

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Accelerating Wireless Broadband Deployment by	)	WC Docket No. 17-79
Removing Barriers to Infrastructure Investment	)	
	)	
Accelerating Wireline Broadband Deployment by	)	WC Docket No. 17-84
Removing Barriers to Infrastructure Investment	)	
	)	

**COMMENTS OF THE GREENLINING INSTITUTE ON  
NOTICE OF PROPOSED RULEMAKING, NOTICE OF INQUIRY, AND REQUEST  
FOR COMMENT**

In accordance with the Commission’s April 21, 2017 Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment (“NPRM”) The Greenlining Institute (“Greenlining”) files these Reply Comments.

Providers request a litany of changes to the current rules that appear designed to allow providers to reap even greater profits while eliminating any consumer or community input. However, these requested changes are based on faulty assumptions that accelerating broadband deployment somehow trumps all other stakeholder interests. Additionally, providers do not explain how these changes will result in greater infrastructure deployment, nor do they explain how the changes will cause providers to suddenly commit themselves to building their networks in unserved and underserved areas.

**I. THE COMMISSION SHOULD REJECT PROVIDERS' UNSUPPORTED REQUESTS FOR THE ELIMINATION OF VIRTUALLY ANY FEE, DELAY, OR OTHER IMPEDIMENT, NO MATTER HOW SMALL.**

**A. Providers' Requests For Preemption of Local Authority Fail to Strike a Balance between Community Control and Accelerated Deployment.**

As the NPRM acknowledges, Section 332 strikes a balance between protecting traditional authority of state and local governments to regulate the location, construction, and modification of communications networks, and preventing state and local governments from using that regulation to unreasonably delay the deployment of advanced communications services.<sup>1</sup> In their opening comments, Providers request a number of changes that they claim will speed their ability to deploy broadband. However, Providers fail to acknowledge that the standard set forth in section 332 is not a one-sided analysis (i.e., whether a policy reduces impediments imposed by local governments), but an acknowledgement that accelerated broadband deployment and local control of community-owned property are valid, and sometimes competing, interests.

Providers assume that the accelerated deployment of broadband is the **only** valid interest in this proceeding. As a result, Providers' opening comments reflect that bias, and primarily consist of extensive "wish lists" of changes to the rules, supported by examples of what providers claim are unreasonable delays, requirements, and impediments. Providers conceivably have some justifiable objections to some communities' practices that unreasonably or obstruct infrastructure deployment. However, providers offer a solution that clearly contravenes the purpose of section 332: eliminating local control over communications infrastructure virtually altogether.

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<sup>1</sup> NPRM at ¶ 5.

Providers note that in recent years, the FCC has taken measures to accelerate broadband deployment,<sup>2</sup> but do not explain why those measures are insufficient. Instead, those providers make broad claims that they are subject to, in the words of T-Mobile, “excessive fees, needless delays preferences for or against city-owned property, moratoria...discriminatory treatment...and other barriers.”<sup>3</sup> However, providers offer virtually no proof of these allegedly widespread barriers, instead offering general allegations or a minimal number of examples. For example, CTIA cites to **only** twenty examples it provided in the Commission’s Small Cell Deployment Proceeding (which CTIA describes as “numerous examples”, and observes that other parties submitted only “dozens more” examples in that proceeding.<sup>4</sup> Given the highly accelerated timeframe in this proceeding,<sup>5</sup> it is difficult, if not impossible, for parties to investigate the veracity of providers’ claims where those providers have provided sufficient information, or to seek additional information where those providers have not.

Providers nonetheless rely on this thin data to advocate for the Commission’s broad expansion of the scope of Section 332 to apply to virtually any state, local, or tribal action of which a provider disapproves,<sup>6</sup> restrict communities from charging market rate for pole attachments and management,<sup>7</sup> prohibiting “one-touch-make-ready” requirements,<sup>8</sup> forcing industry model legislation on states,<sup>9</sup> and imposing unreasonably short timeframes for approval

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<sup>2</sup> WIA Opening Comments at p. 2.

<sup>3</sup> See T-Mobile Opening Comments at p. 11.

<sup>4</sup> Mar. 8, 2017 Comments of CTIA, Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies, Mobilite, LLC Petition for Declaratory Ruling, 31 FCC Rcd 13360 (2016).

<sup>5</sup> See Wireless Telecommunications Bureau, Order (July 12, 2017).

<sup>6</sup> Verizon Opening Comments at p. 22.

<sup>7</sup> T-Mobile Opening Comments at p. 28.

<sup>8</sup> Charter Opening Comments at p. 45.

<sup>9</sup> Sprint Opening Comments at p. 45.

on local governments, among others.<sup>10</sup> In fact, it appears that providers object to rules actually meant to **encourage** enhanced deployment, for example local requirements that providers work with communities to address coverage gaps.<sup>11</sup> However, the relief providers request in this proceeding goes far beyond reasonable accommodations and instead seek to eliminate **any** consumer protection that providers consider inconvenient, overriding consumer choice and notice and communities' right to self-determination. Providers' requested changes do not strike a balance between accelerated broadband deployment and local government control of community-owned property. Rather, they eliminate state and local government authority virtually altogether. Accordingly, providers' requested changes contravene the intent of Section 332, and the Commission should reject those requested changes.

**B. Providers' Requests for Changes to the Copper Retirement Rules Fail to Protect Against Customers' Loss of Service.**

Providers' arguments regarding changes to the copper retirement rules are similarly flawed. Providers request a host of changes to the copper retirement rules which would, admittedly, make it easier for providers to shut down their networks. However, Providers fail to acknowledge that the Commission's goal is not solely to make it easier for providers to shut down their networks, but to allow providers to transition to more advanced technologies while at the same time ensuring that consumers **do not lose access to service**.

While providers' requested changes arguably help providers transition to more advanced technologies, they in no way ensure that consumers will not lose access to service. For example, providers request that the Commission abandon its "functional test" standard for determining

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<sup>10</sup> NTCA Opening Comments at p. 4.

<sup>11</sup> T-Mobile Opening Comments at p. 11.

when a provider may discontinue service,<sup>12</sup> disregarding the fact that abandonment of that standard creates serious risks that customers will be left without any service. Rather disturbingly, CenturyLink blithely asserts that customers losing access to any service is nothing more than a “trade-off” which is “the correct outcome as a matter of public policy.”<sup>13</sup>

As Greenlining noted in its opening comments, the proposed changes to the copper retirement process “create a very real risk that providers will shut down networks and services, leaving some customers without any access to communications services whatsoever.”<sup>14</sup> As NASUCA notes, the proposed rules create a substantial risk that ILECs will withdraw from rural areas, leaving customers without any service whatsoever.<sup>15</sup> Providers’ requested changes to the copper retirement rules highlight that risk. Providers’ requested changes to the copper retirement rules do not provide sufficient protections to ensure that customers do not lose service as a result of a network shutdown. Accordingly, the Commission should reject those requested changes.

## **II. THERE IS NO EVIDENCE THAT THE CHANGES REQUESTED BY CARRIERS WILL ACCELERATE BROADBAND DEPLOYMENT TO COMMUNITIES OF COLOR.**

As Greenlining noted in its opening comments, “While the proposed changes may make it easier for providers to shut down networks and services, there is no indication that providers will use the cost savings from those shutdowns to deploy broadband.”<sup>16</sup> Providers have offered no evidence that their requested changes to the current rules will accelerate broadband

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<sup>12</sup> CenturyLink Opening Comments at pp. 45-46. Similarly, providers request that the Commission severely curtail notice requirements (Centurylink Opening Comments at pp. 30-32; NTCA Opening Comments at p. 17), disregarding the fact that in some cases, the proposed rules would result in customers receiving no notice whatsoever.

<sup>13</sup> CenturyLink Opening Comments at p. 46.

<sup>14</sup> Greenlining Opening Comments at p. 7.

<sup>15</sup> NASUCA Opening Comments at p. 3.

<sup>16</sup> Greenlining Opening Comments at p. 7.

deployment to consumers generally, and communities of color specifically. While providers spend a great deal of time complaining about areas where they feel they have to engage with communities before building out their networks,<sup>17</sup> they do not appear to have presented any evidence demonstrating that they have successfully, and voluntarily, built out their networks in areas with **less** local oversight. In fact, CTIA indicates that the wireless industry does not have any immediate plans to deploy broadband to unserved and underserved areas, stating that areas without high-speed broadband “should,” not **will**, “be provided that access in the future.”<sup>18</sup> Providers have not demonstrated that their requested changes will accelerate broadband deployment to unserved and underserved areas. Accordingly, the Commission should reject those requested changes.

### **III. CONCLUSION**

Universal access to advanced communications services is critical for families and small businesses to access economic opportunity in today’s society. Greenlining fully supports any Commission effort to upgrade and expand our telecommunications networks to provide access to everybody. Those efforts should not be based on ideology or abstract theory, but rather data-driven examinations of the real-world effects of policy changes.

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<sup>17</sup> See section I, above.

<sup>18</sup> CTIA Opening Comments at p. 5.

Unfortunately, there is no evidence in this proceeding that providers' proposals strike a proper balance between community control and accelerated broadband deployment. Instead, those proposed rules would eliminate local self-governance instead allowing providers to shut down, rather, than upgrade, their networks, and accordingly determine who gets service. The Commission should reject providers' requests.

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