

**RCW 80.36.650 State universal communications services program—
Established. (Expires July 1, 2025.)**

(1) A state universal communications services program is established. The program is established to protect public safety and welfare under the authority of the state to regulate telecommunications under Article XII, section 19 of the state Constitution. 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) Under the program, eligible communications providers may receive distributions from the universal communications services account created in RCW 80.36.690 in exchange for the affirmative agreement to provide continued telecommunications services under the rates, terms, and conditions established by the commission under this chapter, and broadband services, for the period covered by the distribution. The commission must implement and administer the program under terms and conditions established in RCW 80.36.630 through 80.36.690. Expenditures for the program may not exceed five million dollars per fiscal year; provided, however, 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, unless fully expended, must be available for program expenditures in such subsequent fiscal years in addition to the five million dollars allotted for each of those subsequent fiscal years.

(3) A communications provider is eligible to receive distributions from the account if:

(a) (i) The communications provider is: (A) An incumbent local exchange carrier serving fewer than forty thousand access lines in the state; or (B) a radio communications service company providing wireless two-way voice communications service and broadband services to less than the equivalent of forty thousand access lines in the state. For purposes of determining the access line threshold in this subsection, the access lines or equivalents of all wireline affiliates must be counted as a single threshold, if the lines or equivalents are located in Washington;

(ii) The communications provider has adopted a plan to provide, enhance, or maintain broadband services in its service area; and

(iii) The communications provider meets any other requirements established by the commission pertaining to the provision of communications services, including basic telecommunications services; or

(b) The communications provider demonstrates to the commission that the communications provider is able to provide the same or comparable services at the same or similar service quality standards at a lower price; and: (i) Will provide communications services to all customers in the exchange or exchanges in which it will provide service; and (ii) submits to the commission's regulation of its service as if it were the incumbent local exchange company serving the exchange or exchanges for which it seeks distribution from the account.

(4) (a) Distributions to eligible communications providers are based on criteria established by the commission.

(b) If the program does not have sufficient funds to fully fund the distribution formula set out in (a) of this subsection, distributions must be reduced on a pro rata basis using the amounts calculated for that year's program support as the basis of the pro rata calculations.

(c) To receive a distribution under the program, an eligible communications provider must affirmatively consent to continue providing communications services to its customers under rates, terms, and conditions established by the commission pursuant to this chapter for the period covered by the distribution.

(5) The program is funded from amounts deposited by the legislature in the universal communications services account established in RCW 80.36.690. The commission must operate the program within amounts appropriated for this purpose and deposited in the account.

(6) The commission must periodically review the accounts and records of any communications provider that receives distributions under the program to ensure compliance with the program and monitor the providers' use of the funds.

(7) The commission must establish an advisory board, consisting of a reasonable balance of representatives from different types of stakeholders, including but not limited to communications providers and consumers, to advise the commission on any rules and policies governing the operation of the program.

(8) The program terminates on June 30, 2024, and no distributions may be made after that date.

(9) This section expires July 1, 2025. [2019 c 365 § 12; 2016 c 145 § 1; 2013 2nd sp.s. c 8 § 203.]

Effective date—2019 c 365 §§ 11-18 and 20: See note following RCW 80.36.630.

Findings—2019 c 365: See note following RCW 43.330.532.

Findings—Intent—2013 2nd sp.s. c 8: "(1) The legislature finds that:

(a) The benefit that all consumers and communications providers derive from connection to the legacy public telephone network is enhanced by a universal service program that enables as many consumers to be connected to the public network as possible; and

(b) Consumers in all areas of the state should continue to have access to communications services at reasonable rates.

(2) The state has long relied on incumbent local exchange carriers to provide a ubiquitous incumbent public network as carriers of last resort. Significant changes are occurring in the communications marketplace, including: (a) The migration from customer reliance on access lines for voice service to the use of broadband for a number of communications applications; and (b) changes in federal regulations governing: How communications providers compensate other providers for the use of the network; and eligibility for federal universal service funds. These changes are adversely affecting the ability of some communications providers to continue to offer communications services in rural areas of the state of Washington at rates that are comparable to those prevailing in urban areas. These changes, absent explicit federal and state universal service support for such communications providers, may lead, in the short term, to

unreasonable telephone service rate increases or cessation of service for some Washington consumers. Therefore, it is in the best interest of the state to ensure that incumbent local exchange carriers are able to continue to provide services as the carrier of last resort.

(3) As a result of the foregoing and to enable all consumers in Washington to access and benefit from a ubiquitous public network, the legislature intends to create a targeted and temporary universal service program that supports the legacy public telephone network of Washington's smaller incumbent communications providers and ensures access to the network during this transition to broadband services, is operated in a transparent manner pursuant to rules adopted by the utilities and transportation commission, and advances universal service in a manner not inconsistent with the requirements of 47 U.S.C. Sec. 254, the federal telecommunications act of 1996." [2013 2nd sp.s. c 8 § 201.]

Effective date—2013 2nd sp.s. c 8: "Sections 201 through 206, 208, 209, and 211 of this act take effect July 1, 2014." [2013 2nd sp.s. c 8 § 302.]

Utilities and transportation commission report—Rule making—2019 c 365—2013 2nd sp.s. c 8: "(1) By December 1, 2024, and in compliance with RCW 43.01.036, the Washington utilities and transportation commission may report to the appropriate committees of the legislature, on the following: (a) Whether funding levels for each small telecommunications company have been adequate to maintain reliable universal service; (b) the future impacts on small telecommunications companies from the elimination of funding under this act [chapter 8, Laws of 2013 2nd sp. sess.]; (c) the impacts on customer rates from the current level of funding and the future impacts when the funding terminates under this act [chapter 8, Laws of 2013 2nd sp. sess.]; and (d) the impacts on line and service delivery investments when the funding is terminated under this act [chapter 8, Laws of 2013 2nd sp. sess.]. The report may also include an analysis of the need for future program funding and recommendations on potential funding mechanisms to improve the availability of communications services, including broadband service, in unserved areas. Commission expenses related to conducting all analysis in preparation of this report must be expended from the universal communications services account.

(2) The Washington utilities and transportation commission must initiate a rule making to reform the state universal communications services program no later than ninety days following May 13, 2019. The rule making must address adding broadband as a supported service and, consistent with the size of the fund, establishing:

(a) Broadband provider eligibility;

(b) Service performance and buildout requirements for funding recipients;

(c) Support amounts for maintaining systems that meet federal or state broadband speed guidelines; and

(d) Methods to effectively and efficiently distribute program support to eligible providers." [2019 c 365 § 18; 2013 2nd sp.s. c 8 § 212.]