

Chart indicates providers of fixed terrestrial technologies.

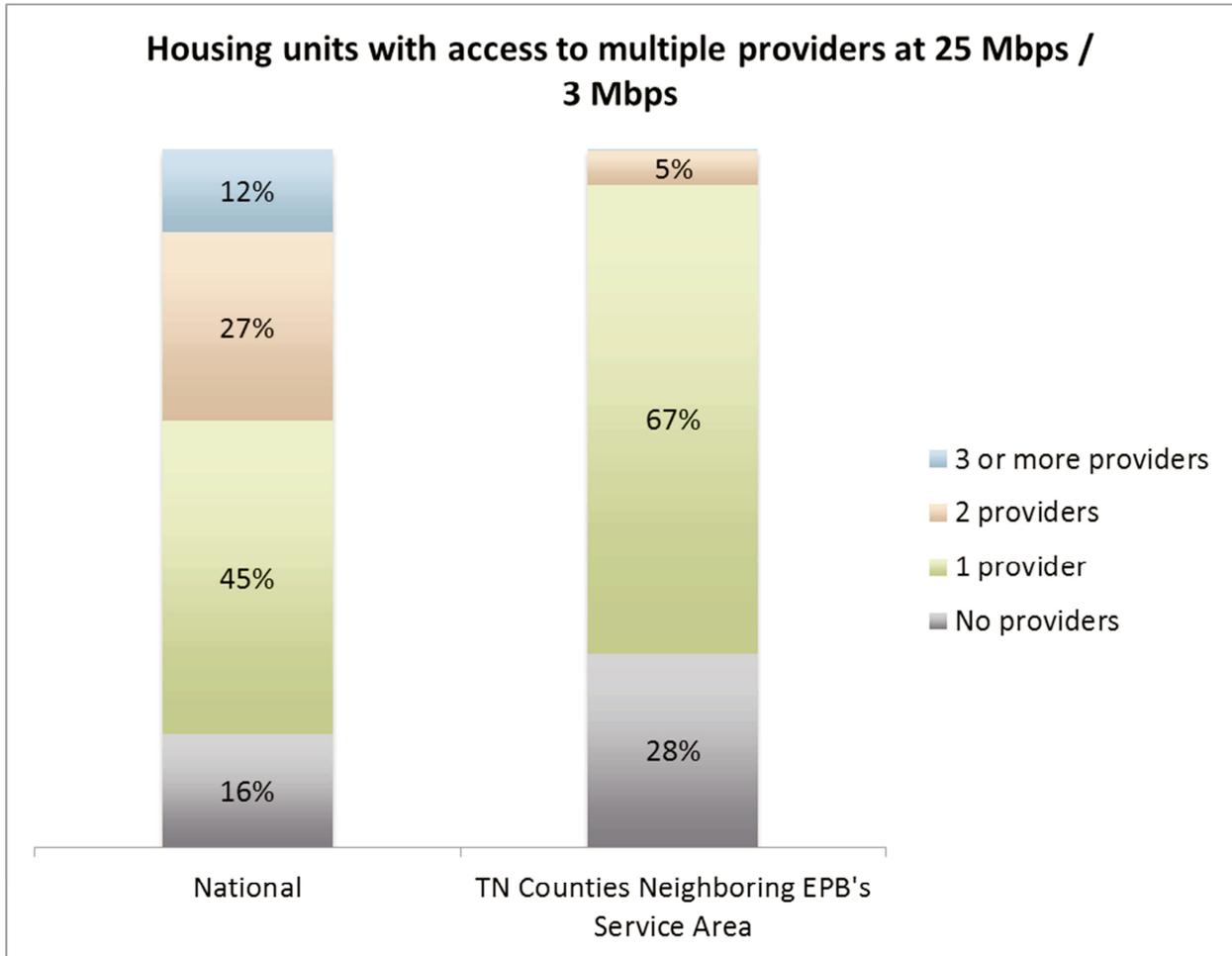


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32. *Preemption Request.* EPB asks the Commission to find that advanced telecommunications capabilities are not being deployed on a reasonable and timely basis in communities near EPB's electric service area because the territorial restriction contained in section 601 is a barrier to its expansion to serve these areas.⁸¹ EPB also asserts that, in order for any relief granted by the Commission to be meaningful, it must allow EPB to offer triple play service. In the event the Commission preempts the restriction on "Internet services," EPB also requests that we preempt the restriction on "cable service, two-way video transmission, and video programming."⁸² Accordingly, EPB requests that the Commission preempt the phrase "within its service area" contained in section 601.⁸³

3. The Wilson Petition and H.B.129

33. Wilson provides electric service in six counties in Eastern North Carolina. In one of these counties, Wilson County, it also deployed its own broadband network providing Gigabit Internet access and cable services over its fiber-optic communications network under the trade name "Greenlight." Wilson states that it began providing broadband services in response to demand from citizens and businesses that were dissatisfied with the private sector's broadband offerings.⁸⁴ In 1990, Wilson's City

⁸¹ See EPB Petition at 3.

⁸² See *id.* at 1-4, 33.

⁸³ See *id.* at 16.

⁸⁴ See Wilson Petition at 17-18.

Mbps/3 Mbps available in the six counties in which Wilson provides electrical service.¹²¹ Unlike the charts below, the map includes Wilson’s broadband service and shows the sharp contrast in access to modern advanced telecommunications capability in areas with and without service from Wilson. Just as for EPB, Wilson’s 1 Gbps symmetrical service is vastly faster than the speed threshold illustrated by the map.¹²² We also note that for the same reasons discussed above with respect to EPB, these charts and map likely slightly overstate available service.¹²³

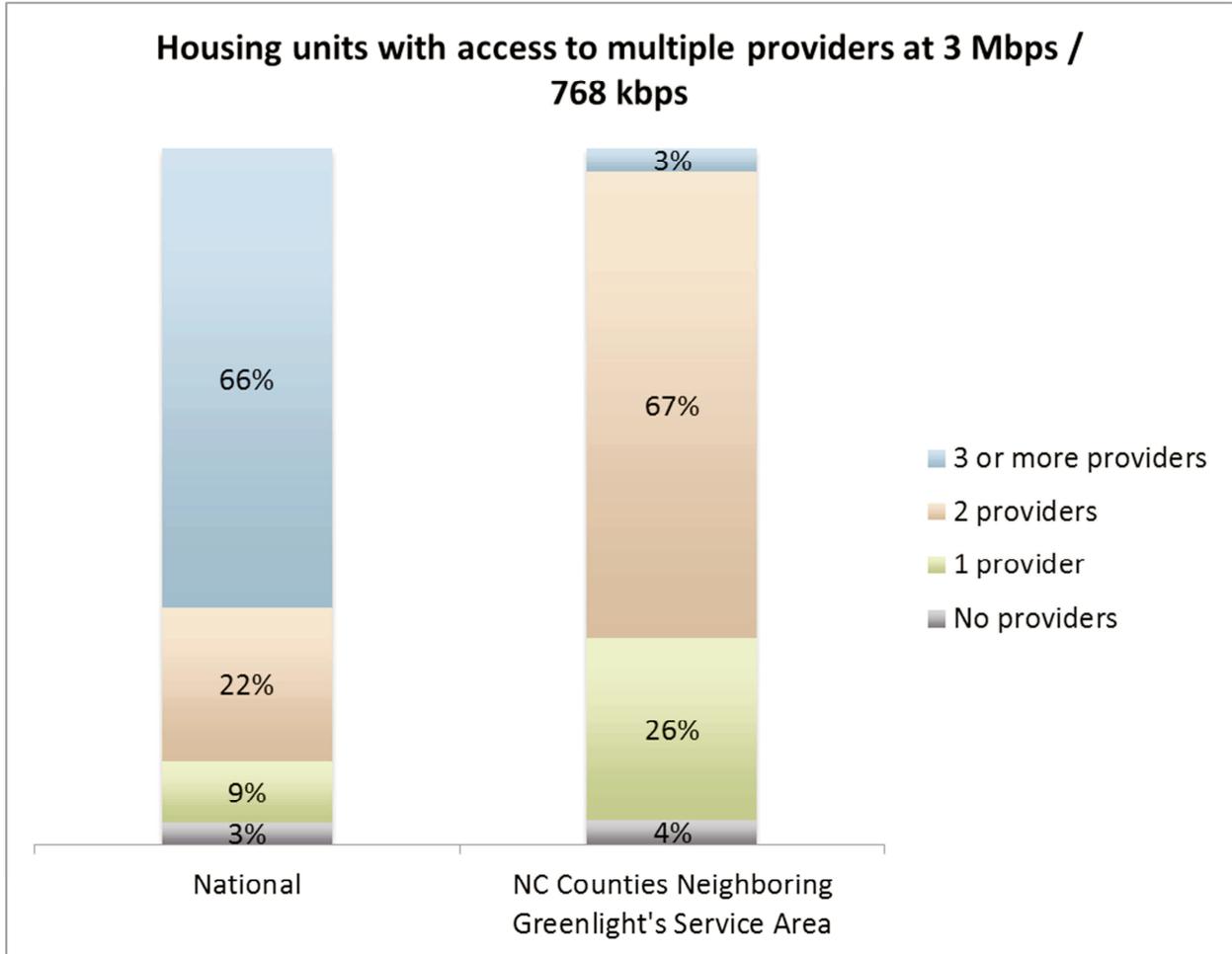


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¹²¹ See *infra* Attach. B (Wilson/North Carolina Map).

¹²² See *id.* The Wilson/North Carolina Map in Attachment B shows that Greenlight’s service territory encompasses a small portion of Nash County, reflecting Greenlight’s service to Zackly-Right Farms, a local business that crosses the Wilson and Nash borders. Wilson’s service to this location predates the passage of H.B. 129.

¹²³ See *supra* para.31.

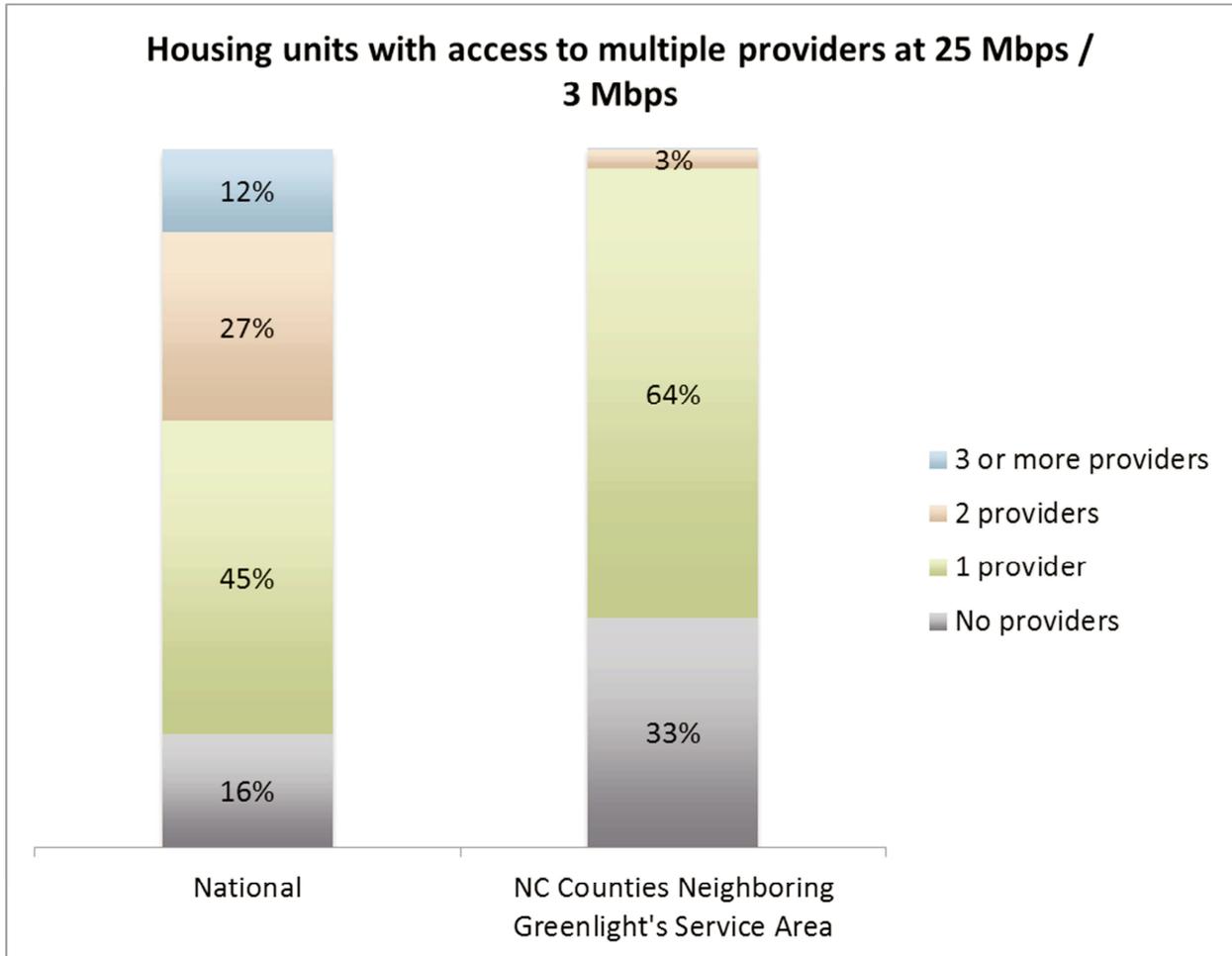


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40. *Preemption Request.* Wilson asserts that it has been unable to expand into these five adjacent counties since the enactment of H.B.129, despite “numerous requests” for communications services from residents and businesses in these counties where Wilson provides electric service,¹²⁴ and

¹²⁴ See Wilson Petition at 2. The record contains many comments filed by individual commenters who are dissatisfied with existing broadband service in North Carolina. See e.g., Benjamin Jacob Downey Comments, WC Docket No. 14-115, at 1 (filed Aug. 6, 2014) (“Please preempt [sic] North Carolinas [sic] State Law 160A-340. This law is stifling, especially in rural communities residents ability to advance in education, nurture economic opportunities, engage in the democratic process, and restricts the diffusion of both new and innovative ideas.”); Kevin Flanagan Comments, WC Docket No. 14-115, at 1 (filed July 30, 2014) (“We need more options that provide greater than [sic] 10MB/Sec access to the [sic] internet, not fewer.”); Marian Norton Comments, WC Docket No. 14-115, at 1 (filed Aug. 1, 2014) (“Many rural areas of North Carolina still lack adequate access to the internet. Wilson NC has demonstrated that they can serve areas with futuristic speeds. Perhaps if this state legislation had not deterred expansion my home would have broadband by now.”); cf. Michael Keller Comments, WC Docket No. 14-115, at 1 (filed July 29, 2014) (“Municipal broadband will tend to have the effect of forcing other incumbent providers to compete not only on price, but also on quality of service delivered and on quality of customer service.”); Patrick Seymour Comments, WC Docket No. 14-115, at 1 (filed July 29, 2014) (“In particular, I find it troubling that there exists regulations against the expansion of publicly owned broadband services backed almost entirely by cable industry companies and lobbyists, and brought into legislative sessions by public officials being sponsored by the cable industry.”).