



**STATE OF WASHINGTON**  
**UTILITIES AND TRANSPORTATION COMMISSION**

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August 9, 2019

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS**  
**(By September 9, 2019)**

Re: Rulemaking to consider amending and adopting rules in WAC 480-123, universal service, to implement legislation amending and extending the state universal communications service program,  
Docket UT-190437

TO ALL INTERESTED PERSONS:

On August 8, 2019, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to initiate a rulemaking to consider amending and adopting rules in Chapter 480-123 WAC, Universal Service, to implement the provisions of sections 11 through 18 of Second Substitute Senate Bill 5511 (Broadband Bill), enacted in the 2019 Legislative Session. Section 18(2) of the bill requires the Commission to amend and adopt new rules to implement reforms to the state universal communications service program.

The CR-101, as filed with the Code Reviser, is available for inspection on the Commission's website at [www.utc.wa.gov/190437](http://www.utc.wa.gov/190437).

**BACKGROUND**

In 2013, the legislature established a five-year targeted state universal communications services program to support small rural incumbent telephone companies whose customers were potentially at risk of rate instability, service interruptions, or cessations of service. *See* WAC 480-123-100 through -170.

The recently enacted Broadband Bill extends the state universal communications services program for five years and adds broadband as a supported service. Support eligibility is based on whether a service provider has adopted a plan to provide, enhance, or maintain broadband

services in its service areas, and whether the company meets any other requirements established by the Commission, pertaining to the provision of communication services, including telecommunications services.

The Broadband Bill authorizes the Commission to initiate a rulemaking no later than 90 days following the effective date of Sections 11-18. These sections of the bill became effective on May 13, 2019. The Commission must adopt rules to implement the changes for the program before July 1, 2020.

Section 18 of the Broadband Bill authorizes the Commission to amend and adopt rules concerning:

- Broadband provider eligibility;
- Service performance and buildout requirements for funding recipients;
- Support amounts for maintaining systems that meet federal or state broadband speed guidelines; and
- Methods to effectively and efficiently distribute program support to eligible providers.

## WRITTEN COMMENTS

The Commission seeks written comments from interested persons on the scope and nature of the rules the Commission must adopt in compliance with the Broadband Bill. To facilitate its ability to adopt rules prior to July 1, 2020, the Commission requests responses to the following questions, including a complete explanation of your reasoning:

1. Broadband Bill Section 11(1) (c) defines “Broadband service” as “any service providing advanced telecommunications capability, including internet access and access to high quality voice, data, graphics, or video.” This definition does not include a minimum speed. However, Section 18 requires the Commission to set support amounts for maintaining systems that meet federal or state broadband speed guidelines (25/3 Mbps). Should the definition of broadband service in the rule include a specific speed or should it allow flexibility to accommodate future changes to the definition of advanced telecommunications?
2. Section 12(1) of the Broadband Bill states 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.”
  - a) Should the Commission interpret “provision” in the context of broadband, to include deployment of broadband where it currently does not exist?
  - b) Should the Commission interpret “enhancement” in the context of broadband to mean improvement of the reliability or speed of a current internet connection?

- c) Should the Commission interpret “maintenance” in the context of broadband to mean ongoing repair and expenses related to offering broadband services as currently being provided?
3. On August 1, 2019, the Federal Communications Commission (FCC) conducted an Open Meeting in which it considered a Report and Order that establishes Digital Opportunity Data Collection. Under that Order, geospatial broadband coverage data will be collected from fixed providers and will ultimately be used in a two-phase reverse auction that will target \$20.4 billion to bring high-speed broadband to unserved areas (those lacking 25 megabits per second down and 3 megabits per second up, or 25/3 Mbps). Should the Commission rules be structured to include new data, ideas, or concepts identified through this, or other, data collection processes? If so, how?
  4. Under the current rules, a company’s rate of return and return on equity are analyzed (among other factors) to determine if a company is eligible to receive support from the fund. Should this continue to be a factor in determining eligibility? What other information should be a factor in the Commission’s determination of provider eligibility?
  5. The Broadband Bill requires a company seeking support to adopt a plan to provide, enhance, or maintain broadband services in its service area. Please comment on Commission Staff’s preliminary recommendation that the broadband plan should include, at a minimum, the information listed below:
    - A five-year investment plan;
    - Locations where, using geospatial coverage data, the company proposes to undertake or is currently undertaking specific work to provide, enhance, or maintain broadband services at speeds that meet state or federal requirements;
    - High-quality fixed broadband coverage polygons depicting the areas where the company has a broadband-capable network and makes fixed broadband service available to end-user locations. The plan must include the maximum download and upload speeds actually made available in each area and the technology used to provide the service. The plan also should differentiate between residential-only, business-only, or residential and business broadband services. The company must submit a broadband coverage polygon for each combination of download speed, upload speed, and technology.
    - The company’s Form 477 Subscription Data at the census tract level. Data should be provided in the same form as it is provided to the FCC.
  6. Once location-specific data are available, a portion of program support could be distributed based on a company’s ability to deploy to locations where the company does not provide 25/3 Mbps broadband service.

- a) What portion of program support, if any, should the Commission direct solely at deploying 25/3 Mbps broadband service?
  - b) Should the Commission focus support on areas that are either “unserved” or “underserved”?
    - Should “underserved” be defined in this context as a location with an available speed less than 25/3 Mbps (or another speed, as determined by the Commission), but faster than 10/1 Mbps (or another speed, as determined by the Commission)?
    - Should “unserved” in this context be defined as a location with an available speed equal to or less than 10/1 Mbps (or another speed, as determined by the Commission)?
7. Broadband Bill, Section 12(3)(b) enables companies other than incumbent local exchange carriers (ILECs) to receive support from the fund under specified circumstances. What data/information should the Commission require of a non-ILEC communication provider to demonstrate that it is able to provide the same or comparable services at the same or similar service at a lower price than the existing ILEC?
- a) How quickly should the Commission require a non-ILEC company to provide the applicable service?
  - b) Should the Commission enable a company to “submit” to Commission regulation of its service as if it were an ILEC?
  - c) How should the Commission regulate applicable service provided by a non-ILEC?
8. The current distribution amount a company receives is the sum of the amount a provider received in 2012 from the former traditional Universal Service Fund established in Docket U-85-23, *et al.* and the cumulative reduction in support from the FCC’s Connect America Fund. Should these two historical components continue to be used in calculating the future distribution amount an eligible company receives?
9. Should the distribution criteria have a multi-pronged approach? That is, should there be two components: one for maintaining broadband and another for deployment of broadband to new locations? If so, should there be a transitional period?
10. What build-out requirements should the Commission adopt? How should build-out requirements be established? Because companies will be receiving additional funding, should companies have build-out requirements above and beyond their current federal build-out requirements? Should build-out requirements be uniform or company specific?
11. WAC 480-123-110 outlines the information that must be included in a company’s petition. Should the Commission revise that rule to modify the requirement to provide any of that information? If so, what information should the Commission remove or add, and why?

12. WAC 480-123-130 outlines a provider's reporting requirements. Should the Commission revise this rule to modify any of these requirements? If so, which requirements should the Commission remove or add, and why?
13. Available data on broadband deployment are currently limited to what companies report on the FCC's Form 477 data. Should the Commission require this data set to be expanded to include other information that the FCC or other third parties have, or will have in the future? If not, why not?
14. Should the Commission require companies to provide geocoded data as part of their compliance report to show how and where they propose to invest to enhance, maintain, or provide broadband services? If not, why not? Should the Commission require companies to provide any additional or other information to enable the Commission and the legislature to understand how companies are using program support?
15. Once a company receives program support, should the Commission require the company to continue voice and broadband reporting throughout the program's operation, even if the company does not receive support in subsequent years, to ensure the Commission can timely identify served, unserved, and underserved locations.
16. The Advisory Board constituted under the current rules includes representatives from different types of stakeholders, including, but not limited to communications providers and consumers. What other stakeholders should serve on the Board under revised rules?

Written comments in response to this Notice and the questions listed above must be filed with the Commission no later than **5 p.m., Monday, September 9, 2019**. Pursuant to WAC 480-07-250(3), written comments must be submitted in electronic form, specifically in searchable .pdf format (Adobe Acrobat or comparable software). As provided in WAC 480-07-140(5), comments must be submitted via the Commission's web portal at [www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing). If you are unable to submit documents via the portal, you may submit your comments by email to the Commission's Records Center at [records@utc.wa.gov](mailto:records@utc.wa.gov) or by mailing or delivering an electronic copy to the Commission's Records Center on a flash drive, DVD, or compact disc that includes the filed document(s). Comment submissions should include:

- The docket number of this proceeding (UT-190437).
- The commenting party's name.
- The title and date of the comment or comments.

The Commission will post all written comments on its website at the following URL address: [www.utc.wa.gov/190437](http://www.utc.wa.gov/190437).

If you have questions regarding this rulemaking, you may contact Staff, Jing Roth, at (360) 664-1291 or by email at [jing.roth@utc.wa.gov](mailto:jing.roth@utc.wa.gov), or Sean Bennett, at (360) 664-1109 or by email at [sean.bennett@utc.wa.gov](mailto:sean.bennett@utc.wa.gov).

Stakeholders will have further opportunity for comment. Information about the schedule and other aspects of the rulemaking, including comments, will be posted on the Commission's website as it becomes available. If you wish to receive further information on this rulemaking you may:

- Call the Commission's Records Center at (360) 664-1234
- Email the Commission at [records@utc.wa.gov](mailto:records@utc.wa.gov)
- Mail the Commission at the address below

When contacting the Commission, please refer to Docket UT-190437 to ensure that you are placed on the appropriate service list. The Commission's mailing address is:

Executive Director and Secretary  
Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE  
P.O. Box 47250  
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#### NOTICE

**If you do not want to comment now, but do want to receive future information about this rulemaking, please notify the Executive Director and Secretary in one of the ways described above and ask to be included on the mailing list for Docket UT-190437. If you do not do this, you might not receive further information about this rulemaking.**

MARK L. JOHNSON  
Executive Director and Secretary