

Agenda Date: November 24, 2020
Item Numbers: A4 through A21

Dockets: UT-200676, UT-200677, UT-200680, UT-200689
UT-200690, UT-200691, UT-200694, UT-200696
UT-200704, UT-200705, UT-200708, UT-200709,
UT-200712, UT-200714, UT-200715, UT-200719,
UT-200773, UT-200785

Company Names: *As listed on the Agenda for each Docket Number above*

Staff: Sean Bennett, Regulatory Analyst
Tim Zawislak, Senior Regulatory Analyst
Jing Roth, Assistant Director – Telecommunications

Recommendation

Enter an order in each docket, no later than December 31, 2020, directing the distribution of \$6,078,083 from the state universal communications services program fund to the companies, and in the amounts, listed in Attachment 1.¹

I. Background

On May 13, 2019, the Governor signed legislative bill SSSB 5511. This legislation addresses several issues concerning broadband deployment in rural areas of Washington. These include: a) creation of 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) revising the purpose of and extending the State Universal Communications Services Program (State USF Program or program).² 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.³ The commission is allotted \$5 million each year over the remaining four-year term of the program.⁴ The commission may

¹ 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, \$6,078,083 *is available* for distribution from the State USF Program

² RCW 80.236.650(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.”

³ The legislation described above in a) through d) creates other opportunities for broadband expansion in addition to this limited (but highly effective) program.

⁴ The first five-year term primarily relied on risk of rate instability and associated rate of return analyses in terms of qualification. The second five-year term, which we are currently operating under, primarily relies on the provision of broadband in terms of qualification. Because the rulemaking was not completed in time for year six it was based on the old rules. Now, with the rulemaking complete, this year (year seven) and the next three years (eight, nine, and ten) make up the four-year term discussed later in this memo.

distribute up to \$5 million annually (less the commission's administrative costs) to qualifying companies during each year through June 30, 2024.

On May 27, 2020, the commission entered General Order R-598 in Docket UT-190437 amending and adopting rules in WAC 480-123 to reconfigure the State USF Program in accordance with SSSB 5511.⁵

General Order R-598, paragraph 14, 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." Paragraph 16 goes a step further and "established four different eligibility criteria to determine the extent to which a petitioning company will use the requested funds to promote and sustain the deployment of broadband in rural areas while continuing to provide basic telecommunications services." In addition to these two requirements, a company must comply with the requirements in WAC 480-123-100, *et seq.*

A company accordingly must include in its petition a broadband plan that maintains, provides, or enhances broadband service within the provider's service area.⁶ The rule also requires a petitioning company to identify at least one of four eligibility criteria that it claims to satisfy.

The four options include:

- Eligibility criterion one: A sworn statement by a company officer certifying that the provider commits to the deployment of broadband to the number of service 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 as described in (e) of this subsection.
- Eligibility criterion two: A sworn statement by a company officer certifying that the provider commits to the deployment of broadband to the number of service locations the commission has determined by order. Such deployment obligations are in addition to any Federal Communications Commission deployment requirements.

⁵ In General Order R-598, Docket UT-190437 the Commission 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 To the extent applicable, a company's broadband plan to provide, maintain or enhance service should include:

- (i) 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 will 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.

- Eligibility criterion three: 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 service 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.
- Eligibility criterion four: A sworn statement by a company officer certifying that broadband service is available to one hundred percent of service locations within the provider's service area, and commits to making broadband service available to any new locations.

Each petitioning company identified in Attachment 1 meets the prerequisites for requesting program support.⁷ Accordingly, each company filed a petition and supporting exhibits, including a broadband plan, on or before August 2 in accordance with program rules.⁸ Commission staff's (staff) initial review of the requests is based on the eligibility criteria and the company's plan to provide, maintain, or enhance broadband services in its service area.

II. Discussion

Staff's analysis considered each company's petition, its selected eligibility criterion, its broadband plan, and its responses to staff's data requests.

WAC 480-123-120(2) a wireline communications provider may receive no greater than its pro rata share of the cumulative reduction in support from the Connect America Fund Intercarrier Compensation incurred by the provider, up through and including the fiscal year ending June 30, 2020.⁹ The amount each company is eligible to receive, based on its pro rata share of available funding, is detailed in Attachment 1.

⁷ WAC 480-123-100(1) The provider is a local exchange company as defined in WAC 480-120-021 that serves fewer than forty thousand access lines within the state;

(b) The provider is an incumbent local exchange carrier as defined in 47 U.S.C. Sec. 251(h) or has been designated as an incumbent local exchange carrier by the Federal Communications Commission;

(c) The provider offers basic residential and business exchange telecommunications services as set forth in WAC 480-120-021 and RCW 80.36.630;

(d) The provider has established a plan, as described in WAC 480-123-110, to provide, maintain, or enhance broadband service; and

(e) The provider has been designated by the commission as an ETC for purposes of receiving federal universal service support pursuant to 47 C.F.R. Part 54 Subpart D – Universal Service Support for High Cost Areas, with respect to the service areas for which the provider is seeking program support.

⁸ Toledo and Pend Oreille each filed an Exemption of Rule for the August 2 filing deadline in Dockets UT-200776 and UT-200786. The Commission granted an order approving the waiver at the September 24, 2020 Open Meeting.

⁹ The total frozen cumulative CAF-ICC amount through June 30, 2020, is \$4,968,798. Each company's

Eligibility Criterion One Analysis:

No companies filed a petition under criterion one. This is the only option that requires a rate of return analysis consistent with prior iterations of the program. The other three criteria are more focused on building out additional locations or maintaining existing infrastructure, as further explained below.

Eligibility Criterion Two Analysis:

Each of the eight companies listed in the table below filed a petition and certified its commitment to deploy broadband services to the number of service locations in General Order R-598.¹⁰ These locations are in addition to any locations required by the Federal Communications Commission (FCC).

Each of the companies provided a broadband plan to enhance broadband services to areas they do not currently serve 25/3 Mbps.

Company	FY2021 Annual Support
Consolidated	\$1,350,356
Inland	\$ 503,665
Pend Oreille	\$ 446,290
Asotin (TDS)	\$ 91,584
McDaniel (TDS)	\$ 296,841
Lewis River (TDS)	\$ 216,846
Kalama	\$ 307,444
Westgate	\$ 129,383

pro rata share is calculated by dividing their amount of frozen cumulative CAF-ICC into the total amount. A company's pro rata share is then multiplied by the total amount of available program funds to calculate the amount that a company may receive.

¹⁰ Each company has a specific UTC Deployment Obligation based on their 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 \$6,078,083 would be available this fiscal year and \$4,850,000 annually for fiscal years 2022-2024. If State USF Program support increases or decreases, a company's broadband deployment obligation is proposed to be adjusted proportionately (however the deployment obligations established this year should remain).

Eligibility Criterion Three Analysis:

Five companies, identified in the table below, request a distribution from the program in the individual amounts indicated.

Company	FY2021 Annual Support
Pioneer	\$187,068
Skyline	\$143,129
Mashell	\$202,580
Tenino	\$299,950
Whidbey	\$981,109

Each company filed a petition and certified that it meets the FCC's total deployment obligations associated with federal high-cost support as of the date of the petition. Each company certified that since January 1, 2018, it deployed broadband to the number of service locations the commission ordered in General Order R-598. These companies invested recently, and substantially, in order to deploy broadband faster than required by the FCC and by the commission. While already meeting their state and federal buildout requirements, these companies have provided broadband plans to maintain current services while continuing to deploy broadband service throughout their service area.

Eligibility Criterion Four Analysis:

Five companies request support under Criterion Four. Each filed a petition and certified that broadband service is available to 100% of service locations within its respective service area, and has committed to making broadband service available to any new locations. Each of these companies provided a broadband plan to maintain its existing infrastructure while continuing to invest in capital improvements to make available broadband at speeds faster than 25/3 Mbps.

Company	FY2021 Annual Support
Hood Canal	\$172,668
St. John	\$105,947
Toledo	\$364,752
Hat Island	\$ 1,648
Western Wahkiakum	\$276,823

Program support is calculated and distributed each year, for the next four years. Eligibility must be determined each year. The number of UTC deployment service locations is the total locations for four years. Both the number of locations and the amount of support depend on the amount of funds appropriated for the program.

III. Conclusion

Based on staff's review and analysis, staff has determined that all 18 petitioning companies have met the requirements of the State USF Program, as specified in WAC 480-123-100, et seq. Staff concludes and recommends that the commission enter an order granting the proposed fund distribution of \$6,078,083 from the State USF Program, in the individual amounts shown in Attachment 1, no later than December 31, 2020.

Attachment (1)