December 31, 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 Wireless Deployments, WC Docket No. 25-276

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 Proposed Rulemaking (NPRM) in the above-referenced proceeding.[5]

These comments respond to the Commission's desire to clarify aspects of section 1.6100 of the Commission's rules relating to section 6409 of the Spectrum Act of

[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 Wireless Deployments, WC Docket No. 25-276, (rel. Sept. 30, 2025) ("NPRM").

2012[6] and the Commission's question of whether additional regulation under sections 253 and 332(c)(7) is required to support wireless infrastructure deployment.[7]

As we stated in our comments in WC Docket No. 25-253, local government elected leaders and officials, being the leaders closest to the people, 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.[8] Similar to the Commission's Wireline Notice of Inquiry, the Local Government Associations strenuously object to the Commission's depiction of local permitting as an obstacle to the provision of wireless telecommunications services. The parties suggesting this seek to strip local governments of their ability to responsibly manage public assets in the rights-of-way, while still expecting rights-of-way that are safe, well-planned, and conducive to technology-neutral competition.

Federal and State Preemption Has Not Sped Up Deployments

The Local Government Associations are acutely aware of the desire of some Commissioners to preempt local permitting and rights-of-way controls, given the repeated debates on these issues over the last decade. However, during the time the Commission has preempted local governments, primarily through the 2018 Small Cell Order, there is little credible evidence that deployments have increased or improved under the new rules.

Deployment in states that have moved to preempt local government authority has not moved faster than deployment in states that have retained local authority. In fact, in several states that have moved to preempt local authority, the greatest need for federal financial assistance to enable deployment exists. There is no evidence whatsoever that earlier federal preemption efforts or similar state-level preemption efforts featuring calls like shot clocks, deemed-granted remedies, and the like had any direct material impact on the build-out of wireless services or on improvements to the permitting process. The only directly observable impact has been an increase in administrative burdens for local governments, without material improvement to the state of connectivity in unserved and underserved areas.

The FCC Shouldn't Federalize Local Zoning Decisions

Similar to our comments in the Wireline NOI, the Local Government Associations call on the Federal Communications Commission not to become a nationalized zoning board. In particular, many localities have stringent aesthetic requirements for small-cell wireless installations. These aesthetic requirements are a partnership between

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[6] Ibid., at para. 4.

[7] Ibid., at para. 5.

[8] Build America: Eliminating Barriers to Wireline Deployment, Notice of Inquiry, WC Docket No. 25-253 (2025). *See the Comments at: The United States Conference of Mayors (USCM), the National League of Cities (NLC), the National Association of Counties (NACo), and the National Association of Telecommunications Officers and Advisors (NATOA) WC Docket No 25-253,* https://www.fcc.gov/ecfs/search/search-filings/filing/11170023709661.

engineering and community requirements.[9] We implore the FCC to respect the will of voters and taxpayers. Further, 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."[10]

Ostensibly in response to court remand, the Commission seeks to clarify the meaning of "concealment elements" used to minimize the visual impact of towers and other wireless infrastructure, and to codify these clarifications in section 1.6100 of the Commission's rules. The Commission also seeks to make changes to section 1.6100 which it believes will further facilitate the rapid buildout of wireless infrastructure.



The Local Government Associations remind the Commission that the United States Court of Appeals for the Ninth Circuit agreed with local governments last year in the local governments' challenge to the Commission's interpretation of its Eligible Facilities Request (EFR) rules when deciding to:

- Overturn the Commission's misinterpretation of the term "conceal;" and,
- Limit the Commission's attempt to end-run the requirements of the Administrative Procedure Act (APA).

The Commission proposes to codify the guidance the Commission provided in the 2020 Declaratory Ruling, offering, "For example, placing coaxial cable on the outside of a stealth facility would be unlikely to make the stealth design of the facility ineffective because such cables are typically a small size."[11]

We disagree with the presumption that coaxial cabling is small. One cable may be small, but the array of cabling that is required to support the multiple antennas, receivers, and power sources of multiple providers and multiple frequencies, as well as the support framework to hold fast the cabling and distributing it to equipment at varying heights, soon becomes a wall of black-sheathed bundles traversing the structure.[12]

The Commission asks if it should adopt "a rule that, once a particular deployment is found to be an eligible facilities request and the permit is granted by a state or local

[9] *See the Comments at: The United States Conference of Mayors (USCM), the National League of Cities (NLC), the National Association of Counties (NACo), and the National Association of Telecommunications Officers and Advisors (NATOA) WC Docket No 25-253,* https://www.fcc.gov/ecfs/search/search-filings/filing/11170023709661.
[10] 47 U.S. Code § 253(c).
[11] NPRM at para. 21.
[12] https://pixabay.com/photos/cell-tower-tower-phone-signal-cell-5216857/.

jurisdiction, that state or local jurisdiction may not seek to impose new conditions as part of a permit renewal process."[13]

The Local Government Associations oppose this possible change to section 1.6100. Periodic renewal terms provide an opportunity to review the wireless facility permit, which includes "eligible facilities" under section 6409, for public safety purposes. A term review of the deployment can help to determine the structural integrity of the site and the proper grounding and electrical code compliance, all of which may have degraded over time or changed due to added material and equipment on the facilities themselves or their support structure, i.e., the building, pole, or tower. Administratively, renewal presents a window to verify ownership, insurance, and emergency on-call contact information for both the operator and the local permitting authority.

A Federal Reserve Bank of St. Louis' publication last year noted that there are 90,837 local governments in the U.S. — including county, township, municipal, and special-purpose entities.[14] Yet the Commission relies upon a mere handful of anecdotal tales of permitting woes offered by the industry in posing this question: "However, in recent years, a number of state and local regulations have inhibited the deployment, densification, and upgrading of wireless networks, resulting in an effective prohibition of 5G wireless services."[15]

The Local Government Associations reject the premise that state and local regulations have inhibited the deployment, densification, and upgrading of wireless networks, and reject the solicitation of comments that regulations exist that:

- "Inhibit the deployment of macro cell towers and other wireless facilities;
- Impose unreasonable delays of permitting approvals;
- Assess disproportionate or otherwise unreasonable fees;
- Condition approval on aesthetic or similar criteria; and
- Impose other regulatory impediments in violation of the Telecommunications Act and Commission rules."[16]

As the City of Phoenix, AZ, noted, "(t)he record clearly shows that the wireless providers are successful in permitting and building small wireless facility sites in the City."[17] Phoenix describes a steady and productive flow, averaging over 100 Small Wireless Facility (SWF) permits annually for more than five years, and then notes the drastic drop in permit applications to less than 20 in the past two and one-half years.

The Proposed "Clarifications" Work Significant Changes to Existing Rules

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[13] NPRM at para 27.
[14] Regional Economist, March 14, 2024, by Amy Smaldone , Mark L.J. Wright, https://www.stlouisfed.org/publications/regional-economist/2024/march/local-governments-us-number-type.
[15] NPRM at para. 5 and footnote 14.
[16] Ibid., at para. 5.
[17] City of Phoenix WT Docket No. 25-276 NPRM Comments. P. 2, https://www.fcc.gov/ecfs/document/122248756441/1

As previously submitted by the NATOA, USCM, and NACo in 2019, we dispute the need for the far-reaching changes to the Rules. We incorporate our 2019 filing by reference. The suggested "clarifications" are in fact significant changes that would permit deployments that are in no way insubstantial modifications. These clarifications are beyond the scope of the statutes and would significantly undermine local land use protections. As the Commission noted in the 2014 Acceleration of Broadband Deployment Order, Congress intended to ensure that "deployments subject to Section 6409(a) will not pose a threat of harm to local land use values."[18] The clarifications suggested significantly intrude upon local land use values and thus are contrary to this intent.[19]

As we previously noted in 2014, the "need for additional equipment deployments must be balanced with the absolute need for local governments to maintain reasonable control and authority over the placement of these facilities in their communities."[20]

"[F]ederal policies should not undermine the ability of municipal officials to protect the health, safety and welfare of their residents by diminishing local authority to manage public rights-of-way, to zone, to collect just and fair compensation for the use of public assets, or to work cooperatively with the private sector to offer broadband services."[21] Indeed, "because disruption to streets and businesses can have a negative impact on public safety and industry, local governments should have control over allocation of the rights-of-way and be able to ensure that there is neither disruption to other 'tenants' or transportation nor any diminution of the useful life of the right-of-way."[22]

Local Permitting Protects Public Safety and Public Resources

As we noted in the Local Government Associations Joint Reply Comments in the Wireline Notice of Inquiry, "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

[18] Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd 12865 at 174 (2014) ("2014 Order"), aff'd *Montgomery County v. FCC*, 811 F.3d 121 (4th Cir. 2015).
[19] See Comments of the Municipal Organizations, NATOA, USCM and NACo, October 29, 2019, in Implementation of State and Local Governments Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012, WT Docket No. 19-250, RM-11849; Accelerating Wireline Broadband Deployment By Removing Barriers to Infrastructure Investment Accelerating Wireless Broadband Deployment By Removing Barriers to Infrastructure Investment, WC Docket No. 17-84, WT Docket No. 17-79. https://www.fcc.gov/ecfs/document/10291354709013/1
[20] See Commenters NATOA, NACo, NLC, USCM, February 3, 2014, in Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Practices, WT Docket No. 13-238; Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting, WC Docket No. 11-59; Amendment of Parts 1 and 17 of the Commission's Rules Regarding Public Notice Procedures for Processing Antenna Structure Registration Applications for Certain Temporary Towers, RM-11688 (terminated); 2012 Biennial Review of Telecommunications Regulations, WT Docket No. 13-32
[21] Chapter 7.00(B), NLC National Municipal Policy (2014); at:https://www.nlc.org/resource/national-municipal-policy/
[22]Telecommunications and Technology, NACo American County Platform and Resolutions 2013-2014 at 143; available at: https://www.naco.org/legislation/Documents/American-County-Platform-and-Resolutions-2013-2014.pdf

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."[23]

"The Commission also asks whether local fees have the effect of prohibiting wireline telecommunications services.[24] 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. 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.[25]

The Commission Should Encourage and Incentivize Coordination

The Local Government Associations encourage the Commission to take this opportunity to foster collaborative processes enabling communities and providers to work together to speed the deployment of advanced communications infrastructure. We hereby incorporate our previously filed Comments in the Build America: Eliminating Barriers to Wireline Deployment, Notice of Inquiry, WC Docket No. 25-253 (2025). We reiterate our strong desire to provide our residents with advanced telecommunications services at a reasonable price. We have previously noted our desire to work with federal, state, and industry stakeholders and stand by that commitment.

Conclusion

America's local government leaders willingly partner with federal agencies, state governments, and broadband providers to close the digital divide in all communities, for all residents. Expanding blanket impositions of one-size-fits-all regulatory overreach into local zoning and planning decisions does not accomplish that goal. The Local Government Associations 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

[23] NLC, NACo, USCM and NATOA Joint Reply Comments, FCC's Wireline NOI, WC No. 25-253 https://www.fcc.gov/ecfs/document/12180293825450/1

[24] NOI, para 31.

[25] 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).

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,



Clarence E. Anthony
CEO & Executive Director
National League of Cities



Matthew D. Chase
Executive Director/CEO
National Association of Counties



Tom Cochran
CEO and Executive Director
The United States Conference of Mayors



Tonya Rideout
Executive Director
National Association of
Telecommunications Officers and Advisors

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