

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

PEND OREILLE TELEPHONE
COMPANY,

Requesting distribution of funds from the
state universal communications services
program created in RCW 80.36.650

DOCKET UT-230608

ORDER 01

GRANTING DISTRIBUTION OF
FUNDS FROM THE STATE
UNIVERSAL COMMUNICATIONS
SERVICES PROGRAM

BACKGROUND

1 On May 13, 2019, the Governor signed Second Substitute Senate Bill (SSSB) 5511, which addresses broadband service issues by: (a) creating the Governor’s State Broadband Office, (b) establishing a broadband grant and loan program administered by the Public Works Board, (c) revising the conditions in which a port district can offer telecommunication services, and (d) extending and revising the purpose of the State Universal Communications Services Program (State USF Program or Program).¹ The State USF Program is primarily intended to provide direct financial support to Washington’s small incumbent Class B Telephone companies that have adopted a plan to provide, enhance, and maintain broadband services in high-cost rural areas of Washington.²

¹ RCW 80.36.650(1) provides that “The purpose of the program is to support continued provision of basic telecommunications services under rates, terms, and conditions established by the commission and the provision, enhancement, and maintenance of broadband services, recognizing that, historically, the incumbent public network functions to provide all communications services including, but not limited to, voice and broadband services.”

² The legislation described above in (a) through (d) creates other opportunities for broadband expansion in addition to this program.

- 2 The Washington Utilities and Transportation Commission (Commission) is allotted \$5 million for the 2024 program year,³ and it may distribute the \$5 million (less the Commission’s administrative costs) to qualifying companies before June 30, 2024.⁴
- 3 On May 27, 2020, the Commission entered General Order R-598 (Adoption Order) in Docket UT-190437 amending and adopting rules in Chapter 480-123 WAC to reconfigure the State USF Program in accordance with SSSB 5511.⁵
- 4 Paragraph 14 of the Adoption Order states that an “[e]ligible provider may now receive a distribution from the Program if they have adopted a plan to provide, enhance, or maintain broadband services in their service areas.” The Adoption Order and the rule it adopted establishes four different eligibility criteria.⁶ To receive a distribution, a provider must meet at least one of these eligibility criteria and also comply with the prerequisites in WAC 480-123-100.⁷
- 5 A company, accordingly, must include in its petition a broadband plan for maintaining, providing, or enhancing broadband service within the provider’s service area.⁸ It must also provide one of the following:

³ This is the tenth and final year of the program. *See In re Amending WAC 480-123*, Docket UT-190437, Gen. Order R-598 (May 27, 2020) (General Order R-598).

⁴ RCW 80.36.650(2) allows that if less than five million dollars is expended in any fiscal year, the unexpended portion must be carried over to subsequent fiscal years and be available for program expenditures. This fiscal year, \$4,850,000 is available for distribution from the State USF Program.

⁵ The Adoption Order established minimum standards of 25 megabits per second download and 3 megabits per second upload (25/3 Mbps) for service to be considered high-speed broadband for the purpose of the State USF Program.

⁶ General Order R-598 at 4-7 ¶¶ 16-22 16-22; WAC 480-123-110(1)(j)(i)-(iv).

⁷ WAC 480-123-100 sets forth various criteria for requesting program support for wireline, wireless, and other communications providers. Wireline communications providers must: (a) be local exchange companies that serve fewer than 40,000 access lines within the state, (b) be an incumbent local exchange carrier, (c) offer basic residential and business telecommunications services, (d) have an established plan to provide, maintain, or enhance broadband service, and (e) be designated by the Commission as an ETC for the purposes of receiving federal universal service support.

⁸ To the extent applicable, a company’s broadband plan to provide, maintain or enhance service should include:

- (i) A multiyear investment plan;

- 1) An unsworn statement made by a company officer certifying that the provider commits to the deployment of broadband to the number of locations the Commission has determined by order. Such deployment obligations are in addition to any Federal Communications Commission deployment requirements. Additionally, a provider that elects to petition the program for support under this category is subject to review of its rate of return and financial reporting requirements;
- 2) An unsworn statement by a company officer certifying that the provider commits to the deployment of broadband to the number of locations the Commission has determined by order. Such deployment obligations are in addition to any Federal Communications Commission deployment requirements;
- 3) An unsworn statement by a company officer certifying that the provider has already met the Federal Communications Commission's total deployment obligations associated with federal high-cost program support as of the date of the petition, and that, since January 1, 2018, the provider has deployed broadband to the number of locations the Commission has determined by order. If a company has deployed broadband to a number of locations less than the number required by Commission order, the company must certify that it will deploy broadband to the remaining number of locations; or
- 4) An unsworn statement by a company officer certifying that broadband service is available to 100 percent of locations within the provider's service area, and that the company commits to making broadband service available to any new locations.

(ii) Specific project(s) that are projected to provide or enhance broadband services at speeds required by the Commission or the Federal Communications Commission. Project information should include an estimated timeline, geographic location, number of locations passed, and upload and download speeds;

(iii) A plan for maintenance of broadband services in the provider's service area;

(iv) A description for how the provider will enhance broadband services in its service area; and

(v) Any supporting information that the Commission requests to assist its review and analysis of the provider's broadband plan.

6 On July 12, 2023, Pend Oreille Telephone Company (Pend Oreille or Company) filed its initial State USF report and filed a revised report on August 2, 2023. In the report, Pend Oreille states that it has utilized State USF Program funds to cover maintenance costs, upgrade electronic equipment for fiber to the home and placed fiber into service. In late 2022, the company completed the New Calix E3 site at Bud Porter. In the first six months of 2023 Pend Oreille began work on two projects, Fiber to the Home (FTTH) Project 1 in Usk, Washington and a new fiber optic cable from Ione central office to Metaline DLC site. These projects resulted in 100/20 Mbps broadband availability to 58 locations and 1 Gbps broadband availability to 60 locations. As a result of these, and prior investments, 712 non-ACAM locations now have 25/3 Mbps (or better) broadband availability. In addition, Pend Oreille is planning to complete FTTH Projects 2, 3, and 4 south of Ione before the years end. These upgrades allowed the company to maintain and enhance voice and broadband service. Based on Commission Staff's (Staff) review and several conversations with the company, Staff believes the report meets the requirements of WAC 480-123-130.

7 On July 25, 2023, Pend Oreille filed its petition seeking State USF support under eligibility criterion two, and it filed revised certifications on October 24, 2023. In the broadband plan, the company details projects that will deploy broadband availability to an additional 145 locations with speeds ranging from 50/10 Mbps to 1,000/250 Mbps by the end of the year. In addition, Pend Oreille is planning to complete FTTH Projects 2, 3, and 4 south of Ione before the years end and details several projects that are waiting on state highway permits. The company continues to incur normal operating expenses to maintain its current voice and broadband services.

8 Staff reviewed Pend Oreille's Petition, supporting exhibits, including a broadband plan, and has determined that the Company meets the prerequisites for requesting program support set forth in WAC 480-123-100 and the second eligibility criterion. Overall, Staff finds that Pend Oreille certified its commitment to deploy broadband services to the number of locations in the Adoption Order,⁹ in addition to any locations required by the Federal Communications Commission (FCC). Furthermore, the Company provided a broadband plan to enhance broadband services to areas it does not currently serve 25/3 Mbps. Staff recommends the Commission find the Company eligible for State USF

⁹ Each company has a specific UTC Deployment Obligation based on its cost benchmark and the amount of anticipated support each company is potentially eligible to receive through June 30, 2024. For these calculations, Staff calculated that \$4,850,000 would be available annually for fiscal years 2022-2024.

Program support in the amount of \$356,117 to be disbursed no later than December 31, 2023.

DISCUSSION AND DECISION

9 We agree with Staff that Pend Oreille has demonstrated its eligibility for a distribution from the State USF Program for fiscal year ending June 30, 2024.

10 The Company has certified its commitment to continue to deploy broadband services to the locations required by the Adoption Order, these are in addition to locations required by the FCC. Pend Oreille provided a broadband plan to enhance broadband service to locations they do not currently serve with 25/3 Mbps speed. Furthermore, the Company has shown in its compliance report the ability to provide and maintain services. Pend Oreille committed in its petition to deploy broadband services and to continue maintenance and enhancement of its services.

11 We find that a distribution in the amount of \$356,117 from the State USF Program is in the public interest, consistent with the purposes underlying the regulation and applicable statutes, and should be granted.

FINDINGS AND CONCLUSIONS

12 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate public service companies, including local exchange companies.

13 (2) Pend Oreille is a local exchange company as defined in WAC 480-120-021 and a public service company subject to Commission jurisdiction.

14 (3) Pend Oreille has certified its commitment to deploy broadband services to the number of locations required by the Commission's Adoption Order in Docket UT-190437, in addition to locations required by the FCC.

15 (4) Pend Oreille has provided a broadband plan to enhance broadband services to areas they do not currently serve 25/3 Mbps.

16 (5) Pend Oreille is eligible to receive funding from the State USF Program in the amount of \$356,117 to be disbursed no later than December 31, 2023.

ORDER

THE COMMISSION ORDERS:

- 17 (1) Pend Oreille Telephone Company's request for funds from the State USF
Program for fiscal year ending June 30, 2024, in the amount of \$356,117 is
granted.
- 18 (2) The funds will be disbursed by December 31, 2023.
- 19 (3) The Commission retains jurisdiction over this matter for purposes of effectuating
this order.

DATED at Lacey, Washington and effective November 22, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner