OPPOSE HR 2289 (119th Congress)

Bill Would Eliminate Local Authority Over Communications Infrastructure

What this bill does:

- Eliminate states' rights and preempt all local control over the placement of wireless facilities
- Forces local governments to rubber-stamp virtually all wireless facilities
  - If they don't rubber-stamp, the facilities would be built without a permit[1]
- Says the FCC will control state and federal courts, exponentially increasing its power
- Exempts almost all wireless facilities from review for human health effects under NEPA[2]

Why you should oppose it:

- Will harm, injure, and disable millions of Americans who will be involuntarily irradiated[3]
- Removes the possibility of informed consent
- Decreases property values for millions of Americans
- Violates constitutional protections for due process, property takings, and anti-commandeering of states. Exceeds the limits of federal power under the Commerce Clause
- Will not bridge the digital divide or address market failures in rural broadband deployment

Specific preemption provisions[4]

Antennas on *any* structure automatically approved. Says that local governments "may not deny and shall approve" (Sec 103, page 37 line 20) any antenna on any structure that "*could* support transmission equipment" (Sec 103, page 48 line 3), even if the location was never permitted for antennas. In this dramatic expansion of Section 6409 preemption (47 USC 1455), local governments would have no control over new antennas on ***any structure*** – for example, utility poles, light poles, buildings, overhead wires, apartments, single-family houses, schools, buildings, and more. Based on available data, antennas on existing structures represent at least 98% of deployments since 2020.

New structures impossible to deny. In the cases where a carrier would like to build a new tower (less than 2% of deployments), local governments would be forced to approve these – even in the front yard of a single-family home. 47 USC 332(c), which governs the siting of wireless facilities, would be amended so that local governments cannot prohibit the "improvement or enhancement" of *any* wireless service, including data service. (Sec 101, page 4 line 1) This is a massive shift from current law. Under the 1996 Telecom Act, federal appeals courts require carriers to show a gap in voice service in order to justify new deployments. HR 2289 has no such limiting condition on the number of towers to achieve a desired service level; carriers can always claim (without showing

[1] *Montgomery County, et al. v. FCC* (Fourth Circuit, 2015, No. 15-1240)
[2] National Environmental Policy Act
[3] National Call Congressional Briefing on Wireless Infrastructure
[4] Page and line numbers refer to the American Broadband Deployment Act of 2025 adopted by the House Energy & Commerce Committee 12/3/25

evidence) that an additional tower might yield a slight enhancement or slightly higher data rates (Sec 101 page 21 line 10) and override local zoning. If a local government attempts to deny a permit under this bill, it must include a detailed explanation to be publicly released in writing on the same day of the decision, a near-impossible hurdle for decisions made during a public meeting in accordance with state laws (Sec 101, page 15 line 6; Sec 102 page 30 line 7; Sec 103 page 53 line 18).

FCC in control of <u>all</u> courts. In an outright attack on Article III of the Constitution, the bill says that state and federal courts (including the Supreme Court) will be bound by FCC rules and interpretations. The provisions give the FCC more power than it ever had before *Chevron* was overturned. (Sec 101 page 19 line 4; Sec 102 page 36 line 4; Sec 103 page 46 line 9). In the rare case where a local government might quixotically try to deny a wireless deployment, carriers would go to a court which would be forced to rubberstamp FCC's draconian preemption interpretations.

FCC annulment authority: Dramatically expands FCC's obligation to cancel any local law or regulation that it deems inconsistent with improving or enhancing any service (Sec 102 page 34 line 4) and expands the scope of section 253 to data services (Sec 102, page 37 line 6).

Shot clocks expanded. Converts existing FCC shot clocks from guidelines into deadlines, giving local governments only 10 days for a small cell or 30 days for all other wireless; thereafter, local governments must accept incomplete applications (Sec 101, page 8 line 21, page 9 line 21).

Deemed granted applications. If a local government does not comply with the shot clock, applications would be automatically, or "deemed," granted (Sec 101 page 13 line 22; Sec 102 page 29 line 5; Sec 103 page 38 line 11).

No moratoria. Prohibits local governments from pausing applications for wireless, telecommunications, cable facilities, or cable franchises (Sec 101, 102, 103, 202; pages 8, 15, 50, 58).

Cable broadband. Localities would generally be (1) forced to accept any applicant to build a cable network (2) prohibited in perpetuity from letting any contract expire and (3) stripped of oversight upon cable operators selling or transferring their franchise (Title II).

NEPA and NHPA[5] exemptions. Exempts most wireless facilities from these environmental and historic preservation reviews, including for impacts on human health (Title III).

Opposed by:

- National Association of Counties (NACO), National League of Cities (NLC), US Conference of Mayors, National Association of Telecommunications Officers and Advisors (NATOA)
- MAHA Action
- American Public Power Association
- National Association of Towns and Townships and its members in Pennsylvania and Michigan

[5] National Historic Preservation Act