

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

In the Matter of the Petition of

WHIDBEY TELEPHONE COMPANY,  
d/b/a WHIDBEY TELECOM,

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

DOCKET UT-220558

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 two-year term of the program,<sup>3</sup> and may distribute

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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 ninth year of the program (year nine) and the next two years (nine and ten) make up the final “two-year term” discussed in this memo and is consistent with the Commission’s rulemaking order which includes more of the details for reference. *See* General Order R-598 in Docket UT-190437 (May 27, 2020).

up to \$5 million annually (less the Commission’s administrative costs) to qualifying 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) allows 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;
- (iv) A description for how the provider will enhance broadband services in its service area; and

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.

7 On June 30, 2022, Whidbey Telephone Company d/b/a Whidbey Telecom (Whidbey Telecom or Company) filed with the Commission its State USF compliance report. On August 11, 2022, the Company filed revised report. In the report, Whidbey Telecom states that it continues its major fiber to the street project, drop work for new customers, and it has incurred operating expenditures (i.e., material and labor, equipment repair and maintenance, customer service requests, technical support, etc.) during the 2023 fiscal year. During this same period, Whidbey Telecom deployed 100/25 Mbps to 618 additional locations and deployed 1 Gbps / 500 Mbps to 318 locations. 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..

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

8 On July 26, 2022, Whidbey Telecom filed a petition requesting support from the State USF Program (Petition) for fiscal year ending June 30, 2023, under eligibility criterion three. The Company provided a broadband plan and states that over the next year it anticipates substantial capital expenditures to further expand fiber-based broadband capability to approximately 662 locations while also expanding fiber along main corridors to expand quickly and efficiently in future years. In addition to deploying broadband to new locations the Company plans to incur repair and maintenance expenses necessary to maintain and enhance voice and broadband services.

9 Staff reviewed Whidbey Telecom's Petition and 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 third eligibility criterion. Overall, Staff finds that Whidbey Telecom certified its commitment to deploy broadband services to the number of locations required by the Adoption Order,<sup>9</sup> 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 Program support in the amount of \$782,875 to be disbursed no later than December 31, 2022.

### DISCUSSION AND DECISION

10 We agree with Staff that Whidbey Telecom has demonstrated its eligibility for a distribution from the State USF Program for fiscal year ending June 30, 2023.

11 The Company has certified it meets the FCC's total deployment obligations associated with federal high-cost support as of the date of the petition and that since January 1, 2018, it deployed broadband to the locations stated in the Adoption Order. The Company has shown in its compliance report the ability to provide and maintain services. Furthermore, Whidbey Telecom has provided a broadband plan to maintain current services while continuing to deploy broadband service throughout their service area. The Company committed in its petition to deploy broadband services, continue maintenance, and enhance its services.

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<sup>9</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, 2024. For these calculations, Staff calculated that \$4,850,000 would be available annually for fiscal years 2022-2024.

12 We find that a distribution in the amount of \$782,875 from the State USF Program is consistent with the Adoption Order and applicable statutes and rules and is therefore in the public interest. Accordingly, we grant the Company's Petition.

### **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) Whidbey Telecom is a local exchange company as defined in WAC 480-120-021 and a public service company subject to Commission jurisdiction.
- 15 (3) Whidbey Telecom has certified it meets the FCC's total deployment obligations associated with federal high-cost support as of the date of the petition and that since January 1, 2018, it deployed broadband services to the number of locations required by the Commission's Adoption Order in Docket UT-190437.
- 16 (4) Whidbey Telecom has provided a broadband plan to maintain current services while continuing to deploy broadband service throughout their service area.
- 17 (5) Whidbey Telecom is eligible to receive funding from the State USF Program in the amount of \$782,875 to be disbursed no later than December 31, 2022.

### **ORDER**

#### **THE COMMISSION ORDERS:**

- 18 (1) Whidbey Telephone Company d/b/a Whidbey Telecom's request for funds from the State USF Program for fiscal year ending June 30, 2023, in the amount of \$782,875 is granted.
- 19 (2) The funds will be disbursed by December 31, 2022.
- 20 (3) The Commission retains jurisdiction over this matter for purposes of effectuating this order.

DATED at Lacey, Washington and effective December 8, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner