State Universal Communications Services Program Report

December 1, 2024

Dear Honorable Members of the Washington State Legislature:

In accordance with the proviso included in the 2024 regulator session Supplemental Operating Budget, the Utilities and Transportation Commission hereby submits its report on the State Universal Communications Services Program. While the telecommunications market continues to evolve, this program, along with many others, have helped connect Washingtonians gain access to telecommunication services and the Commission will continue to work with the Washington State Broadband Office to ensure that limited public resources are focused on where they are needed most.

If the legislature re-establishes the SUSF Program, the Commission is prepared to make sure that it is not duplicative to other state and federal programs. Although this program is relatively small, it has helped companies maintain and enhance broadband and voice services in rural high-cost areas and can be even more focused to help achieve key legislative priorities.

Please contact me at 360-664-1208 or UTC Legislative Director Jason Lewis at 360-664-1206 if you have any questions.

Sincerely,

Dave Danner, Chair

UTC
Washington Utilities
and Transportation
Commission

WASHINGTON'S UNIVERSAL COMMUNICATIONS SERVICES PROGRAM

Report to the Legislature

December 1, 2024

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I. Introduction

In the 2024 regular session, the Legislature included a proviso in the Supplemental Operating Budget, Engrossed Substitute Senate Bill 5950, directing the Utilities and Transportation Commission (UTC or Commission) to report to the Legislature with information and recommendations for updating the State Universal Communications Services Program (SUSF or Program), administered by the UTC.[1]

This report by the Commission provides an overview of the program, including how it has been utilized and audited and used to leverage federal funding. It discusses ways in which the program, if re-authorized, can work with the Washington State Broadband Office (WSBO) to ensure it remains additive, i.e., that it is not duplicative of WSBO's broadband goals. In addition, the report discusses other state and federal funding for broadband, how changes to the federal universal services fund could impact the provision of telecommunications services in Washington State, and the most efficient and cost-effective technologies available to meet the state's broadband goals in rural areas. Lastly, this report identifies important considerations when determining whether to continue the program and provides recommendations focused on ensuring Washingtonians have (or will have) affordable voice and broadband services and includes alternative funding options.

"Universal service" generally refers to government efforts to ensure all citizens have access to telephone service. With technological advancements and changing consumer demand, policymakers have shifted universal service efforts toward advancing universal broadband service to help promote digital equity by ensuring that all citizens have access to affordable broadband service and the equipment and the knowledge to use it.[2]

[1]Section 145 (8) of the current budget proviso requires the Commission to provide a report to the Legislature with information and recommendations for updating the statutes pertaining to the State USF.[1] The budget proviso provides:
(8)(a) $75,000 of the general fund—state appropriation for fiscal year 2025 is provided solely for the Commission to report to the legislature with information and recommendations for updating the statutes pertaining to the universal communications services program as described in chapter 80.36 RCW. The report must include: (i) How the program has been utilized and audited since fiscal year 2022; (ii) The most efficient and cost-effective technologies available to meet the state's broadband goals in rural areas; (iii) The ways in which this program can work with the Washington state broadband office to ensure that appropriations for this program are additive and not duplicative to the office's broadband goals and how new technologies would help meet those goals; (iv) The ways in which these dollars have been used to leverage federal funding; (v) A list of other sources of state and federal funding that are available to maintain and repair existing broadband infrastructure; (vi) How changes to the federal universal services fund could impact the provision of telecommunications services in Washington state; and (vii) Any additional relevant information regarding the benefits of continuing this program that would be helpful for future appropriation decisions. (b) The report is due to the appropriate committees of the legislature in accordance with RCW 43.01.036 by December 1, 2024.

[2] See RCW 43.330.534 (describing the Washington State Broadband Office's powers and duties).

The SUSF is one of many state and federal efforts aimed at ensuring universal telecommunications service. The SUSF was originally created in 2013 to help address the significant changes that were, and still 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 fund."[3] The Program began July 1, 2014, and ran for 10 years, ending June 30, 2024. Over that time, it distributed approximately $43 million in SUSF support consistent with state law.

In 2019, the Legislature extended the Program for an additional five years.[4] Since then, the Legislature, through the Commission, has provided $24.8 million in direct financial support to small, incumbent Class B telecommunications companies[5] that: (1) continue to offer voice services, (2) select one of the four Commission developed eligibility criteria, and (3) adopted a plan to provide, enhance, or maintain broadband services in high-cost rural areas of Washington. In extending the Program, the Legislature clarified the Program's goals to focus on advancing voice and broadband service, but still maintained that the funding as supplemental in nature, as nearly all the participants primary sources of financial support came from their general revenues and federal support.[6] The SUSF gave providers more flexibility in achieving the key objectives of providing, maintaining, and enhancing broadband services while continuing to offer voice services. This flexibility was instrumental in the program's success, as each provider's service area has its own unique challenges and as each provider's broadband deployment is at a different stage.

II. Utilization and Audit of the Program

As amended in 2019, RCW 80.36.650 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, recognizing that, historically, the incumbent public network functions to provide all communications services including, but not limited to, voice and broadband services.

[3] LAWS OF 2013, 2nd Special Session, ch. 8 § 201.
[4] LAWS OF 2019, ch. 365, §§ 11-18.
[5] See WAC 480-120-021, "Class B company" means a local exchange company with less than two percent of the access lines within the state of Washington. The method of determining whether a company is a Class B company is specified in WAC **480-120-034** (Classification of local exchange companies as Class A or Class B).
[6] The companies participating in the SUSF are detailed in **Attachment 1.** Consolidated Communications of Washington LLC is the only participating company that does not receive federal high-cost support.

The UTC revised its rules implementing the program in May 2020.[7] At the time, the legislation that extended the SUSF defined broadband as an internet service with speeds of at least 25 megabits per second download and three megabits per second upload (25/3 Mbps), consistent with Federal Communications Commission (FCC) rules and the WSBO goal of 25/3 Mbps to all businesses and residences by 2024. Each of the criteria the Commission established for receiving SUSF support used this benchmark.

The Program allocated an annual distribution of funds, capped at $5 million annually,[8] to communication providers that met the prerequisites and petitioned the Commission for program participation in accordance with RCW 80.36.650(3), and elaborated on in WAC 480-123-110. The rule requires providers to file with their petitions an unsworn statement from a company officer certifying that it would meet one of four eligibility criteria and requires the provider to commit to continue to provide the supported services, telecommunications, and broadband, throughout the duration of the program.[9]

The criteria are as follows:

- Eligibility Criterion One providers are subject to a rate of return review and a broadband buildout obligation that is half of that of Criterion Two companies. The Commission has never received a petition for funds under this criterion.

- Eligibility Criterion Two requires providers to commit to the deployment of broadband in their service area. The number of locations to which a provider must deploy broadband is its UTC Deployment Obligation and is based on each provider's forward-looking estimated cost benchmark and the amount of anticipated support each provider was potentially eligible to receive through June 30, 2024.[10] This obligation is in addition to any FCC high-cost deployment obligation as described below.

  The FCC's Connect America Fund consists of Phase II, Broadband Loop Support, the Alternative Connect America Cost Model (and its successive iterations). Consolidated Communications of Washington, LLC received Phase II support; however, this support is now exhausted. The following programs ensued:
  - ❖ The FCC first offered post-Phase II support through an explicit support mechanism called Interstate Common Line Support.
  - ❖ The FCC reformed this program and established the Broadband Loop Support (BLS) which helps carriers recover the difference between loops costs associated with providing voice and broadband service and consumer loop revenues. This program

[7] See Docket UT-190437, General Order R-598.
[8] RCW 80.36.650(2) allows funds to be carried over if less than $5 million is expended previously. In 2020, approximately $6.1 million was expended to the SUSF companies.
[9] WAC 480-123-020 defines the term "unsworn statement" to mean "a statement made under penalty of perjury, as set forth in RCW 5.50.050."
[10] CostQuest Associates created the cost model used by the FCC in the Connect America Fund program and the information was published in the following public notices. See FCC, Wireline Competition Bureau Announces Posting of Information Regarding Revised Deployment Obligations for Incumbent Rate-of-Return Carriers, Public Notice, DA-19-37334 FCC Rcd. 2871 (May 2, 2019), *available at* https://docs.fcc.gov/public/attachments/DA-19-373A1.pdf and https://apps.fcc.gov/edocs_public/attachmatch/DA-16-1141A1.pdf.

requires providers to deploy 25/3 Mbps service to a fixed number of locations by December 31, 2024.[11]

- ❖ The FCC then created a voluntary support program called the Alternative Connect America Cost Model which is a forward-looking program with enforceable broadband deployment obligations based on the estimated cost to deploy and maintain broadband service to unserved locations.[12] Several iterations have ensued, and the most recent is the Enhanced Alternative Connect America Cost Model (E-ACAM), which requires participants to deploy 100/20 Mbps service to 100 percent of the locations within their study area by December 31, 2028.[13] Companies receiving E-ACAM must offer both voice and broadband services. Accordingly, they may still face income shortfalls and a rate of return analysis on both a regulated and non-regulated basis if voice and broadband are supported services.[14]

- Eligibility Criterion Three requires providers to certify that they have already met their respective total FCC high-cost deployment obligations and their UTC Deployment Obligations. Although these providers have already met their deployment obligations, many still continue to have unserved and underserved locations within their service area and must also maintain their existing network(s).

- Eligibility Criterion Four requires providers, at the time of its petition, to certify that broadband service is available to 100 percent of locations within their service area and that the provider commits to making broadband service available to any new locations. Providers petitioning under this criterion have already invested in the deployment of broadband and are now focused on enhancing and maintaining their network.

Each petition was required to include a broadband plan that detailed how the company intended to provide, maintain, or enhance broadband services in its service area. The broadband plan was to be developed with the providers' eligibility criteria in mind. Providers petitioning under criteria two primarily focused their broadband plans on broadband buildout to meet their UTC deployment obligations, while providers petitioning under criterion three or four typically focused their broadband plans on enhancing and maintaining their current infrastructures. However, each year, nearly every broadband plan submitted contained information about how it would provide, maintain, and enhance broadband services.

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[11] In re Connect America Fund, 31 FCC Rcd. 3087 (Mar. 30, 2016), available at https://www.fcc.gov/document/fcc-reforms-high-cost-program-rate-return-carriers.

[12] Information about each of the ACAM iterations can be found on the FCC's website. FCC, Rate-of-Return Resources, *available at* https://www.fcc.gov/general/rate-return-resources (last visited Nov. 12, 2024).

[13] In re Connect America Fund, 38 FCC Rcd. 7821, 7823 (Aug. 23, 2023), *available at* https://www.fcc.gov/document/wcb-adopts-procedures-implement-enhanced-cam.

[14] States are pre-empted from rate regulation of internet however, if extended, this is a voluntary program and the Washington Legislature can establish eligibility requirements.

As a requirement, participating companies filed Use of Funds Compliance Reports (use of funds reports) with the UTC regarding the use of the SUSF and provided details about how SUSF funds contribute to their ability to maintain and enhance supported services. [15]These reports illustrated the flexibility of the program as companies used support to help leverage federal funding by considering SUSF support as a financial match, pay off U.S. Department of Agriculture's Rural Utilities Service (RUS) loans used to previously deploy broadband infrastructure, contribute to capital projects to expand and improve supported services (FCC and UTC Deployment Obligation),[16] and to help cover voice and broadband operating costs, such as materials, supplies, and labor. To distribute Program support, the Commission prepared memoranda for the last three years, these are included as Attachment 1 to this report, and summarizes each provider's report. Overall, SUSF recipients with a UTC Deployment Obligation deployed 25/3 Mbps or faster service to more than 2,956 locations over the last four years. These deployments are in addition to buildout completed under each company's federal high-cost broadband buildout obligations.

The Commission also used the use of funds reports to audit the company's compliance with the Program. The Commission compared each provider's use of funds report to its most recently approved broadband plan to evaluate each service provider's progress relative to its previous broadband plan on a year-over-year and absolute basis.

In conjunction with the SUSF use of funds reports, providers receiving support from any of the FCC's high-cost programs (as discussed on page six) are also required to submit to the UTC their annual Eligible Telecommunication Carrier (ETC) recertification requests and reports.[17] When doing so, service providers must provide the Commission with the company's gross capital expenditures and operating expenses made with the federal high-cost support received in the preceding calendar year. The Commission confirms that each provider's regulated capital and operating expenses exceeded the amount of federal high-cost support and SUSF support it receives each year.

Each provider that received program support must submit its Broadband Data Collection (BDC) broadband availability data and its BDC voice and broadband subscribership data semi-annually, in March and September. The March submittal contains data as of December 31 of the previous year, while September's submittal contains data as of June 30 of the current year. The Commission used this information to continuously track each company's buildout and subscribership and then used this data to validate reported broadband availability data.

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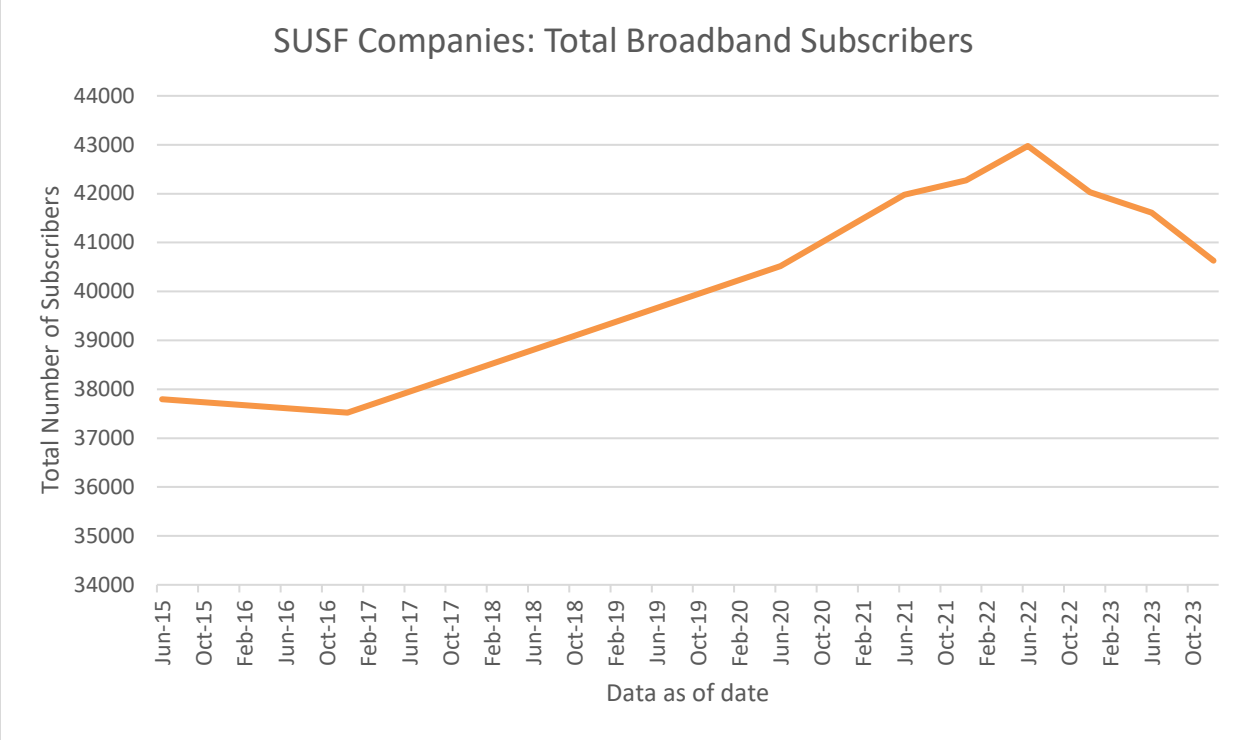
[15] Use of Funds Compliance Reports requirements can be found in WAC 480-123-130. Additionally, the commission entered Order R-598 to, among other things, require companies receiving support from the SUSF Program companies to file their broadband availability data once it became a federal requirement. Companies began filing this information with the commission for data as of June 30, 2022.

[16] Providers must certify that they have continued to meet their FCC and UTC Deployment Obligation under WAC 480-123-130(f) and WAC 480-123-120(5).

[17] 47 C.F.R. § 54.314) requires states to provide an annual certification for carriers receiving federal high-cost support. WAC 480-123-060 through -080 include requirements that companies must meet in order to receive the recertification.

In addition to the requirements above, providers that selected eligibility criterion two were required to provide coordinates of all reported locations used to meet their UTC Deployment Obligation.[18] Similarly, federal high-cost programs require providers to provide coordinates of all locations used to meet their federal high-cost broadband deployment obligations.[19] The Commission compares these two datasets to validate that companies did not report a location for more than one program's deployment obligation. SUSF deployment locations were then spatially overlaid (using geographic information software) with companies' broadband availability data as another separate verification that the information accurately reflected a company's network. SUSF criterion two deployment information is shown in Attachment 2. The Commission notes that while understanding availability is important, a company only receives end-user revenue when a location subscribes to the service.

The telecommunications industry continues to undergo a technology transition. Overall, voice subscribership for companies participating in the Program has continually decreased over the past 10 years. On the other hand, internet subscribership increased by 10 percent from June 30, 2015, to June 30, 2023, with peak subscribership on June 30, 2022. This equates to an average 1.2 percent growth rate each year. However, the data also indicate that internet subscribership for companies participating in the Program has started to decline. Broadband subscribership data from June 30, 2022, to December 31, 2023, shows a decline of approximately 5.5 percent.[20]



[18] WAC 480-123-130(1)(c).
[19] Data is filed with the Universal Service Administrative Co. (USAC) by accessing the HUBB Portal. USAC, Submit Data in the HUBB, *available at* https://www.usac.org/high-cost/annual-requirements/submit-data-in-the-hubb/ (last visited Nov. 12, 2024). USAC publishes this data on its Connect America Fund Map. USAC, Connect America Fund Broadband Map, *available at* https://data.usac.org/publicreports/caf-map/ (last visited Nov. 12, 2024).
[20] Data was modified to exclude years with missing data in order to calculate overall trends.

Broadband availability data tells a slightly different story. The Commission collected and analyzed the BDC broadband availability data filed by each company between December 31, 2022, and December 31, 2023 (three reporting periods). As shown in the table below, over this one-year period, the proportion of Broadband Serviceable Locations (BSLs) in the SUSF providers' service areas in which the companies did not report availability fell from 18.81 percent to 12.15 percent.[21] Similarly, the percentage of BSLs with reported speeds below 25/3 Mbps decreased by 4.82 percent. During the same period, the percentage of total BSLs with reported availability of speeds greater than 25/3 Mbps increased by 11.47 percent. This shows that not only have SUSF providers increased the availability of broadband, but they have also been enhancing the services they offer.

Data as of date	Not Reported	Speed less than 25/3 Mbps	Speed between 25/3-100/20 Mbps	Speed between 100/20-150/150 Mbps	Speed greater than 150/150 Mbps	Total Percentage
31-Dec-22	18.81%	33.37%	25.43%	5.17%	17.22%	100.00%
30-Jun-23	12.64%	28.53%	27.35%	9.10%	22.38%	100.00%
31-Dec-23	12.15%	28.56%	28.26%	9.11%	21.92%	100.00%

III. Most Efficient and Cost-Effective Technologies Available

To identify the most efficient and cost-effective technologies available to meet Washington state's broadband goals in rural areas, the Commission sought the assistance of Introba Inc. Introba, Inc. developed the Broadband Connectivity Technical Analysis (BCTA) (set forth in Attachment 3). The BCTA is a detailed analysis of the various cost components of the technologies used for broadband service and an overview of the capabilities and limitations of each technology.

The BCTA shows that while some components of the overarching network are best served by one technology (fiber), other components vary depending on a number of factors. The main components to consider in the deployment of broadband in rural areas are the "Middle Mile" and "Last Mile." The Middle Mile refers to the segment of the network that links a network operator's core network to its central office. The Last Mile refers to the local links that provide service to the retail customer or end user.

For the Middle Mile component, the analysis clearly shows that fiber is the most efficient and cost-effective technology considering the potential bandwidth constraints of point-to-point radio towers.

[21] The FCC defines a Broadband Serviceable Location as "a business or residential location in the United States at which mass-market fixed broadband Internet access service is, or can be, installed." Federal Communications Commission, About the Fabric: What a Broadband Serviceable Location (BSL) Is and Is Not, *available at* https://help.bdc.fcc.gov/hc/en-us/articles/16842264428059-About-the-Fabric-What-a-Broadband-Serviceable-Location-BSL-Is-and-Is-Not (last visited November 12, 2024).

For the Last Mile component, the most efficient and cost-effective technology depends on the desired download and upload speed, the level of acceptable cost for deployment, the cost of operations and maintenance of the technology, and how quickly the network can be deployed. The table below illustrates that for 150/150 Mbps internet speeds, fiber is the preferred technology considering its useful life; however, its upfront deployment cost is also more significant. Alternatively, fixed wireless technology is capable of 100/20 Mbps and some suppliers advertise speeds capable of up to 1 Gigabit per second (Gbps). The initial deployment costs are significantly lower than fiber but have a much shorter useful life, thus increasing the cost to maintain the network. However, a benefit of this shorter useful life is that there will be more frequent opportunities to replace and improve infrastructure with more technologically advanced equipment. Wifi is another useful alternative as this technology does not require installation at the building and many individuals understand how to access and use this technology. The BCTA identifies additional considerations of this technology.

Local Loop Connectivity Options Summary Comparison

	Download Speed	Upload Speed	Local Loop Latency	Lifespan	Cost to Install (Construction)	Potential ROI for New
Copper (DSL)	1 – 100 Mbps	1 – 20 Mbps	15 – 40 ms	10 to 15 years	$0 from ILEC; NA from others	Very Low
Fiber	25 Mbps – 10G	25 Mbps – 10G	10 – 12 ms	30 – 40+ years	$600 to $25K (distance impact)	Moderate
FWA	50 – 250 Mbps	10 – 25 Mbps	10 – 15 ms	4 to 7 years	$300 to $600 per household	Moderate
WiFi (6E) WiFi (7)	6 Mbps – 1G 10 Mbps – 30G	6 Mbps – 1G 10 Mbps – 30G	5 – 10 ms 5 – 10 ms	4 to 5 years 5 to 7 years	$200 to $500 per household	Good
Cable (Coax)	25 – 300 Mbps	10 – 50 Mbps	12 – 30 ms	8 to 12 years	$500 to $20K (distance impact)	Moderate, but dropping
Hybrid Fiber Coax (HFC)	100 Mbps – 1G	25 Mbps – 1G	12 – 30 ms	10 to 20 years	$500 to $20K (distance impact)	Moderate
Satellite	5 – 220 Mbps	3 – 30 Mbps	30 – 300 ms	5 to 10 years	$600 - $2,500 per household	Low

Depending on available funding and short-term and long-term speed goals, each of these technologies is a reasonable approach for broadband deployment and the UTC will work with the WSBO to ensure a consistent approach to advancing universal service in consideration of limited financial resources.

IV. Working with other Federal and State programs

a. Working with the Washington State Broadband Office

The Washington Legislature declared that:

> "It is a goal of the state of Washington that:
> (1) By 2024, all Washington businesses and residences have access to high-speed broadband that provides minimum download speeds of at least twenty-five megabits per second and minimum upload speeds of at least three megabits per second;
> (2) By 2026, all Washington communities have access to at least one gigabit per second symmetrical broadband service at anchor institutions like schools, hospitals, libraries, and government buildings; and
> (3) By 2028, all Washington businesses and residences have access to at least one provider of broadband with download speeds of at least one hundred fifty megabits per second and upload speeds of at least one hundred fifty megabits per second."[22]

Since its inception, the UTC has worked to ensure that the SUSF is additive and not duplicative, and the UTC commits to ensuring that limited financial resources are directed in a responsible and focused approach to achieve the state broadband goals set out in RCW 43.330.536. This approach requires good data, geographic information software, and analysis to have a clear understanding of areas that have broadband, those that plan to have broadband, and ultimately those that do not have broadband. Knowing what is in place and what will be in place is key to prioritizing where and how limited state resources are allocated to ensure Washingtonians have access to the internet speeds they need.

Different speed benchmarks make this challenging. The current WSBO goal for 2024 is 25/3 Mbps for businesses and residences, as mentioned above. However, both the state and the FCC have recently re-defined broadband as having speeds capable of 100/20 Mbps. Ultimately, the WSBO goal for 2028 is 150/150 Mbps.[23] As discussed previously, different technologies are capable of different speeds and ongoing communication with WSBO about what is adequate is critical to ensure that limited funds are directed to where they are needed most.

There are several significant challenges to enabling the most efficient and effective use of such funds. The greatest challenge is that despite the widespread availability of different funding sources for infrastructure design and implementation, including both grants and loans, there are far fewer funds available for the support of ongoing and essential operations and maintenance. Designing, planning and building a network is one thing, but keeping that network running is another.

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[22] *See* RCW 43.330.536.
[23] The UTC understands that the WSBO has requested legislation to revise this to 1 Gbps or more.

Digital literacy is another serious challenge to the successful deployment and service of broadband. The lack of consumer devices or an understanding of device operation and functionality creates a significant barrier to successful deployment and ongoing service, irrespective of the underlying technology. Without addressing and satisfying the issues raised regarding consumer equipment, device availability, and knowledge about device operation, internet access simply is not all that useful. As such, it is imperative that funding from multiple sources be available to pay for both end-user device(s) and training.

b. Other sources of state and federal funding

In addition to the traditional sources of funding that existing companies are using, the National Telecommunications and Information Administration (NTIA) created rules for the Broadband Equity, Access, and Deployment (BEAD) funding program that will direct approximately $1.23 billion to Washington state to enable broadband services to be delivered to those in unserved and underserved areas. BEAD defines unserved locations as those lacking a minimum speed of 25/3 megabits per second for data download and upload and underserved locations as those below 100/20 Mbps.[24] While there are many programs for the Last Mile, NTIA has created the Enabling Middle Mile Broadband Infrastructure Program, of which Whidbey Telephone company is the only State USF recipient.[25]

WSBO, in consultation with the Commission, developed the Washington State BEAD Five-Year Action Plan, which contains a list of state and federal broadband funding sources.[26] This list of programs can be found in Table 1 of the 5-Year Action Plan, included as Attachment 4 to this report. More recently, the FCC offered an Enhanced Alternative Connect America Cost Model support to all participating SUSF Program Companies, except for Consolidated Communication of Washington LLC, which does not receive federal high-cost support. This revised program required companies to deploy 100/20 Mbps or faster to one hundred percent of the locations within their service areas by December 31, 2028.[27]

Other possible funding sources are the funds that have been allocated for alternative energy projects which could potentially power equipment needed to receive signals, be they digital subscriber lines (DSL), fiber, or others. This would include primarily solar or potentially wind sources to support programs deemed essential in the pursuit of successful deployment and operation.

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[24] The NTIA's website offers significant information on the BEAD program. NTIA, Broadband Equity, Access, and Deployment Program, available at https://www.ntia.gov/funding-programs/internet-all/broadband-equity-access-and-deployment-bead-program (last visited Nov. 12, 2024).

[25] Whidbey Telephone company has been awarded $11,782,208.20 towards a total Middle Mile funding project cost of $16,831,726.00. NTIA, Whidbey Telephone Company, available at https://www.ntia.gov/funding-programs/internet-all/enabling-middle-mile-broadband-infrastructure-program/funding-recipients/point-roberts-middle-mile-infrastructure-project (last visited Nov. 12, 2024).

[26] Washington State Department of Commerce, Washington State BEAD Five-Year Action Plan (Final), *available at* https://deptofcommerce.app.box.com/s/yr03ll1kw1rpd7x4w4wk0z5g6gdah90n (last visited Oct. 4, 2024).

[27] Additional information about this program can be accessed on the USAC's website. USAC, Enhanced ACAM, *available at* https://www.usac.org/high-cost/funds/enhanced-acam/ (last visited Nov. 12, 2024).

Federal funding sources for ongoing maintenance and/or support	
Fund Name	Description
FCC Connect America Fund	Phase II – Auction 903 FCC program that uses competitive bidding to allocate up to $1.98 billion over 10 years to typically larger telephone providers for voice and broadband service at or above specific performance levels in high-cost areas.
ReConnect Broadband Program	A rural development investment to deploy a fiber-to-the-premises network to connect 4,300 people, 61 businesses, and 21 farms to high-speed internet in rural Cowlitz County. Kalama Telephone Company will make high-speed internet affordable by participating in the FCC's Affordable Connectivity and Lifeline programs.
USDA Community Connect Grants	A program that provides financial assistance to eligible applicants that will provide and offers broadband service in rural, economically challenged communities where service does not currently exist.
ReConnect Broadband Program	A Rural Development Investment to provide Mason County Public Utility District No. 3 with the opportunity to use funding to provide necessary broadband services to the Three Fingers community in Grapeview, WA.
Distance Learning and Telemedicine Grants	A program that uses competitive grants to help rural communities use advanced telecommunications technology to connect to each other.
Broadband Loop Support	A program that provides support for voice and broadband service, including stand-alone broadband. The fund helps carriers recover the difference between loop costs associated with providing voice and/or broadband service and consumer loop revenues.
Digital Equity Act Programs	Provides $2.75 billion to establish three grant programs that promote digital equity and inclusion. They aim to ensure that all people and communities have the skills, technology, and capacity needed to reap the full benefits of our digital economy.
Digital Equity Competitive Grant Program	This is the first funding opportunity from the $1.25 billion Digital Equity Competitive Grant Program, the third of the three Digital Equity Act programs. The Digital Equity Act provides $2.75 billion to establish three grant programs that promote digital equity and inclusion.
Emergency Connectivity Program	Funded by the American Rescue Plan Act, this program provides $7.171 billion to support internet services and connected devices for students, school staff, and library patrons in communities across the country.
State Digital Equity Capacity Grant Program	A $1.44 billion to help create conditions where individuals have the information technology to participate in society, the economy, and with civic institutions of the United States. Broadband connections expand access to health care and essential services, education, and jobs.
Telecommunications Infrastructure Loan Program	A $690 million program that provides low-interest loans to construct, maintain, improve, and expand telephone and broadband services in rural areas.

State funding sources for ongoing operations and maintenance	
OSPI Digital Equity and Inclusion Grant	A State program providing grants to schools or school districts to help close opportunity gaps related to educational technology by attaining a 1:1 student to learning device ratio, expanding technical support and training for educators, and developing district or school-based capacity to assist families and students.

V. Federal Universal Service Fund: Potential Changes and Impact.

The telecommunication landscape continues to change in Washington state and the nation. The most recent FCC Voice Telephone Services Report shows that nationally, from June 2021 through June 2022, only mobile service and voice over internet protocol (VoIP) service provided by competitive local exchange companies grew in subscribership. [28] Switched access services and VoIP services provided by incumbent local exchange carriers (ILECs) all had a decline in subscribership.[29] Overall, the report shows that mobile subscribers grew by 2.65 percent and VoIP grew by 1.37 percent, while switched access lines declined by 16.21 percent. Participating SUSF providers continue to experience declining voice subscribership, which places greater importance on the direct support received from the FCC.

In November 2011, the FCC revised the way revenue is provided to companies for universal service, implementing an explicit support mechanism. The FCC also reduced the amounts that Incumbent Local Exchange Companies (ILEC) receive for delivering phone calls and capped the amount of income and support from delivering these calls.[30] It created this structure to transition to a bill-and-keep process that relies on competition throughout the telecommunications network.

The explicit support mechanism is the Connect America Fund program, which focuses on promoting universal service to high-cost areas of the country.[31] The FCC also administers Lifeline, which assists low-income individuals in affording voice and/or internet service. To participate in these programs, the Commission must designate a company as an ETC. The designation process includes the identification of the area where a company must offer supported services. High-cost support recipients are required to offer both voice and broadband services throughout their study area[32] at rates no higher than the FCC reasonable comparability benchmark (currently set at $55.13 per month).[33] With these programs in place, broadband-

[28] The most recent report includes data from June 2021 - June 2022 and can be accessed on the FCC's website. FCC, *Voice Telephone Services Report*, available at https://www.fcc.gov/voice-telephone-services-report (last visited Nov. 12, 2024).
[29] Staff used the State-Level Subscriptions (Excel) provided by the FCC. FCC, *Voice Telephone Services Report*, available at https://www.fcc.gov/voice-telephone-services-report (last visited Nov. 12, 2024).
[30] *In re Connect America Fund*, 26 FCC Rcd. 17663 (2011).
[31] FCC, Connect America Fund, *available at* https://www.fcc.gov/general/connect-america-fund-caf (last visited Nov. 12, 2024).
[32] A "study area" is the geographic area served by an incumbent local exchange carrier (LEC) within a state and consists of one or more exchanges. See 47 C.F.R. § 69.703(e).
[33] *Connect America Fund*, 26 FCC Rcd. At 17751-52.

capable networks are being deployed; however, there remain unserved and underserved areas within the state of Washington.

The legality of the federal Universal Service Fund (USF), which is administered by the Universal Service Administrative Company (USAC), is before the U.S. Supreme Court. While two U.S. Courts of Appeals have upheld its validity,[34] the Fifth Circuit determined that the USF was a tax collected and managed by a private corporation (the USAC), and that a private entity does not have the authority to collect such a tax.[35] It is unclear how the change in federal administrations will affect the USF and BEAD support, regardless of the outcome of the legal challenge currently in the Supreme Court.

The USF support is used for the high-cost support programs that have been discussed. The funding start date for these programs, as well as their interim and final broadband buildout obligations are shown within the timeline below.

Federal High-Cost Support Start and Interim and Final Deployment Obligations												
Funding Support	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**
CAF-II	40%	60%	80%	100%	N/A	N/A	N/A	N/A	N/A	N/A		
CAF-ACAM 10/	Start	N/A	n/a	40%	50%	60%	70%	80%	90%	100%		
CAF-ACAM 25/3			Start			40%	50%	60%	70%	80%	90%	100%
CAF-ACAMII			Start			40%	50%	60%	70%	80%	90%	100%
CAF-BLS	n/a	N/A	Start	N/A	N/A	N/A	N/A	100%*	TBD	TBD	TBD	TBD
E-ACAM							Start			50%	75%	100%*
* This program requires 100% of locations to be served. 100% for other programs is 100% of deployment obligation, not all locations.												

All SUSF participating companies (except for Consolidated) have the opportunity to participate in the E-ACAM. However, only the following eight companies accepted support through the E-ACAM:

- Pioneer Telephone Company
- Lewis River Telephone Company, Inc.
- Asotin Telephone Company
- McDaniel Telephone Co.
- Inland Telephone Company
- St. John Telephone, Inc.
- Western Wahkiakum County Telephone Company
- Westgate Communications LLC[36]

[34] *Consumers' Research v. FCC*, 88 F.4th 917 (11th Cir. 2023); *Consumers' Research v. FCC*, 67 F.4th 773 (6th Cir. 2023).
[35] Consumer's Research v. FCC, 109 F.4th 743 (5th Cir. 2024), *available at* https://www.ca5.uscourts.gov/opinions/pub/22/22-60008-CV2.pdf (last visited Nov. 12, 2024)/
[36] In Public Notice DA 23-1025, WC Docket. No. 10-90, Released on October 30, 2023, The FCC Wireline Competition Bureau authorized the Universal Service Administrative Company to disburse support over a 15-year term to companies that elected E-ACAM support. FCC, Wireline Competition Bureau Authorizes 368 Companies in 44 States to Receive Enhanced Alternative Connect America Cost Model Support to Expand Rural Broadband, WC Docket No. 10-30, Public Notice, DA-23-1025, 38 FCC Rcd. 10304 (Oct. 30, 2023), *available at* https://www.fcc.gov/document/enhanced-cam-authorization-report (last visited Nov. 12, 2024).

Ten companies declined this support and continue to receive Broadband Loop Support, which does not currently require an enforceable broadband commitment beyond the year 2024 and includes a budget control mechanism that will potentially reduce the amount of available support.[37] Locations that do not have an enforceable broadband commitment are eligible for BEAD funding.[38] The companies listed below have unserved or underserved locations within their study areas and BEAD support may go towards these areas if the incumbent, or a competitor, is awarded BEAD funding.[39]

- Consolidated Communications of Washington Company, LLC
- Kalama Telephone Company
- Mashell Telecom, Inc.
- Pend Oreille Telephone Company
- Skyline Telecom, Inc.
- Tenino Telephone Company
- The Toledo Telephone Co., Inc.
- Whidbey Telephone Company

The UTC applies this knowledge, along with GIS software to ensure that any SUSF support is additive by working with the WSBO to ensure compliance with the Legislature's policies. This includes (1) working to ensure that individuals and businesses continue to have access to quality voice services at their homes and businesses while new infrastructure capable of 100/20 Mbps or faster is deployed (regardless of alternative funding), (2) determining whether SUSF support can be used to help a 100/20 Mbps offering reach the WSBO goal of 150 Mbps symmetrical broadband service, and (3) targeting specific areas without an enforceable broadband buildout obligation. Different technologies are currently capable of different speeds, and depending on the funds available, some may be more appropriate than others to address cost and density deployment challenges. Prioritizing limited funding to help the greatest number of Washingtonians is a component of awarding BEAD funding and should be a consideration for awarding any SUSF funds in the future.

Alternative federal funding sources may impact the amount of federal high-cost support available to participating companies. Reduction or elimination of support may result in cessation of voice services, price increases, or a reduction in capital expenditures to enhance service offerings. The FCC's Connect America Funds Programs (BLS, ACAM, E-ACAM, RDOF[40]), as well as Lifeline, rely on contributions to the FCC made by traditional wireline providers. The table below shows the total 2023 high-cost support[41] that was distributed to SUSF providers in Washington state.

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[37] Additional information about this program can be accessed on the USAC's website. USAC, CAF Broadband Loop Support, available at https://www.usac.org/high-cost/funds/caf-broadband-loop-support (last visited Nov. 12, 2024).
[38] Bead Funding is not guaranteed until contracts between the providers and the WSBO have been signed.
[39] Hood Canal, Inland, and Lewis River each contain two or fewer broadband serviceable locations eligible for BEAD funding.
[40] RDOF is the Rural Digital Opportunity Fund. This is an important funding source that is brining broadband to locations in Washington. However, support was not available within areas served by Class B companies. More information about this funding source can be found at: https://www.fcc.gov/auction/904
[41] Downloaded from USAC's open data website at: https://opendata.usac.org/stories/s/CAF-disbursements-and-locations-search/nzbc-zgrs

Fund Type	2023 High-Cost Disbursements	
ACAM	$	4,743,957
ACAM II	$	1,407,247
CAF-BLS	$	21,863,505
Grand Total	$	28,014,709

As mentioned previously, the Fifth Circuit Court of Appeals declared how the funds designated for the Universal Service Fund (USF) are collected is unconstitutional. If the Supreme Court affirms the 5th Circuit, it is possible that the funding on which these companies rely could be changed, reduced, or eliminated. Additionally, eligibility for the Lifeline program is determined by the FCC and is based on national income levels.

With uncertainty at the national level, there is a role for the Legislature to ensure that affordable voice and broadband services are maintained, enhanced, and provided throughout the state so that all Washingtonians are able to fully participate in the digital economy.

VI. Continuation of the program

a. Benefits of the SUSF Program

Although the focus nationally and statewide has shifted to broadband services, universal telephone service remains a key component of the State USF. The program provides additional benefits regarding emergency response, particularly 911 access, to all citizens. Migration to Next Generation 9-1-1 is in process. In June 2024, the FCC released a report requiring all voice technologies to transition to Next Generation 911, which uses Internet Protocol-based format and routing and will support text, photos, videos, and data.[42] However, programs that do not require companies to offer a voice service may still fall short of universal 9-1-1 access. The State USF program brings the additional benefit of requiring voice service and is used to ensure that all Washingtonians within a provider's service area have voice service, regardless of the technology used. In addition to receiving voice and broadband subscribership data, the Commission also received broadband availability data to accurately understand the deployment landscape within the SUSF provider's service areas.

The ability to help SUSF companies with their BDC Broadband Availability Data was another direct benefit of the SUSF Program. Approximately every six months, the FCC updates its National Broadband Map with the most recent BDC broadband availability data. Accordingly, the broadband availability data improves with each reporting cycle as providers become more familiar with the filing process and what information is required. Accuracy is further enhanced as

[42] In re Facilitating Implementation of Next Generation 911 Services (NG911) Location-Based Routing for Wireless 911 Calls, PS Docket Nos. 21-479, 18-64, Report & Order (July 19, 2024), *available at* https://docs.fcc.gov/public/attachments/FCC-24-78A1.pdf (last visited Nov. 12, 2024).

companies continue to invest the necessary resources to meet federal performance standards and accurately portray their network footprint at a granular level not previously possible. As a result, participating companies identified BSLs that were erroneously reported and indicated that they planned to challenge structures that were incorrectly included, as well as add those that were not included. Understanding internet availability will be a key requirement for identifying the most efficient and cost-effective technologies for individual locations.

b. Program Recommendations

The State USF Program is a suitable approach for facility deployment, network maintenance, digital literacy, and affordable services, as these issues are at the very core of universal service and digital equity. Although the BEAD program has similar goals of ensuring universal access that is affordable and reliable, its focus is on broadband and does not include voice service.[43] Additionally, the goals of the BEAD program include equitable economic development that is scalable and sustainable. This implies that the BEAD program will need to remain centered on broadband deployment to unserved and underserved locations while the State USF program can focus on areas that are not included in BEAD funding due to a lack of applications and can also help promote public safety, digital literacy, and access to affordable services.

This report's recommendations focus on ways that the program can continue to be beneficial to Washingtonians by ensuring that they have (or will have) affordable voice and broadband services, know how to use them, and have access to end-user devices.[44]

Previously, to be considered eligible to receive program support, participating companies were required to offer voice services, select eligibility criteria consistent with the program rules, and have a plan to provide, enhance, or maintain broadband services in high-cost rural areas of Washington. It is important to note that if the program were to continue, the program should narrowly and clearly define the appropriate use of funds to ensure that it remains complementary to federal support. With the various federal high-cost support funds and the newly established BEAD program currently underway, re-assessing and realigning the current eligibility criteria with the specific purpose of the State USF in a manner of creating a more granular fund could potentially fill in the gaps. Looking ahead, there are some alternative ways in which funds could be directed to more specific uses that could improve the efficiency of the Program.

[43] Goals for the BEAD program can be found in the "Washington State BEAD Five-Year Action Plan" on the Department of Commerce's website. See Dep't of Commerce, Internet for All Initiative, *available at* https://www.commerce.wa.gov/wsbo/internet-for-all/ (last visited Nov. 12, 2024).

[44] The Commission neither supports nor opposes any of the recommendations presented in this section.

1. Fund for Policy Objectives

A portion of the fund could be dedicated to promoting digital equity through key policy objectives. By focusing on specific policy objectives, the Program can be useful even if an area is already receiving federal forms of rural high-cost support. Policy objectives such as digital literacy, affordability, and increasing competition would give the program the flexibility to fill in potential gaps missed by federal high-cost support.

For example, as discussed in the additional benefits section, telephony service is not a requirement for BEAD funding. Although the Commission has full confidence that the BEAD program will make great strides in bridging the digital divide, there is no guarantee that the BEAD recipients will offer voice service. By focusing the program on policy objectives, a portion of the fund could be dedicated to affordability by offering a subsidy for telephone or internet service to qualifying low-income customers.[45] Additionally (or alternatively) a portion of the fund could go to promoting digital literacy by requiring participants to provide digital education assistance.

2. Fund for the Network

Another portion of the fund could provide assistance to qualified companies for repair, maintenance, or enhancements of their network. With most high-cost support being centered around broadband deployment, creating a fund that aids in maintaining and upgrading the existing network is another way to ensure the fund remains additive. For a "maintenance" fund, demonstrated financial need could be a requirement for support.

Careful consideration should be given for the appropriate use of funds for this category. For example:

- Repairs, maintenance, or enhancements that are prudent operational expenses and are not for duplicative purposes.
- The equipment being used will maintain or enhance Washington States digital security, emergency network, and network adaptability.

3. Fund for Deployment in areas not receiving high-cost support

Another potential portion of the fund could offer support for broadband deployment in areas that are not receiving high-cost support with an enforceable commitment to deploy broadband at or above 100 Mbps download and 20 Mbps upload (100/20 Mbps). This would at a minimum exclude areas that receive E-ACAM support and areas that receive BEAD support. Even though the State's 2028 broadband goal is set at 150/150 Mbps, this threshold will allow both E-ACAM

[45] To participate in Lifeline, a household must have an income of 135 percent or less than the Federal Poverty Guidelines or otherwise participate in an eligible federal or tribal assistance program. With a state program, eligibility thresholds would be more or less restrictive than the federal program. FCC, Lifeline Program for Low-Income Consumers, *available at* https://www.fcc.gov/general/lifeline-program-low-income-consumers, (last visited Nov. 12, 2024).

and the BEAD program funds to be utilized. This will ensure that the program adds value and benefit while simultaneously assisting in the deployment of broadband to unserved and underserved areas. Both Enhanced ACAM and BEAD have broadband deployment obligations at speeds of at least 100/20 Mbps, and both are still in their beginning phases. Other federal high-cost support, such as the previous ACAM programs, do not extend beyond 2026 or, like BLS, have a lower minimum speed requirement. The state fund could use a forward-looking cost model to define broadband buildout obligations to specific locations in unserved areas or could be a supplemental infrastructure fund for rural providers to enhance speed capabilities.

VII. Conclusion

The State Universal Communications Service Program, although a relatively small fund, was able to create a relatively large impact on universal service in rural Washington. No matter which policy objectives are prioritized in bringing telecommunications and broadband services to Washingtonians, the State USF program has the potential to provide supplemental assistance in a targeted and flexible manner.

If the Legislature re-establishes the SUSF Program, the Commission will ensure, as it has in the past, that the program is administered for its intended use and is not duplicative of other state and federal programs. The Commission is also available to offer assistance and information to policy-makers to develop feasible and innovative solutions. As other state and federal programs continue to work to bridge the digital divide, reliance on good data, geographic information software, and insightful analysis are prerequisites to establish a clear understanding of areas that have broadband, those that are planned to have broadband, and ultimately those that are left behind without adequate broadband. Knowing what is in place and what will be in place is key to prioritizing where and how limited state resources are allocated to ensure Washingtonians have access to internet services at the speeds they need.

Attachments:

Attachment 1:
Attachment 2:
Attachment 3:
Attachment 4:

Acknowledgements

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