

FACILITATING THE DEPLOYMENT OF INFRASTRUCTURE
 WITH GREATER INTERNET TRANSACTIONS AND LEG-
 ACY APPLICATIONS ACT

JUNE 7, 2024.—Ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and
 Commerce, submitted the following

R E P O R T

[To accompany H.R. 3283]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3283) to require the Assistant Secretary of Commerce for Communications and Information to report to Congress on any barriers to establishing online portals to accept, process, and dispose of certain Form 299s, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Committee Action	3
Committee Votes	3
Oversight Findings and Recommendations	5
New Budget Authority, Entitlement Authority, and Tax Expenditures	5
Congressional Budget Office Estimate	5
Federal Mandates Statement	6
Statement of General Performance Goals and Objectives	6
Duplication of Federal Programs	6
Related Committee and Subcommittee Hearings	6
Committee Cost Estimate	6
Earmark, Limited Tax Benefits, and Limited Tariff Benefits	6
Advisory Committee Statement	7
Applicability to Legislative Branch	7
Section-by-Section Analysis of the Legislation	7

PURPOSE AND SUMMARY

H.R. 3283, the “Facilitating the Deployment of Infrastructure with Greater Internet Transactions And Legacy Applications Act,” introduced on May 15, 2023 by Representatives Mariannette Miller-Meeks (R–IA) and Debbie Dingell (D–MI), would require the Assistant Secretary of Commerce for Communications and Information to report to Congress on any barriers faced by certain agencies to establish online portals to accept, process, and dispose of applications to deploy communications facilities on federal property.

BACKGROUND AND NEED FOR LEGISLATION

According to the Federal Communications Commission (FCC), approximately 8.3 million homes and businesses lack access to high-speed broadband.¹ Many of these unserved locations are near property owned by the federal government. This federal property is managed by agencies such as the Department of Interior and Department of Agriculture, and their subagencies. Thus, these agencies are responsible for reviewing applications for broadband deployment on this federal property.

Unfortunately, these federal agencies have historically taken a significant amount of time to review applications to deploy broadband on federal property, and the process is often opaque to the parties involved.² As one stakeholder stated, “[t]he existing federal permitting process takes too long . . . and is an impediment to the ability of broadband providers to meet the needs of their consumers and communities.”³ Today, “there is no transparency” where applications are in the review process.⁴ Agencies “just move real slow”⁵ and can go silent “for long stretches of time regarding the status of applications or what else might be needed to deem an application ‘complete,’” followed by “serial requests for additional information that could have been caught earlier or avoided altogether with better guidance and communication upfront.”⁶ The uncertainty surrounding permit reviews makes it difficult to plan builds, ultimately delaying deployment.⁷

Online portals would help communications providers by offering transparency into the federal permitting process. Portals would allow applicants to track their applications through the review process so they know where the application is in the process, whether more information is needed, and how close the agency is to making a final decision. Stakeholders testified that portals would provide “clarity, accountability, and transparency with respect to permitting on federal lands.”⁸ They would “allow applicants to know where they are in the process.”⁹ They would be a

¹Jessica Rosenworcel, FCC, National Broadband Map: It Keeps Getting Better, <https://www.fcc.gov/national-broadband-map-it-keeps-getting-better>, (May 30, 2023); FCC National Broadband Map, <https://broadbandmap.fcc.gov/home> (last accessed June 23, 2023).

²*Breaking Barriers: Streamlining Permitting to Expedite Broadband Deployment, Hearing before the Sub. on Comm’n. and Tech., H. Comm. on Energy and Commerce, 118th Cong. (2023) (“Permitting Hearing”)* (Testimony of Michael Saperstein).

³*Id.* (Written Testimony of Louis Finkel at 1).

⁴*Id.* (Testimony of Michael Saperstein).

⁵*Id.* (Testimony of Louis Finkel).

⁶*Id.* (Written Testimony of Michael Romano at 7).

⁷*See id.* (Testimony of Michael Romano).

⁸*Id.* (Testimony of Michael Saperstein).

⁹*Id.*; *id.* (Testimony of Louis Finkel).

“simple fix” that would “allow more predictability in the overall build cycle.”¹⁰

COMMITTEE ACTION

On April 19, 2023, the Subcommittee on Communications and Technology held a hearing on several bills, including a discussion draft that became H.R. 3283. The title of the hearing was “Breaking Barriers: Streamlining Permitting to Expedite Broadband Deployment.” The Subcommittee received testimony from:

- Michael Romano, Executive Vice President, NTCA—The Rural Broadband Association;
- Michael Saperstein, Senior Vice President of Government Affairs and Chief Strategy Officer, Wireless Infrastructure Association;
- Michael O’Rielly, President, MPORielly Consulting, LLC;
- Louis Finkel, Senior Vice President of Government Relations, National Rural Electric Cooperative Association; and
- Ernesto Falcon, Senior Legislative Counsel, Electronic Frontier Foundation.

On May 17, 2023, the Subcommittee on Communications and Technology met in open markup session and forwarded H.R. 3283, without amendment, to the full Committee by a voice vote.

On May 24, 2023, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 3283, without amendment, favorably reported to the House by a record vote of 51 yeas and 0 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

¹⁰*Id.* (Testimony of Michael Saperstein).

**COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 11**

BILL: H.R. 3283, the Facilitating the Deployment of Infrastructure with Greater Internet Transactions and Legacy Applications Act or Facilitating DIGITAL Applications Act

AMENDMENT: A motion by Mrs. Rodgers to order H.R. 3283 favorably reported to the House, without amendment (Final Passage).

DISPOSITION: AGREED TO, by a roll call vote of 51 yeas and 0 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone	X		
Rep. Burgess	X			Rep. Eshoo	X		
Rep. Latta	X			Rep. DeGette	X		
Rep. Guthrie	X			Rep. Schakowsky	X		
Rep. Griffith	X			Rep. Matsui	X		
Rep. Bilirakis	X			Rep. Castor	X		
Rep. Johnson	X			Rep. Sarbanes	X		
Rep. Bucshon	X			Rep. Tonko	X		
Rep. Hudson	X			Rep. Clarke	X		
Rep. Walberg	X			Rep. Cárdenas	X		
Rep. Carter	X			Rep. Ruiz	X		
Rep. Duncan	X			Rep. Peters	X		
Rep. Palmer	X			Rep. Dingell	X		
Rep. Dunn	X			Rep. Veasey	X		
Rep. Curtis	X			Rep. Kuster	X		
Rep. Lesko	X			Rep. Kelly	X		
Rep. Pence	X			Rep. Barragán	X		
Rep. Crenshaw	X			Rep. Blunt Rochester	X		
Rep. Joyce	X			Rep. Soto	X		
Rep. Armstrong	X			Rep. Craig	X		
Rep. Weber	X			Rep. Schrier	X		
Rep. Allen	X			Rep. Trahan	X		
Rep. Balderson	X			Rep. Fletcher	X		
Rep. Fulcher	X						
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks	X						
Rep. Cammack	X						
Rep. Obernolte							

05/24/2023

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held a hearing and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 3283 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

H.R. 3283, Facilitating DIGITAL Applications Act			
As ordered reported by the House Committee on Energy and Commerce on May 24, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 3283 would require the National Telecommunications and Information Administration (NTIA) to report to the Congress on whether the Department of the Interior (DOI) and the Forest Service have established online portals to process requests to place and operate communications facilities on federal land and to identify any barriers to the portals' establishment. The NTIA would be required to submit reports 90 days after enactment and every 60 days thereafter. The bill would not require DOI or the Forest Service to establish such a portal; only to notify the NTIA if they do.

Using information about the cost of similar provisions, CBO estimates that the cost of the report would not be significant; any spending would be subject to the availability of appropriated funds.

The CBO staff contacts for this estimate are David Hughes (for the NTIA) and Lilia Ledezma (for DOI and the Forest Service). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to expedite broadband deployment by streamlining the permitting process at the federal, state, and local level.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3283 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following related hearing was used to develop or consider H.R. 3283:

- On April 19, 2023, the Subcommittee on Communications and Technology held a hearing on several bills, including a discussion draft that became H.R. 3283. The hearing title was “Breaking Barriers: Streamlining Permitting to Expedite Broadband Deployment.” The Subcommittee received testimony H.R. 3283 from:
 - Michael Romano, Executive Vice President, NTCA—The Rural Broadband Association;
 - Michael Saperstein, Senior Vice President of Government Affairs and Chief Strategy Officer, Wireless Infrastructure Association;
 - Michael O’Rielly, President, MPORielly Consulting, LLC;
 - Louis Finkel, Senior Vice President of Government Relations, National Rural Electric Cooperative Association; and
 - Ernesto Falcon, Senior Legislative Counsel, Electronic Frontier Foundation.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 3283 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that the Act may be cited as the “Facilitating the Deployment of Infrastructure with Greater Internet Transactions And Legacy Applications Act” or the “Facilitating DIGITAL Applications Act”.

Section 2. Report on barriers to establishing online portals to accept, process, and dispose of certain form 299s

Subsection (a) would direct the Assistant Secretary of Commerce for Communications and Information (Assistant Secretary) to submit to Congress a report describing whether the Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, have created an online portal for their agency to accept, process, and dispose of Special Form 299s, the federal government’s application form to deploy communications facilities on federal property. The report would also be required to describe any barrier to the establishment of these portals.

The Assistant Secretary is directed to submit this report within 90 days of enactment of H.R. 3283, and every 60 days thereafter until each Secretary establishes its portal. The Secretaries would be required to notify the Assistant Secretary that they established the online portal within three days of establishment.

Subsection (b) would define key terms used in H.R. 3283.