utility-work-in-the-right-of-way (last accessed Dec. 18, 2025).

work includes telecommunications/broadband), Minor Utility Permits for non-complex work in smaller geographic areas (such as short single service installations, maintenance, or repair of utility lines), and Utility Major Permits for projects with more complex technical issues (such as impacts to existing City assets or infrastructure, deep excavations, work that triggers ADA curb ramp installations).

The figures below are from Seattle's Accela Permitting System which tracks the number of days an application is with City staff for review or processing, and the number of days it is with the applicant for their action, such as providing additional information, making plan corrections, submitting payment. The figures reflect the overall average for permit applications of telecommunications and other wireline applicants combined (Astound, AT&T, CenturyLink/Lumen, Comcast, Crown Castle, Extenet, T-Mobile, Verizon, Zayo, and Ziply). Average number of days from application to issuance for right-of-way permits:

***Minor* Utility Permits** (SUUTIL)	**2024**	**2025**	*2-Yr Ave*
# Days to Permit Issuance (Avg.)	31	46	*38.5*
# Days with City (Avg.)	14	16	*15*
% Time **with City**	45%	35%	*40%*
*% Time **with Applicant***	*55%*	*65%*	*60%*

Utility *Major* Permits (SUUMP)	**2024**	**2025**	*2-Yr Ave*
# Days to Permit Issuance (Avg.)	199	343	*271*
# Days with City (Avg.)	95	118	*106.5*
% Time **with City**	48%	34%	*39%*
*% Time **with Applicant***	*52%*	*66%*	*61%*

Seattle's permitting data shows that over the past two years (2024-2025) *Minor* Utility Permits were issued in an average of 39 days, with over half of that time (60%) being with the applicant for their action (i.e., additional information, correction, payment). Over the same time period, Utility *Major* Permits were issued in an average of 271 days, with over 2/3 of that time (61% avg.) being with the applicant for their action (i.e., additional information, correction, payment). From

2024-2025, the average number of days a permit application ***is with the applicant,*** waiting for their action or input, has increased. For Minor Utility Permits, it's increased from 55% to 65% of the total application cycle time. For Utility Major Permits, it's increased from 52% to 66% of the total application time.

4. Providers are equally responsible for delays in wireline deployments

Wireline deployments – like any capital investment project – are subject to a variety of economic, geographic, and even human factors which may impact the pace of construction and investment. Fees charged by state and local governments are merely one fairly small piece of the overall cost of a fiber project. The Notice incorrectly assumes that when the time it takes to obtain agreements and permits for deployment is excessive, it is always the fault of local governments. In fact, however, providers and applicants are often responsible for delays or for projects not occurring at all. The Coalition is not, in any of the examples that follow, claiming that industry actions identified here were wrong, inappropriate or otherwise something that should cause these entities to be criticized. To the contrary, the facts provided here simply demonstrate that the Commission and the industry advocates for preemption of local authority cannot lay the blame for delays and other actions leading to a failure to deploy networks solely on the actions and practices of the nation's local governmental entities. As often as not, after governmental entities like those named below expend significant effort in bringing broadband competition to their communities, the applicant decides to focus its efforts elsewhere for a variety of reasons wholly unrelated to the local government in the area they proposed to deploy in. The Commission would be wrong to over-simplify a complex issue and assert that federal preemption of traditional areas of local authority will fix what it perceives, without substantial evidence, to be a national problem.

ALLO Communications - Colorado

ALLO Communications ("Allo") is a competitive provider of telecommunications, broadband, internet, video and voice services to customers in Nebraska, Colorado, Arizona, and Missouri. Multiple CCUA jurisdictions have had experiences working with Allo.[58] In communities where Allo is providing services, those municipalities have welcomed the competition, and while no deployment is ever perfect, both Allo and the jurisdiction have effectively worked through the sometimes-complicated process of network construction. In other communities, such as Boulder, Colorado, while competition is not yet operational, network construction is underway and generally progressing well.

In some Colorado communities, Allo approached elected officials and staff and offered great expectations of its plans for these communities and its excitement about bringing services to residents and businesses. Initial contacts led to negotiations where the local governments also expressed the desire for competition, and significant time and money was spent negotiating the agreements to authorize right-of-way access and network construction. Unfortunately, in communities like Johnstown, Milliken, Berthoud, and Mead, when agreements were literally a few weeks away from final approval, Allo declined to complete negotiations and chose to focus its attention elsewhere.

Crown Castle – Aurora, CO

In Aurora, Crown Castle acquired a large number of permits at one time and then elected to not move forward with broadband construction in the City due to business strategy changes. While the City operates timely and efficiently to grant permit applications, sometimes the City's

[58] See Residential, ALLO FIBER, https://www.allocommunications.com/ (last accessed Dec. 18, 2025) (listing fifteen different communities served within Colorado, including multiple CCUA members).

timely actions are followed by delay or failure to deploy by the applicant when the applicant's priorities change.

Google Fiber – Golden and Edgewater, CO

CCUA member Golden is a vibrant, culturally thriving city of approximately 21,000 residents, located in the Denver Metro Area, at the base of the Rocky Mountains, and served as the Capital of the Colorado Territory from 1860 – 1867. Google Fiber first approached Golden in late 2022 and requested that the City negotiate a right-of-way access agreement, which is a form of agreement required by Colorado statute before a new entity can access public rights-of-way. A mutually acceptable agreement was completed in November 2023, and a representative of Google Fiber expressed the company's excitement about deploying a competitive network throughout Golden. The City was equally excited in seeing the benefits of competition that Google Fiber is expected to bring. Despite its excitement, it was not until September 2025 that Google Fiber sought the permits necessary to begin construction.

Another CCUA member, Edgewater, which is known as "the small town next to the big city," is a first-tier suburb located on the west side of Denver with a population of approximately 5,100. Like Golden, Edgewater is excited to see the benefits of broadband competition in its community. In June 2024 Google Fiber reached out to Edgewater and expressed interest in negotiating an agreement similar to the access agreement it had negotiated in Golden and a number of other Colorado communities. Negotiations ensued, and drafts were exchanged by the parties in November and December of 2024. When a revised draft was sent to Google Fiber on December 12, 2024, it was suggested to Google Fiber that to facilitate its deployment and prepare for permit issuance, the City engineers could meet with company representatives to discuss technical issues related to the proposed construction. The City heard nothing for three and a half months, and

Edgewater reached out on March 31, 2025 to see if Google Fiber was still interested in pursuing deployment in the City. Google Fiber responded in early April by noting that its team was focusing most of its attention on obtaining an agreement with another jurisdiction and that Google Fiber hoped to be able to get a response to the City soon. The City reached out to Google Fiber again on June 26, 2025, and again on July 28, 2025, reminding Google Fiber that there the City had received no substantive response since December 2024. The City was again told that Google Fiber was working elsewhere and would get back to the City very soon. The City received substantive feedback to its December 12, 2024 draft on August 22, 2025 – a delay of more than eight months. The City provided its responsive feedback on September 9th – 18 days later, and requested a meeting to discuss open issues. As of this writing, it has not received a response. To further emphasize the City's intent to help promote local deployment, it recently advised Google Fiber of a large-scale City road project planned for January 2026, and offered to give Google Fiber a permit to install facilities at that time, even ***before*** the company obtains the statutorily required authorization from the City to use the rights-of-way.

Federal Heights, Colorado

In CCUA member Federal Heights, the City has found that delays in permit approvals are typically caused by one the following:

- Failure of applicant to provide documentation (certificates of insurance, bonding, contractor license registration, etc.) or corrections to project or traffic control plans.
- Project requires approval of other jurisdictions and applicant has not received related permits. Example: Local governments must verify authorization by the Colorado Department of Transportation for projects along state highways within their jurisdiction.
- Applicant in violation of other approved permits in the City, such as restoration and repair requirements for damage to either public or private property

- Applicant's project is in same area as an already approved permit or project and concerns related to other approved and opposing work or traffic control measures or other similar safety concerns.
- Approved permits may be placed on-hold due to the failure of the permit applicant or their contractors to follow permit conditions. Examples: poor traffic control set-ups, failure to properly coordinate as project progresses, and failure to meet utility crossing requirements of other utilities.

These examples are presented not to fault applicants for these issues, but merely to note that delays are often the result of complex issues which cannot always be easily resolved on an accelerated timeline.

Ziply – Airway Heights, WA

Airway Heights notes that at times larger projects will require more time for preparation and oversight, and how the applicant responds often impacts the time it takes before the City will see any deployment. The process is governed by City codes, standards, and a Franchise Agreement (as required by Washington state law) with each entity. Airway Heights recently worked with Ziply Fiber on a major project within the City. The City held two pre-development conferences with Ziply in October of this year to provide information about the process and requirements, and answer questions, all in an effort to help Ziply's work go as smoothly as possible. At present, the City is awaiting Ziply's permit application.

Issaquah, WA

Issaquah also had delay issues with Ziply Fiber's application. Ziply was not responsive and did not provide the additional information requested during plan reviews, requiring multiple resubmittals. This resulted in the Ziply permits taking much more staff time for review before permits could be issued. Ziply averaged 80 days to issuance compared to 14 days for all other fight-of-way franchise permits. This additional review time was attributable to Ziply due to its non-responsiveness to staff requests for additional information.

Other entities in Issaquah have begun the application process, but have failed to respond to City comments or otherwise failed to follow through on their applications. For example:

Ezee Fiber's initial permit application was received on June 17, 2025 with comments returned on June 23. The second submittal was received on August 22 with comments returned on August 28. It has been over 90 days since then and no third-round comments have been received. This is Ezee Fiber's only submittal thus far.

Hyper Fiber requested and had a meeting with Issaquah staff in January 2025, with staff answering right-of-way permitting questions. Since then, they have reached out multiple times asking the same permitting questions. There have been no Hyper Fiber right-of-way permit applications to date.

Atco Telecom reached out regarding right-of-way permit submittal requirements on July 9, 2025, and was provided feedback from the City. There has been no response, franchise or permits requested.

Auburn, WA

Auburn offers its experiences where delays were the result of applicant decisions.

- Ziply Fiber Pacific, LLC dba Ziply Fiber – Citywide Wireline Telecommunications Franchise Finalized on 5/6/2024
    - As of 12/8/2025 Ziply has yet to apply for any permits to install any facilities.
    - Applied for 1 Construction Permit for "Manhole Investigation" on 2/10/2025, issued on 3/4/2025, expired on 11/28/2025.
    - Auburn received numerous citizen complaints about Ziply and their contractors trespassing on private residential property in early spring 2025. It appeared that Ziply was trying to determine how residential properties were being served and who was serving them or may have potentially been scoping future projects, but to date nothing has moved forward and no permits to construct facilities or provide service in those areas have been applied for.
- Lightcurve Internet and their contractor/consultant, Utilities One
    - 11/7/2024 – Representatives from both companies contacted the City inquiring how to obtain permits to install fiber optic cable in the right-of-way in quarter 2 of 2025. Franchising information as well as answers to various questions they had was provided to them at that time.
    - 6/24/2025 – Different representatives from both companies contacted the City with the same questions that the previous representatives had and that the City responded to back on 11/4/2024. In response, the City forwarded all of the previous

information to the new representatives. As of 12/8/2025 the City has not heard either company or received any sort of application submittals.

- TDS Telecom
    - April 2025 – Representatives contacted the City to inquire about obtaining a franchise agreement with the City for Cable services. Information was provided to the company in early May 2022. The company never applied and the City has yet to hear anything further from them.
- SQF/TilsonTech
    - Representative contacted the City in February 2025 to inquire about obtaining a wireline franchise with the City and also requested information on wireless/small cell franchise agreements. All relevant information including the franchise application were sent to the representative. Additionally, they requested copies of the City's standard agreement forms for each type of franchise which were also provided. The company never applied and the City has yet to hear anything further from them.
- Google Fiber
    - Mid-2023 – Representatives approached the City about installing Google Fiber throughout the City. The City had numerous questions and concerns about their proposed construction methods and did meet with them to discuss their proposed project, but ultimately the company never submitted any applications to move forward with anything.

C. The Commission cannot – and should not – preempt local authority to manage local rights of way and protect public safety

Wireline providers are only one of many private, quasi-public, and public entities which have facilities in public rights-of-way. Buried under public roadways and rights-of-way are electric, natural gas, potable water, stormwater, wastewater, or sewage facilities installed in close proximity. On the surface of the right-of-way, the traveling public and all manner of private and public transportation interests require safe and efficient right-of-way access. On poles within the right-of-way, aerial broadband facilities are often comingled on poles with electric and telecommunications providers as well as equipment facilitating public safety communications. To manage these complex and often competing interests for use of the rights-of-way, local governments are best suited to ensure that *all* facilities are installed in a safe and secure manner.

There are good reasons why local communities are – and have always been – the entities tasked with managing local rights-of-way in a manner that protects public safety. Projects in one community can be subject to different challenges and constraints compared to others. A fiber project along the Puget Sound will need to navigate different constraints compared to a project crossing the Continental Divide. Even within Colorado or Washington, local projects may have unique requirements even between communities located within a short drive of each other. Each jurisdiction in the United States has their own unique local concerns, which can never be understood and managed by a federal agency.

Even where local governments have chosen to follow standard approaches to local regulation, there is still necessary flexibility to account for local circumstances. For example, the International Building Code (the "IBC") has been developed as the global standard for safe construction practices and has been adopted by almost every jurisdiction in the United States.[59] Even as a "standardized" code, one community's version of the IBC may look very different compared to another's. Within the continental United States, the IBC establishes 19 different "climate zones" which define suggested modifications to various requirements to account for local weather patterns. As it relates to this proceeding, the standards for excavation and restoration will differ significantly depending on soil types and local climate and geography. In addition, when adopting the IBC, local communities often make other changes – both substantive and procedural – to address local issues. Yet, despite the diversity of local building codes across the thousands of

[59] *See* 2024 International Building Code, International Code Council, https://codes.iccsafe.org/content/IBC2024P1 (last accessed Dec. 18, 2025); *see also*: *IBC and IECC Adoption Map 2021-2024: U.S. Trends, Timelines, and Strategic Impacts* (Aug. 24, 2025) https://www.innowave-studio.com/post/ibc-and-iecc-adoption-map-2021-2024-u-s-trends-timelines-and-strategic-impacts. (report conducted by a professional architectural and design firm detailing the "patchwork" of trends in adoption of the IBC and its sister codes across the United States).

local government entities across the country, contractors and real estate developers are both capable and successful in conducting work under different construction regulations.

The IBC model demonstrates key problems with the Commission's proposal for nationwide and uniform right-of-way standards. Due to varied construction standards and requirements nationwide, deployment of wireline facilities can and should be subject to unique local conditions. These unique local circumstances may affect the cost to process and the time it takes to address permit applications. However, addressing these local conditions is imperative from a public safety perspective. National "one size fits all" standards will necessarily inhibit local governments from being able to address these important and uniquely local concerns.

The Commission errs when it suggests this one size fits all approach to wireline deployments for all telecommunications and broadband facilities. The Commission's proposal will limit if not outright prevent local governments from enforcing generally applicable local regulations on wireline deployments. The Commission's proposal will create a two-tiered system of rights-of-way regulation: one for non-telecommunications utilities and one for telecommunications providers. Non-telecommunications utilities will be required to comply with all applicable public safety regulations and localities will continue to have the time necessary to ensure that all public safety regulations are followed and local concerns addressed. At the same time, telecommunications providers will benefit from separate and more favorable set of rules to follow, resulting in applications which do not have to follow all of the rules and that are rushed through the review process, resulting in increased risks to public safety. Such action will compromise the safety of our communities and cause an increase in taxpayer costs. Specific examples of risks to public safety and increased costs to taxpayers follow.

Airway Heights, WA

Airway Heights points out that its review process evaluates the submittal materials for completeness and conformance with its codes and standards. This ensures what is put into the ground or in City right-of-way does not negatively affect existing utilities (both public and private), preserves the integrity of the road and pedestrian systems, and the finished work meets industry standards. The City notes that inflexible shot clocks and imposition of "deemed granted" remedies will be counterproductive. Large projects in small cities create special challenges and could overwhelm the jurisdiction's ability to adequately review the application, as well as all the other applications in the system. With respect to telecommunications applications, this could result in either: (1) inadequate review, substandard implementation, all to the detriment of the community's interests; or (2) denial of the application because the city is not being given sufficient time to undertake a complete review and is unwilling to risk the "deemed granted" remedy.

Auburn, WA

As noted above, many of the applicants who sought permission to deploy network facilities in Auburn never followed through. The result is that Auburn has not seen much damage from the deployment that has occurred. Auburn notes however that Fatbeam bored through a sewer line at West Valley Highway and Terrace Drive in the City, which required sewer line replacement, pavement, curb/gutter/ramp/sidewalk replacement, and had significant impacts on traffic.

Breckenridge, CO

Delays of telecommunications and broadband facility projects within Town rights-of-way tend to be caused by subcontractors of telecommunication or broadband companies that do not follow permit guidelines, requested construction timelines or best practices for the work. In most of these cases, the telecommunications or broadband company did not effectively manage its

subcontractors or did not provide complete scopes of work to its subcontractors to facilitate successful completion of the proposed projects. Often times contractors fail to comply with required site clean-up obligations. The Town has also experienced contractors failing to timely undertake restoration requirements. These failures to comply with permit conditions cause project delay, require significant attention from Town Public Works staff to inspect and re-inspect the work, and additionally creates unnecessary risks to public safety. Examples of these problems follow:

Example 1: Excavation left open on the side of a busy road and bike lane. Trash thrown in excavation. There were multiple bore pits from horizontal directional drilling along this roadway, none of the pits along this road were marked with cones. This was a serious safety concern which led to Public Works using cones to mark off the hazards. The sub-contractor came back later that day after Town Staff contacted the telecom company to which the permit was issued. Subcontractor left site stating that backfill was not part of their bid.

Example 2: Splicing cabinets left open for weeks at a time. Subcontractor showed up periodically to wait for another subcontractor to mobilize to finish the splicing.

Example 3: Subsurface Utility Engineering Level A investigation potholes next to sidewalk left open for 15 days. The potholes were measured 3'- 4' deep. No cones or barricades on site. Contractor stated that they did not have access to backfill materials.

Even if the Commission had the legal authority to tell states and local governments how to manage their rights-of-way, it will never have the expertise to do so effectively and in a manner that best protects public safety. The proposals in the Notice, if adopted, will absolutely result in increased risks to public safety in our communities. Such action would be all that much more egregious because the Commission does have the authority to address individual complaints in jurisdictions on a case-by-case basis. Abdicating that responsibility to impose one size fits all rules on all local and state governments is the wrong way to proceed.

Dacono, CO

CCUA member Dacono is a city just over 6,000 in Weld County, Colorado. Founded in 1908, Dacono was originally a small coal mining town, but like many other communities in the northern Front Range, Dacono has recently begun to experience more rapid growth. With all of this growth, Dacono has also attracted the attention of multiple fiber-to-the-premises ("FTTP") internet providers looking to install their facilities in new developments as well as existing neighborhoods. Dacono worked with these providers to establish streamlined permitting and review procedures to simplify the process for both applicants and City staff. In historic Colorado towns like Dacono, it is not uncommon for there to be hidden or unknown underground utilities – including abandoned oil and gas pipelines – so most communities like Dacono may still require providers to perform utility locates and engage in safe boring practices even in "greenfield" development. But even when providers are following the City's procedures, accidents can still happen.

On December 4, 2025, a contractor for Intrepid was boring an underground fiber optic line as part of Intrepid's FTTP network in the City when they accidentally struck a natural gas line for another nearby property, causing a fire which engulfed the entire home, destroying the house and

all of the family's belongings.[60] Perhaps luckily in this case, nobody was home and so there were no injuries, but if communities like Dacono are forced to expedite their review of wireline permits, accidents like this may become more common, and more consequential.

Fort Collins, CO

CCUA member Fort Collins is located in northern Colorado and is the home of Colorado State University. With a population of approximately 170,000, it is the fourth largest city in the state. It is significant that 95% of utility facilities in Fort Collins are located underground. The City has not seen significant issues with damage or accidents in the rights-of-way, in large part, because its review process and design and installation standards prevent potential conflicts from occurring. If the City's ability to review and regulate proposed deployment in the rights-of-way is weakened or removed, it would expect to see the kinds of adverse impacts it experienced in the past, prior to developing its review process and standards. Those damages include:

- Damage to City-owned trees;
- Damage to utility facilities, including 95%+ of facilities that are undergrounded;
- Violations of separation standards from underground utilities;
- Violations of Larimer County Urban Area Street Use standards;
- Disruption of the provision of safe streetlighting without being able to review lighting simulations for collocated small cell facilities; and
- Damage and intrusions on ADA-compliant infrastructure and facilities.

Issaquah, WA

Issaquah has experienced applicants and their contractors causing damages in their projects, creating public safety hazards and additional costs to the parties. On August 8, 2025,

[60] Shaul Turner and Parker Gordon, *Gas line puncture leads to mobile home explosion in Dacono*, KDVR, Dec. 4, 2025, https://kdvr.com/news/local/gas-line-puncture-leads-to-mobile-home-explosion-in-dacono/.

Ziply's construction company hit a water service line that required emergency repair by Issaquah's Public Works Department after hours. On August 14, 2025, Ziply's construction company hit a stormwater catch basin, causing damage to the utility, and released turbid water into the environment. The City inspector directed Ziply's construction company to clean up and repair the damage. All work was suspended until further notice.

Both of these incidents occurred due to Ziply's contractor failing to meet horizontal or vertical clearance standards between other utilities. The Commission must not take any action which will limit local government's ability to manage these issues or limit the recovery of the costs that these damages cause to local communities.

In an effort to avoid and minimize damage, and to assist in having timely repairs completed when damage occurs, Issaquah has adopted a number of practices that help accomplish these goals. The expertise in addressing these issues lies at the local level, and not with the Commission.

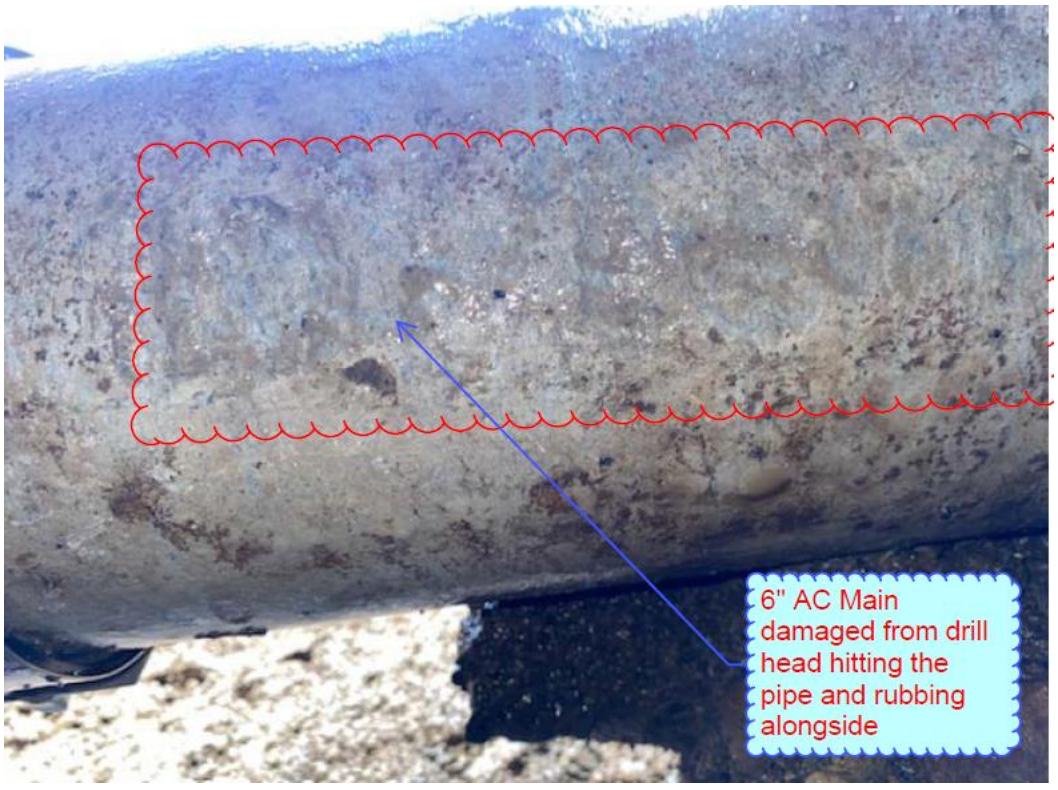
- Issaquah shares existing record drawings upon request to assist in locating new underground facilities to minimize conflicts with existing facilities;
- Reviewers compare submitted plans with City GIS data;
- Franchise agreements and Issaquah code have provisions to collect deposits or bonds to guarantee against damage to the right-of-way or public utilities; and
- If damage occurs, Issaquah can issue a stop work order and allow only work related to the repair until repair is complete and damages are paid.

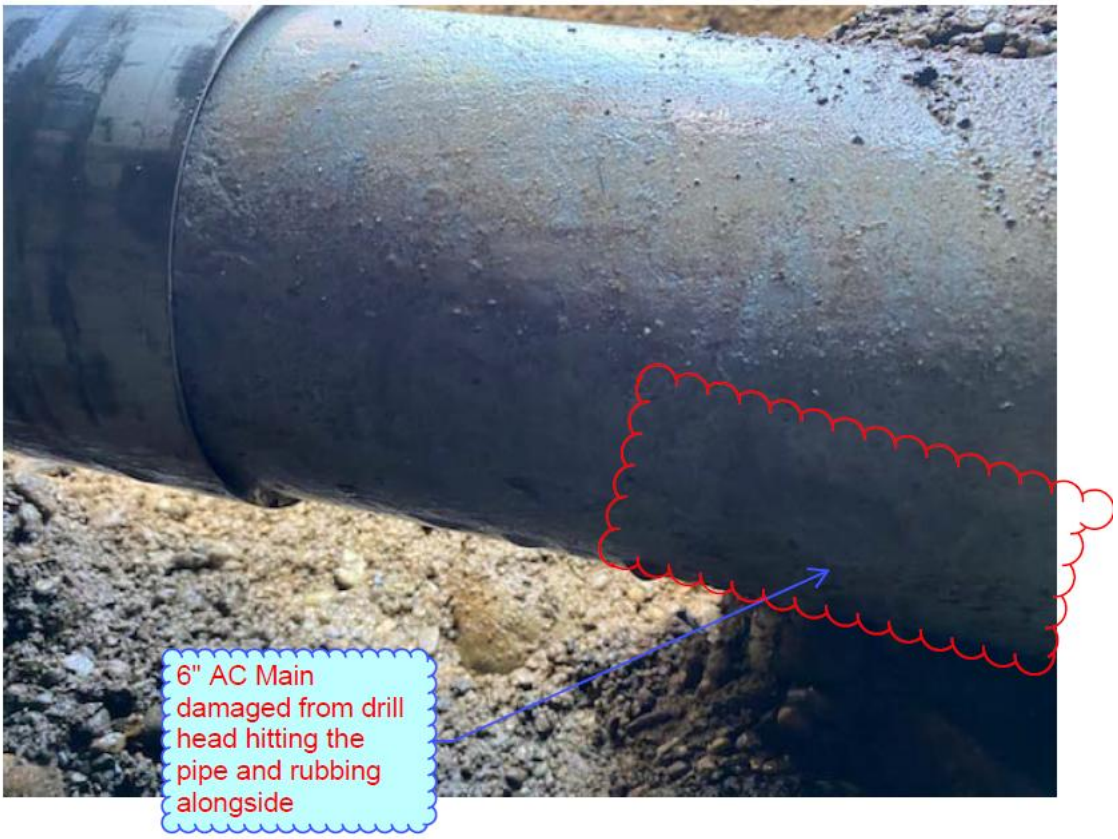
Lacey, WA

Lacey notes that it must retain the authority to monitor, inspect, and correct issues like damage to City owned infrastructure, public safety risks such as insufficient traffic control measures or unsafe working conditions, noise ordinance violations, OSHA violations and ADA compliance during construction and restoration work. Lacey has experienced issues where restoration work was not completed in a timely manner. These problems result in right-of-way

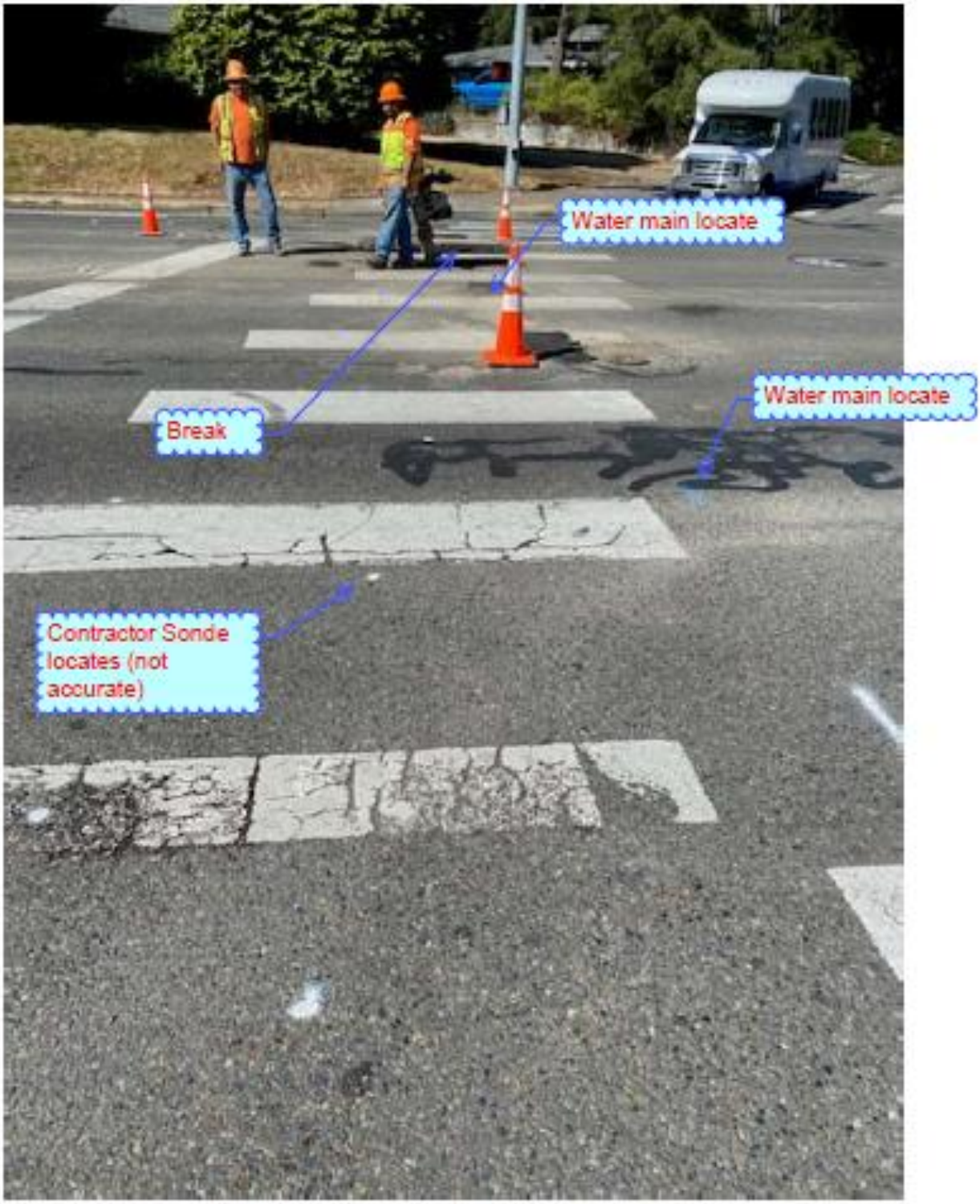
hazards to the public that extend for long periods of time. City staff has had to repair water lines damaged by contractors. On occasion, the City has had to shut a right-of-way project down either because the contractor continually failed to comply with City standards, or because the contractor began work without obtaining necessary permits. The Commission needs to understand that shot clocks can exacerbate these problems by forcing staff to rush through permit review which may result in oversights which then lead to public safety incidents. Local government staff are in the best position to monitor these projects and respond to problems, and the Commission must not in any way restrict that authority or limit a local government's ability to take the time necessary to review permits and to recover 100% of damages that are caused to the public.

Visual examples of the damage to utility infrastructure in Lacey are included below:




6" AC Main damaged from drill head hitting the pipe and rubbing alongside


Hole in pipe from drill head hitting pipe


Water main locate
Water main locate
Break
Contractor Sonde locates (not accurate)

III. CONCLUSION

In the Notice, the Commission seeks comment on whether local right-of-way regulations or access procedures are effectively prohibiting the deployment of telecommunications facilities, and whether the Commission should establish mandatory "shot clocks" and deemed granted remedies to expedite review of applications to deploy telecommunications facilities. The Coalition maintains that even at this early state of the proceedings, the record illustrates that there are both serious legal and factual issues with the proposals in the Notice. Congress clearly limited the Commission's authority to preempt local authority under Section 253 in three key areas. First, the Commission may only preempt local regulations which inhibit the deployment of *telecommunications* services. Second, the Commission may only use its authority under Section 253 to address *specific* local laws or regulations and may not use that authority to implement a one-size-fits-all approach to wireline projects nationwide. Third, Congress clearly preserved local authority to control and manage access to public rights-of-way, including by protecting public safety.

The proposal in the Notice will *unlevel* the playing field by creating special rules for only one of the many users of the rights-of-way, will put the public safety at risk, and will lead to increased taxpayer costs by making the public responsible for costs that should be borne by the telecommunications and broadband industry. The Coalition urges the Commission to take notice of the legal and factual issues identified in these comments and the broader record and consider using its authority in declaratory proceedings which address allegations about local or state regulations on a case-by-case basis. The Coalition strongly believes this is the best, legally authorized, enforcement mechanism to accelerate wireline deployment.

Respectfully submitted,

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