

State of California

Public Utilities Commission
San Francisco

M E M O R A N D U M

Date: October 20, 2025

To: President Alice Reynolds
Commissioner Darcie Houck
Commissioner John Reynolds
Commissioner Karen Douglas
Commissioner Matt Baker
(October 30, 2025 Meeting)

From: Hien Vo Winter, Legal Division
Cole Przybyla, Communications Division

Subject: Filing Comments on Federal Communications Commission Notice of Proposed Rulemaking, In the Matter of Build America: Eliminating Barriers to Wireless Deployments (WT Docket No. 25-276)

RECOMMENDATION:

CPUC Staff requests authority to file comments on the Federal Communications Commission's (FCC) *Notice of Proposed Rulemaking, In re Build America: Eliminating Barriers to Wireless Deployment* ("NPRM") (WT Docket No. 25-276), adopted September 30, 2025, and to be published in the Federal Register. The FCC's goal in this *NPRM* is to "ensure that all state and local permitting regulations that address the deployment of wireless infrastructure are consistent with the requirements of section 6409 of the Spectrum Act and sections 253 and 332(c)(7) of the Communications Act, and do not prohibit or effectively prohibit the provision of [wireless] service."¹ The FCC proposes reforms and seeks comment on state and local regulations affecting towers and wireless infrastructure and whether preemption and a "rocket docket" for permitting disputes should be used to advance the FCC's "Build America Agenda."

Comments and reply comments would address the need for states and localities to maintain their authority over wireless infrastructure oversight under federal law to safeguard public safety and welfare, reliability and resiliency of wireless telecommunications services, consumer protection, and the public rights-of-way.

¹ NPRM at ¶ 6.

Comments would also address the need for transparent FCC processes that allow states and local governments and telecommunications providers a fair and reasonable opportunity to be heard in wireless permit disputes.

BACKGROUND:

On September 30, 2025, the FCC adopted an *NPRM* in WT Docket No. 25-276, *In the Matter of Build America: Eliminating Barriers to Wireless Deployments*. Comments and Reply Comments are due 30 and 60 days, respectively, after publication in the Federal Register. Due to the federal government shutdown, it is unclear when this item will publish.

This *NPRM* advances the FCC’s “Build America Agenda” “by proposing reforms that would free towers and other wireless infrastructure from unlawful regulatory burdens imposed at the state and local level.”² Specifically, the *NPRM* seeks to “clarify and potentially expand upon the [FCC’s] rulings under certain permitting provisions of section 6409(a) of the Spectrum Act of 2012 (Spectrum Act) that expedite state or local approval of certain modifications of existing tower and wireless base stations.”³ Permitting matters under this section include clarifying “concealment elements”, changing conditions associated with siting approval, and other possible changes to section 1.6100 of the FCC’s rules “to reduce permitting and other barriers to [wireless] infrastructure deployment.”⁴ The FCC would implement these reforms by codifying them in section 1.6100.

Second, the *NPRM* seeks comment on whether the FCC “should take further steps to ensure that state and local permitting regulations do not prohibit or have the effect of prohibiting the deployment of wireless infrastructure facilities pursuant to sections 253 and 332(c)(7) of the Communications Act.”⁵ The *NPRM* seeks comment on the following state/local permitting requirements or issues that may be inconsistent with these federal provisions: (1) macro cell towers and other wireless facilities; (2) unreasonable delays of permitting approvals; (3) disproportionate or unreasonable state and local fees; (4) aesthetic requirements; and (5) regulatory impediments (*i.e.*, unlawful regulation of radiofrequency emissions, the negative impact of conditional use permits, and *de facto* moratoria on wireless providers).⁶ The *NPRM* also asks whether the FCC

² *NPRM* at ¶ 1.

³ *NPRM* at ¶ 4.

⁴ *NPRM* at ¶¶ 17-28.

⁵ *NPRM* at ¶ 5.

⁶ *NPRM* at ¶¶ 29-78.

should create an accelerated process or “rocket docket” to resolve permitting disputes under section 253(d).⁷

Finally, the FCC asks that commenters who responded to its companion *Notice of Inquiry* concerning the FCC’s preemption authority pursuant to section 253 in the context of wireline deployment to also comment here on whether portions of that record bear on factual, policy, economic, and legal issues raised in this *NPRM*.⁸

DISCUSSION:

CPUC Staff recommends the CPUC file opening comments, and if appropriate, reply comments in response to the *NPRM* to ensure the FCC’s adherence to 47 U.S.C. § 253 and to protect the rights of California and its localities under section 253(b) and (c) to “preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers” and “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.” Staff similarly recommends filing comments to ensure the FCC’s adherence to 47 U.S.C § 332, which preserves state and local authority over wireless matters related to consumer protection and local zoning.

As a general matter, CPUC Staff recommends the CPUC reiterate its previous positions with regard to the FCC’s preemption authority under section 253, which should be done through case-by-case adjudication, rather than through categorical rulemaking.⁹ Staff recommends referencing the CPUC comments in the FCC’s companion *NOI* to support the CPUC’s comments in this proceeding to preserve essential state and local authority over wireless infrastructure oversight. This is especially critical if deployment is done rapidly but without appropriate review, input, and oversight from states and localities who are on the ground and have situational awareness of potential deployment issues.

The CPUC should highlight in opening comments how wireless deployment affects federal, state, and local jurisdictions and therefore all jurisdictions share in the responsibility to ensure safe, reliable, and reasonable wireless deployment. While the deployment of advanced wireless infrastructure, including 5G and beyond, increases connectivity for communities, its rapid deployment should be done in a manner that does

⁷ *NPRM* at ¶ 81.

⁸ *NPRM* at ¶ 6; see also *Notice of Inquiry, In the Matter of Build America: Eliminating Barriers to Wireline Deployments* (WC Docket No. 25-253), adopted September 30, 2025.

⁹ See, e.g., CPUC Comments (June 15, 2017) and CPUC Comments (July 17, 2017), *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Inv.*, 33 F.C.C. Rcd. 7705 (2018) and *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv.*, 33 F.C.C. Rcd. 9088 (2018).

not hinder or impede states and local governments' abilities to carry out their duties to protect public safety, ensure reliability, and safeguard communities from adverse impacts of the FCC's proposed reforms and expedited processes for rapid wireless deployment.

For example, the CPUC should comment on FCC preemption of state and local laws and requirements and conditional use permit issues that involve the safety of wireless facilities. (*NPRM* at ¶¶ 23-27.) Federal preemption that overrides California and local laws or requirements that act as safeguards to protect public safety, network reliability and resiliency, and emergency preparedness would undermine California's ability to protect its residents from disasters such as wildfires, earthquakes, flooding, and other statewide/local threats.

The *NPRM* also raises the possibility of preempting state and local aesthetic requirements and renewal processes for permits. (*NPRM* at ¶¶ 56-59.) The CPUC should comment on this issue to the extent FCC preemption would have a direct or indirect impact on states' and localities' abilities to duly exercise their reserved authority under sections 253 and 332(c)(7) of the Communications Act.

The *NPRM* also proposes to examine whether state and local fees are disproportionate or otherwise unreasonable. (*NPRM* at ¶¶ 41-55.) CPUC Staff recommends commenting on this issue to preserve state and local fee authority consistent with section 253(b) of the Communications Act, which preserves state authority to protect public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

CPUC Staff also recommends the CPUC respond to comments that inaccurately depict or mischaracterize legitimate state and local requirements.

Finally, CPUC Staff recommends the CPUC urge the FCC to ensure that any accelerated dispute resolution process or "rocket docket" is transparent and offers all parties involved a fair and reasonable opportunity to be heard.

CONCLUSION:

The CPUC should authorize CPUC Staff to file opening and reply comments to the *NPRM* to ensure the FCC preserves essential state and local authority over wireless infrastructure requirements that safeguard public safety and welfare, reliability and resiliency of wireless telecommunications services, consumer protection, and the public rights-of-way. In addition, the CPUC's comments are necessary to advocate for transparent FCC processes that allow states and local governments and telecommunications providers a fair and reasonable opportunity to be heard in wireless permit disputes.

Assigned Staff:

Legal Division: Hien Vo Winter (hien.vo@cpuc.ca.gov)

Communications Division: Cole Przybyla (cole.przybyla@cpuc.ca.gov)