



April 28, 2025

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

Re: DELETE, DELETE, DELETE - GN Docket No. 25-133  
REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF TELECOMMUNICATIONS  
OFFICERS AND ADVISORS (NATOA)

Dear Secretary Dortch:

The National Association of Telecommunications Officers and Advisors ("NATOA")<sup>1</sup> hereby files these Reply Comments in response to the Federal Communication Commission's ("Commission") Notice in the Matter of Delete, Delete, Delete, GN Docket No. 25-133.<sup>2</sup>

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<sup>1</sup> 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 (PROW). Members are local government staff and their advisors offering a wealth of experience and expertise on public rights-of-way management, telecom work and communications issues related to broadband, wireless, cable television, public, educational, and government (PEG) access, public safety communications, consumer protection and PROW management. <https://www.natoa.org/>

<sup>2</sup> Public Notice, In Re: Delete, Delete, Delete, GN Docket No. 25-133, DA 25-219 (rel. Mar. 12, 2025) (Notice).

**The National Association of Telecommunications Officers and Advisors (NATOA)**

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*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 (PROW).*

## ***Introduction***

NATOA files these comments to express our:

- Support for the Comments submitted by the National Association of Counties (“NACo”)<sup>3</sup>, National League of Cities (“NLC”)<sup>4</sup>, and The United States Conference of Mayors (“USCM”)<sup>5</sup>, which identify rules that have “failed to deliver on their promised impacts and do not reflect the current real-world circumstances, which render them outdated or unhelpful.”<sup>6</sup>
- Opposition to the Comments filed by the U.S. Chamber of Commerce (“Chamber”)<sup>7</sup> regarding Cable Rate Regulations Rules, PEG Requirements, Cable Customer Service Obligation, Franchise Transfers.
- Opposition to INCOMPAS’ Comments regarding “access to public rights-of-way, accelerating approval of permits, and asking state and local governments, utilities, and railroads to charge fees that are based only on their actual, objectively reasonable costs.”<sup>8</sup>
- Opposition to the NCTA – The Internet & Television Association (“NCTA”) comments regarding PEG access and a multitude of cable franchising obligations.<sup>9</sup> And,
- Support for Cable, Broadband & Wireless Reporting and Customer Service Obligations.

## ***The 2018 Small Cell Report and Order and Declaratory Ruling, and the 2020 5G Upgrade Report and Order***

NATOA supports and concurs with the Comments of NLC, NACO and USCM, the organizations representing America’s local government leaders, which have noted that the 2018 Small Cell Report and Order and Declaratory Ruling<sup>10</sup> “dramatically and inappropriately increased the

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<sup>3</sup> 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. <https://www.naco.org/>

<sup>4</sup> The National League of Cities (NLC) is the voice of America’s cities, towns and villages, representing more than 200 million people. <https://www.nlc.org/>

<sup>5</sup> 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. <https://www.usmayors.org/>

<sup>6</sup> Comments of the National Association of Counties (NACo), National League of Cities (NLC), and The United States Conference of Mayors (USCM) in DELETE, DELETE, DELETE - GN Docket No. 25-133, April 11, 2025. <https://www.fcc.gov/ecfs/document/10411034823290/1>

<sup>7</sup> Comments of the U.S. Chamber of Commerce in DELETE, DELETE, DELETE - GN Docket No. 25-133, April 11, 2025. <https://www.fcc.gov/ecfs/document/10411184024497/1>

<sup>8</sup> Comments of the INCOMPASS in DELETE, DELETE, DELETE - GN Docket No. 25-133, April 11, 2025. <https://www.fcc.gov/ecfs/document/10411181513105/1>

<sup>9</sup> Comments of the NCTA – The Internet & Television Association in DELETE, DELETE, DELETE - GN Docket No. 25-133, April 11, 2025. <https://www.fcc.gov/ecfs/document/104110173015781/1>

<sup>10</sup> Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79; WC Docket No. 17-84, September 27, 2018.

extent to which the FCC directly imposed specific requirements on local permitting processes and limited local oversight of wireless infrastructure, by requiring specific shot clocks for permitting processes, limiting the factors communities may consider in permit applications, and dictating how localities may set fees for applications or use of public rights of way.”<sup>11</sup>

NATOA agrees that the compensation rates are both rigid and out of date. Further, the FCC’s requirements have failed to result in the predicted ubiquitous 5G service envisioned by the rule’s enactment in 2018. Indeed, some of our member communities have observed that permits acquired have remained unused or surrendered by both carriers and neutral hosts.

NATOA supports and concurs with the Comments of NLC, NACO and USCM, which note that the 2020 5G Upgrade Report and Order<sup>12</sup> also failed to deliver on industry promises of filling the holes in wireless network coverage. Further, the 2020 Upgrade Order is burdensome for local governments, curtailed responsible local public rights of way management and oversight, and enabled a path for the wireless infrastructure industry to game the permitting process by either manipulating the shot clock timing or the scope of expansion via Eligible Facilities Requests<sup>13</sup>, or both.

### ***The 2019 Mixed-Use Rule - Implementation of Section 621(a)(1) Third Report and Order***

NATOA supports and concurs with the Comments of NLC, NACO and USCM, which note that the “FCC in this order overreached in its interpretation of the Cable Act to allow cable providers to deduct the value of many of these non-fee franchise obligations from their overall franchise fee payments, and barred franchise authorities from incorporating non-cable services - such as broadband - into their franchise agreements, effectively leaving those services ungovernable by local governments within the existing regulatory framework. The FCC should withdraw this inappropriate use of federal regulatory power.”<sup>14</sup>

As noted by the local government associations, the Commission created a regulatory loophole for cable providers of broadband while at the same time limiting local franchising authority and

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<https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>

<sup>11</sup> Comments of the National Association of Counties (NACo), National League of Cities (NLC), and The United States Conference of Mayors (USCM) in DELETE, DELETE, DELETE - GN Docket No. 25-133, April 11, 2025.

<https://www.fcc.gov/ecfs/document/10411034823290/1>

<sup>12</sup> 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, November 3, 2020.

<https://docs.fcc.gov/public/attachments/FCC-20-153A1.pdf>

<sup>13</sup> 47 CFR 1.6100(b)(3), [https://www.ecfr.gov/current/title-47/part-1/section-1.6100#p-1.6100\(b\)\(3\)](https://www.ecfr.gov/current/title-47/part-1/section-1.6100#p-1.6100(b)(3))

<sup>14</sup> Comments of the National Association of Counties (NACo), National League of Cities (NLC), and The United States Conference of Mayors (USCM) in DELETE, DELETE, DELETE - GN Docket No. 25-133, April 11, 2025.

<https://www.fcc.gov/ecfs/document/10411034823290/1>

local consumer protection. Congress protected state and local franchising authorities' ability to negotiate fees for use of the public rights-of-way by cable providers, as well as to establish and enforce additional franchise requirements (such as the designation or use of channel capacity for public, educational, or governmental use, and enforcement of customer service requirements) under the Cable Act.<sup>15</sup>

Further, the local government associations state that the FCC:

- “overreached in its interpretation of the Cable Act to allow cable providers to deduct the value of many of these non-fee franchise obligations from their overall franchise fee payments, and
- “barred franchise authorities from incorporating non-cable services - such as broadband - into their franchise agreements, effectively leaving those services ungovernable by local governments within the existing regulatory framework.”<sup>16</sup>

NATOA agrees with the local governments' observation that the FCC should withdraw this inappropriate use of federal regulatory power.

### ***Public Rights of Way Permitting by Federal Agencies, State and Local Governments***

NATOA agrees with the U.S. Chamber of Commerce' recognition of the “the Commission’s limitations in pursuing comprehensive permitting reform under its existing authority.”<sup>17</sup>

Local governments' local broadband permitting processes facilitate the safe and productive deployment in our streets and roadways while protecting both our roads and our citizens from any harm caused by poorly planned and/or executed construction.

NATOA objects to comments that undermine state and local governments' authority to manage our public rights-of-way and our public safety role in land use.<sup>18</sup>

We object to the mischaracterization and false assumptions that lead to local broadband permitting being described as an obstacle to broadband deployment. Broadband providers and

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<sup>15</sup> Cable Communications Policy Act of 1984, <https://www.congress.gov/bill/98th-congress/senate-bill/66>

<sup>16</sup> Comments of the National Association of Counties (NACo), National League of Cities (NLC), and The United States Conference of Mayors (USCM) in DELETE, DELETE, DELETE - GN Docket No. 25-133, April 11, 2025. <https://www.fcc.gov/ecfs/document/10411034823290/1>

<sup>17</sup> Comments of the U.S. Chamber of Commerce in DELETE, DELETE, DELETE - GN Docket No. 25-133, April 11, 2025. <https://www.fcc.gov/ecfs/document/10411184024497/1>

<sup>18</sup> See Comments of INCOMPAS p. 7. <https://www.fcc.gov/ecfs/document/10411184024497/1>

deployers who suggest this are stepping on local governments' role as guardians of public land which our citizens own and we manage, indeed, land upon which this industry seeks to build.

No one supports the successful deployment of broadband networks more than our local governments. We've a long and productive history of facilitating wireline deployment in our streets for generations of telephone, cable, broadband and wireless facilities. We continuously advocate for fast and affordable broadband service for all of our residents while at the same time addressing their needs and protecting their interests.

As former Commission Chairwoman Jessica Rosenworcel replied when asked about permitting in a June 2023 House Energy and Commerce Committee's Communications and Technology Subcommittee Hearing:<sup>19</sup>

*I will tell you this: The biggest permitting problem now is on federal lands. Uncle Sam owns about 1/3rd of the real estate of this country and the standards for response back to those who want to build on those lands, we allow federal actors to take a lot more time to get back to someone who wants to build than we do state and local entities."*

City, county and town departments are stretched thin as they seek to protect both the public and property in a complex underground horizontal construction environment.

Coincidentally, April is National Safe Digging Month, the campaign of the Common Ground Alliance (CGA) – a national association dedicated to protecting underground utility lines, people who dig near them, and their communities. According to CGA's annual Damage Information Reporting Tool (DIRT) Report, more than half of annual reported damages (55.3%) were caused by professional contractors.<sup>20</sup>

During National Safe Digging Month, we have read and heard reports of local communities angered by damage caused by broadband installations with residents' property, power, and gas lines damaged during fiber optic installation.<sup>21</sup>

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<sup>19</sup> House Energy and Commerce Committee's Communications and Technology Subcommittee Hearing, June 21, 2023: Oversight of the Federal Communications Commission.  
<https://energycommerce.house.gov/events/communications-and-technology-subcommittee-hearing-oversight-of-the-federal-communications-commission>

<sup>20</sup> <https://undergroundinfrastructure.com/news/2023/april/common-ground-alliance-55-of-underground-utility-damage-caused-by-professional-contractors>  
<https://commongroundalliance.com/Publications-Media/Press-Releases/Press-Release/survey-finds-46-of-americans-plan-to-dig-without-contacting-811-beforehand-risking-utility-disruptions-and-safety-hazards>

<sup>21</sup> 'It's terrible!': Local communities angered by damages caused by broadband installations  
<https://www.news5cleveland.com/news/local-news/investigations/its-terrible-local-communities-angered-by-damages-caused-by-broadband-installations>

Digging without knowing the location of underground utilities can lead to serious injuries, service outages and expensive repairs. Accidentally striking gas, steam, electric, other telecom (copper, fiber, coaxial) lines, water, storm-water or sewer lines which can cause significant disruptions to homes, businesses, transportation and life and limb.

The fiber, cable, small cell antennas, and power transmission lines that the industry seeks to place in, over, and under our streets, sidewalks, and roadways demand heavy construction in our public rights of ways. That construction and deployment needs to be carefully managed for the sake of our residents and their public safety in careful coordination with other users and utilities in our roads such as power, water, stormwater and transportation use. The competing interests of these very same providers also must be managed to avoid land grabs that defeat the intent of federal investment in broadband deployment.

Local governments' associations have been working diligently -- and proactively -- with our nation's wireline and wireless providers to address any concerns in anticipation of the billions of dollars in fiber deployment and construction we hope is soon to commence thanks to the tremendous federal investment of the bipartisan Infrastructure Investment and Jobs Act.

Collectively, we joined the industry in a broadband permitting summit hosted by Georgetown Law Institute for Technology Law & Policy. Permitting stakeholders participating included federal, state and local governments and ISPs both large and small worked to identify areas of consensus and collaboration. The findings from their discussion are explored in a new report: *Permitting Success: Closing the Digital Divide Through Local Broadband Permitting* published last year.<sup>22</sup>

A key take-away of the Permitting Success report is that:

“There is no single local permitting process, and thus there can be no one-size-fits-all solution to permitting challenges.”

- Each local government has a unique permitting process.
- Each community has unique characteristics (e.g., different water tables, surface components, population densities.)

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Metronet continues to face criticism from Copperas Cove residents after damaging property and pipes during fiber optic installation

<https://www.kxxv.com/news/local-news/in-your-neighborhood/coryell-county/copperas-cove/metronet-faces-continued-backlash-over-property-damage-in-copperas-cove>

POTs & PANs: Cleaning Up After Construction

<https://potsandpansbyccg.com/2025/04/22/cleaning-up-after-construction/>

<sup>22</sup> See *Permitting Success: Closing the Digital Divide Through Local Broadband Permitting* hosted by Georgetown Law Institute for Technology Law & Policy, September 2024, <https://www.benton.org/publications/permitting-success>

- And, each ISP has unique methods for deploying infrastructure.

“ISPs should ensure municipal officials understand the project’s scope, its construction methods, the service that will be offered, and the steps that will be taken to mitigate disruption and restore construction sites. Government officials, in turn, should explain municipal capacity to approve projects, unique characteristics of the right-of-way, the technical steps for submitting and adjusting permit applications, and any expectations for aesthetics, resilience, and other community priorities.”

### ***Public Educational and Government (PEG) Access***

Comments by NCTA – The Internet & Television Association and the U.S. Chamber of Commerce regarding PEG Access and cable customer service obligations bemoan a litany of statutory -- not regulatory -- obligations from the 1992 Cable Act. NATOA believes these comments are beyond the scope of this proceeding. In addition to license transfers and customer service obligations, both commenters called for Congress to repeal statutory requirement that cable television offer Public, Educational, and Governmental Access Television channels and that the Commission should initiate a proceeding to streamline PEG rules, presumably of capacity and capital support.<sup>23</sup>

NATOA objects to NCTA and the U.S. Chamber of Commerce lobbying Congress through the Commission’s Docket No. 25-133.

Over 1,700 organizations in our 50 states provide Public, Educational and Government (PEG) Access television to viewers in their communities.<sup>24</sup> Local franchising authorities may require a cable operator to provide adequate PEG access channel capacity, facilities, or financial support. Local viewers who watch PEG access benefit from the transparency and open process of government at their local level as PEG provides coverage of commission and board meeting of city, county and township boards for residents, along with forums for local community engagement.

In 2011, the Commission’s Working Group on Information Needs of Communities produced a report, “The Information Needs of Communities, the changing media landscape in a broadband age which described PEG Access television.” The Working Group’s report noted that in 1984, Congress spelled out its hope for the PEG system: “Public access channels are often the video equivalent of the speaker’s soap box or the electronic parallel to the printed leaflet. They

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<sup>23</sup> Comments of the U.S. Chamber of Commerce, April 11, 2025

<https://www.fcc.gov/ecfs/document/10411184024497/1>;

NCTA, April 11, 2025 <https://www.fcc.gov/ecfs/document/104110173015781/1>

<sup>24</sup> Alliance for Community Media, <https://www.allcommunitymedia.org/>

provide groups and individuals who generally have not had access to the electronic media with the opportunity to become sources of information in the electronic marketplace of ideas. PEG channels also contribute to an informed citizenry by bringing local schools into the home, and by showing the public local government at work.”<sup>25</sup>

“PEG advocates note that their media access centers do not just broadcast programs, but also serve as community centers, providing training and production services.”<sup>26</sup>

NATOA firmly believes that PEG Access centers and channels continue to play a vital role in the local communities. PEG obligations are negotiated in good faith with the cable operator through the franchising process created by federal statutory law. Allowing local governments to negotiate PEG obligations through cable franchising is an integral element of a communities’ compensation for use of its rights-of-way as envisioned by Congress. The Commission cannot change statutory obligations through agency action.

### ***Cable, Broadband & Wireless Reporting and Customer Service Obligations***

In addition to urging action by Congress through the Commission, the cable, wireless and broadband Industry commenters expressed frustration with many regulations, reporting and filing requirements and customer service obligations as burdensome and onerous. NATOA found little evidence in comments of unnecessary burden but rather, an effort to diminish the disclosure and transparency of services purchased or contemplated and transaction culminated.

We urge the Commission to reflect on the intent of the regulations, requirements and obligations on America’s cable, broadband and wireless consumers and weigh the protections offered to our citizens against the harm caused by their elimination.

Thank you for your consideration of these Reply Comments. We look forward to partnering with the FCC to further policies established to protect our citizens.

If you have any questions about these comments, please contact me.

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<sup>25</sup> Information Needs of Communities (2011), p. 170. H.R. REP. No. 98-934, as reprinted in 1984 U.S.C.A.N. 4655, 4667 (1984). <https://www.fcc.gov/general/information-needs-communities>

<sup>26</sup> Information Needs of Communities (2011), p. 171. <https://www.fcc.gov/general/information-needs-communities>



Sincerely,



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