

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Build America: Eliminating Barriers to Wireline Deployment	)	WC Docket No. 25-253
	)	

**COMMENTS OF
USTELECOM – THE BROADBAND ASSOCIATION**

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USTelecom – The Broadband Association (“USTelecom”)¹ submits these comments in response to the above-captioned Federal Communications Commission’s (“FCC’s” or “Commission’s”) Notice of Inquiry.² We commend the Commission’s efforts to advance its “Build America Agenda by launching an inquiry into state and local requirements that needlessly constrain the deployment of modern, high-speed wireline infrastructure,” and wholeheartedly support the goal of accelerating wireline infrastructure deployment.³

I. INTRODUCTION AND SUMMARY

USTelecom’s members—ranging from large national providers to local and regional broadband companies serving rural America—are working to deploy modern, high-speed wireline infrastructure as quickly and efficiently as possible across the country. Our members face a complex array of authorizations, including critical state and local authorizations, that they must obtain before deploying infrastructure in each geographic area. For fiber buildout, the

¹ USTelecom is the premier trade association representing service providers and suppliers for the communications industry. USTelecom members provide a full array of services, including broadband, voice, data, and video over wireline and wireless networks. Its broad membership ranges from international publicly traded corporations to local and regional companies and cooperatives, serving consumers and businesses across the country.

² *Notice of Inquiry on State and Local Permitting of Broadband Infrastructure*, WC Docket No. 24-240, FCC 25-66 (rel. July 18, 2025) (“Permitting NOI”).

³ *Id.* ¶ 1.

process often starts with negotiations with a local municipality over placement options for deployment—a process that can take months. From there, providers must obtain access to the rights of way or premises needed to construct the network, which can involve obtaining authorizations to deploy fiber on highways, bridges, or other crossings. As part of this process, providers face widely varying permitting procedures, prolonged or unenforced timelines, duplicative reviews, and fees untethered from actual administrative costs. These practices delay critical infrastructure projects, increase deployment costs, frustrate federal funding deadlines, and divert scarce capital from network expansion to compliance.

In sum, despite massive private and public investment, broadband deployment continues to be hindered by this patchwork of inconsistent, duplicative, and often unreasonable permitting and fee practices across state and local jurisdictions.⁴ While many local governments work collaboratively to facilitate network construction, too many others impose requirements that bear little relationship to legitimate rights-of-way management. By materially inhibiting the ability of USTelecom members to compete in a fair and balanced legal and regulatory environment, these requirements violate Section 253 of the Communications Act of 1934, as amended (the “Act”).⁵

Collectively, these burdens deter the innovation and investment needed for fiber and

⁴ While beyond the scope of the NOI, USTelecom members also face substantial permitting obstacles when deploying on federal lands and when securing authorization for railroad crossings. *See, e.g.*, Letter from Diana Eisner and Kathleen Thompson, USTelecom, to Office of Management and Budget (filed May 12, 2025) (responding to OMB Request for Information on unleashing prosperity by alleviating unnecessary regulatory burdens, and urging OMB to both (1) streamline permitting processes on previously disturbed or previously analyzed areas on federal lands, and (2) establish uniform shot clocks for broadband permitting requests on federal lands); Written Testimony of Jonathan Spalter Before the House Energy & Commerce Subcommittee on Communications & Technology, “Examining Solutions to Expedite Broadband Permitting” (Sept. 18, 2025) (detailing rural service providers’ challenges in obtaining, and urging streamlining of, federal lands permits); *id.* at 4 (explaining that railroad rights-of-way are “one of the biggest permitting roadblocks to deploying broadband at the speed America needs”).

⁵ *See id.* ¶ 7; *see also Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, Declaratory Ruling and Third Report and Order, 33 FCC Rcd 9088 (2018) (“2018 Small Cell Order”).

other next-generation network deployment to succeed.⁶ These burdens also threaten American leadership in next-generation connectivity and our AI future, given that China and other global competitors do not have the same regulatory limitations on deployment.

The Commission’s inquiry, therefore, provides an important opportunity to establish consistent, fair, and transparent standards that will turbocharge America’s next-generation network infrastructure deployment and accelerate American leadership in AI. Establishing clear, uniform standards for reasonable state and local permitting timelines and cost-based fees will provide needed certainty to both providers and local governments, promote consistent treatment across jurisdictions, and advance Congress’s objective of universal broadband availability. Specifically, USTelecom recommends that the Commission establish reasonable, cost-based, and transparent standards for state and local permitting processes and fees. USTelecom agrees with the Commission’s tentative conclusion that it has clear authority to define and preempt unreasonable state and local permitting and fee practices that materially inhibit deployment.⁷

II. PATCHWORK STATE AND LOCAL PERMITTING PROCESSES AND UNREASONABLE FEES MATERIALLY INHIBIT WIRELINE NETWORK DEPLOYMENT

Broadband providers continue to face a patchwork of state and local permitting requirements that materially inhibit deployment. Far too many jurisdictions impose duplicative application processes, unclear or unenforced timelines, and non-cost-based fees that violate

⁶ The same is true of the burdens posed by state carrier-of-last-resort requirements and state broadband rate regulation requirements. *See, e.g.*, Comments of USTelecom – The Broadband Association, WC Docket Nos. 25-209 & 25-208 (filed Sept. 29, 2025); Comments of USTelecom – The Broadband Association to the U.S. Dep’t of Justice Anticompetitive Regulations Task Force, ATR-2025-0001 (filed May 27, 2025); Joint Comments of CTIA, NCTA – The Internet & Television Association & USTelecom – The Broadband Association to the U.S. Dep’t of Justice Anticompetitive Regulations Task Force, ATR-2025-0001 (filed May 27, 2025).

⁷ *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, 33 FCC Rcd 7705, ¶¶ 140–42 (2018) (“*Moratoria Order*”).

Section 253 and frustrate Congress's directive to accelerate broadband deployment nationwide.⁸ These barriers not only delay projects but also harm investment, particularly in rural and smaller markets where construction margins are narrow and timelines are often tied to federal funding obligations.

A. Service Providers Face Unreasonable and Inconsistent Permitting Processes That Delay or Prevent Deployment

USTelecom members report a wide range of experiences with local permitting processes and the length of time in which permits are approved. In some jurisdictions, approvals are processed within days, while in others they can take many months—or even well more than a year—to complete. Several members described projects requiring separate permits from multiple levels of government—state, county, and municipal—each with distinct applications, fees, and timelines, and even regional variations in application review and processing within the same state agency. A single broadband project can require multiple layers of authorization, such as state certifications, right-of-way (ROW) permits, ROW franchise agreements, traffic control or temporary traffic control plans, and easement or encroachment approvals and/or crossing permits from railroads, gas utilities, and expressway authorities. Each jurisdiction imposes its own insurance, bonding, and engineering review requirements, creating an extended and costly series of highly variable steps before construction can begin. ROW permits are typically granted for limited periods—between 90 and 365 days—and some include deadlines by which construction must begin, such as a 15-day deadline often imposed (via email communication) by a Texas municipality. Providers that fail to meet these deadlines must re-apply if delays occur.

⁸ See *Infrastructure Investment and Jobs Act*, Pub. L. No. 117-58, § 60102, 135 Stat. 429, 1223 (2021) (establishing the Broadband Equity, Access, and Deployment (BEAD) program to promote rapid broadband deployment); see also 47 U.S.C. § 1302(a) (directing the Commission to encourage the deployment of advanced telecommunications capability).

Even where states have enacted statutory “shot clocks,” many localities fail to follow them. In one state, a broadband provider has never had a single permit processed under the legislatively mandated 60-day timeline because state agencies simply do not adhere to it.⁹ Similarly, while Ohio has a 60-day timeline for all municipal ROW permit requests, members report that municipalities simply do not abide by that timeline.¹⁰ Multiple members have found that jurisdictions in North Carolina routinely exceed the state’s 30-day municipal review limit by two to three months,¹¹ adding substantial uncertainty and cost, with one member reporting that one city there has granted none of its permit applications within the mandated timeline.

Numerous stages or layers of review often subject providers to multiple administrative processing rounds, contributing to permitting delays. For instance, one city in Maryland requires a series of sequential planning and development hearings, each contingent on narrowly timed public notice requirements. The process typically takes five months from application to approval—or longer if an applicant misses a mailing window by even a single day.¹² Along similar lines, an Alabama municipality requires both a permit and separate planning commission review. And a township in Michigan requires applicants seeking to deploy underground cables to demonstrate receipt of a county permit before it will grant a township permit for the same job.

In parts of Florida, several municipalities now require separate approvals for traffic control plans, excavation, and right-of-way use—even when all apply to the same construction area. Some agencies in the state also require sequential reviews by separate internal departments

⁹ See *Haw. Rev. Stat. § 27-45(c)* (establishing a 60-day broadband permit review period).

¹⁰ See *Ohio Rev. Code § 4939.03(c)(2)* (establishing a 60-day ROW permit review period).

¹¹ See also *N.C. Gen. Stat. § 160D-934(a)* (requiring municipalities to approve or deny broadband permits within 30 days).

¹² See Letter from D. Eisner and K. Thompson, USTelecom – The Broadband Association, WC Docket No. 17-84 (filed July 31, 2025) (“USTelecom July 31, 2025 Ex Parte Letter”).

(ROW, water, traffic, and safety), adding weeks or months to the approval process. While a few jurisdictions show it is possible to complete review in as little as two weeks, many take between four and eight weeks, and some extend the process for many months. In one Central Florida city, broadband construction has been delayed for as long as 18 months because of onerous permitting requirements, including demands that a professional engineer on staff sign every drawing despite Florida exempting employees of entities regulated by the FCC from certification requirements for this type of work.¹³ Another Central Florida municipality requires providers to post a \$250,000 cash bond, which is then held for months after project completion.¹⁴ Furthermore, one Florida city's onerous administrative processes include required submission of three complete paper copies of each permit—in addition to one paper copy of the package of associated permits from other jurisdictions—in nonstandard page sizes, as well as lengthy review timelines that can exceed six months.

Elsewhere, agencies have demanded that providers perform excessive survey and inspection work as a condition of submitting the permit application or of permit approval, further increasing delays and costs. For example, one member reports being required to survey municipal conduit unrelated to the permit request as a condition of permit approval. A city in Washington required a USTelecom member to pothole (and by extension pay to repair those potholes) along the requested ROW to provide depths and locations of every utility in the ROW because the city did not have its own records and would not request the information from the

¹³ Fla. Stat. § 471.003(2)(d) (2025) (exempting employees of public utilities or other entities subject to regulation by Florida Public Service Commission, Federal Energy Regulatory Commission, or Federal Communications Commission from licensure as professional engineers). Members also report recently applied professional engineer stamp/certification requirements across the country, such as in municipalities in Texas, Missouri, Illinois, Nevada, and Alabama.

¹⁴ City of Winter Garden, Fla., Code of Ordinances, Art. I, Section 70-3(b).

other utilities in the ROW.¹⁵ Additionally, some Washington cities impose ROW permit requirements for service installations solely on private property because the network already within the ROW is being accessed, even if the ROW is undisturbed by the installation. And multiple jurisdictions in Texas require scaled drawings with permit applications adding substantial delays and *tens of thousands of dollars* to the permitting process.¹⁶

Members at the forefront of AI data center deployment also report burdensome regulation of in-line amplifiers, also known as fiber huts. These compact, prefabricated shelters are essential components of long-haul fiber infrastructure deployments, used to protect and optimize fiber-optic equipment that boosts signals, thereby ensuring efficient data transmission and reliability. Despite their minimal footprint, and placement largely on private land, they are often subject to the same permitting and zoning requirements as large-scale apartment buildings, or alternatively, commercial modular structures (like food trucks or toll booths), adding layers of bureaucracy that are misaligned with their function. These requirements routinely cause multi-month delays for plan reviews and code updates.

These challenges are compounded when some municipalities attempt to impose artificial restrictions on permit processes. Members report that jurisdictions in Missouri, Louisiana, Georgia, and Florida regularly constrain the scope of permit applications by limiting the application to a maximum number of street crossings or feet of fiber or by requiring separate applications for each road or for the aerial and buried portions of the same project. This reduces the scope of a jurisdiction's permit review, the extent of its work to locate water and sewer lines

¹⁵ Potholing is an excavation process that involves making a series of small test holes in order to accurately locate underground lines.

¹⁶ For example, scaled drawings in Texas, which cost about 83 cents (\$0.83) per linear foot for a contractor to create, would run nearly \$25,000 for a typical 30,000 linear feet deployment.

post-permit approval, and the inspections it must perform. It also multiplies the fees they collect and introduces significant delays by necessitating, for example, review of fifteen permits as opposed to one. Members also report that some cities and towns in Missouri, Alabama, Louisiana, Florida, and North Carolina will engage in gating their permit applications with unreasonable limitations on the number of applications filed, pending, or granted. Some of these jurisdictions refuse to grant a permit application to any provider still deploying fiber under a prior permit and others will not accept permit applications from *any* provider while they consider another provider's application. To make matters worse, these permit restrictions are typically informal practices, not publicly disclosed rules or regulations in a municipal ordinance. As a result, they can change over time and be arbitrarily applied.

These examples underscore how unpredictable local permitting processes slow or forestall broadband expansion, divert limited resources, and ultimately deprive communities of much needed connectivity. In several cases, providers lost customers and associated revenue when extended review periods delayed short, business-critical connections such as fiber builds to hospitals or commercial sites. Collectively, these examples—from Florida to Ohio to Washington—show that inconsistent, unpredictable, unreasonable, and unduly slow permitting practices are not isolated occurrences, but widespread problems that significantly delay broadband deployment.

B. Service Providers Face Unreasonable, Non-Cost-Based Permitting Fees That Increase Deployment Costs

In addition to procedural delays, providers encounter widely varying fees, as well as widely varying fee structures, across the country that bear little relationship to actual administrative expenses. For similar projects within a single state, one locality may charge \$500 for a right-of-way permit while another may demand \$5,000. With respect to fee structures,

some jurisdictions charge fees based on a percentage of gross revenues or broadband income or as a percentage of the project costs, rather than the cost of processing or maintaining ROW. For example, a city in Alabama charges permit fees of \$5.00 per each thousand dollars of project costs exceeding \$1,000, which can increase permitting costs by tens of thousands of dollars on large projects. Others impose recurring charges based on the length of fiber installed—often \$3.50 to \$5.00 per linear foot. All of these fee structures are untethered from any actual costs to the jurisdiction and can result in the locality “double-charging” for the same right-of-way space even though the presence of more than one provider does not expand the physical use or encumbrance of the ROW. In addition to raising these same concerns, fees tied to tiered mileage bands, such as \$10,000 for less than 1 mile but only \$40,000 for over 50 miles, impose a disproportionate financial burden on users actually causing less disruption to the ROW without any relation to the actual cost to maintain the ROW.

Our members also report that some cities have imposed one-time permit fees per linear foot of fiber placed in the ROW, in some cases even where no excavation is required. For instance, in December 2024, the City of Chicago passed an ordinance imposing a \$100 per-linear-foot fee for conduit use or installation within the city’s tunnel system, known as a utilidor.¹⁷ This fee applies to both new and existing infrastructure and is in addition to a fee of \$500 to enter the utilidor.¹⁸ In multiple Louisiana cities, fiber providers refusing to pay fees based on a percentage of their gross revenue are assessed a permit application fee of \$5.00 per linear foot for each project. And some cities in Tennessee and Florida charge permitting fees

¹⁷ Chicago, Ill., Mun. Code § 10-20-230(c) (2025) (“Beginning January 1, 2025, a permit fee of \$500.00 shall be required for entering any utilidor. In addition, a fee of \$100.00 per linear foot for conduit use or installation from the utilidor shall be paid by the person who accesses a utilidor.”).

¹⁸ *Id.*

even for placement of fiber in private easements because they are within a city’s jurisdiction. Companies are either forced to pay the fees or litigate them, which only results in further costs and delays in deployment.¹⁹

Some jurisdictions apply different or higher permitting or ROW fees depending on the technology used or provider type. For example, some localities charge 7% of gross revenues for fixed-wireless or fiber services while applying 5% to cable services, or impose per-foot fees ranging from \$3.86 to \$5.00 for network facilities not directly serving end users. The City of Phoenix recently adopted an ordinance applying only to fiber that requires a licensee to pay, in addition to cost-based fees outlined in the ordinance, an annual fee of \$6.00 per residence passed or a percentage of revenue (6% for wholesale and 3% for retail), whichever is greater.²⁰ These technology-based distinctions and revenue-based formulas have no demonstrated cost basis and are not fair, reasonable, or competitively neutral.²¹ In Oregon, franchise and ROW fees imposed by municipalities illustrate the same problem of non-cost-based and discriminatory charges. Under Oregon law, municipalities may charge a privilege tax or franchise fee for use of local rights-of-way, capped at 7% of local exchange access revenues for incumbent local exchange carriers.²²

¹⁹ See, e.g., *MCImetro Access Transmission Services LLC and XO Communications Services LLC v. City of Hilliard*, Public Utilities Commission of Ohio, Case No. 25-0760-AU-PWC (filed July 25, 2025); *Williams Communications v. City of Riverside*, 114 Cal. App. 4th 642 (Cal. App. 4th Dist. Dec. 18, 2003).

²⁰ City of Phoenix, Phoenix City Code, Chapter 5D, Network Infrastructure Services, § 5D-5. “Compensation.” (Ord. No. G-7343, § 1) (Mar. 26, 2025).

²¹ See 47 U.S.C. § 253(c).

²² See Or. Rev. Stat. § 221.515(1) (limiting municipal franchise fees imposed on telecommunications utilities to “up to 7 percent of the gross revenues derived by the utility from its operations within the municipality”); see also *Comcast of Oregon II, Inc. v. City of Beaverton*, 609 F. Supp. 3d 1136 (D. Or. 2022) (applying FCC’s mixed-use rule to invalidate local fees on broadband revenues).

Members have also faced a growing number of demands for competition-inhibiting in-kind contributions as a condition of permitting or franchise approval. One village in Illinois, for instance, includes in its License Agreement a requirement to provide a 50% discount on fiber services to the village for any locations the village wishes to connect. This requirement is not publicly disclosed before service providers begin working with the village and, once the requirement is disclosed in the agreement process, the cost to the provider is not readily apparent because it depends on how many locations the village wants to connect with fiber. Other examples include an Illinois city's requirement to install additional conduit or handholes for local governments and an Alabama locality's requirement to provide dark fiber at no cost. These requirements have no reasonable nexus to the localities' costs and materially inhibit competition. In some cases, providers have been forced to withdraw planned deployments altogether due to the financial impact of such obligations.

C. These Permitting Processes and Fees Materially Inhibit Deployment

These unreasonable delays, processes, and fees materially limit or inhibit the ability of providers to compete in a fair and balanced legal and regulatory environment both within the jurisdictions imposing the regulations and in the aggregate. For example, one USTelecom member had to select an alternate inefficient fiber route simply to avoid an Ohio city with an unreasonable fee structure. In another example, one USTelecom member had to forgo deployment in a Minnesota city altogether because of shifting expectations and excessive fees. First, the city required that all fiber be buried, even though there was not a similar requirement for power companies. After contesting that requirement, the provider reached agreement with the city engineer on a hybrid approach, which the provider understood to be agreed upon by the city. After redoing all of the engineering work at substantial expense, the city subsequently refused to honor the agreement. Instead, it continued to demand that all fiber be buried, charging

fees that go far beyond the city's costs. The permitting fee alone was \$63,000, in addition to a per-linear-foot fee that—for a single block—would have cost \$28,964. Despite demonstrating the public interest benefits that would be achieved, namely high-speed connectivity to all homes and businesses, the city refused to reconsider the provider-proposed compromise build model or eliminate the linear foot fees. Ultimately, the provider was forced to walk away from a major network infrastructure investment in the city due to the prohibitive permitting costs. Still another member reports that it has reallocated capital funds away from jurisdictions with excessive delays and fees.

One member operating in the Midwest reported that routine broadband expansions along rural county roads were delayed for months because the local government lacked any defined permitting process for communications projects, forcing repeated resubmissions and one-off fee negotiations. Such delays directly affect providers' ability to meet federal and state funding deadlines. Several members reported that projects supported by the American Rescue Plan Act (ARPA)²³ or other grant programs nearly missed completion targets because of prolonged permitting timelines. In one case, a provider in Oklahoma had to wait months for approval of a right-of-way permit for a highway segment that is not even planned for construction for several more years, jeopardizing the provider's ability to complete the broadband project within its federal funding window.

Delays in permit approvals are also putting ARPA projects in other parts of the country at risk of not being completed before the December 31, 2026 deadline. For example, a provider building out an ARPA project in North Carolina reports it has had permits pending with a town

²³ *American Rescue Plan Act of 2021*, Pub. L. No. 117-2, § 9901, 135 Stat. 4, 223 (2021) (establishing the Coronavirus State and Local Fiscal Recovery Funds to support, among other projects, broadband infrastructure).

for several months and that locality has not confirmed an estimated timeline for when it will review the provider's permits. And another city in North Carolina will only issue permits for broadband deployment in a phased approach, meaning the provider's construction phases will push their timeline past the ARPA deadline.

Beyond permitting delays, some localities have instituted a blanket moratorium on permits because a different company deployed without obtaining permits. For instance, while a town in North Carolina initially said the moratorium would be for two months, the town has extended it indefinitely and will not process any permits. Similarly, another USTelecom member could not build in two Ohio townships because they refused to accept any permit applications after other communications companies had already disturbed the ROW.

As is apparent from the myriad examples provided, these permitting obstacles are not limited to a single state or region of the country. Taken together, these procedural and financial barriers materially inhibit deployment and run counter to the Commission's and Congress's objectives of promoting competition and connecting all Americans. Each additional form, layer of review, or non-cost-based fee introduces delay, expenses, and uncertainty, forcing providers to at best divert limited capital away from construction into compliance, reducing investment available for the instant, future, and downstream deployments, or at worst abandon deployment plans altogether.

In the aggregate, providers are inescapably materially inhibited from competing in a fair and balanced legal and regulatory environment. The cumulative effect of these practices is particularly harmful to the success of federally funded broadband programs, which rely on timely

project completion and efficient use of finite resources.²⁴ Unless the Commission acts to establish clear, uniform standards for reasonable permitting timelines and cost-based fees, many communities will continue to face unnecessary delays in receiving the broadband infrastructure they urgently need.

III. THE COMMISSION SHOULD ESTABLISH REASONABLE, COST-BASED, AND TRANSPARENT STANDARDS FOR PERMITTING PROCESSES AND FEES

The foregoing examples demonstrate that unreasonable delays, inconsistent permitting procedures, and non-cost-based fees are widespread and materially inhibit broadband deployment. To accelerate wireline network infrastructure deployment, the Commission should exercise its authority pursuant to Section 253 to establish clear national standards governing the reasonableness of state and local permitting timelines and fees. These standards should promote predictability and transparency while preserving legitimate state and local authority to manage rights-of-way in a fair, competitively neutral, nondiscriminatory, and cost-based manner.

A. Establish Uniform Timelines for Permit Review

The Commission should adopt presumptively reasonable timelines, or “shot clocks,” for the review of wireline permits. In the wireless context, shot clocks have proven effective in promoting accountability, ensuring timely decisions, and preventing indefinite administrative delay.²⁵ A uniform timeline in the wireline context would reduce uncertainty, particularly for

²⁴ *Infrastructure Investment and Jobs Act*, Pub. L. No. 117-58, § 60102, 135 Stat. 429, 1223–1242 (2021) (establishing the BEAD Program).

²⁵ See Testimony of Brendan Carr, Commissioner, Federal Communications Commission, *Oversight of the Federal Communications Commission: Hearing Before the S. Comm. on Commerce, Science, and Transportation*, 116th Cong. (June 12, 2019) (“This meant updating the shot clocks that have long applied to the local review process, thus ensuring timely decision-making. And it meant providing clarity on the types of fees that can effectively prohibit service in violation of federal law These and other FCC reforms are delivering results The number of small cells put up in this country increased from around 13,000 in 2017 to more than 60,000 in 2018.”).

projects that span multiple jurisdictions or that must be completed under fixed federal or state grant deadlines. Consistent with the Commission’s previous determinations in the *2018 Small Cell Order*, no more than 60 days should be presumed reasonable for standard broadband construction permits, and no more than 90 days for complex or multi-jurisdictional projects, and those timelines should begin at the first mandatory procedural step the applicant must take, whether a pre-application procedure or filing of the application.²⁶ If there is no decision within the applicable timeframe, the permit should be deemed granted. Additionally, a denial should include an explanation for the denial to prevent jurisdictions from summarily denying an application solely to meet the timeframe. Jurisdictions should retain flexibility to act more quickly or to seek extensions in exceptional cases, but unreasonable or unexplained delays should be deemed inconsistent with Section 253.²⁷

B. Clarify That Fees Must Be Cost-Based, Transparent, and Nondiscriminatory

The Commission should conclude that fees for use of public rights-of-way must be limited to actual, documented administrative costs directly related to permit processing, inspection, or management of the affected facilities. Fees based on project revenues, linear footage, or service modality are not based on the cost of the municipality to manage the rights-of-way and should be presumptively unreasonable. To prevent discrimination among technologies, the Commission should make clear that fee structures must be competitively neutral across providers of functionally equivalent broadband services. Transparency should also be required: All jurisdictions should be required to publicly disclose their permit application

²⁶ See *2018 Small Cell Order* ¶ 105.

²⁷ 47 U.S.C. § 253(a), (d).

procedures, fee schedules, and review timelines. These measures will ensure accountability, reduce disputes, and enable providers to plan and invest efficiently across jurisdictions.

The Commission’s *2018 Small Cell Order* provides clear precedent for such action. In that decision, the Commission held that localities may not impose fees exceeding a reasonable approximation of reasonable costs.²⁸ Extending that principle to wireline permitting would promote parity among technologies and prevent jurisdictions from applying revenue-generation-based permitting fee models toward broadband service providers.

C. Encourage Coordination and Best Practices Across and Within Jurisdictions

In addition to the actions described above, the Commission should encourage coordinated and streamlined permitting processes across jurisdictions while promoting best practices developed by cooperative state and local partners. Multi-jurisdictional coordination is critical for large-scale deployments and federally funded programs such as BEAD, where a single project may involve multiple localities, state agencies, and utility owners. The Commission could promote best practices including standardized application formats, shared review portals, standardized definition and processes for in-line amplifiers, and “one-stop” broadband permitting platforms that enable inter-agency collaboration. Many states already have successful models, such as statewide broadband permitting portals, that demonstrate efficiency and transparency without diminishing local authority.²⁹

Furthermore, the Commission should highlight jurisdictions that already process broadband permits expeditiously at low or no cost as examples for others to follow. Several

²⁸ *2018 Small Cell Order* ¶¶ 50–54.

²⁹ See, e.g., *Connect Alabama*, Alabama Department of Economic and Community Affairs, Broadband Permitting Portal (demonstrating statewide coordinated review process); *Connect Maine Authority*, Broadband Permitting Resource Center (providing single-point information for broadband construction).

states have implemented Broadband Ready Communities Programs, which seek to encourage broadband infrastructure investment by reducing procedural, policy, and permitting barriers to broadband deployment at the municipal level. In Wisconsin, for example, participating municipalities under the *Broadband Forward!* program must determine whether an application is complete within 10 days of receipt and must approve or deny any permit application within 60 days of completeness, and any permit review fee above \$100 is deemed unreasonable.³⁰ Similarly, Tennessee’s Broadband Ready Communities program requires participating localities to establish a process by which all project applications are reviewed and a decision rendered within 30 business days.³¹ And under Indiana’s Broadband Ready Communities certification, a participating municipality must commit to review and approve or reject all permit-related applications for a broadband project within 10 business days of submission.³² While the Commission must set the baseline, encouraging the voluntary adoption of even more streamlined permitting practices would complement state and local management of rights-of-way, while reinforcing the national policy goal of accelerating broadband deployment through efficient, transparent, and competitively neutral permitting.

IV. THE COMMISSION HAS AUTHORITY TO PREEMPT STATE AND LOCAL WIRELINE PERMITTING REQUIREMENTS THAT VIOLATE SECTION 253

In Section 253 of the Communications Act, Congress made clear that “no State or local statute or regulation . . . may prohibit or have the effect of prohibiting the ability of any entity to

³⁰ See Public Service Commission of Wisconsin, Broadband Forward! Community (providing a Model Ordinance satisfying Wis. Stat. § 196.504), *available at* <https://psc.wi.gov/Pages/ServiceType/Broadband/BroadbandForward.aspx>.

³¹ See Tennessee Department of Economic & Community Development, Broadband Ready Communities Program, *available at* <https://www.tn.gov/economic-development/broadband-grant-initiative/broadband-ready-community-article.html>.

³² See Indiana Broadband Office, Broadband Ready Communities Program, *available at* <https://www.in.gov/indianabroadband/broadband-ready-communities/>.

provide any interstate or intrastate telecommunications service.”³³ The Commission has ruled, and courts have affirmed, that state and local laws have the effect of prohibiting service when they “materially inhibit” providers from deployment, including in cases where the cumulative effect of costly state and local laws is to deter deployment.³⁴ Thus, for example, in the *2018 Small Cell Order*, the FCC determined that state and local requirements that impose fees on small wireless facilities used in offering 5G service above a reasonable approximation of costs materially inhibits—and thus effectively prohibits—the provision of service.³⁵ And the Commission established presumptive “shot clocks” to limit the amount of time that states and localities have to approve siting applications involving small wireless facilities.³⁶

The Commission has clear authority to apply the same legal standard announced in the *2018 Small Cell Order* to wireline facilities like fiber. At least one federal district court has already done so.³⁷ And indeed, that is the only reasonable reading of the statutory text, which uses similar statutory language in referring to wireless and wireline facilities, and thus does not support discriminating between the technologies used to deliver services. Extending these protections to wireline facilities has clear, pro-competitive benefits, because it puts all services on a more level playing field; it simply makes no sense to interpret federal law as providing different protections for one sector of the market than another where Congress chose to use similar language.

The Commission has not only the authority to interpret and implement Section 253 and to

³³ 47 U.S.C. § 253(a).

³⁴ *City of Portland v. United States*, 969 F.3d 1020, 1034-35 (9th Cir. 2020) (collecting authorities); see also *2018 Small Cell Order*.

³⁵ See also *2018 Small Cell Order* ¶¶ 50-53.

³⁶ See *id.*

³⁷ See *Crown Castle Fiber LLC v. City of Rochester*, No. 19-CV-6583 (W.D.N.Y.).

adopt generally applicable standards governing state and local permitting and fees³⁸ but also the authority to issue declaratory rulings interpreting whether classes of state or local statutes, regulations, or legal requirements violate Section 253(a) and whether they fall within the exceptions in Sections 253(b) or (c).³⁹ As the Commission explained in the *Moratoria Order*, this interpretive authority exists independently of Section 253(d), which provides an express mechanism for preempting specific state or local legal requirements.⁴⁰ Nothing in Section 253 limits the Commission’s ability to define, through declaratory ruling or rulemaking, the types of practices that have the effect of prohibiting the provision of communications services.

Finally, there is no question that the Commission can delegate to the Wireline Competition Bureau the authority to resolve petitions seeking preemption under section 253(d).⁴¹ Indeed, it has done so in prior proceedings.⁴²

V. CONCLUSION

Broadband deployment depends on efficient, predictable, and cost-based permitting processes that enable timely investment in communications infrastructure. The current patchwork of state and local requirements too often produces the opposite result: delays, duplicative costs, and uncertainty that slow progress toward our nation’s broadband goals. By adopting clear standards for reasonable permitting timelines and fair, transparent, and cost-based

³⁸ Permitting NOI ¶¶ 56–57.

³⁹ *Moratoria Order* ¶¶ 186–188.

⁴⁰ *Id.* ¶ 187 (clarifying that Section 253(d) does not limit the Commission’s authority to issue declaratory rulings interpreting Section 253).

⁴¹ Permitting NOI ¶ 58.

⁴² See, e.g., *Missouri Network Alliance, LLC d/b/a Bluebird Network and Uniti Leasing MW LLC*, WC Docket No. 20-46, Declaratory Ruling, 35 FCC Rcd 12811 (WCB Nov. 9, 2020) (relying on the Bureau’s delegated authority pursuant to Sections 0.91(b) and 0.291 of the Commission’s rules to resolve Bluebird et al.’s petition seeking preemption of certain municipal right-of-way fee requirements).

fees, the Commission can reduce these barriers and promote rapid broadband expansion in every community.

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