



**Before the
Federal Communications Commission
Washington, D.C. 20544**

In the Matter of	)	
	)	
Rules and Regulations Implementing the	)	CG Docket No. 02-278
Telephone Consumer Protection Act of 1991	)	
	)	
Petition of Club for Growth for Expedited	)	
Waiver	)	

Reply Comment of Campaign Legal Center to
Comment of National Consumer Law Center, *et al.*

Campaign Legal Center (“CLC”)¹ submits this Reply Comment to express support for the October 5, 2026, Comment submitted by the National Consumer Law Center and 12 other advocacy groups (“NCLC Group Comment”),² and to further explain two important points addressed in that Comment: (1) political robocalls have an established track record of spreading disinformation and are harmful to our democracy, a harm that is further enhanced by the development and use of artificial intelligence (“AI”) technology in robocalling; and (2) granting

¹ CLC is a nonpartisan, nonprofit organization working in the areas of campaign finance, political disclosure, and election law to advance a more transparent, inclusive, and accountable democracy. Since its founding in 2002, CLC has participated in every campaign finance case heard by the Supreme Court, including the recently decided *National Republican Congressional Committee v. Brown*, No. 26-1785 (2026), pertaining to the Federal Communications Commission Media Bureau’s recently issued guidance on the lowest unit charge broadcasting discount. *See* Brief of Amicus Curiae CLC in Support of Respondents, *Nat’l Republican Congressional Comm. v. Brown*, No. 26-1785 (Sep. 3, 2026), <https://campaignlegal.org/Supreme-Court-Amicus-Brief-Brown-et-al-v-FCC>. CLC also submitted an amicus brief in the original case before the U.S. Court of Appeals for the Fourth Circuit. *See* Amicus Curiae Brief of CLC in Support of Petitioners, *Brown v. Fed. Commc’ns Comm’n*, No. 26-1785 (4th Cir. July 16, 2026), <https://campaignlegal.org/document/amicus-brief-brown-et-al-v-federal-communications-commission-et-al-lowest-unit-charge>. Relatedly, CLC is active in rulemaking and advisory opinion proceedings at the Federal Election Commission, Federal Communications Commission, and other federal agencies to ensure the proper administration and enforcement of campaign finance and related political communications laws. CLC recently submitted a Comment to the Federal Communications Commission in connection with the Media Bureau’s lowest unit charge guidance. *See* CLC, Comment Re: MB Docket No. 26-253 (Application for Review of Public Notice Pertaining to Lowest Unit Charge Requirements (Sept. 25, 2026), <https://campaignlegal.org/document/comment-federal-communications-commission-review-lowest-unit-charge-guidance>.

² *See* NCLC Group, Comments Re: CG Docket No. 02-278 (In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991) (Oct. 5, 2026), <https://www.fcc.gov/ecfs/document/26110079486/1> (hereinafter, NCLC Group Comment). The additional 12 advocacy groups are: Consumer Action, The Leadership Conference on Civil and Human Rights, Consumer Federation of America, Common Cause, National Consumers League, United Church of Christ Media Justice Ministry, NAVA (National Association of Voice Actors), National Association of Consumer Advocates, National Hispanic Media Coalition, HTTP (Hispanic Tech & Telecommunications Partnership), Sikh American Legal Defense and Education Fund, and Public Citizen.

Petitioner Club for Growth’s expedited waiver request would be arbitrary, capricious, and contrary to law, particularly in the remaining two weeks before the 2026 midterm election.

For the reasons described in the NCLC Group Comment and those further detailed below, CLC strongly urges the Federal Communications Commission (the “FCC” or “Commission”) to deny Club for Growth’s Petition for Expedited Waiver.³

Political Robocalls Have an Established Track Record of Spreading Election-Related Disinformation, and AI Stands to Increase Their Harm, Endangering Our Democracy

Every election cycle, anonymous robocalls spread misinformation about candidates and voting procedures, often in the crucial period immediately before Election Day. In the run-up to elections, these calls confuse and intimidate voters, suppress voter turnout, and lead voters to cast ballots based on incorrect information about the candidates and issues before them. Following the election, these calls continue to have an impact: They can sow doubt regarding election results and ultimately cause people to lose faith in the democratic process. AI—which has the power to convincingly impersonate public figures and show them saying or doing things they have never done—makes misinformation campaigns even more persuasive and damaging.

A. Political Robocall Campaigns Are a Tool of Voter Suppression and Disinformation

Over the last 15 years, there have been numerous robocall campaigns that have harmed voters, frequently prompting state attorneys general to put out bulletins warning voters to treat political robocalls with skepticism and only trust election information from government sources.⁴ The list below outlines a handful of particularly malicious and high-profile fraudulent political robocall schemes:

- In April 2021, on the eve of a special election to replace Representative Ron Wright—who had passed away while in office—voters began receiving robocalls claiming that his wife Susan Wright, who was running to replace him, had “murdered her husband” and was “running for Congress to cover it up.” Susan Wright’s campaign did not learn about the calls until the day before the election and had virtually no time to combat these inflammatory and baseless accusations, which Susan Wright denied and had referred to law enforcement.⁵

³ See Club for Growth, Petition for Expedited Waiver, CG Docket No. 02-278 (In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991) (Aug. 31, 2026), <https://www.fcc.gov/ecfs/document/26110073991/1> (hereinafter “Club for Growth Petition”).

⁴ See, e.g., Attorney General Bonta Issues Consumer Alert on the Spread of Election Misinformation, Ca. Dep’t of Justice (Oct. 2025), <https://oag.ca.gov/system/files/attachments/press-docs/Consumer%20Alert%20-%20Special%20Election%20Misinformation.pdf>; Consumer Alert: Be Aware of Election Scam AI Robocallers, N.C. Dep’t of Justice, <https://ncdoj.gov/primary-day-consumer-alert-be-aware-of-election-scam-ai-robocallers/> (last visited Oct. 14, 2026).

⁵ Alex Isenstadt & Ally Mutnik, ‘Disgusting’ Robocall Accuses Texas Candidate Wright of Causing Husband’s Death, Politico (Apr. 30, 2021), <https://www.politico.com/news/2021/04/30/texas-election-robocol-susan-wright-husband-485113>.

- On Election Day in 2020, more than 3 million people—including 800,000 in 6 presidential swing states—received automated phone calls telling them to “stay safe and stay home.” The Federal Bureau of Investigation looked into the calls, which government officials treated as an attempt at voter suppression.⁶
- On Monday, November 2, 2020—the day before the 2020 presidential election—voters in Flint, Michigan received calls telling them to vote on Wednesday (the day *after* the election). The Michigan Secretary of State issued an alert about the calls, and a local government official described them as an “intentional suppression of minority voting rights.” The Flint calls came on the heels of another robocall campaign that targeted black voters in Detroit and other areas of Michigan with a message discouraging them from voting.⁷
- In summer 2020, two political operatives targeted about 5,500 black voters in New York with robocalls falsely stating “that if they voted by mail, their personal information would be sent to law enforcement agencies, debt collectors and the government.” At least one voter was so distressed by the calls that he deregistered to vote. The FCC and New York Attorney General’s Office pursued charges against the operatives, as did at least two other states where they placed similar calls.⁸
- On the day of Texas’s 2020 primary election, an unknown source disseminated robocalls falsely claiming that Republicans vote on Tuesday and Democrats and independents vote on Wednesday. The Secretary of State’s Office attempted to counter the calls with a Tweet explaining that all voters needed to cast their ballot on Tuesday.⁹
- In October 2018, a campaign seeking to influence the outcome of a proposition used robocalls to falsely tell voters in Yolo County, California that there was a misprint on voting materials mailed to residents. The calls caused confusion about how people should vote to properly express their preference, and the county had to invest time and resources into correcting the disinformation disseminated by the robocalls.¹⁰

⁶ Jack Gillum, et al., *Robocalls Told at Least 800,000 Swing State Residents to “Stay Home” on Election Day. The FBI is Investigating*, ProPublica (Nov. 3, 2020), <https://www.propublica.org/article/robocalls-told-at-least-800-000-swing-state-residents-to-stay-home-on-election-day-the-fbi-is-investigating>; see also David Klepper & John Flesher, *FBI Investigates Robocalls Warning Voters to ‘Stay Home,’* PBS News (Nov. 3, 2020), <https://www.pbs.org/newshour/politics/fbi-investigates-robocalls-warning-voters-to-stay-home>.

⁷ Madeline Halpert & Kelly House, *Michigan Officials Warn of ‘Despicable’ Robocalls in Flint to Confuse Voters*, Bridge Mich. (Nov. 3, 2020), <https://bridgemi.com/michigan-government/michigan-officials-warn-despicable-robocalls-flint-confuse-voters/>.

⁸ Lola Fadulu, *2 Men Fined \$1.25 Million for Robocall Scheme to Suppress Black Vote*, N.Y. Times (Apr. 9, 2024), <https://www.nytimes.com/2024/04/09/nyregion/robocalls-black-voters-wohl-burkman.html>.

⁹ *Robocalls Aim Misinformation at Texas Voters on Super Tuesday*, CBS News (Mar. 3, 2020), <https://www.cbsnews.com/texas/news/robocalls-misinformation-texas-voters-super-tuesday/>.

¹⁰ *Voter Alert: Robocalls Making Misleading Statements*, Yolo Cnty. (Oct. 17, 2018), <https://www.yolocounty.gov/Home/Components/News/News/9871/5137?npage=60&arch=1>.

- During the 2012 recall election for Wisconsin Governor Scott Walker, there were robocalls telling voters that if they signed the recall petition, they did not need to vote. Walker’s opponent attempted to correct the record by recording his own robocall informing voters that a petition signature does not count as a vote in the recall election.¹¹

As these examples highlight, robocalls—particularly when strategically timed to reach voters during the last few days before an election—can cause major confusion and effectively disenfranchise voters, and the harms they cause can be difficult to remedy. Indeed, it may be impossible for campaigns and election officials to reach affected voters to correct disinformation when Election Day is imminent and early and absentee voting is already underway. Impacted voters are left to vote with false information, assuming the robocalls do not dissuade them from voting altogether. As these examples also highlight, robocall disinformation schemes often target communities of color, enhancing the risk of effectively disenfranchising groups of voters that already face unique barriers to voting.¹²

When the Senate Judiciary Committee held a hearing on the “State of the Right to Vote” following the 2012 elections, the testimony and written record cited misleading robocalls as a growing trend that threatens the democratic process.¹³ The problem has only grown in the 14 years since then, as bad actors continue to use robocalls to spread disinformation, in large part because phone calls are a private form of communication that are more difficult to detect and trace than disinformation published online.¹⁴

B. AI is Already Being Used to Mislead Voters Regarding Candidates and Elections

In just the last three years, there have been numerous examples of AI-generated election communications misleading voters, making it little wonder the FCC and a majority of states have taken measures to restrict and discourage AI-based electoral disinformation. As the FCC has recognized, AI poses special threats to election integrity. When the FCC issued a declaratory ruling in February 2024 confirming that calls using an AI-generated voice require the “prior express consent” of the call recipients,¹⁵ then-Chairwoman Rosenworcel explained that “[t]his technology can confuse us when we listen, view, and click, because it can trick us into thinking all kinds of fake stuff is legitimate.”¹⁶ She specifically cited concerns about “calls from

¹¹ Mackenzie Weinger, *Reports: Robo-Calls Lie to Wis. Voters*, Politico (June 5, 2012), <https://www.politico.com/story/2012/06/reports-robo-calls-lying-to-wisc-voters-077061>.

¹² The State of the Right to Vote After the 2012 Election at 120-21, Comm. on the Judiciary, U.S. Senate (112th Cong. Dec. 19, 2012), <https://www.congress.gov/112/chrg/CHRG-112shrg81713/CHRG-112shrg81713.pdf> (gathering testimony and comments on barriers to voting in the 2012 election, with one comment explaining that deceptive robocalls are “often targeted toward communities of color” and students).

¹³ See generally *id.*

¹⁴ See James Temple, *Election Robocalls: What We Know and What We Don’t*, MIT Tech. Rev. (Nov. 3, 2020), <https://www.technologyreview.com/2020/11/03/1011670/election-robocalls-what-we-know-and-what-we-dont/>.

¹⁵ Declaratory Ruling ¶¶ 1-2, CG Docket No. 23-362 (In the Matter of Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts) (Feb. 2, 2024), <https://docs.fcc.gov/public/attachments/FCC-24-17A1.pdf>.

¹⁶ Statement of Chairwoman Jessica Rosenworcel at 5, CG Docket No. 23-362 (In the Matter of Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts) (Feb. 2, 2024), <https://docs.fcc.gov/public/attachments/FCC-24-17A1.pdf>.

candidates for political office that are designed to confuse us about where and when to vote.”¹⁷ Commissioner Starks likewise observed that “[b]ad actors are using voice cloning – a generative AI technology that uses a recording of a human voice to generate speech sounding like that voice – to threaten election integrity.”¹⁸ He referenced AI-generated robocalls targeting New Hampshire voters (discussed below), in which a deepfake of President Biden’s voice urged citizens not to vote in the primary that was just two days away.¹⁹

State regulators have echoed these concerns about AI in elections. Thirty-one states have already enacted laws regulating the use of deepfakes in political messaging, either by banning the deceptive use of AI or requiring disclaimers to inform voters when AI was used.²⁰

Some notable examples of deceptive election-related AI communications include the following:

- Two days before the 2024 primary election in New Hampshire, Democratic voters received AI-generated robocalls in the voice of President Joe Biden instructing them to forgo voting in the primary and “save [their] vote for the November election.” The calls were particularly malicious because the message appeared to come from a trusted public figure, and with only two days left before the election, there was little time for election officials to inform voters that they can vote in both the primary and general election.²¹
- In the final days before Chicago’s 2023 mayoral election, an anonymous social media account circulated a deepfake of a candidate purportedly saying that “in [his] day . . . no one would bat an eye” at a police officer killing 17 to 18 civilians. Police tactics were a key issue in the election, and the video quickly went viral. The social media account responsible for the video was deleted the next day, but the damage was already done. The candidate did not have time to debunk the video before the election and lost to an opponent who had advocated for defunding the police.²²
- In 2023, a deepfake video of Senator Elizabeth Warren stating on a broadcast program that Republicans should be barred from voting in the 2024 presidential election garnered around 189,000 views on social media in one week. The video fed into voters’ distrust of elections and belief that political elites try to use underhanded tactics to rig election outcomes.²³

¹⁷ *Id.*

¹⁸ Statement of Comm’r Geoffrey Starks at 6, CG Docket No. 23-362 (In the Matter of Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts) (Feb. 2, 2024), <https://docs.fcc.gov/public/attachments/FCC-24-17A1.pdf>.

¹⁹ *Id.*

²⁰ *Deepfakes in Elections and Campaigns*, Nat’l Conference of State Legs. (Oct. 13, 2026), <https://www.ncsl.org/elections-and-campaigns/artificial-intelligence-ai-in-elections-and-campaigns>.

²¹ Jeongyoon Han, *New Hampshire is Investigating a Robocall that was Made to Sound Like Biden*, NPR (Jan. 22, 2024), <https://www.npr.org/2024/01/22/1226129926/nh-primary-biden-ai-robocall>.

²² Joe Concha, *The Impending Nightmare that AI Poses for Media, Elections*, The Hill (Apr. 23, 2023), <https://thehill.com/opinion/technology/3964141-the-impending-nightmare-that-ai-poses-for-media-elections/>.

²³ Aleks Phillips, *Deepfake Video Shows Elizabeth Warren Saying Republicans Shouldn’t Vote*, Newsweek (Feb. 27, 2023), <https://www.newsweek.com/elizabeth-warren-msnbc-republicans-vote-deep-fake-video-1784117>.

- There are also reports that suspected foreign operatives use AI to spread disinformation and provoke discussion on divisive political issues in order to denigrate U.S. political figures and sow conflicts. Foreign adversaries using AI to polarize American voters and reduce confidence in election results is a perennial national security concern.²⁴

Again, a key trend with AI-manipulated political communications is that they are often disseminated immediately before an election, when there is little time to identify the false or misleading content, let alone correct voters' misperceptions before they rely on it to cast their ballots (or otherwise alter their voting behavior). And correcting misperceptions created by AI-based deepfakes can be especially challenging because AI-based audio and visual materials are so convincing. A recent poll found that 43% of voters have been fooled by AI campaign ads during the 2026 elections.²⁵ The process of identifying false or misleading election information disseminated via robocalls and reaching voters with corrective information takes time and effort that simply may be impossible to accomplish when the calls are made immediately before an election.

C. The Spread of Election Disinformation Through Robocalls and AI Harm Voters and Candidates and Undermines Americans' Trust in Our Democratic System

As the above examples illustrate, robocalls and AI-based communications are already being used to deliberately mislead voters, which can disenfranchise them or cause them to cast ballots based on disinformation. This corrosive practice threatens the fundamental right to vote, denies candidates a fair chance to campaign for elected office, and harms public faith in the democratic process.²⁶

Trust in democracy is already dangerously low. Over half of American adults think that American democracy is doing "very" or "moderately" poorly.²⁷ Only 53% of Americans say they are somewhat or very confident that the 2026 election will be conducted fairly and accurately.²⁸ Deceptive political advertising, particularly deepfakes, fuels some of these concerns, with 76% of Americans reporting fear that AI deepfakes will impact the 2026 midterm election,²⁹ and data

²⁴ Sean Lyngaas, *Suspected Chinese Operatives Using AI Generated Images to Spread Disinformation Among US Voters, Microsoft Says*, CNN (Sep. 7, 2023), <https://www.cnn.com/2023/09/07/politics/chinese-operatives-ai-images-social-media/index.html>.

²⁵ Andrew Rafferty, *Scripps News Poll: 43% of Voters Say They've Been Fooled by AI Ads this Campaign*, Scripps News (Oct. 14, 2026), <https://www.scrippsnews.com/politics/america-votes/scripps-news-poll-40-of-voters-say-theyve-been-fooled-by-ai-ads-this-campaign>.

²⁶ See Adav Noti, *How Artificial Intelligence Influences Elections and What We Can Do About It*, CLC (Feb. 28, 2024), <https://campaignlegal.org/update/how-artificial-intelligence-influences-elections-and-what-we-can-do-about-it>.

²⁷ Gallup & Charles F. Kettering Found., *Democracy for All Project: Frustration Rises, Commitment Endures* (Sept. 2026) at 3, <https://www.gallup.com/analytics/697985/democracy-for-all.aspx>.

²⁸ *2026 Election Confidence Tracker*, Better Choices for Democracy (Oct. 8, 2026), <https://www.betterchoices.vote/elex26#track>.

²⁹ *Fewer Than Half of Americans Expect Free and Fair Midterms*, U.C. San Diego School of Social Sciences Ctr. for Transparent & Trusted Elections (Sep. 2026), https://elections.ucsd.edu/files/surveys/Trust-in-Elections-Sept-2026.pdf?utm_source=vbnewsletters.votebeat.org&utm_medium=newsletter&utm_campaign=election-officials-played-key-role-in-supreme-court-mail-ballot-decision&bhlid=7e16a035ac12798a3ebdab3a733f57dd00b82fd4.

showing that \$137 million in AI-generated campaign ads have reached voters this election cycle.³⁰

Mass AI-generated robocalls not only are wildly unpopular, they feed into and exacerbate voters' distrust of elections, and they could make prior examples of political misinformation look benign by comparison. In Slovakia, a deepfake recording of a national opposition leader stating that he rigged the election—released mere days before voting—went viral.³¹ The opposition leader lost the election, but if he had not, the hyper-realistic recording could have sparked challenges to the election results, or worse. At a time when Americans are already expressing concerns about our electoral process and candidates are spreading false claims of “rigged” elections, the threat of misleading robocalls enhanced with the power of AI is not hypothetical.

As deceptive election materials become more common, the risks to democracy grow. Evidence suggests that if AI-generated misinformation becomes commonplace, voters may no longer trust anything they see or hear—and eventually dismiss as false even true information from previously trusted sources.³² Without any shared truth or reality, voters will be unable to place faith in the government, and the institutions at the heart of our democracy will lose their legitimacy.

The Telephone Consumer Protection Act (“TCPA”) is shielding our democracy from the worst potential of AI-generated disinformation by prohibiting non-consensual political calls to voters' cell phones. Club for Growth seeks to remove those protections and unleash a flood of unregulated political robocalls to voters, a scenario that would be misguided at any point, but would be particularly catastrophic just two weeks before the 2026 general election. For all the reasons just described, granting Club for Growth's requested waiver would harm the public interest, which the FCC is charged with protecting.

The Requested Expedited Waiver is Contrary to Law

A. Granting the Petition Would Be Contrary to Both the TCPA and FCC Regulations and Thus an Arbitrary and Capricious Agency Action

In order to send bulk AI-generated political robocalls to voters' cell phones, Club for Growth seeks an exemption from the requirements of the TCPA and a waiver of the FCC's regulations, which both require prior express consent to place such calls.³³ Specifically, the TCPA and the relevant regulation state that it is unlawful to call any telephone number assigned to a “cellular telephone service . . . or any service for which the called party is charged for the call” using “an

³⁰ Stuart A. Thompson, *\$137 Million in A.I.-Generated Ads Flood the Midterms*, N.Y. Times (Oct. 16, 2026), <https://www.nytimes.com/2026/10/16/us/politics/midterm-elections-ai-generated-ads.html>.

³¹ Curt Devine, *et al.*, *A Fake Recording of a Candidate Saying He'd Rigged the Election Went Viral. Experts Say It's Only the Beginning*, CNN (Feb. 1, 2024), <https://www.cnn.com/2024/02/01/politics/election-deepfake-threats-invs/>.

³² *How Generative AI Could Make Existing Election Threats Even Worse*, Protect Democracy (Nov. 3, 2023), <https://protectdemocracy.org/work/generative-ai-make-election-threats-worse/>.

³³ Club for Growth Petition at 1, 3.

artificial or prerecorded voice,” unless the call is for an emergency purpose or the caller has the “prior express consent of the called party.”³⁴

While Congress wrote the TCPA as a strict prohibition, it believed that “the Federal Communications Commission should have the flexibility to design different rules for those types of automated or prerecorded calls that it finds are not considered a nuisance or invasion of privacy, or for noncommercial calls.”³⁵ Consequently, it included a provision allowing the FCC to exempt cell-phone robocalls that “are not charged to the called party” from the “prior express consent” requirement, “subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights this section is intended to protect.”³⁶

As the NCLC Group Comment explains, granting Club for Growth’s exemption request would be unlawful because the request contains no safeguards to ensure calls are “not charged to the called party,”³⁷ a key requirement for calls to be eligible for an exemption from the TCPA’s prohibition.³⁸ For that reason alone, the FCC must deny the petition.

Moreover, even if the Commission granted the petition, Club for Growth’s proposed exemption would not survive judicial review. Under the Administrative Procedure Act, courts must set aside agency actions that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.”³⁹ An agency’s unreasoned departure from a “longstanding earlier position” is arbitrary and capricious.⁴⁰

Granting Club for Growth’s petition would require just such a departure from Commission precedent. The FCC has previously exempted only four types of robocalls to cell phones from the “prior express consent” requirement:⁴¹ (1) “[c]alls made by a package delivery company to notify a consumer about a package delivery;” (2) “[c]alls made by an inmate collect call service provider following an unsuccessful collect call to establish a billing arrangement with the called party to enable future collect calls;” (3) calls from a financial institution about fraud, identity theft, security breaches, and pending money transfers; and (4) calls from healthcare providers about appointment confirmations and reminders, prescriptions, healthcare instructions, and pre-visit requirements.⁴² In each case where an exemption was granted, the call recipients had an existing relationship with the caller or had reason to expect and desire the call.

Political robocalls are fundamentally different in nature: there may be no existing relationship between the entity placing the calls and the recipients, and the call recipients are unlikely to expect or desire the calls. Political committees and organizations routinely buy phone numbers in

³⁴ 47 U.S.C. § 227(b)(1)(a)(iii); 47 C.F.R. § 64.1200(a)(1)(iii).

³⁵ TCPA, PL 102-243, § 2(13) (Dec. 20, 1991).

³⁶ 47 U.S.C. § 227(b)(2)(C).

³⁷ NCLC Group Comment at 13.

³⁸ 47 U.S.C. § 227(b)(2)(C).

³⁹ 5 U.S.C. § 706(2)(A).

⁴⁰ *Enrico Motorcards, LLC v. Navarro*, 579 U.S. 211, 224 (2016).

⁴¹ NCLC Group Comment at 10.

⁴² 47 C.F.R. § 64.1200(a)(9).

bulk from other political operations and commercial vendors.⁴³ As a result, a person whose cell phone number is on such a list does not have to have any prior relationship with a campaign or nonprofit organization to receive a political robocall from them. Voters have received upwards of *15 billion* unsolicited—and almost certainly unexpected and unwelcome—political text messages per election cycle since 2022—after the Supreme Court effectively released text messages from the TCPA’s “prior express consent” requirement—underscoring the lengths campaigns and similar organizations go to in order to contact the broadest possible swath of voters.⁴⁴ Allowing robocalls to follow suit would clearly deviate from FCC precedent and practice.

Allowing organizations to place political robocalls to voters who may not even know who the caller is, and have no interest in being contacted, deviates from the FCC’s precedent on TCPA exemptions and is wholly inconsistent with the TCPA’s goal of protecting consumers’ privacy rights. If it granted the petition, the FCC would, without reason, be abandoning its past practice of granting exemptions only for calls from known or reasonably anticipated callers and replacing it with a new standard that would allow unlimited nuisance calls from any organization with the means to bulk purchase cell phone numbers.

Furthermore, Club for Growth also requires a waiver of the FCC’s TCPA regulations to make the desired robocalls. The FCC will waive one of its rules only for “good cause.”⁴⁵ Courts have explained that “good cause” exists “only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”⁴⁶ Club for Growth’s proposal points to no “special circumstances” and would unquestionably *not* “serve the public interest.”

As just described, unsolicited political robocalls are plainly distinguishable from those types of calls that have previously been granted special treatment. There are no “special circumstances” that make a political robocall from an unknown party any less invasive than non-commercial calls of another nature. Treating political robocalls as a special exception would thus risk swallowing the TCPA’s protections, as there would be no principled reason that any non-commercial call should require prior express consent. That result would be patently inconsistent with the law Congress enacted.

More importantly, granting Club for Growth’s waiver would not serve the public interest; indeed, it would almost certainly undermine it. Political robocalls—especially when paired with AI tools—have immense potential to spread misinformation and be used as a tool of voter suppression. As described in detail in Section I, the proliferation of political robocalls risks

⁴³ Aaron Mesmer, *Political Texts are Surging in 2026: Here’s How to Reduce Them*, Fox 13 Tampa Bay (Oct. 5, 2026), <https://www.fox13news.com/news/political-texts-surging-2026-here-how-reduce>.

⁴⁴ *Id.*; see also *Facebook, Inc. v. Duguid*, 592 U.S. 395 (2021).

⁴⁵ 47 C.F.R. § 1.3.

⁴⁶ *N.E. Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (cautioning that an agency must follow and articulate “an appropriate general standard” for granting waivers and cannot “act out of unbridled discretion or whim”).

disenfranchising voters, harming candidates, and further eroding the public’s trust in elections and democratic institutions—outcomes that are most assuredly not in the public interest.⁴⁷

B. Granting the Petition Just Two Weeks Before the 2026 Midterm Election Would Independently Provide Grounds for Reversal

Not only does Club for Growth ask the FCC to dramatically alter the nation’s robocall regulations, it asks the FCC to change the rules just days before an election. If the FCC complies, it will run headfirst into judicial doctrines that condemn rushed decision-making and disfavor last-minute changes to electoral rules.

When agencies weigh a decision following a notice-and-comment period, they have a duty to “consider and respond to significant comments received during the period.”⁴⁸ It is hard to believe that the FCC could consider, grapple with, and provide written responses to the voluminous number of comments it has received on this request between the close of the comment period (October 19th) and Election Day (November 3rd).⁴⁹

Moreover, under the “*Purcell* principle,” courts avoid changing election rules too close in time to an election to avoid confusion.⁵⁰ The judicial restraint is rooted in concerns that last minute changes to voting locations or identification requirements can confuse voters such that they are unable to vote.⁵¹ If the FCC grants Club for Growth’s petition, and the grant were challenged in court, *Purcell* would strongly favor at least a stay of the exemption/waiver until after the 2026 midterm election.⁵²

⁴⁷ States have been enacting their own “mini-TCPA” laws that layer stricter rules on top of the federal TCPA. See *State Mini-TCPA Laws: The 2026 Tracker*, Enzo Dialer, <https://enzodialer.com/resources/compliance/state-mini-tcpa-laws> (last visited Oct. 15, 2026). The trend toward states further restricting robocalls demonstrates that regulators generally judge fewer robocalls, not more, to be in the public interest.

⁴⁸ *Perez v. Mortgage Bankers Ass’n*, 575 U.S. 92, 96 (2015). The Administrative Procedure Act requires “consideration of the relevant matter presented” and provides that agencies cannot act in an arbitrary and capricious manner. See 5 U.S.C. §§ 553(c), 706(2)(A).

⁴⁹ The Supreme Court recently held that a court demanding the FCC issue a final decision on an application for review “just five months after it was filed” and a week after the close of the comment period upended the agency’s “deliberation process.” Per Curiam Order on Application for Stay at 2-4, *FCC v. Brown*, No. 26A476 (Oct. 14, 2026). The timeline here is even more compressed.

⁵⁰ See *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006).

⁵¹ Charis Franklin, *From Poll Tests to the Purcell Doctrine: Merrill v. Milligan and the Precarious Preservation of Voting Rights*, 92 Fordham L. Rev. 2685, 2702 (2024).

⁵² The FCC would likely admit as much. In an October 2026 Supreme Court filing, the FCC—represented by the Solicitor General—argued that the Fourth Circuit erred in granting a mandamus petition and compelling the FCC to speedily resolve a petition for review of its guidance on the lowest unit charge candidate-advertising discount. It claimed that mandamus was inappropriate in light of “the FCC’s obligation to address public comments and the desire to avoid uncertainty about campaign-finance rules in the run-up to an election.” Application to Stay the Order of the U.S. Court of Appeal for the 4th Cir. and Request for an Immediate Admin. Stay at 11, *FCC v. Brown*, No. 26A476 (Oct. 8, 2026). The brief states that it is “entirely reasonable” for the FCC “to refrain from issuing a decision on campaign-finance rules in the middle of the election season” and cites *Purcell*. *Id.* at 3, 12; see also *id.* at 11 (arguing that “upending the Media Bureau’s interpretation of the requirement now would cause ‘extensive and disruptive confusion’ ‘in the middle of [an] election cycle.’”).

Granting Club for Growth’s request and unleashing a torrent of political robocalls two weeks before the midterm election would cause great confusion. Bad actors are likely to use the new allowance to spread disinformation to voters on their cell phones, just as they have done with calls to landlines (or illegal cell phone calls) in past elections. Election officials will simply not have time to correct the misinformation before the election, with devastating results: Voters who receive robocalls with false information about polling hours and locations will not get a second chance to vote the day after the election, and voters who make a candidate choice based on disinformation from a robocall will not get to change their vote upon learning the truth. Voters in New Hampshire who received the 2020 Biden robocall did not get a chance to vote after eventually learning the call was fake; the harm was permanent.⁵³ “Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy,” and the inability to correct misinformation about its integrity will cause irreparable harm.⁵⁴

Granting Club for Growth’s Petition at any time would be arbitrary and capricious, but granting it on the requested timeframe—two weeks before a major election—could be disastrous. For all the reasons articulated herein, and in the NCLC Group Comment, the FCC must deny the Petition and ensure that callers may only place robocalls to voters’ cell phones with prior express consent.

Respectfully submitted,

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⁵³ See Alex Seitz-Wald & Mike Memoli, *Fake Joe Biden Robocall Tells New Hampshire Democrats Not to Vote Tuesday*, NBC News (Jan. 22, 2024), <https://www.nbcnews.com/politics/2024-election/fake-joe-biden-robocall-tells-new-hampshire-democrats-not-vote-tuesday-rcna134984>.

⁵⁴ *Purcell*, 549 U.S. at 4.