

**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-230581

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

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.

2 The Washington Utilities and Transportation Commission (Commission) is allotted \$5 million for the 2024 program year,³ and it may distribute the \$5 million (less the Commission’s administrative costs) to qualifying companies before 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 “[e]ligible 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 and the rule that it adopted establish four different eligibility criteria.⁶ To receive a distribution, a provider must satisfy at least one of those eligibility criteria and also comply with the prerequisites in WAC 480-123-100.⁷

5 A company, accordingly, must include in its petition a broadband plan for maintaining, providing, or enhancing broadband service within the provider’s service area.⁸ It must also provide one of the following:

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, dated May 27, 2020.*

⁴ 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, \$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.* ¶¶ 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:

- 1) An unsworn 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) An unsworn 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) An unsworn 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; or
- 4) An unsworn statement by a company officer certifying that broadband service is available to 100 percent of locations within the provider's

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

service area, and that the company commits to making broadband service available to any new locations.

- 6 On July 5, 2023, The Toledo Telephone Co., Inc., (Toledo or Company) filed its State USF compliance report, filed a revised compliance report on August 31, 2023.⁹ In the report, Toledo states that during the 2023 fiscal year it constructed 54 new fiber drops. In addition, the company has invested in new Optic Network Terminals (ONT's) for every location, adding the capability for Wi-Fi 6 and greater security for customer managed Wi-Fi. Toledo continues to make payments on its RUS loan used to deploy its fiber network. The company's serviceable locations are 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.
- 7 Toledo filed its petition seeking State USF support on July 13, 2023, then filed a final revised petition on October 27, 2023.¹⁰ In its broadband plan, Toledo states it has deployed fiber to the premises (FTTP) to 100 percent of the serviceable location within its study area and it made a commitment to deploy 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 incur capital expenditures which includes fiber, vaults, and Calix broadband hardware and software. 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.
- 8 Staff reviewed Toledo's Petition, 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 enhance broadband speed capability. Staff recommends the Commission find the Company eligible for State USF

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.

¹⁰ A revised petition was filed on October 10, 2023. The revisions include additional details to the company's broadband plan, updates to the petition and the company's certifications.

Program support in the amount of \$291,054 to be disbursed no later than December 31, 2023.

DISCUSSION AND DECISION

9 We agree with Staff that Toledo has demonstrated its eligibility for a distribution from the State USF Program for fiscal year ending June 30, 2024.

10 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 enhance broadband speed capability.

11 We find that a distribution in the amount of \$291,054 from the State USF Program is in the public interest, consistent with the purposes underlying the regulation and applicable statutes, and should be granted.

FINDINGS AND CONCLUSIONS

12 (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.

13 (2) Toledo is a local exchange company as defined in WAC 480-120-021 and a public service company subject to Commission jurisdiction.

14 (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.

15 (4) Toledo has provided a broadband plan to maintain its existing infrastructure while continuing to invest in capital improvements to enhance broadband speed capability.

16 (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, 2023.

ORDER

THE COMMISSION ORDERS:

- 17 (1) The Toledo Telephone Co., Inc.'s request for funds from the State USF Program
 for the fiscal year ending June 30, 2024, in the amount of \$291,054 is granted.
- 18 (2) The funds will be disbursed by December 31, 2023.
- 19 (3) The Commission retains jurisdiction over this matter for purposes of effectuating
 this order.

DATED at Lacey, Washington, and effective November 22, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner