

# Subcommittee on Federal Lands

Tom McClintock, Chairman  
Hearing Memorandum

May 22, 2017

**To:** All Subcommittee on Federal Lands Members

**From:** Majority Staff – Terry Camp, Subcommittee on Federal Lands, (x6-7736)

**Subject:** Legislative hearing on **H.R. 2425 (Rep. Jared Huffman)**, To support the establishment and improvement of communications sites on or adjacent to Federal lands under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture through the retention and use of rental fees associated with such sites, and for other purposes.  
**May 23, 2017, 10:00 AM; 1324 Longworth HOB**

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H.R. 2425 (Rep. Jared Huffman), “*Public Lands Telecommunications Act*”

## **Summary of the Bill**

The “Public Lands Telecommunications Act,” H.R. 2425 (Rep. Huffman), directs the Secretary of the Treasury to establish separate special accounts for the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Reclamation, and the U.S. Forest Service, for the deposit of rental fees received by such agencies for communications use authorizations on federal lands that are granted, issued, or executed by them. These revenues will remain available for expenditure, to the extent and in such amounts as are provided in advance in appropriations Acts, for agency activities related to communications sites.

## **Invited Witnesses**

### **Panel I**

*The Honorable Jared Huffman*  
Member of Congress  
California 2<sup>nd</sup> District

### **Panel II**

*Ms. Constance Elizabeth Stewart*  
Executive Director  
California Center for Rural Policy at Humboldt State University  
Arcata, California

## **Background**

The Public Lands Telecommunications Act, H.R. 2425 (Rep. Huffman), seeks to expand development of telecommunications infrastructure on and near federal lands, with an underlying goal of expanding the availability of broadband connectivity to rural areas. The bill is modeled

after the success of previous legislation providing fee retention authority to federal land management agencies, with the idea being that rental fees collected from service providers and retained by the agency are reinvested to expand broadband and telecommunications deployment.

High speed broadband in the United States is crucial for economic development, public safety, and quality of life. Federal programs have been established to incentivize and subsidize broadband infrastructure investment in unserved and underserved rural areas. Major existing broadband funding streams are centered in two federal entities. The Connect America Fund at the Federal Communications Commission (FCC) subsidizes the operation of both fixed and mobile broadband networks in rural areas. Rural Utilities Service (RUS) programs at the U.S. Department of Agriculture (USDA) provide loans and grants to private and public entities seeking to deploy broadband networks in underserved and unserved rural areas.

According to the Federal Communication Commission's *2016 Broadband Progress Report*, both rural and tribal communities lag significantly behind urban areas in terms of access to fixed, advanced broadband networks. The report notes that more than 39 percent of Americans living in rural areas lack access to fixed advanced broadband, as compared to just 4 percent of American living in urban areas. Similarly, 41 percent of Americans living on Tribal Lands lack access to fixed advanced broadband.<sup>1</sup> Of the approximately 34 million Americans that lack access to advanced broadband, nearly 25 million live in rural areas or on Tribal Lands. Additionally, of those Americans living in rural areas that do have access to advanced telecommunications, only 13 percent have access to more than one provider.<sup>2</sup>

When advanced broadband access is compared with demographical statistics, the proportion of the population without access, on average, is highest in counties with the lowest median household income, the lowest population density, the highest rural population rate and the highest poverty rate.<sup>3</sup>

In addition to the connectivity needs of rural areas and Tribal Lands, federal land management agencies increasingly recognize that improving communications infrastructure on public lands is essential to their mission in the 21st-century. Connectivity can improve visitor access, experience, and safety, as well as aid in efficient land management.

According to the Bureau of Land Management (BLM), "A wide range of communication facilities and related technologies (e.g., radio, television, cellular, microwave, etc.) may be located on public land."<sup>4</sup> Each federal land management agency has a complex set of statutory authorities, regulations, and internal policies that govern the siting and monitoring of telecommunications sites under the agency's jurisdiction. For example, under provisions at 54 U.S.C. Sec. 100902, the National Park Service (NPS) has the authority to issue permits for rights-of-way for telecommunications facilities on NPS lands. The agency's permitting procedures are guided by regulations at 36 C.F.R. Part 14, and policy guidance in the agency's Management Policies 2006, Section 8.6.4.3. Additionally, NPS Director's Order #53 and its

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<sup>1</sup> Federal Communications Commission, "2016 Broadband Progress Report." Page 34. January, 29, 2016. [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-16-6A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-6A1.pdf)

<sup>2</sup> 2 Ibid. Page 38

<sup>3</sup> 3 Ibid. Page 42

<sup>4</sup> Bureau of Land Management, "Lands and Realty, Communications Sites." Accessed May 19, 2017. <https://www.blm.gov/programs/lands-and-reealty/right-of-way/communication-sites>

accompanying Reference Manual #53 give further policy guidance on utility rights-of-way. Chapter 10 of the Reference Manual contains specific guidance for determining fees.

Additionally, NPS (as well as the other land management agencies covered under this bill) retains its cost reimbursements at the issuing parks, but the fees themselves go into the General Treasury. The NPS Reference Manual (p. A5-8) discusses the issue of right-of-way fee retention as follows:

“Under current legislation, the application, administrative and management costs are retained in the park. The fee for use and occupancy is sent to the general fund. While it is recognized that the present system does not offer great incentive to collect these fees, this should still be done for several reasons. The establishment and collection of these fees and charges will assure that holders of right-of-way permits pay all costs incurred by the NPS and be assessed full value for their use of public lands. It is the most equitable method of ensuring that all users of park land are charged equally for similar uses. It will also serve as a deterrent to an applicant’s turning to the NPS for a low or no cost right-of-way rather than exhausting all other alternatives first.”

As cost is one of the primary factors affecting the development of new and expanded telecommunications sites by private service providers, it is critical that federal land management agencies charge reasonable rental fees. Several service providers have expressed concerns that federal land management agencies covered by the legislation may raise rents as a result of being provided fee retention authority.

### **Administration Position**

The Administration’s position on H.R. 2425 is unknown at this time.

### **Cost**

A Congressional Budget Office cost estimate has not yet been completed for this bill.