December 18, 2025

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

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

REPLY 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 this reply in response to the Federal Communications Commission's (Commission) Notice of Inquiry (NOI) in the above-referenced proceeding.[5]

These reply comments respond to the broad mischaracterization of local rights-of-way management offered anecdotally by a number of wireline industry associations as solicited by the Commission's questions regarding local permitting

[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 response sources 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 (PROW).
[5] Build America: Eliminating Barriers to Wireline Deployments, Notice of Inquiry, WC Docket No. 25-253, (rel. Sept. 30, 2025) ("NOI")

processes, timelines, and compensation for rights-of-way access.[6] The Local Government Associations strenuously object to the industry's depiction of local permitting as an obstacle to the provision of wireline telecommunications services. The parties suggesting this are seeking to strip local governments of their ability to responsibly manage public assets in the rights-of-way, while still expecting to have access to rights-of-way that are safe, well-planned, and conducive to technology-neutral competition.

As we stated in our original comments, local governments approach local permitting as a process that protects finite public resources. The complexity of telecommunications deployments requires a process that not only ensures the safety of all involved but also protects residents and taxpayers from absorbing additional costs. Each step, from the initial review to ensure planned deployment is not in conflict with other utilities, to the management of traffic flow and public safety during construction, to the repair and restoration of roads that are torn up during installation, is necessary to protect all users of the rights-of-way. Each of these steps has a cost for local governments in staff time and money, so it is crucial for localities to ensure providers pay a fair and reasonable cost for this use of public resources.

Local Permitting Protects Public Safety

The deployment of telecommunications and broadband infrastructure can result in damage to previously existing infrastructure. A simple internet search reveals thousands of incidents over the past two decades where providers and their contractors caused damage to gas lines, electrical lines, and water and sewer lines. In the few weeks since the Local Government Associations prepared and filed their original comments in this proceeding, companies installing and deploying communications infrastructure endangered residents in multiple communities. As our original comments noted, these incidents sometimes resulted in the death of children. Further erosion of local oversight will only increase threats to safety and business continuity.

For instance, on November 14, 2025, an excavation crew hired by Spectrum ruptured a gas main in Mitchell, Wisconsin.[7] The strike sent four workers to the hospital, caused the evacuation of dozens of residents, and resulted in damage to two homes.[8]

On December 2, 2025, in Dacono, Colorado, a contractor engaged in horizontal boring for the installation of underground fiber optic lines struck a gas line, causing an explosion which destroyed a family's home and most of their possessions.[9] Likewise, on December 11, in Clinton, Louisiana, a company "doing 'fiber optic work'" hit a gas line

[6] Ibid at para. 3.
[7] Pipeline & Gas Journal, TC Energy Pipeline Rupture in Wisconsin Sparks Evacuations, Four Injured, (Nov. 17, 2025).
[8] Ibid.
[9] Christa Swanson, CBS News, Investigators say contractor damaged gas line near Colorado mobile home that caused explosion, (Dec. 4, 2025).

located 13 feet underground, leaving 300 families without heat.[10] And on December 15, 2025, in Eastman, Georgia, "a company was working to install a fiber optic cable underground" and ruptured a gas line, causing "a large gas leak."[11]

Similarly, on December 8, 2025, "fiber-optic construction in Orland Park [Illinois] knocked out power for more than seven hours to some 300 residents."[12] Orland Park is requesting that companies address the following areas of concern: strikes to existing utilities; open holes, potholes, or sidewalks left unrestored; and work performed outside of permitted hours; among other things.[13] Some residents rely on electricity to provide heating, resulting in dangerous conditions earlier this month: "It was 20 degrees that day and it was snowing," [said Village Clerk Mary Ryan Norwell.] "My husband is disabled and he was freezing. The company never notified us what had happened."[14]

On November 17, 2025, TDS Telecom struck and damaged Rathdrum, Idaho's primary sewer force main.[15] To protect public health and the environment, the City asked residents and businesses "to severely limit water use (no flushing toilets if possible, no showers, laundry, or dishwashers) until further notice."[16] Breckenridge, Texas also suffered a lack of water when a contractor laying fiber optic lines hit a water main on December 9, 2025.[17] The lack of water caused the Breckenridge Independent School District to close schools on December 10, 2025 due to the obligation to "ensure that … students and staff have safe and reliable access to water throughout the school day."[18]

In the summer of 2025, Atlanta News First ("ANF") examined gas line strikes tied to the telecommunications industry.[19] Using data collected by the Common Ground Alliance, ANF reported that telecommunications work resulted in more than 3,400 gas line strikes in 2021, more than 4,500 gas line strikes in 2022, and more than 4,400 strikes in 2023. Telecommunications work was the leading cause of gas line strikes in 2022 and 2023. These statistics do not include water and sewer main ruptures or

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[10] Kiersten Williams, WAFB9, Gas line rupture leaves 300 Clinton families without heat during fiber optic installation, (Dec. 11, 2025).
[11] Leah Kincaid, WGAX News, Large gas leak closes road at entrance of Eastman Walmart, police say, (Dec. 15, 2025).
[12] Jim Hook, The Regional News, Orland Park halts fiber-optic construction over complaints, (December 14, 2025).
[13] Ibid.
[14] Ibid.
[15] Coeur d'Alene/Post Falls Press, Rathdrum sewer main damaged, (Nov. 17, 2025).
[16] City of Rathdrum, Idaho Emergency Public Notice - Sewer Service (Nov., 17, 2025).
[17] Tony Pilkington and Carla McKeown, Breckenridge Texan, Breckenridge residents continue to deal with lack of water as crew works to replace broken valve, (Dec. 10, 2025).
[18] Breckenridge Texan, UPDATE: BISD schools to remain closed Wednesday, Dec. 10, as City struggles to fix water system problems, (Dec. 10, 2025).
[19] Kristin Crowley, Atlanta News First (ANF), Digging dangers: Gas line strikes due to telecommunications construction on the rise: Multibillion-dollar initiative to get fast, broadband internet to everyone may have unintended consequences, (Aug. 6, 2025).

electrical line cuts caused by telecommunications and other communications providers and contractors.

These damages and injuries occurred under the existing regulatory regime, which already produces oversight challenges. Local oversight is an irreplaceable safety mechanism for infrastructure work in the rights-of-way. Weakening local government permitting through the imposition of arbitrary deadlines and constraints will result in additional deaths, as well as injuries, residential and commercial property damage, and lost revenue and productivity when businesses are closed while their employees recover and repairs to other infrastructure are made.

The Local Government Associations believe the Commission not only does not have the statutory authority to change local permitting and management of rights-of-way, it also lacks subject matter expertise over these areas. These functions must be completed by local entities with familiarity in the area and the ability to respond promptly to resolve any problems, such as damages and safety issues. For the Commission to assume such authority would be a poor, dangerous, and legally unsupported policy decision.

The Complexity of Underground Horizontal Construction

The Local Government Associations strenuously object to the notion put forth by INCOMPAS that "[r]egulatory complexity disincentivizes deployment projects."[20] 100 years of telecommunications deployment service demonstrate otherwise. There is little evidence to suggest that the digital divide is further exacerbated by regulatory complexity. As noted by the Rural County Representatives of California (RCRC), the California State Association of Counties (CSAC) and the League of California Cities (Cal Cities), the primary barriers to serving unserved and underserved areas across the country are economic, not local regulation, and include issues of low population density, difficult terrain, and low return on investment.[21] Local permitting, regulation, and coordination of work in the rights-of-way ultimately protects the interests of all users, including providers of telecommunications and other communications services.

We further believe INCOMPAS's comment and complaint underscore a fundamental lack of understanding of horizontal construction, i.e., the unique infrastructure projects that extend along the ground rather than upward (vertical), and the construction along, under, and over our highways, roads, streets, bridges, and sidewalks. Underground telecommunications deployment requires trenching, boring, or micro-trenching for conduit, underground (or surface) vaults, installation of manholes and handholes, and laterals for all distribution points (fiber, copper, possible power, and coaxial.) This underground construction requires careful, safe excavation and removal, back-filling and repaving, and the restoration of the roadway's surface.

[20] Comments of INCOMPAS in the matter of Build America: Eliminating Barriers to Wireline Deployments, WC Docket No. 25-253, Annex A, p. 2, (Nov. 18, 2025).

[21] Comments of the Rural County Representatives of California (RCRC), California State Association of Counties (CSAC), and League of California Cities (Cal Cities) in the matter of Build America: Eliminating Barriers to Wireline Deployments, WC Docket No. 25-253, Nov. 18, 2025, p.2, (Nov. 18, 2025). ("RCRC et. al.")

As the National Association of Towns and Townships ("NATaT") noted in their Comments, "Township requirements, such as depth standards, boring mandates, traffic control plans, winter construction restrictions, utility-locate coordination, and cost-based inspection fees, fall squarely within [Section 253 (b) and (c)] and are essential to preventing road failures, flooded properties, damaged drainage systems, and unsafe construction conditions.[22]

The Local Government Associations concur with NATaT's assessment with respect to the NOI's question of whether "delays or fees imposed by localities 'prohibit or have the effect of prohibiting' deployment. NATaT's experience demonstrates that delays are typically driven by provider-side issues, seasonal realities, or safety-related engineering reviews, not local obstruction. Townships rarely deny permits; instead, they rely on monthly governing board meetings, contracted engineers, and state Dig Safe rules to ensure safe work in limited construction windows. Seasonal delays, completeness checks, and quality reviews are expressly protected under §253(b)-(c) and cannot logically constitute effective prohibitions."[23]

Permitting is a separate rights-of-way management tool that addresses discrete construction projects within the rights-of-way and elsewhere. As a recent permitting report, *Permitting Success: Closing the Digital Divide Through Local Broadband Permitting,* explained, "[l]ocal permitting is essential to protect public safety and existing infrastructure" and thus "efficient, effective permitting benefits both communities and the [providers] that serve them."[24] Permitting processes enable local governments to review the work a provider wishes to do in the rights-of-way to ensure that it meets applicable laws and safety requirements. The permitting process helps both local governments and providers identify potential issues with projects before they begin, such as unsafe or inadequate traffic control plans, potential damage to trees in the public rights-of-way, inadvertently locating facilities on private property, and interference with public infrastructure, including gas lines, water lines, sewer lines, sidewalks, and ADA ramps.

Telecommunications and broadband providers need to navigate in, around, under or over existing utilities such as gas, water, already deployed telecommunications, sewer, storm-water management systems and drains, electric and power lines, and backup generator power lines, as well as municipally provided services such as street lighting, traffic lighting and signalling. On the most basic level, permits confirm the who, what, where and when of work in the rights-of-way.

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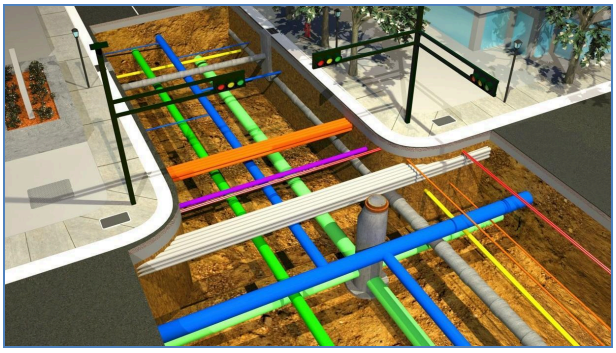
[22] Comments of the National Association of Towns and Townships (NATaT) in the matter of Build America: Eliminating Barriers to Wireline Deployments, WC Docket No. 25-253, p. 3, (Nov. 17, 2025)

[23] Ibid.

[24] Drew Garner, Permitting Success: Closing the Digital Divide Through Local Broadband Permitting (Sept. 2024), p. 11, https://www.benton.org/sites/default/files/permitting-success.pdf ("Permitting White Paper") (last visited Nov. 17, 2025).



The illustrations above show tidy diagrams of what is usually not at all clear or straightforward as a contractor cuts and trenches along the roadway.[25] These diagrams don't take into consideration rural America underground, which will likely include culverts, drainage systems, septic tank pipes, and agricultural infrastructure such as irrigation systems.

The coordination of these construction activities is the role of the public property owners, the cities, towns, counties, townships, state departments of transportation, railroads, metropolitan transportation authorities, local or regional planning boards, and supervisory boards. As a new provider cuts into a right-of-way to trench to build horizontally, the deployment inevitably moves from one property to another, necessitating careful planning and coordination with each property owner.

Without this necessary coordination, private property and public infrastructure are easily damaged. The following illustrations depict a homeowner's account of a fiber deployment gone awry; followed by a still photo from a recent news story about a fiber optic deployment depriving residents of water for 12 hours; and a photo exemplifying the complexity of cable conduit in a representative city. These are only a small sampling of the reasons local permitting is vital.

Without careful planning, bad results such as this one can happen, where Spectrum ran their fiber optic cable through a homeowner's sewage line, not only destroying the line but also allowing city sewage to backflow into their home, costing them $20,000 in damages.[26]

[25] Global Construction Solutions Ai+, " Underground Utility Mapping Services: Precision, Safety, and Innovation," LinkedIn, (September 30, 2024).

[26] Keely Orta (@keelyorta), "Spectrum ran their fiber optic cable through our sewage…," TikTok, (April 18, 2024).

This damage occurred November 4, 2025 when a Syntrio construction crew bored through a 16-inch water main — the largest in Stamford, Texas — while installing underground fiber lines. The crew called for utility marking but started digging within 20 minutes of making the call.[27]

The Baltimore City Conduit system consists of pipes or "ducts" used to protect and route wiring underground in the City's Right of Way (ROW). The ducts are made of either plastic, fiber, or Terra Cotta. Conduit is installed underground between multiple manholes, buildings, structures, or devices to allow for power and communication cables to connect buildings, businesses, and homes.[28]

Clarity and Coordination, Not Preemption, Best Support Business Needs

The League of Oregon Cities rightly notes that the Commission's proposed action would create the opposite outcome of its stated goals, increasing confusion and delays through litigation, rather than expediting infrastructure deployment.[29] The Local Government Associations underscore the League of Oregon Cities' stated concerns about the potential for conflict with well established court precedent, particularly in the wake of the *Loper Bright* decision, and the likelihood of deployment delays as specific questions are settled via litigation.

What local governments and the providers seeking to build infrastructure most need is clarity and a policy environment that promotes collaboration, innovation, and flexibility to ensure that deployments are completed safely, cost-effectively, and in the best interests of the community. As mentioned in our original comments, *Permitting Success: Closing the Digital Divide Through Local Broadband Permitting*,[30] illustrates how public and private stakeholders can collaborate to improve the permitting process. The Local Government Associations recognize and support improvements in digital technology that have enhanced the permitting process, and encourage providers to assist local governments in cost-sharing to transform the technology cities and counties

[27] Jeremy Ford, FOX West Texas, Stamford mayor halts fiber work after water outage, calls company's actions 'careless', (Nov. 7, 2025).
[28] Baltimore City Department of Transportation, "Conduit Division," (Accessed Dec. 15, 2025).
[29] Comments of the League of Oregon Cities, p.6-7, (Nov. 18, 2025). ("League of Oregon Cities")
[30] Permitting White Paper.

use to manage permitting. The Local Government Associations understand that artificial intelligence here could even provide an opportunity to help with review and reduce the complexity of permitting.

However, even with the enhancements that technology can provide, permit review can be a costly process that leaves little margin for error. The Local Government Associations stress that overly onerous proposed shot clocks, such as a 30 day shot clock proposed by other organizations in the original comment period, would cause significant review issues for local governments - even for those who have adopted the most advanced technological solutions available to their permitting offices.

The Commission's Proposals Exceed its Section 253 Authority

The Local Government Associations agree and support commenters' observations that 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."[31]

As noted by the League of Oregon Cities, "[t]he Commission's express preemption authority in Section 253(d) of the Telecommunications Act of 1996 does not authorize the Commission to preempt local rights-of-way management regulations and compensation requirements that are protected by Section 253(c). The Commission cannot use its preemptive authority and should not assert any other source of authority to do an end-run around Congress's clear intent that courts, not the Commission, decide issues related to Section 253(c)."[32] The Local Government Associations also concur with the Comments of NATaT that "Section 253(b) and (c) of the Communications Act explicitly preserve local authority to manage public rights-of-way, protect public safety, and require fair and reasonable compensation. These statutory protections are not subordinate to Section 253(a); they are integral to Congress's intended balance."[33]

The Local Government Associations also concur with the League of Oregon Cities' belief that any compensation inquiry turns on Section 253(c), which expressly preserves local authority to receive fair and reasonable compensation in the form of rent.[34] We also agree with the League of Oregon Cities that "there is no basis for the Commission to conclude that all non-cost-based rights-of-way fees imposed on wireline telecommunications providers violate Section 253(a). Neither Commission nor Courts of Appeals precedent supports such a finding, and the availability of robust, competitive telecommunications services across the country belies such a conclusion."[35] Finally, we agree with the Rural County Representatives of California (RCRC), the California State Association of Counties (CSAC) and the League of California Cities (Cal Cities) in their

[31] 47 U.S. Code § 253(c).

[32] League of Oregon Cities, p.1.

[33] NATaT, p. 3.

[34] League of Oregon Cities, p. 26 and 28.

[35] Ibid, p.28.

contention that cost recovery for unique rural factors, such as "terrain, seasonal access, and wildfire mitigation requirements," must be preserved.[36]

Furthermore, the Commission's Wireline NOI appears to incorrectly apply Section 253(a) to infrastructure used to provide wireline telecommunications *and other communications services*. The Local Government Associations caution the Commission from applying preemption authority beyond the scope of its telecommunications jurisdiction. Expanding the scope of Section 253 to cover services not classified under the Commission's telecommunications services jurisdiction risks not only exceeding the Commission's statutory limits, but also increases the likelihood of unnecessary litigation that slows, rather than speeds, deployment. Regardless of classification, Section 253(c) clearly indicates Congress's intent to preserve local governments' right to manage public rights-of-way and to receive fair and reasonable compensation for their use. As the level of government closest to the people, we oppose heavy-handed federal regulatory overreach into local land use, permitting, and franchise negotiation decisions.

Lastly, the Commission's application of its Section 253 authority to preempt governance of artificial intelligence and related infrastructure is a clear overreach of congressional intent. The Local Government Associations vehemently disagree with Connect AI's suggestion that, "state and local regulations and other requirements can serve as unreasonable and unfair barriers that impede … development[,] … potentially bottlenecking the AI industry's growth." We further reject Connect AI's position that, "The Commission has clear authority to preempt these unreasonable and unfair requirements, or any requirements that effectively prohibit the deployment of fiber networks in an area.[37] Under Sec. 253, the Commission limited its power to regulate "telecommunications services." Artificial Intelligence is likely an "information services," over which the Commission has limited authority without further congressional action.[38] As our nation continues to build quantum and AI infrastructure for the future, local zoning and permitting will serve as a key tool to facilitate an efficient and responsible build out. Local governments must be part of the process in appropriately siting infrastructure, such as data centers, where they can effectively serve communities while addressing residents' concerns about their impacts.

Conclusion

America's local leaders remain ready to partner with federal agencies, state governments, and broadband providers to close the digital divide in all communities for all residents. The Local Government Organizations reiterate that rather than indulging in Section 253 scope creep and inappropriate micromanagement of what are appropriately local decisions and processes, the Commission should instead consider mechanisms that foster and improve collaboration, process innovation, adoption of technology,

[36] RCRC et. al., p.2.

[37] Comments of Connect AI, The Coalition for Network Expansion & Connectivity to Enable Technology and AI in the matter of Build America: Eliminating Barriers to Wireline Deployments, WC Docket No. 25-253, p. 29, (Nov. 18, 2025).

[38] See, *In re MCP No. 185*, 124 F.4th 993, 999 (6th Cir. 2025) and *Mozilla Corp. v. FCC*, 940 F.3d 1, 75 (D.C. Cir. 2019).

necessary flexibility, protection of safety, and the responsible stewardship of finite public resources.

We appreciate the Commission's consideration of this reply. 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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