

118TH CONGRESS
1ST SESSION

H. R. 3319

To amend the Middle Class Tax Relief and Job Creation Act of 2012 to streamline the consideration by State and local governments of requests for modification of certain existing wireless facilities and telecommunications service facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2023

Mr. CRENSHAW introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Middle Class Tax Relief and Job Creation Act of 2012 to streamline the consideration by State and local governments of requests for modification of certain existing wireless facilities and telecommunications service facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Broadband Resiliency
5 and Flexible Investment Act”.

1 **SEC. 2. REQUESTS FOR MODIFICATION OF CERTAIN EXIST-**
2 **ING WIRELESS AND TELECOMMUNICATIONS**
3 **SERVICE FACILITIES.**

4 (a) IN GENERAL.—Section 6409(a) of the Middle
5 Class Tax Relief and Job Creation Act of 2012 (47 U.S.C.
6 1455(a)) is amended—

7 (1) in paragraph (1), by striking “a State or
8 local government” and all that follows and inserting
9 the following: “a State or local government or in-
10 strumentality thereof may not deny, and shall ap-
11 prove—

12 “(A) any eligible facilities request for a
13 modification of an existing wireless tower, base
14 station, or eligible support structure that does
15 not substantially change the physical dimen-
16 sions of such wireless tower, base station, or eli-
17 gible support structure; and

18 “(B) any eligible telecommunications facili-
19 ties request for a modification of an existing
20 telecommunications service facility in or on eli-
21 gible support infrastructure that does not sub-
22 stantially change the physical dimensions of
23 such facility.”;

24 (2) by amending paragraph (2) to read as fol-
25 lows:

26 “(2) TIMEFRAME.—

1 “(A) DEEMED APPROVAL.—If a State or
2 local government or instrumentality thereof
3 does not, before or on the date that is 60 days
4 after the date on which a requesting party sub-
5 mits to the government or instrumentality a re-
6 quest as an eligible facilities request or an eligi-
7 ble telecommunications facilities request (as the
8 case may be), approve the request or make the
9 determination and provide the written notice
10 described in subparagraph (B) with respect to
11 the request, the request is deemed approved on
12 the day after the date that is 60 days after the
13 date on which the requesting party submits the
14 request.

15 “(B) DETERMINATION REQUEST IS NOT
16 AN ELIGIBLE REQUEST.—

17 “(i) DETERMINATION DESCRIBED.—
18 The determination described in this sub-
19 paragraph is a determination by a State or
20 local government or instrumentality thereof
21 that a request described in subparagraph
22 (A) is not an eligible facilities request or
23 an eligible telecommunications facilities re-
24 quest (as the case may be).

1 “(ii) WRITTEN NOTICE DESCRIBED.—

2 The written notice described in this sub-
3 paragraph is a written notice of the deter-
4 mination described in clause (i) provided
5 by the government or instrumentality to
6 the requesting party that clearly describes
7 the reasons why the request is not an eligi-
8 ble facilities request or an eligible tele-
9 communications facilities request (as the
10 case may be) and includes a citation to a
11 specific provision of this subsection or the
12 regulations promulgated under this sub-
13 section relied upon for the determination.

14 “(C) TOLLING DUE TO INCOMPLETE-
15 NESS.—

16 “(i) INITIAL REQUEST INCOM-
17 plete.—If, not later than 30 days after
18 the date on which a requesting party sub-
19 mits to a State or local government or in-
20 strumentality thereof a request described
21 in subparagraph (A), the government or
22 instrumentality provides to the requesting
23 party a written notice described in clause
24 (iii) with respect to the request, the 60-day
25 timeframe under subparagraph (A) is

1 tolled until the date on which the request-
2 ing party submits to the government or in-
3 strumentality a supplemental submission in
4 response to the notice.

5 “(ii) SUPPLEMENTAL SUBMISSION IN-
6 COMPLETE.—If, not later than 10 days
7 after the date on which a requesting party
8 submits to a State or local government or
9 instrumentality thereof a supplemental
10 submission in response to a written notice
11 under clause (i) with respect to a request
12 described in subparagraph (A) or a written
13 notice under this clause with respect to a
14 subsequent supplemental submission, the
15 government or instrumentality provides to
16 the requesting party a written notice de-
17 scribed in clause (iii) with respect to the
18 supplemental submission, the 60-day time-
19 frame under subparagraph (A) is further
20 tolled until the date on which the request-
21 ing party submits to the government or in-
22 strumentality a subsequent supplemental
23 submission in response to the notice.

24 “(iii) WRITTEN NOTICE DE-
25 SCRIBED.—The written notice described in

1 this clause is, with respect to a request de-
2 scribed in subparagraph (A) or a supple-
3 mental submission described in clause (i)
4 or (ii) submitted to a State or local govern-
5 ment or instrumentality thereof by a re-
6 questing party, a written notice from the
7 government or instrumentality to the re-
8 questing party—

9 “(I) stating that all of the infor-
10 mation (including any form or other
11 document) required by the govern-
12 ment or instrumentality to be sub-
13 mitted for the request to be consid-
14 ered complete has not been submitted;

15 “(II) identifying the information
16 described in subclause (I) that was
17 not submitted; and

18 “(III) including a citation to a
19 specific provision of a publicly avail-
20 able rule, regulation, or standard
21 issued by the government or instru-
22 mentality requiring that such informa-
23 tion be submitted with such a request.

24 “(iv) LIMITATION.—

1 “(I) INITIAL WRITTEN NOTICE.—
2 If a written notice provided by a State
3 or local government or instrumentality
4 thereof to a requesting party under
5 clause (i) with respect to a request de-
6 scribed in subparagraph (A) identifies
7 as not having been submitted any in-
8 formation that the government or in-
9 strumentality is prohibited by para-
10 graph (5) from requiring to be sub-
11 mitted, such notice shall be treated as
12 not having been provided to the re-
13 questing party.

14 “(II) SUBSEQUENT WRITTEN NO-
15 TICE.—If a written notice provided by
16 a State or local government or instru-
17 mentality thereof to a requesting
18 party under clause (ii) with respect to
19 a supplemental submission identifies
20 as not having been submitted any in-
21 formation that was not identified as
22 not having been submitted in the prior
23 written notice under clause (i) or (ii)
24 in response to which the supplemental
25 submission was submitted, the subse-

1 quent written notice shall be treated
2 as not having been provided to the re-
3 questing party.

4 “(D) TOLLING BY MUTUAL AGREEMENT.—

5 In addition to any tolling under subparagraph
6 (C), the 60-day timeframe under subparagraph
7 (A) may be tolled by mutual agreement between
8 the State or local government or instrumen-
9 tality thereof and the requesting party.”;

10 (3) in paragraph (3), by striking “paragraph
11 (1)” and inserting “this subsection”; and

12 (4) by adding at the end the following:

13 “(4) WHEN REQUEST CONSIDERED SUB-
14 MITTED.—

15 “(A) IN GENERAL.—For the purposes of
16 this subsection, a request described in para-
17 graph (2)(A) shall be considered submitted on
18 the date on which the requesting party takes
19 the first procedural step within the control of
20 the requesting party—

21 “(i) to submit such request in accord-
22 ance with the procedures established by the
23 government or instrumentality for the re-
24 view and approval of such a request; or

1 “(ii) in the case of a government or
2 instrumentality that has not established
3 specific procedures for the review and ap-
4 proval of such a request, to submit to the
5 government or instrumentality the type of
6 filing that is typically required to initiate a
7 standard review for a similar facility or
8 structure.

9 “(B) NO PRE-APPLICATION REQUIRE-
10 MENTS.—A State or local government or instru-
11 mentality thereof may not require a requesting
12 party to undertake any process, meeting, or
13 other step prior to or as a prerequisite to a re-
14 quest being considered submitted.

15 “(5) LIMITATION ON REQUIRED DOCUMENTA-
16 TION.—A State or local government or instrumen-
17 tality thereof may require a requesting party submit-
18 ting a request as an eligible facilities request or an
19 eligible telecommunications facilities request to sub-
20 mit information (including a form or other docu-
21 ment) with such request only to the extent that such
22 information is reasonably related to determining
23 whether such request is an eligible facilities request
24 or an eligible telecommunications facilities request
25 (as the case may be) and is identified in a publicly

1 available rule, regulation, or standard issued by the
2 government or instrumentality requiring that such
3 information be submitted with such a request. A
4 State or local government or instrumentality thereof
5 may not require a requesting party to submit any
6 other documentation or information with such a re-
7 quest.

8 “(6) ENFORCEMENT.—

9 “(A) IN GENERAL.—A requesting party
10 may bring an action in any district court of the
11 United States to enforce the provisions of this
12 subsection.

13 “(B) EXPEDITED REVIEW.—A district
14 court of the United States shall consider an ac-
15 tion under subparagraph (A) on an expedited
16 basis.

17 “(7) DEFINITIONS.—In this subsection:

18 “(A) ELIGIBLE FACILITIES REQUEST.—
19 The term ‘eligible facilities request’ means any
20 request for a modification of an existing wire-
21 less tower, base station, or eligible support
22 structure that does not substantially change the
23 physical dimensions of such wireless tower, base
24 station, or eligible support structure and that
25 involves—

1 “(i) collocation of new transmission
2 equipment;

3 “(ii) removal of transmission equip-
4 ment;

5 “(iii) replacement of transmission
6 equipment; or

7 “(iv) placement, construction, or
8 modification of equipment that—

9 “(I) improves the resiliency of
10 the wireless tower, base station, or eli-
11 gible support structure; and

12 “(II) provides a direct benefit to
13 public safety, such as—

14 “(aa) providing backup
15 power for the wireless tower, base
16 station, or eligible support struc-
17 ture;

18 “(bb) hardening the wireless
19 tower, base station, or eligible
20 support structure; or

21 “(cc) providing more reliable
22 connection capability using the
23 wireless tower, base station, or
24 eligible support structure.

1 “(B) ELIGIBLE SUPPORT INFRASTRUC-
2 TURE.—The term ‘eligible support infrastruc-
3 ture’ means infrastructure that supports or
4 houses a telecommunications service facility at
5 the time when an eligible telecommunications
6 facilities request for a modification of such fa-
7 cility is submitted to a State or local govern-
8 ment or instrumentality thereof.

9 “(C) ELIGIBLE SUPPORT STRUCTURE.—
10 The term ‘eligible support structure’ means a
11 structure that, at the time when an eligible fa-
12 cilities request for a modification of such struc-
13 ture is submitted to a State or local government
14 or instrumentality thereof, supports or could
15 support transmission equipment.

16 “(D) ELIGIBLE TELECOMMUNICATIONS FA-
17 CILITIES REQUEST.—The term ‘eligible tele-
18 communications facilities request’ means any
19 request for a modification of an existing tele-
20 communications service facility in or on eligible
21 support infrastructure that does not substan-
22 tially change the physical dimensions of such
23 facility and that involves—

24 “(i) collocation of new telecommuni-
25 cations service facility equipment;

1 “(ii) removal of telecommunications
2 service facility equipment; or

3 “(iii) replacement of telecommuni-
4 cations service facility equipment.

5 “(E) TELECOMMUNICATIONS SERVICE FA-
6 CILITY.—The term ‘telecommunications service
7 facility’—

8 “(i) means a facility that is designed
9 or used to provide or facilitate the provi-
10 sion of any interstate or intrastate tele-
11 communications service; and

12 “(ii) includes a facility described in
13 clause (i) that is used to provide other
14 services.

15 “(F) TRANSMISSION EQUIPMENT.—The
16 term ‘transmission equipment’ has the meaning
17 given such term in section 1.6100(b)(8) of title
18 47, Code of Federal Regulations (as in effect on
19 the date of the enactment of this paragraph).”.

20 (b) IMPLEMENTATION.—Not later than 180 days
21 after the date of the enactment of this Act, the Federal
22 Communications Commission shall issue final rules to im-
23 plement the amendments made by subsection (a).

24 (c) APPLICABILITY.—The amendments made by sub-
25 section (a) shall apply with respect to any eligible facilities

1 request or eligible telecommunications facilities request
2 described in paragraph (1) of section 6409(a) of the Mid-
3 dle Class Tax Relief and Job Creation Act of 2012 (47
4 U.S.C. 1455(a)) that is submitted (as determined under
5 paragraph (4) of such section, as added by subsection (a))
6 by a requesting party on or after the date of the enact-
7 ment of this Act.

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