November 17, 2025

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
45 L Street NE
Washington, DC 20554

Re: Build America: Eliminating Barriers to Wireline Deployments, WC Docket No. 25-253

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

On behalf of the nation's counties, cities, towns, and villages, the United States Conference of Mayors (USCM)[1], the National League of Cities (NLC)[2], the National Association of Counties (NACo)[3], and the National Association of Telecommunications Officers and Advisors (NATOA)[4] (together, the "Local Government Associations") submit these comments in response to the Federal Communications Commission's (Commission) Notice of Inquiry (NOI) in the above-referenced proceeding.[5] These comments respond to the Commission's questions regarding local permitting processes, timelines, and compensation for rights-of-way access, as well as the Commission's

[1] The United States Conference of Mayors (USCM) is the official nonpartisan organization of cities with populations of 30,000 or more. There are 1,400 such cities in the country today. Each city is represented in the Conference by its chief elected official, the mayor.
[2] The National League of Cities (NLC) is the voice of America's cities, towns and villages, representing more than 200 million people. NLC works to strengthen local leadership, influence federal policy and drive innovative solutions.
[3] The National Association of Counties (NACo) provides essential services to the nation's 3,069 counties, serving nearly 40,000 county elected officials and 3.6 million county employees. Since 1935, NACo unites county officials to advocate county priorities in federal policymaking and optimize county and taxpayer resources and cost savings while promoting exemplary county policies and practices.
[4] The National Association of Telecommunications Officers and Advisors (NATOA) is the local government association supporting our members by advocating for broadband deployment, digital equity, cable services, Public, Educational and Governmental Access (PEG) Television, public safety communications and the preservation of local authority in our public rights-of-way (POW).
[5] Build America: Eliminating Barriers to Wireline Deployments, Notice of Inquiry, WC Docket No. 25-253, (rel. Sept. 30, 2025) ("NOI")

broad mischaracterization of local rights-of-way management.[6] As representatives of the level of government closest to the people, local leaders have worked hard to collaborate creatively with federal, state, and private sector partners to bring high-speed, affordable broadband and telecommunications services to all communities. The Local Government Associations strenuously object to the Commission's depiction of local permitting as an obstacle to the provision of wireline telecommunications services. The parties suggesting this are seeking to strip local governments of their ability to responsibly manage public assets in the rights-of-way, while still expecting to have access to rights-of-way that are safe, well-planned, and conducive to technology-neutral competition.

Local Permitting Protects Finite Public Resources

Local governments' permitting obligations are rooted in the same public welfare responsibilities that Congress preserved in Section 253(b) and (c). In response to the Commission's request for information about local government authorization processes and timelines for access to public rights-of-way,[7] the Local Government Associations emphasize that these permitting functions are not obstacles, but essential management of finite, complex multi-tenant public resources. The primary goal of telecommunications permitting processes by local governments is to facilitate safe deployment of telecommunications infrastructure above, in, and below public streets and roadways, while protecting existing infrastructure and users of the rights-of-way from harm caused by poorly planned or executed construction. Local rights-of-way often include a wide variety of users, including power, water, gas, stormwater, and transportation infrastructure. The deployment of any additional infrastructure, including wireline communications infrastructure, must be carefully managed in coordination with all other users of this finite public resource.

This complex coordination includes numerous steps beyond merely reviewing applications: residents must be notified of work, safety rules for construction and installation must be enforced, traffic may need to be rerouted, existing utilities and communications providers must coordinate to protect worker safety and the integrity of existing infrastructure, and inspections must be completed at the conclusion of work. Additional approvals must also be secured, such as permission to access easements from private landowners, which requires robust communication throughout the lifecycle of a project. Local permitting offices and staff are responsible for ensuring the smooth completion of these steps. Even with these efforts, disruptions, resident frustration, and damage of physical property and landscape can occur - all of which become the ultimate responsibility and burden of the local government.[8]

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[6] Ibid at para. 3.
[7] Ibid at para. 10.
[8] Jonathan Walsh, "'It's terrible!': Local communities angered by damages caused by broadband installations," News 5 Cleveland, (Apr. 2, 2025).

Local Permitting Protects Public Safety

The Commission asks which local requirements might "materially inhibit" deployment under Section 253(a) of the Communications Act.[9] Permitting processes that prevent damage and protect the safety of contractors and the public are not a material inhibition, but instead a statutorily protected obligation under Section 253(b) to protect the public welfare. Digging without knowing the location of underground utilities can lead to serious injuries, service outages, and expensive repairs. Accidentally striking gas, steam, electric, communications (including copper, fiber, and coaxial lines), water, stormwater, or sewer lines can cause significant disruptions to homes, businesses, transportation, and even pose a risk to life and limb.

Unfortunately, damage to existing underground utilities is not unusual. Recent research by the Common Ground Alliance (CGA) found alarmingly high rates of damage from telecommunications infrastructure deployments. CGA found these damages arose primarily from failures by contractors to mark and identify existing facilities accurately, and suggested these high rates are considered an accepted "cost of doing business" to meet rapid deployment schedules.[10]

Gas utility strikes are a particularly common - and dangerous - hazard in fiber installations. In the Cities of McGregor, Texas[11] and Alexandria, Virginia,[12] contractors hit gas lines while laying fiber, necessitating public safety response and coordination by local officials to ensure the safety of workers and residents. Over a single year in the City of Colorado Springs, Colorado, contractors struck gas, water, and electric lines during fiber installation 766 times.[13] In the City of Floresville and Wilson County, Texas, a gas line strike during fiber installation caused explosions that destroyed or severely damaged three homes.[14]

Careless mistakes in wireline infrastructure deployment can also result in human lives being lost. The City of Lexington, Missouri this year experienced not only two gas line strikes in less than 24 hours during fiber installation, but an additional strike in April that led to a house explosion, killing a five-year-old boy.[15]

The Commission also asks whether local fees have the effect of prohibiting wireline telecommunications services.[16] While industry commenters may mischaracterize the collection of fees and the processes associated with rights-of-way access as some sort of profit motive for localities, this fails to account for the real challenges and real costs, including to limited local public safety departments, associated with preventing and responding to utility line strikes and other incidents.

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[9] NOI, para. 10.
[10] Common Ground Alliance, "Telecom's Critical Role in Reversing Utility Damage Trends," December 2023, p. 5.
[11] Madison Myers, "McGregor officials address gas line strikes linked to internet expansion," KXXV (Aug 27, 2025).
[12] Bob Barnard, "Internet company contractors hit gas line while digging to install fiber lines in Alexandria," FOX-5 News (Feb 1, 2024).
[13] "Fiber contractors fined for damaging 766 lines, causing outages," KOAA News (Mar 28, 2024).
[14] Darcy Ramirez, Megan Reyna, "Broadband internet company hits gas main causing explosion in Wilson County, city says," KENS-5 News (July 16, 2024).
[15] Akul Saxena, "Fiber Construction Blamed for One in Four Utility Strikes," Broadband Breakfast (Oct 1, 2025).
[16] NOI, para 31.

Reducing these kinds of accidents and disasters is a key responsibility that public servants and local governments do not take lightly. The imposition of a federal one-size-fits-all fee limitation fails to reflect the real challenges faced by communities during broadband and telecommunications infrastructure deployments that are not captured in typical "cost-based" fee proposals. Recent Commission actions to micromanage local fee structures have not delivered the promised explosion of a competitive broadband market for communities in need, and the Local Government Associations strongly discourage the Commission from imposing any such fee restriction to wireline infrastructure.[17]

The Commission Should Encourage and Incentivize Coordination

The Commission also correctly asks about other approaches to expedite the deployment of wireless infrastructure.[18] Local governments strongly desire broadband service for their communities and are eager to continually innovate and improve service delivery for residents. However, this innovation can only be truly effective when allowed to take place without undue federal overreach. In 2024, public and private sector stakeholders collaborated in a discussion captured in the report *Permitting Success: Closing the Digital Divide Through Local Broadband Permitting*, published last year.[19] As noted in the report, stakeholders agreed that a one-size-fits-all approach to permitting is not feasible or advisable, given the vast diversity in communities and technologies. Tailored local processes and requirements account for this diversity, including regional climate and freeze-thaw cycles, historic preservation or community aesthetic interests, road construction schedules, water table depth, population density, weather hazards, road surface materials, density of existing tenants in the rights-of-way, and more. Furthermore, individual internet service providers employ different components and technologies, necessitating distinct approaches to deployment.

Stakeholders also agreed that one of the most productive ways to expedite the efficient, cost-effective, and safe deployment of broadband and telecommunications infrastructure is to foster collaborative discussions between communities and providers early in the planning and deployment process. Stakeholders noted that these collaborative discussions provide applicants with an opportunity to inform and educate local governments and residents, and for localities to assist applicants in understanding how to navigate the permitting process successfully.

To that end, localities have attempted to create processes to ease and expedite deployment, such as "dig once" policies and the provision of planning data, including maps of existing infrastructure assets within a community. However, these actions are only effective when providers work in cooperation with them. Local governments plan work to open and resurface streets well in advance and make this information publicly available to manage utility safety, traffic management, and resident expectations.

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[17] Comments of the National Association of Counties, National League of Cities and The United States Conference of Mayors in the Matter of Delete, Delete, Delete, GN Docket No. 25-133 (April 11, 2025).
[18] NOI, para 30.
[19] Drew Garner, Benton Foundation, "Permitting Success: Closing the Digital Divide Through Local Broadband Permitting," (Sept 4, 2024).

Unfortunately, providers often fail to utilize this information to collaborate with localities on placing fiber during street work or to run fiber through existing conduit built during this work. They regularly request work to disturb street surfaces that are a year or less old. This behavior is not only inefficient and disruptive to residents, but it also effectively shortens the serviceable life of the street surface, even when providers restore the portion that was disturbed. The Commission should explore how to best incentivize providers to collaborate with planned street work schedules.

Similarly, many local governments work to ease planning and the deployment of broadband and telecommunications infrastructure by making information about existing infrastructure asset inventories publicly available, such as through GIS maps on government websites. The Commission should incentivize local public data and digital services delivery through grant flexibility to allow for technology adoption, particularly by small and rural communities, and appropriate use of mechanisms such as advisory committees, which can provide useful guidance on practices that are already working well in the field.

The Commission Must Not Act as a Local Zoning Board

The local permitting process provides communities with ownership and responsibility for the strategic management and stewardship of public infrastructure goods and resources. Local governments successfully partner with the telecommunications industry every day to safely, securely, and efficiently deploy telecommunications infrastructure in our cities, towns, and counties in a timely and effective manner. As Congress made clear in Section 253, it intended to preserve the authority of local governments to "manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way."[20]

In recent years, however, federal and state changes have impeded local governments' ability to effectively manage telecommunications equipment in local streets. In 2018, the Federal Communications Commission released its Declaratory Ruling and Third Report and Order[21] ("Small Cell Order") which tied the hands of local governments when it came to small cells: it limited the fees companies pay to use public, taxpayer-funded infrastructure; created strict shot clocks for processing applications; and made the legal standards more favorable to industry.

These regulatory changes have not been benign. In 2024, NATOA and Communications Workers of America released the report, "Stretched Thin and Feeling the Squeeze: The Harmful Effects of Small Cell Preemption on Local Governments," highlighting the negative impact preemptive laws Commission decisions have had on local governments.[22]

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[20] 47 U.S. Code § 253(c).

[21] Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79, FCC 18-133. ("Small Cell Order").

[22] NATOA and Communications Workers of America, "Stretched Thin and Feeling the Squeeze: The Harmful Effects of Small Cell Preemption on Local Governments"(March 2021).

The report identified numerous increased financial burdens for localities as a result of federal preemption: increased staffing expenses, such as new staff and overtime costs, third-party consultants needed to cover capacity gaps, and increased costs for make-ready work on a compressed timeline. The hidden costs of preemption are significant as well, and include elevated reports of infrastructure installation mistakes, such as installing equipment without a permit, damages to public property like sewer covers and sidewalks, failure to fully restore roads and other infrastructure to original condition after installation or modification work, and the failure of providers to use underground service alert services properly.[23]

All too often, providers and their contractors treat the rights-of-way like the Wild West, and as a result of the Commission's preemptive actions, responsible municipal departments are stretched thin as they seek to protect public safety and property in a complex regulatory environment. A rural county commissioner in a Western state puts it this way: "*If the [NOI] is codified, the county would in essence no longer be 'in charge' of our roads rights-of-way. We would essentially be at the mercy of infrastructure owners as to how we might go about performing our statutorily defined duties associated with roadways in our counties. I can envision a time when we would be subservient to the infrastructure owner(s). This is antithetical to the structure of government. When a private party can dictate the operations of the government agency responsible for roadways, something has failed*."

Public rights-of-way construction is complex work and unscrupulous or poorly trained subcontractors have caused unsafe conditions resulting in injuries or even death. Rushed work, inadequate training, and casual disregard for safety practices can put workers and the public at risk. Improper installation or restoration can damage public infrastructure like sewer and water lines, leave roads and sidewalks in disrepair and create accessibility issues for pedestrians.[24] Preventing these issues requires that local governments have the ability to carefully review permit applications, inspect work sites and hold providers accountable, all things that fee caps and shot clocks make far more challenging for local governments that are already stretched thin.

The Small Cell Order also resulted in providers filing complaints regarding wireless facilities and local fees at the Commission itself, rather than in the courts. Opening up the Commission as a forum makes it easier for providers to obstruct local standards. Procedural costs are lower than formal litigation – particularly for companies with a national presence and routine interactions with the Commission – and the audience is often more friendly to providers than local or federal courts, if for no other reason than the Commission's expertise is in communications policy, not local rights-of-way.

For these reasons, the Local Government Associations caution the Commission against establishing shot clocks for permitting processes for telecommunications services infrastructure; from imposing a deemed granted provision on these permitting

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[23] Ibid.

[24] American Public Works Association, "BEAD and the Broadband Boom Helping Cities Stay Ahead of the Build" (August 2025).

processes; or from creating new pathways for providers to circumvent local or federal courts by seeking relief for complaints directly from the Commission. These proposals would serve only to increase the strain on local resources, heighten the risks of material damage during infrastructure deployment, and disincentivize providers from being willing to partner and engage with local governments in the permitting process itself.

Federal Permitting Reform Should Focus on Federal Permitting Processes

The NOI explores how to streamline the deployment of telecommunications infrastructure under the false premise that preempting established state and local permitting authorities will expedite access for residents. However, a high number of permitting barriers do not come at the state or local level at all, but rather at the federal level.[25]

The federal permitting process involves a complex mix of federal agencies who share jurisdiction over vast public lands across the country. Four major federal land management agencies administer 606.5 million acres of public lands. They include the Bureau of Land Management, the Fish and Wildlife Service, and the National Park Service within the Department of the Interior, as well as the Forest Service within the Department of Agriculture. The Department of Defense (excluding the U.S. Army Corps of Engineers) administers an additional 8.8 million acres in the United States. These same five agencies manage more than 20% of the land in Nevada, Utah, Idaho, Alaska, Oregon, Wyoming, California, Arizona, Colorado, New Mexico, Montana, Washington, the District of Columbia and Hawaii.[26]

As providers seek to deploy in counties and cities adjacent to federal lands, they often come into contact with federal lands and providers overestimate the level of authority that local jurisdictions have over swaths of public lands in their jurisdiction. Local governments, like providers, must appeal to the federal government for the permitting of infrastructure on federal lands. For the Commission to realize material gains in the streamlining of broadband infrastructure, it should prioritize scrutiny and review of federal permitting processes over the micromanagement of state and local permitting processes.

Any Commission Action Must Also Address Provider Delays and Abandonment

The Commission rightly asks what other approaches could encourage timely deployment without formal preemption.[27] Possible delays in deployment may result from a lack of applicant readiness, coordination among providers, or prompt deployment by applicants once necessary steps have been taken by the local government. The Local Government Associations urge the Commission to consider mechanisms for provider accountability similar to those in pole attachment regulation.

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[25] House Energy and Commerce Committee Subcommittee on Communications and Technology, Memorandum for Hearing, "Oversight of the Federal Communications Commission" (June 21, 2023).

[26] Congressional Research Service, Federal Land Ownership: Overview and Data, R42346 (Feb 21, 2020).

[27] NOI, para 30.

A chief complaint raised by communities is permit-hoarding and bad-faith action by providers intended to crowd out competition in a location, regardless of that provider's actual business intent to deploy and provide service or upgrades. Providers are aware that local governments have limited resources and existing legal obligations to review and process complete permits in a timely manner, and will generally do so in the order they are received. When a provider has "claimed" space on or within a pole or structure through permits or other actions – regardless of actual intent or ability to deploy in a timely fashion – this limits the ability of other providers to deploy in those same locations, particularly if a city must make decisions and recommendations based on elements such as the physical capacity of a structure given the assumption that the provider that has completed the permitting process will deploy soon.

As recognized in similar concerns addressed in pole attachment regulation, the Commission is within its statutory authority under Section 253 to obligate accountability from providers who have asked local governments to go through a permitting and review process in good faith. The Commission should consider imposing structurally similar requirements under its Section 253 authority on providers, such as requirements for deployment within 180 days of authorization by a local government. The Commission should consider comparable enforcement mechanisms, such as a permit being considered invalid after a provider fails to deploy within a reasonable timeline. This framework is not only legally justified but also logically and procedurally consistent with obligations providers already operate under in comparable and related circumstances.

The NOI focuses heavily on the Commission's authority to preempt and the usefulness of preemption in easing wireline telecommunications deployment. It must not neglect its duty to apply the law in a reasonable and balanced manner that equally addresses both provider misbehavior and delays, as well as opportunities to incentivize and assist local governments and providers in improving processes, coordinating efforts to make efficient use of existing infrastructure, and upgrading and modernizing technological systems. Without such balance, the Commission merely rewards delay and penalizes diligence.

Conclusion

America's local leaders stand ready to partner with federal agencies, state governments, and broadband providers to close the digital divide in all communities, for all residents. New blanket impositions of one-size-fits-all overreach into local zoning and planning decisions do not accomplish that goal. Our organizations urge the Commission to consider instead mechanisms that foster and improve the collaborative, locally tailored processes shown to balance cost, safety, and responsible stewardship of finite public resources. Furthermore, we urge the Commission to consider ways to address local government concerns around the timely deployment and restoration of work sites, and hold providers accountable to the commitments made to our communities.

We appreciate the Commission's consideration of these comments. If you have any further questions, they may be directed to David W. Burns, Assistant Executive

Director for The United States Conference of Mayors at dburns@usmayors.org, Seamus Dowdall, Legislative Director for Telecommunications and Technology for the National Association of Counties at sdowdall@naco.org, Mike Lynch, Legislative & Regulatory Affairs Director for the National Association of Telecommunications Officers and Advisors at mlynch@natoa.org, or Angelina Panettieri, Legislative Director for Information Technology and Communications for the National League of Cities at panettieri@nlc.org.

Respectfully Submitted,

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