

**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-210597

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).<sup>1</sup> 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.<sup>2</sup>
- 2 The Washington Utilities and Transportation Commission (Commission) is allotted \$5 million each year over the remaining three-year term of the program,<sup>3</sup> and may distribute up to \$5 million annually (less the Commission’s administrative costs) to qualifying

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<sup>1</sup> 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.”

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

<sup>3</sup> This is the eighth year of the program (year eight) and the next two years (nine and ten) make up the final “three-year term” discussed in Staff’s memo, consistent with the Commission’s Final Order adopting rules to implement legislation extending and modifying the State USF Program in Docket UT-190437.

companies each year through June 30, 2024.<sup>4</sup>

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.<sup>5</sup>

4 Paragraph 14 of the Adoption Order states that an “Eligible 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 further  
establishes four different eligibility criteria.<sup>6</sup> In addition to these requirements, a  
company must comply with the prerequisites in WAC 480-123-100.<sup>7</sup>

5 A company accordingly must include in its petition a broadband plan that maintains,  
provides, or enhances broadband service within the provider’s service area.<sup>8</sup> The rule also

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<sup>4</sup> RCW 80.36.650(2) provides that if less than \$5 million 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.

<sup>5</sup> 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.

<sup>6</sup> *Id.* at ¶¶ 16-22.

<sup>7</sup> 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.

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

- (i) A multiyear investment plan;
- (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;

requires a petitioning company to identify at least one of four eligibility criteria that it claims to satisfy.

6 The four eligibility criteria options are:

- 1) A sworn 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) A sworn 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) A sworn 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.
- 4) A sworn 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.

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(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.

7 On June 30, 2021, Pend Oreille Telephone Company (Pend Oreille or Company) filed with the Commission its State Universal Service Fund (State USF) compliance report. The Company filed a revised report on August 23, 2021.<sup>9</sup> In the report, Pend Oreille states that it has utilized State USF Program funds to improve broadband service by placing fiber and continued invest in equipment upgrades (i.e., new 10G E7 Ring from its Central Office in Cusick to Ione and then to Metaline Falls, and upgrading 12 digital loop carrier system to Calix E8 or E3) to provide customers with very high-speed digital subscriber line (VDSL) and gigabyte passive optical network (GPON) services. These investments allowed the Company to deploy broadband to 228 locations consistent with its entire UTC broadband buildout requirement during the 2021 Fiscal Year. Based on its review and several conversations with the Company, Commission staff (Staff) believes the report meets the requirements of WAC 480-123-130.

8 On August 2, 2021, Pend Oreille filed a petition requesting support from the State USF Program (Petition) for fiscal year ending June 30, 2022, under eligibility criterion two. The Company filed a revised petition on September 1, 2021.<sup>10</sup> Pend Oreille states in its broadband plan, that in the short-term, the Company will be concluding system upgrades (new or upgraded digital loop carrier systems at Riverbend Loop Road, Lenora, and the Usk, Penny Lane and Newsprint sites) to expand VDSL/FTTH broadband service in all three exchanges. Over the next two-three years, Pend Oreille plans to run fiber along State Highway 20, State Route 31 from Ione to Metaline, and along State Route 31 to the US Border. These expansions will provide fiber to the premise (FTTP) to an additional 160-210 locations while also creating a full 10G Fiber ring around its service area.

9 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,<sup>11</sup> in addition to any locations required by the

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<sup>9</sup> Pend Oreille filed a revised compliance report to include details about its “Use of Funds” and to indicate that coordinates for locations to which it deployed broadband are not currently available. The Company indicated that it would provide the coordinates in the next SUSF compliance report due July 1, 2022.

<sup>10</sup> The revision provided the Company’s total number of serviceable locations (locations to which internet access (any speed) is or could be available) and the number of serviceable locations with 25/3 Mbps (or faster) broadband capability.

<sup>11</sup> 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,

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 Program support in the amount of \$356,117 to be disbursed no later than December 31, 2021.

### DISCUSSION AND DECISION

- 10 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, 2022.
- 11 The Company has certified its commitment to continue to deploy broadband services to 228 locations as required in the Adoption Order 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.
- 12 We find that a distribution in the amount of \$356,117 from the State USF Program is in the public interest, is consistent with the purposes underlying the regulation and applicable statutes, and it should be granted.

### FINDINGS AND CONCLUSIONS

- 13 (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.
- 14 (2) Pend Oreille is a local exchange company as defined in WAC 480-120-021 and a public service company subject to Commission jurisdiction.
- 15 (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.

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2024. For these calculations, Staff calculated that \$4,850,000 would be available annually for fiscal years 2022-2024.

- 16 (4) Pend Oreille has provided a broadband plan to enhance broadband services to areas they do not currently serve 25/3 Mbps.
- 17 (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, 2021.

**ORDER**

**THE COMMISSION ORDERS:**

- 18 (1) Pend Oreille Telephone Company's request for funds from the State USF Program for fiscal year ending June 30, 2022, in the amount of \$356,117 is granted.
- 19 (2) The funds will be disbursed by December 31, 2021.
- 20 (3) The Commission retains jurisdiction over this matter for purposes of effectuating this order.

DATED at Lacey, Washington and effective November 12, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner