

# **ATTACHMENT 3**

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**WAC 480-123-020 Definitions.** As used in this chapter:

"Applicant" means any person applying to an ETC for new service or reconnection of discontinued service.

"Broadband service" means any service providing advanced telecommunications capability, including Internet access and access to high quality voice, data, graphics or video whether provided by a provider or its ISP affiliate or a combination of the two. To be considered advanced telecommunications, broadband must be at, or above, a minimum download speed and a minimum upload speed. The commission will establish a minimum upload speed benchmark and minimum download speed benchmark for broadband service to be considered advanced telecommunications consistent with federal standards.

"Communications provider" or "provider" means a company providing communications service that assigns a working telephone number to a final consumer for intrastate wireline or wireless communications services or interconnected voice over internet protocol service, and includes local exchange carriers.

"Communications services" includes telecommunications services and information services and any combination of these services.

"Eligible telecommunications carrier" and "ETC" mean a carrier designated by the commission as eligible to receive support from federal universal service mechanisms in exchange for providing services supported by federal universal service mechanisms.

"Facilities" means for the purpose of WAC 480-123-030 (1)(b) any physical components of the telecommunications network that are used in the transmission or routing of the services that are supported by federal universal service mechanisms.

".shp format" means the format used for creating and storing digital maps composed of shape files capable of being opened by the computer application ArcGIS™.

"Program" means the state universal communications services program created in RCW 80.36.650.

"Service area" means all of the designated exchanges served by a company in the state.

"Service outage" means a significant degradation in the ability of an end user to establish and maintain a channel of voice communications as a result of failure or degradation in the performance of a communications provider's network.

"Substantive" means sufficiently detailed and technically specific to permit the commission to evaluate whether federal universal service support has had, or will have, benefits for customers. For example, information about investments and expenses that will provide, increase, or maintain service quality, signal coverage, or network capacity, and information about the number of customers that benefit, and how they will benefit is sufficient to enable evaluation.

"Sworn statement" means a statement made under penalty of perjury, as set forth in RCW 9A.72.085.

"Telecommunications" has the same meaning as defined in 47 U.S.C. Sec. 153(43).

[Statutory Authority: Chapter 19.122 RCW, RCW 19.122.053, 80.01.040, and 80.04.160. WSR 15-08-043 (Docket UT-140680, General Order R-580), § 480-123-020, filed 3/26/15, effective 4/26/15. Statutory Authority: RCW 80.01.040(4), 80.36.630, 80.36.650, 80.36.660, 80.36.670, 80.36.680, 80.36.690, and

80.36.700. WSR 14-12-008 (Docket UT-131239, General Order R-575), § 480-123-020, filed 5/22/14, effective 6/22/14. Statutory Authority: RCW 80.01:040, 80.04.160, 80.36.600, and 80.36.610. WSR 06-14-051 (Docket No. UT-053021, General Order No. R-534), § 480-123-020, filed 6/28/06, effective 7/29/06.]

**WAC 480-123-100 Prerequisites for requesting program**

**support.** (1) **Wireline communications providers.** A wireline communications provider may seek support for telecommunications and broadband services from the program if the provider satisfies all of the following requirements with respect to the area or areas for which it seeks support from the program:

(a) The provider is a local exchange company as defined in WAC 480-120-021 that serves fewerless 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, or an ISP affiliate of the provider, has established a plan, as described in WAC 480-123-110, to provide, maintain, or enhance broadband service; and

~~(d) The provider's rates for residential local exchange service, plus mandatory extended area service charges, are no lower than the local urban rate floor established by the commission as the benchmark rate based on the Federal Communications Commission's most current calculation of a national local urban rate floor pursuant to 47 C.F.R. Sec. 54.318 in the year in which the provider files a petition for support; provided that, if the provider's rates exceed the benchmark, the provider may not seek support from the program for the purpose of reducing those rates towards or to the benchmark; and~~

(e) The provider has been designated by the commission as an eligible telecommunications carrier 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.

(2) **Wireless communications providers.** A wireless communications provider may seek support for telecommunications and broadband services from the program if the provider satisfies all of the following requirements with respect to the area or areas for which is seeks support from the program:

(a) The provider is licensed by the Federal Communications Commission to offer commercial mobile radio service within the state of Washington;

(b) The provider serves fewer than the equivalent of forty thousand access lines in Washington; and

(c) The provider, or an ISP affiliate of the provider, has established a plan, as described in WAC 480-123-110, to provide, maintain, or enhance broadband service; and

(ed) The provider has been designated by the commission as an eligible telecommunications carrier 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.



(3) Other communications providers. A communications provider other than a provider specified in subsection (1) or (2) above may seek support for telecommunications and broadband services from the program if the provider satisfies all of the following requirements with respect to the area or areas for which it seeks support from the program:

(a) The provider is authorized by both the Federal Communications Commission and the commission to provide telecommunications service within the state of Washington;

(b) The provider demonstrates it can provide telecommunications and broadband services to all residential and business locations within the exchange or exchanges for which it requests program support and irrevocably commits to maintain that capability for as long as it receives support and to serve all persons requesting such service within such exchange or exchanges;

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

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

(e) The provider has been designated by the commission as an eligible telecommunications carrier 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.

(34) In calculating access lines or equivalents under this section, the access lines or equivalents of all affiliates must be counted as a single threshold, if the lines or equivalents are located in Washington; provided that only the wireline access lines of the affiliates of a provider seeking support as a wireline carrier will count toward the single threshold for that provider, and only the wireless access line equivalents of the affiliates of a provider seeking support as a wireless carrier will count toward the single threshold for that provider.

[Statutory Authority: RCW 80.01.040(4), 80.36.630, 80.36.650, 80.36.660, 80.36.670, 80.36.680, 80.36.690, and 80.36.700. WSR 14-21-045 and WSR 14-12-008 (Docket UT-131239, General Order R-575), § 480-123-100, filed 10/7/14 and 5/22/14, effective 6/22/14.]

**WAC 480-123-110 Petitions for eligibility to receive program support. (1) Wireline communications providers.** A wireline communications provider that satisfies the prerequisites in WAC 480-123-100 may petition the commission to receive support from the program. The provider must petition the commission each year to be eligible to receive support from the program the following year. The petition must include the following information:

(a) The name of the legal entity that provides communications services and is seeking program support;

(b) A corporate organization chart showing the relationship between the legal entity identified in (a) of this subsection and all affiliates as defined in RCW 80.16.010 and a detailed description of any transactions between the provider and those affiliates recorded in the provider's operating accounts;

(c) A service area map or detailed reference to any maps on file with the commission showing the provider's Washington service area;

(d) The petitioner's provider's broadband plan or the broadband plan of its ISP affiliate to provide, enhance or maintain broadband services in its service area for which program support is sought should include the following elements, to the extent applicable to the broadband plan, including, but not limited to:

- (i) Multi-year investment plan starting from the fiscal year in which the provider seeks support;
- (ii) Specific project(s) that will be completed are projected to provide or enhance broadband services at required speeds required by the commission or the Federal Communications Commission;
- (iii) Number of locations served in each phase or year of a company's deployment planA plan for maintenance of broadband services in the provider's service area for which program support is sought; and

~~(iv) Any supporting information that the commission requests to assist its review and analysis of the petitioner's broadband plan~~A plan for how the provider will enhance broadband services in its service area for which program support is sought; and

~~(iv)~~(v) Any supporting information that the commission requests to assist in review and analysis of the provider's broadband plan.

~~A demonstration that the provider's customers are at risk of rate instability or service interruptions or cessation in the absence of support from the program;~~

(e) For a provider that is seeking support under (1)(j)(i), below, or under (2) or (3), below Detailed financial information and supporting documentation in a form prescribed by the commission for the provider's total Washington regulated operations for the two calendar years prior to the year in which the provider is filing the petition including, but not limited to, the following:

(i) The provider's balance sheet and statements of income and retained earnings or margin from, or in the same format and detail required in, Rural Utilities Service (RUS) Form 479;

(ii) The provider's consolidated audited financial statements; if the provider does not have consolidated audited financial statements prepared in the normal course of its business, the provider must submit financial statements reviewed by a certified public accountant;

(iii) Information demonstrating the provider's earned rate of return on a total Washington unseparated regulated operations basis for each of the two prior years;

(iv) Information demonstrating the provider's earned return on equity on a total company (regulated and nonregulated) Washington basis for each of the two prior years;

(v) Information detailing all of the provider's revenues from the statements of income and retained earnings or margin section of RUS Form 479 for the two prior years; if the provider does not submit RUS Form 479, the provider must file with the commission the same revenue information specified in this

subsection that is required to complete the applicable portion of that form;

(vi) Information ~~detailing~~ summarizing the amounts of any corporate operations adjustments to existing high-cost loop and interstate common line support mechanisms the Federal Communications Commission required of the provider for the two prior years or a sworn statement ~~under penalty of perjury from~~ by a company ~~by an officer of the provider of the provider~~ with personal knowledge and responsibility certifying that no such adjustments apply to the provider; and

(vii) Any additional supporting information the commission requests to enable it to analyze the provider's financial results for program purposes. ~~;~~ and

~~(viii) A statement under penalty of perjury from a company officer of the provider with personal knowledge and responsibility certifying that the provider complies with state and federal accounting, cost allocation, and cost adjustment rules pertaining to incumbent local exchange companies;~~

(f) A sworn statement by a company officer of the provider certifying that the company provider complies with

state and federal accounting, cost allocation, and cost adjustment rules pertaining to incumbent local exchange companies;

~~A complete copy of the FCC Form 481 the provider filed with the Federal Communications Commission for the calendar year preceding the year in which the provider is filing the petition; if the provider does not submit FCC Form 481 to the Federal Communications Commission, the provider must file with the commission the same information required to complete that form;~~

(g) Information detailing the number of residential and business local exchange access lines and broadband customers connections the provider or its ISP affiliate served as of December 31st for each of the prior two years, and the unbundled monthly basic rate(S) or charges(S) charged to for applicable to each customer class category; and

(h) A sworn statement ~~under penalty of perjury from a~~ by an ~~company officer of the provider of the provider~~ certifying that if it receives program support the provider will continue to provide communications services ~~and broadband services~~ pursuant ~~to its tariffs on file with the commission throughout its the~~



provider's service territory in Washington for which it is seeking and receives program support and the provider or its ISP affiliate will continue to provide broadband services during the entirety of the year in which the provider is applying for support from the program;

(i) A sworn statement by an ~~company~~ officer of the provider certifying that the provider is in compliance with the Federal Communications Commission's obligations for deployment of broadband at speeds specified by the Federal Communications Commission that apply to the provider; and

(j) Satisfaction of at least one of the following eligibility criteria:

(i) Eligibility Criteriaon One: A sworn statement by an ~~company~~ officer of the provider certifying that the provider commits to the deployment of broadband to the number of ~~locations the commission has determined by order~~ consistent with the provider's broadband plan. Such deployment obligations are in addition to any Federal Communications Commission deployment requirements. Additionally, a ~~company is subject to review of its rate of return.~~ Aa provider that elects to petition under

this category is subject to review of its rate of return and financial reporting requirements as described in subsection E(e).

(ii) Eligibility Criteriaon Two: A sworn statement by an company-officer of the provider 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.

(iii) Eligibility Criteriaon Three: A sworn statement by an company-officer of the provider certifying that the provider has already met the Federal Communications Commission's total deployment obligations associated with federal high-cost support as of the date of the petition ~~June 30, 2020~~ and that since January 1, 2018, ~~during the 2018 or 2019 calendar year,~~ the provider and/or its ISP affiliate has ~~proactively deployed~~ broadband to the number of locations the commission has determined by order.

(iv) ~~Category~~ Eligibility Criterion Four: A sworn statement by an company-officer of the provider certifying that broadband

service is available to 100 percent of locations within the portion of the provider's ~~study~~-service area for which the provider seeks program support, and committing to making broadband service available to any new locations.

(2) **Wireless communications providers.** A wireless communications provider that meets the requirements in WAC 480-123-100 may petition the commission to receive support from the program. The provider must petition the commission each year to be eligible to receive support from the program the following year. The petition must include the same type of information for the same periods required of wireline communications providers in subsection (1) of this section. The first time a wireless communications provider seeks to file such a petition, the provider must first submit its request ~~to file the petition~~ to the advisory board, pursuant to any guidelines the advisory board will adopt, detailing how the provider will compile and supply the information required by this rule. The advisory board will make a recommendation to the commission, and the commission will determine the precise information the provider must file in support of its petition.

(3) Other communications providers. A communications provider other than a provider specified in subsection (1) or (2) above may petition the commission to receive support from the program. The provider must petition the commission each year to be eligible to receive support from the program the following year. The petition must include the same type of information for the same periods required of communications providers in subsection (1) of this section. The first time a communications provider seeks to file such a petition under this section, the provider must first submit its request to the advisory board, pursuant to any guidelines the advisory board will adopt, detailing how the provider will compile and supply the information required by this rule. The advisory board will make a recommendation to the commission, and the commission will determine the information the provider must file in support of its petition.

(43) Information already on file with the commission. To the extent that the provider has filed with the commission any of the information required under this rule, the provider need not include that same information in its petition so long as the

provider identifies the docket number, documents, and location within those documents in which the provider included that information.

(54) **Timing of petitions.** A provider must file a complete petition that fully complies with this section no later than August ~~2nd~~<sup>1st</sup> if the company seeks support from the program for the following calendar year. ~~Program support is available annually until the expiration of the program on June 30, 2019.~~

(65) **Certification.** One or more company officers of the provider responsible for the provider's business and financial operations must certify in the form of a sworn statement ~~under penalty of perjury~~ that the information and representations made in the petition are accurate and that the provider has not knowingly withheld any information required to be provided to the commission pursuant to the rules governing the program. The provider must file this certification with its petition.

(7) Affiliated companies may submit a combined petition for support.

[Statutory Authority: RCW 80.01.040(4), 80.36.630, 80.36.650, 80.36.660, 80.36.670, 80.36.680, 80.36.690, and 80.36.700. WSR 14-21-045 and WSR 14-12-008 (Docket UT-131239, General Order R-

575), § 480-123-110, filed 10/7/14 and 5/22/14, effective 6/22/14.]

**WAC 480-123-120 –Eligibility and distributions from the program.** The commission will authorize distributions from the program on an annual basis. Each eligible provider will receive a single distribution for the year after January 1st of each year of eligibility, except as otherwise authorized by the commission.

(1) **Eligibility determination.** A wireline communications provider that complies with the requirements in WAC 480-123-110 ~~in this chapter~~ is eligible to receive distributions from the program. The commission will make a final eligibility determination in its order granting or denying a company's provider's petition to receive program support. The commission will consider the information filed by the petitioner-provider in accordance with WAC 480-123-110. ~~if the provider demonstrates that its financial circumstances are such that its customers are at risk of rate instability or service interruptions or cessations absent a distribution to the provider that will allow the provider to maintain rates reasonably close to the benchmark~~

~~the commission has established. In making that determination, the commission will consider the provider's earned rate of return on a total Washington company books and unseparated regulated operations basis, the provider's return on equity, the status of the provider's existing debt obligations, and other relevant factors including, but not limited to, the extent to which the provider is planning or implementing operational efficiencies and business plan modifications to transition or expand from primary provision of legacy voice telephone service to broadband service or otherwise reduce its reliance on support from the program.~~

(2) **Calculation of support amount.** The amount that a wireline communications provider eligible to receive support from the program may receive in a calendar year shall be 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. Providers that seek distributions under eligibility criteria two, three, or four will receive support based on their broadband plan and other applicable eligibility

requirements. For distribution under eligibility criteria on one,  
the commission will distribute 50 percent of a company's  
provider's program support if the company-provider demonstrates  
financial need does not exceed a reasonable rate-of-return  
threshold applicable to the provider's circumstances and will  
distribute the remaining 50 percent if the company-provider  
commits to deploying broadband in accordance with the  
commission's deployment company's broadband plan. A company's  
pro rata share of available funds is calculated after commission  
expenses.

~~not exceed the sum of the following:~~

~~(a) The amount the provider received in 2012 from the former traditional USF fund established in Docket U 85-23, et al., and administered by the Washington exchange carrier association; and~~

~~(b) The cumulative reduction in support from the Connect America Fund incurred by the provider up through and including the year for which program support is distributed to the provider to the extent the program contains sufficient funds.~~



(3) **Distribution to wireless communications providers.** The advisory board will make a recommendation to the commission on eligibility and distribution calculations for any wireless communications provider that seeks support from the program, and the commission will determine that provider's eligibility and the amount of support, if any, the provider may receive consistent with RCW 80.36.650 and commission rules.

(4) **Distribution to other communications providers.** The advisory board will make a recommendation to the commission on eligibility and distribution calculations for any other communications provider that seeks support from the program, and the commission will determine that provider's eligibility and the amount of support, if any, the provider may receive consistent with RCW 80.36.650 and commission rules.

(5) **Broadband commitment.** To receive support from the program, a communications provider must commit to deploying broadband to at least those locations comprising the broadband deployment obligation determined by the commission. Such deployment obligations ~~are~~ is in addition to any Federal Communications Commission deployment requirements.

(64) **Total requests in excess of available funds.** If the total requests for support for a calendar year exceed the program funds available for that year, the commission will distribute the available funds to eligible carriers on a pro rata basis. The commission may seek a recommendation from the advisory board on the best pro rata distribution methodology to use.

(75) **Commission determination.** The commission will consider petitions from companies seeking support from the program and will make the necessary eligibility and distribution determinations in response to those petitions prior to January 1st of the calendar year in which funds from the program will be distributed.

[Statutory Authority: RCW 80.01.040(4), 80.36.630, 80.36.650, 80.36.660, 80.36.670, 80.36.680, 80.36.690, and 80.36.700. WSR 14-21-045 and WSR 14-12-008 (Docket UT-131239, General Order R-575), § 480-123-120, filed 10/7/14 and 5/22/14, effective 6/22/14.]

**WAC 480-123-130 –Reporting requirements. (1) Wireline communications provider reports.** A wireline communications provider that receives program support must submit the following

information and reports to the commission on or before July 1st of the year following each calendar year in which the provider receives that support unless a different date is specified below:

(a) The number of residential and business access lines and broadband ~~customers~~ connections served within the state of Washington for which the provider used program support during the preceding calendar year in the provision of basic telecommunications and/or broadband service (broken down to reflect beginning and end of year quantities);

(b) Detailed information on how the provider used program support that the provider received during the preceding year;

(c) Detailed information on how the provider used program support during the preceding year to meet the petitioner's broadband buildout requirement. Information must include:—a location's latitude and longitude or a different georeferenced point location information as filed with the Federal Communications Commission or United States Administrative Company, along with technology type and the download and upload speed available to a—that location.

(~~de~~) A list with detailed information of all consumer requests for new basic telecommunications service in the area for which the provider received program support during the preceding year that the provider denied or did not fulfill for any reason;

(~~ed~~) A sworn statement under penalty of perjury from a company officer of the provider with personal knowledge and responsibility certifying that, during the preceding year, the provider materially complied with all commission rules in chapter 480-120 WAC that are applicable to the provider and its provision of service within the area for which the provider received program support;

(f) A sworn statement by a company officer certifying that during the preceding year, the provider met the requirements of WAC 480-123-120(5);

(g) Broadband availability data as required by the commission;

~~(e) Complete copies of the FCC Form 477 for the state of Washington that the provider filed with the Federal Communications Commission during and for the calendar year in~~

~~which the provider receives support at the same time the provider submits those forms to the Federal Communications Commission; if the provider does not submit FCC Form 477 to the Federal Communications Commission, the provider must file with the commission the same information required to complete that form at the same time carriers that file FCC Form 477 are required to submit that form;~~

(h~~f~~) A report on operational efficiencies and business plan modifications for the area for which the provider receives program support during the preceding year that the provider has undertaken to transition or expand from primary provision of legacy voice telephone service to broadband service or otherwise reduce its reliance on support from the program, and whether and how disbursements from the program were used to accomplish such outcomes;

(i) The provider's Form 477 Subscription Data at the census tract level on a Washington state basis that provides data in the same format and on the same dates as the data is provided to the Federal Communications Commission;

(jg) Detailed information on any other efforts the provider made to use program support to advance universal service and the public interest in Washington; and

(kh) Any other information or reports the commission requires including, but not limited to, information the commission needs to provide a report to the legislature concerning the program.

(2) **Wireless communications provider reports.** The advisory board will make a recommendation to the commission on the information and reports that any wireless communications provider that receives support from the program should provide, and the commission will determine the information and reports that provider must provide consistent with RCW 80.36.650 and commission rules.

(3) Other communications provider reports. The advisory board will make a recommendation to the commission on the information and reports that any communications provider other than a provider specified in subsections (1) and (2) above that receives support from the program should provide, and the commission will determine the information and reports that

provider must provide consistent with RCW 80.36.650 and  
commission rules.

(43) **Information already on file with the commission.** To the extent that the provider has filed any of the information required under this rule in conjunction with its application for certification as an eligible telecommunications carrier, the provider need not include that same information in its report so long as the provider identifies the docket number, documents, and location within those documents in which the provider included that information.

(54) **Comments from stakeholders.** Interested persons may submit information or comments on any of the issues on which the providers must report under this rule. Persons must submit such information or comments by July 1st of the year following each calendar year in which the commission distributes program support.

[Statutory Authority: RCW 80.01.040(4), 80.36.630, 80.36.650, 80.36.660, 80.36.670, 80.36.680, 80.36.690, and 80.36.700. WSR 14-12-008 (Docket UT-131239, General Order R-575), § 480-123-130, filed 5/22/14, effective 6/22/14.]