

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

In the Matter of the Petition of

THE TOLEDO TELEPHONE CO., INC.,

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

DOCKET UT-220634

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
- 2 The Washington Utilities and Transportation Commission (Commission) is allotted \$5 million each year over the remaining two-year term of the program,³ and may distribute

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.

³ 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, 2024.⁴

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 "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.⁶ In addition to these requirements, a company must comply with the prerequisites in WAC 480-123-100.⁷

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.⁸ The rule also

⁴ 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.

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 *Id.* at ¶¶ 16-22.

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;
- (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 July 6, 2022, The Toledo Telephone Co., Inc., (Toledo or Company) filed with the Commission its State Universal Service Fund (State USF) compliance report. On September 9, 2022, Toledo filed a revised report.⁹ In the report, Toledo states that over the last year, it constructed over 70 new fiber drops and upgraded its core router to add increased middle mile capacity, parental control features, and greater redundancy. Toledo continues to make payments on its RUS loan. The Company's serviceable locations are

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

⁹ Toledo's revised compliance report includes an updated sworn statement, additional details about the use of funds, and updated language that it filed its Broadband Data Collection with the Commission.

capable of 1 Gbps symmetrical 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.

8 On August 23, 2022, Toledo filed a petition requesting support from the State USF Program (Petition) for fiscal year ending June 30, 2023, under eligibility criterion four. The Company filed a revised petition on October 27, 2022.¹⁰ Toledo states in its broadband plan that it has deployed fiber to the premise (FTTP) to 100 percent of the serviceable locations within its study area. The Company further committed to deploying broadband services to any new locations. Over the last two years, the Company has built fiber to over 80 new homes and expects this trend to continue. While fully deployed, Toledo continues to invest throughout its study area and is in the process of replacing fiber lines cards to allow speeds up to 10 Gbps for each customer. The Company will continue to have repair and maintenance expenses to maintain its network, while also continuing to make payments on its RUS loan that was used to deploy FTTP.

9 Staff reviewed Toledo'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 fourth eligibility criterion. Overall, Staff finds that Toledo certified that broadband service is available to 100 percent of locations within its service area and has committed to making broadband service available to any new locations. The Company 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. Staff recommends the Commission find the Company eligible for State USF Program support in the amount of \$291,054 to be disbursed no later than December 31, 2022.

DISCUSSION AND DECISION

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

11 The Company has certified that broadband service is available to 100 percent of locations within its service area and has committed to making broadband service available to any new locations. Furthermore, Toledo has 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.

¹⁰ The Commission granted Toledo's request to waive the August 2, 2022, petition deadline in docket UT-220626.

12 We find that a distribution in the amount of \$291,054 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) Toledo is a local exchange company as defined in WAC 480-120-021 and a
public service company subject to Commission jurisdiction.

15 (3) Toledo has certified that broadband service is available to 100 percent of locations
within its service area and has committed to making broadband service available
to any new locations.

16 (4) Toledo has 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.

17 (5) Toledo is eligible to receive funding from the State USF Program in the amount
of \$291,054 to be disbursed no later than December 31, 2022.

ORDER

THE COMMISSION ORDERS:

18 (1) The Toledo Telephone Co., Inc.'s request for funds from the State USF Program
for fiscal year ending June 30, 2023, in the amount of \$291,054 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