

Date

Lisa Brown

Mark Barkley

Mark Vasconi, Director
Washington State Broadband Office

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RE: Statement of public broadband stakeholders' position on funding program priorities

Dear

Thank you for your ongoing efforts to bring broadband funding to facilitate infrastructure and services to Washington's unserved and underserved communities. Your efforts are critical to ensuring the benefits of broadband access are realized in communities across the State. With that in mind, this letter is submitted on behalf of a consortium of public-benefit organizations that are committed to supporting the state's efforts by providing informed input that will facilitate an effective pathway to achieving the state's broadband goals. As representatives of Washington's Counties, Cities, PUDs, ports, and municipal broadband corporations, we feel uniquely positioned to advocate for the long-term interests of Washington's public, whom we all serve. The consortium is willing and able to use our knowledge and experience to serve in an advisory capacity to the State Broadband Office and look forward to our continued productive relationship.

With the upcoming BEAD program, which will bring unprecedented funding to our state to build infrastructure and address digital equity issues, the consortium recognizes that this is the prime time to provide feedback on a couple of key points that are currently under discussion or are open to interpretation.

Defining Open Access

The definition of "open access network" must be clearly defined as it is a highly subjective term that can be used to describe any network arrangements. The consortium proposes the following definition which is less ambiguous than the definition currently being utilized:

An "open access" broadband network is a facilities-based network which connects to the end user premise that is open on an equal, non-discriminatory basis (non-discriminatory means the same service, term of service, and volume of service shall be the same cost to every retail or independent service provider) to any qualified service provider for the provision of voice, video, data, broadband, content, or other telecommunications services.

To ensure that this open-access infrastructure is available for the long-term to serve the public's interests, we propose that the infrastructure should be maintained in the "public trust" meaning that the network is owned and locally controlled through a public agency, local governmental agency, or political subdivision with the ability to define rates and policy. Without this important distinction, it is likely that assets will be transferred to the private sector once any contractual agreements for funding have been completed. This would not be in the best interest of the public and is not the standard for taxpayer funded infrastructure.

Qualified Challenges

The consortium proposes modification of the current challenge process to address issues that can thwart critical funding resources to areas in need of broadband access. The effort to submit a project for funding is considerable, especially for the most vulnerable communities in our state that frequently lack the resources necessary to successfully prepare and submit a project application. Currently, there is an imbalance in the objection process that places a greater burden on applicants to prove an area is eligible for funding through state programs. When a community submits data that the area is unserved or underserved, a challenger may object to the project preventing the applicant from receiving funding with no opportunity for the applicant to dispute or mitigate the challenger's claims. We propose the following language to clarify threshold requirements for a challenge:

The governing agency will consider challenges only if one of the qualifying items is true:

1. The proposed project will result in an overbuild because the challenger currently provides or has already begun construction to provide broadband services, as demonstrated through as-built drawings and geographic inspection, to a majority portion of the applicant's proposed locations that will meet or exceed that meet the 2028 broadband goals of the state (150/150 Mbps Residential and Businesses, 1000/1000 Mbps Anchor Institutions).
2. The challenger can demonstrate service delivery through community surveys and publicly available speed tests to a majority portion of the applicants' proposed locations that meet or exceed the 2028 broadband goals of the state (150/150 Mbps Residential and Businesses, 1000/1000 Mbps Anchor Institutions).
 - a. Providers submitting a challenge on the basis of their own existing service availability will be subject to geographic inspection and independent speed test information to fully support their claim.
3. The challenger has been awarded and has accepted RDOF funds for the selected census blocks, which is an obligation to serve those areas.

Digital Equity

The consortium believes there is an opportunity to engage in critical digital equity work through the consideration of the cost of services for the end user. The expected costs to end users for services are already part of the applications for funding. Therefore, it makes sense that the costs for end users should also be addressed during the challenge process. If a community has the infrastructure to meet the state's bandwidth goals, but the service provider charges more than \$200 per month, it is not reasonable to consider the area served when many will not be able to afford the service.

Additionally, introductory rates present long-term affordability challenges for end-users. The services need to remain affordable over time with reasonable cost adjustments for inflation and costs related to maintaining and operating the system. Hefty increases in rates once 12 months have passed undermine the ability of many end-users to continue using the service. We propose a predictable rate structure over time that provides end-users within a given area reasonable cost of service expectations. These prices should be taken into consideration during the challenge process. The services must be affordable and accessible to the communities if the state is denying another option for service.

We support the requirement of a 10% match for funding applicants as demonstration of commitment to the project. However, we feel that inability to provide a match due to financial hardship should not exclude an applicant from consideration. Projects in areas with a high digital equity gap should have the opportunity to request a waiver of the match requirement, provided the project addresses inequity including the following: projects in unincorporated areas with an extremely high cost-per-passing; low rates of broadband adoption; high rates of poverty; low rates of education; large gaps in broadband affordability; or support of agriculture and timber operations.

We appreciate your consideration of our recommendations and welcome the opportunity to discuss them further with you. This is an unprecedented opportunity for broadband infrastructure and digital equity funding, and it is in the best interest of the state and our local governments to maximize the public benefit as we usher in a more equitable and connected future.

Signed,

Association of Washington Counties
Association of Washington Cities
Washington Public Utility Districts Association
Washington Public Ports Association
Northwest Open Access Network
Petrichor Broadband

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