IDAHO TRANSPORTATION DEPARTMENT'S
UTILITY ACCOMODATION RULEMAKING
SMALL WIRELESS FACILITIES

MODERATOR: RAMON HOBDEY-SANCHEZ

November 16, 2021
3:00 P.M. – 4:00 P.M.

TRANSCRIBED BY:
VICTORIA HILLES
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<tr>
<td>1. THE MODERATOR: Good afternoon, everyone.</td>
<td>1. one of three or maybe all three of our negotiated</td>
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<td>2. Hopefully you can hear me. We've just hit the 3:00</td>
<td>2. rulemaking meetings this summer. And again, the</td>
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<td>3. hour. We'll wait a minute or so here to get started.</td>
<td>3. Department greatly -- greatly appreciates</td>
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<td>4. For those listening in, we do have</td>
<td>4. everyone -- everyone's participation. It's really</td>
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<td>5. everyone muted upon entry, but you are able to un-mute</td>
<td>5. vital to the process that stakeholders come to the</td>
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<tr>
<td>6. yourself as well. And then for those who are familiar</td>
<td>6. table, voice their concerns or ideas.</td>
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<td>7. with Webex, please feel free to operate any questions</td>
<td>7. We felt that we had some great dialogue</td>
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<td>8. or comments in the chat box or raise your hand during</td>
<td>8. and really were able to move the discussion, move the</td>
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<td>9. any part of the discussion, and we can -- we can get</td>
<td>9. dial, as it relates to utility accommodation in the</td>
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<td>10. right over to you.</td>
<td>10. State's right-of-way.</td>
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<td>11. Again, we'll just give a minute or so, and</td>
<td>11. Again, specifically, we've been looking at</td>
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<td>12. then we'll get formally started.</td>
<td>12. IDAPA 39.03.43. This is &quot;Rules Governing Utilities on</td>
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<td>13. Thank you.</td>
<td>13. State Highway Right-of-Way.&quot; And you'll recall that</td>
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<td>14. (Recess taken from 0:02:32 to 0:04:25 of</td>
<td>14. this chapter -- it's a short, little chapter, but it</td>
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<td>15. audio file.)</td>
<td>15. incorporates by reference the Department's Utility</td>
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<td>16. THE MODERATOR: All right, folks. We can go</td>
<td>16. Accommodation Policy. So we've been talking about</td>
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<td>17. ahead and do our first run-through this afternoon.</td>
<td>17. chapter language, but also a lot of meat and potatoes</td>
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<td>18. Just a little reminder that we are</td>
<td>18. in the Utility Accommodation Policy itself.</td>
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<td>19. recording our meeting today so that we can get it</td>
<td>19. So, again, really just appreciate</td>
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<td>20. transcribed and posted online. Just a little note</td>
<td>20. everyone's involvement and for taking the time to</td>
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<td>21. there, it probably takes about two to three weeks to</td>
<td>21. participate with us this afternoon.</td>
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<td>22. make that happen.</td>
<td>22. Just to give you a little idea of what to</td>
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<td>23. We've got a few stakeholders in the room</td>
<td>23. expect. We'll go over the proposed rulemaking scope,</td>
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<td>24.</td>
<td>24. we'll talk a little bit about what the rulemaking</td>
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<td>25.</td>
<td>25. process looks like going forward as it relates</td>
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<tr>
<td>1. here at the East Annex, ITD Headquarters, and then</td>
<td>1. specifically to small wireless facilities, and then I</td>
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<td>2. we've got about 18 or so joining us virtually on</td>
<td>2. will hand it over to Mr. Beachler, and he will give a</td>
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<tr>
<td>3. Webex.</td>
<td>3. small wireless facility overview, talk a little bit</td>
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<td>4. And so to get started, just -- good</td>
<td>4. about the fee structure that we're proposing, touch</td>
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<td>5. afternoon, everyone. We really appreciate you taking</td>
<td>5. base on what some of the surrounding DOTs are doing as</td>
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<td>6. the time to participate, being here and participating</td>
<td>6. it relates to SWFs, and then a conclusion.</td>
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<td>7. in the meeting.</td>
<td>7. So to get us started, I would like to just</td>
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<td>8. My name's Ramon Hobdey-Sanchez. I'm with</td>
<td>8. kind of set the context in terms of where we're at and</td>
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<td>9. the Office of Governmental Affairs here at ITD, and</td>
<td>9. provide some details as it relates to the rulemaking</td>
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<td>10. one of my roles is the Administrative Rules Officer.</td>
<td>10. process and scope.</td>
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<td>11. The Department wants to welcome each and every one of</td>
<td>11. As you saw via several of our e-mail</td>
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<tr>
<td>12. you to today's rulemaking hearing. I'll be the</td>
<td>12. communications with stakeholders, we have now entered</td>
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<td>13. facilitator for today's meeting.</td>
<td>13. what we consider the formal rulemaking process. This</td>
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<td>14. And I'm also fortunate to have some great</td>
<td>14. is a little different than the negotiated, which is</td>
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<td>15. colleagues with me as well. To my left and your right</td>
<td>15. what we've been working through during the summer.</td>
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<td>16. is our Broadband Program Manager Robert Beachler, and</td>
<td>16. And so as part of that formal process,</td>
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<td>17. then to my right, your left, is Niki Benyakhlef.</td>
<td>17. there was a proposed rule published at the beginning</td>
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<td>18. She's going to help us stay organized and kind of keep</td>
<td>18. of November. It included the draft changes to</td>
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<td>19. on track.</td>
<td>19. 39.03.43, essentially the insertion of the fee</td>
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<td>20. I do want to thank everyone in advance for</td>
<td>20. structure as well as modifications made to the Utility</td>
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<td>21. your patience. This is a hybrid meeting, so we'll</td>
<td>21. Accommodation Policy.</td>
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<td>22. likely bounce a little bit from the chat to those</td>
<td>22. But again, really want to emphasize that,</td>
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<td>23. online to those in the room, so we appreciate your</td>
<td>23. although they've been working on broadband and small</td>
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<td>24. patience in advance.</td>
<td>24. wireless facilities, going forward, at this point in</td>
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<td>25. Most of you most likely participated in</td>
<td>25. time, we are not addressing broadband, but small</td>
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Mr. Beachler.

All right. With that, I'd be happy to stand for any questions. If there are none, I'll -- I'd go ahead and hand it over to Robert.

As a side note, the Legislature does happen to be in session currently, which is a very extreme abnormality, normally not the case. But when we fast forward to the normal session beginning in January of 2022, we definitely expect there to be a lot of discussion as it relates to broadband,

So what to expect -- what to expect from the Governor's point of view, from the Legislature's point of view.

So we're really just kind of putting a small, little pause on broadband. By no means are we abandoning ship or pulling out of that project. I think what you should expect over the next couple of months is continued work from the Idaho Broadband Advisory Board that will fully support many of their efforts as well as ongoing discussions over in the Statehouse.

As a side note, the Legislature does happen to be in session currently, which is a very extreme abnormality, normally not the case. But when we fast forward to the normal session beginning in January of 2022, we definitely expect there to be a lot of discussion as it relates to broadband,

The Department, myself, and Robert will also be presenting these exact drafts to the Idaho Transportation Board this Thursday. It'll be their first opportunity to see where we're at, and then they'll be given essentially one month. It's a little shorter with the holiday season, but we'll go back to the Board in December with a pending rule and final drafts.

So we'll have the opportunity to incorporate potential comments between now and the 24th, any comments that the Board may have, and then we'll have a final, pending rule presented there on December 9th to the Board. This will set us up in position for the -- beginning the 2022 session, in which the rule and the policy will be ripe and ready for presentation to the House and Senate Transportation Committees.

One little note I wanted to make and -- won't go into too much of the details because the weeds can get kind of thick here, but the rulemaking process in Idaho is definitely unique.

The Legislative Branch has a very significant role, and one of those is how they treat non-fee and fee rules. And so an important thing to reference is -- we're taking 39.03.43, which was a non-fee administrative rule, we inserted some fee language in there. So we've converted it to what we consider an administrative fee rule.

And so the caveat there is any approval of these changes has to be approved by concurrent resolution, so that means both the House and Senate have to approve, which means the House and Senate Transportation Committees have to allow us to present our respective pending changes. That -- there are no guarantees there.

So again, we're set up in a great position. We'll be ready and able to -- at the beginning of January, to present when called upon. But just a little something for our stakeholders to keep in mind is that if we want the rule to be fully successful, we do need a -- these changes to be heard and approved by both -- by both the House and the Senate.

Again, written comments all the way until November 24th on the drafts that we've got posted online. Really appreciate everyone's engagement to this point.

We want to remind everyone of our administrative rulemaking web page, "itd.idaho.gov/rulemaking," where you can see all the updated information, and that's where we'll get the transcripts of this meeting posted as soon as its available.

So with that, I'd be happy to stand for any questions. If there are none, I'll -- I'd go ahead and hand it over to Mr. Beachler for his portion.

All right.

MR. BEACHLER: Thank you.

THE MODERATOR: Mr. Beachler.
So the Division of Highways and the wireless providers would enter into a Master License Agreement setting forth the terms and conditions for authorizing the use of specified rights-of-way for the purpose of installing, placing, mounting, operating, modifying, maintaining, upgrading, replacing, and removing wireless telecommunications facilities.

After the Master License Agreement is executed between the Division of Highways and the provider, permitting is done at the district level. So ITD has six districts throughout the state, and permitting those facilities requires executing at the district level.

The fees for permitting small wireless facilities are based on the number of facilities to be deployed, either by attachment to an existing structure or new structure installation. So staff recommends the adoption of the schedule for the majority of installations.

Federal Communications Commission's Ruling 18-133 for their small wireless facilities. So these fees include a $500 nonrecurring fee including a single up-front application that includes up to five small wireless facilities with an additional $100 for each small wireless facility beyond five, so it's per collocation or attachment. Or if a new facility is to be installed, there is a $1,000 nonrecurring fee for a new pole installation that could support one or more small wireless facilities.

And third, there's a $270 per small wireless facility per year that covers all recurring fees, including right-of-way access or attachment to structures within the right-of-way. From our stakeholder inputs over the summer, from wireless providers and trade associations, staff is recommending that we implement the FCC's small wireless facility permit review guidance, commonly known as "Shot Clocks." Shot Clocks include a 60-day review of an application for collocation of small wireless facilities using a pre-existing structure, so just a signal structure or a luminaire.

Upon receiving the permit application, district permitting staff will have 10 days to review the application and notify the applicant of any missing information to be addressed. New, dedicated standalone small wireless facilities or structures, as pictured in the lower left image -- or excuse me -- lower right image -- there's a 90-day review period.

Next, I want to touch on -- as part of our research, we've been touching on what other state DOTs are doing around in our region, and I just wanted to touch on some of these so stakeholders in Idaho know what other states are doing.

So in Utah they basically implemented a similar structure to what we're proposing. They have a nonrefundable $100 application review fee for each small wireless facility collocated on an existing or replacement utility pole. There's a $250 nonrefundable application review to install, modify, or replace a utility pole associated with a small wireless facility.

They have annual right-of-way access fees of $250 per small wireless facility and an annual attachment fee of $50 per small wireless facility collocated on the Utah Department of Transportation's approved utility poles. It's very similar to what we're proposing.

In Colorado they've implemented the FCC's small wireless fee structure, the same structure we're proposing.

In Montana, the Montana DOT has not had to respond to any small wireless facility requests yet. And they've noted that the FCC's order is in conflict with some of their statutes regarding fees. So currently Montana statutes do not provide the authority to collect fees, and their legal staff has been asked to review and advise. So we're working on it.

In Wyoming they've had limited experience with 5G applications or small wireless facilities. There's currently only one approved application in the Wilson area, but there's also a recent legislation to limit the number of applications allowed inside highway right-of-ways for safety reasons. They are -- they are not familiar with the FCC fee structure that we're proposing, but they are -- they're going to look at that.

Fees of such lease agreements would be similar to any other land use agreement. That's how they kind of view it. But [unintelligible] -- they also noted that they would likely follow the FCC's schedule for the majority of installations.
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<tr>
<td>1 In North Dakota they have a state law that</td>
<td>1 help with the transcription.</td>
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<td>2 provides the authority to a local entity for all</td>
<td>2 BEN ARON: Sure. I probably should have</td>
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<td>3 utility installations within city-platted areas.</td>
<td>3 remembered that. Sorry.</td>
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<td>4 Therefore, they've delegated responsibility to the</td>
<td>4 So Ben Aron. CTIA.</td>
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<td>5 larger cities within North Dakota.</td>
<td>5 I had -- so a few of these are sort of</td>
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<td>6 The cities, though, are required to follow</td>
<td>6 specific to the documents and a few of these are just</td>
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<td>7 the established guidelines for installations with the</td>
<td>7 general, but the first question I have is specific to</td>
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<td>8 state -- within the state highway right-of-ways, as</td>
<td>8 the UAP.</td>
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<td>9 documented in their utility accommodation policies.</td>
<td>9 In Section 2.7, the UAP points to the</td>
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<td>10 And they are also -- let's see. North Dakota is</td>
<td>10 [unintelligible] -- points to the Master License</td>
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<td>11 updating the policy in 2020 [sic] to accommodate</td>
<td>11 Agreement in reference to the fees and the rates, but</td>
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<td>12 wireless facilities, so they're -- they're also</td>
<td>12 the rule itself accurately captures what you've</td>
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<td>13 working on it.</td>
<td>13 described, which is the FCC's rates.</td>
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<td>14 In South Dakota, they've drafted some</td>
<td>14 Now, if there's ever any difference</td>
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<td>15 supplemental language to be used with their standard</td>
<td>15 between the one and the other -- you know, it's a bit</td>
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<td>16 utility permits, specifically to allow cellular</td>
<td>16 of an academic concern, but the question of curiosity</td>
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<td>17 communications to collocate on DOT facilities,</td>
<td>17 is, wouldn't it -- would it be better -- would it be</td>
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<td>18 primarily light poles or luminaires.</td>
<td>18 possible to have the UAP just reference the rule where</td>
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<td>19 So in conclusion, I would like to say that</td>
<td>19 the correct rates are actually listed?</td>
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<td>20 our utility accommodation rulemaking process for</td>
<td>20 The issue, of course, being that if the</td>
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<td>21 broadband facilities has been a very beneficial</td>
<td>21 Master License Agreement diverges, it just takes away</td>
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<td>22 process for the Department. We have been actively</td>
<td>22 the ability, whether it be any dispute over which one</td>
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<td>23 engaged with our different stakeholders through a</td>
<td>23 is governing it, is --</td>
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<td>24 series of public meetings. We've learned a lot about</td>
<td>24 UNIDENTIFIED SPEAKER: Yeah. I think that's a</td>
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<td>25 broadband technologies and deployments. We've</td>
<td>25 great point.</td>
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<td>1 expanded our outreach and coordination efforts to</td>
<td>1 BEN ARON: So -- so that's one.</td>
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<td>2 broadband providers by providing advanced notification</td>
<td>2 And I -- I -- we will -- I didn't know we</td>
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<td>3 of State-sponsored transportation projects.</td>
<td>3 had a deadline for the 24th, but we will do everything</td>
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<td>4 The Department looks forward to working</td>
<td>4 in our power to get these to you in writing, so we'll</td>
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<td>5 with the new Idaho Broadband Advisory Board and</td>
<td>5 see if we can't do that.</td>
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<td>6 helping the Advisory Board Subcommittees on</td>
<td>6 THE MODERATOR: Would you mind clarifying, since</td>
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<td>7 establishing &quot;dig once&quot; and &quot;hang once&quot; policies as</td>
<td>7 I have it pulled up -- where were you at in the UAP?</td>
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<td>8 well as determining how the Department can support</td>
<td>8 BEN ARON: Yeah. 2.7.</td>
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<td>9 broadband expansion across Idaho.</td>
<td>9 MR. BEACHLER: Section 2.7.</td>
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<td>10 Staff will continue stakeholder engagement</td>
<td>10 Okay. Thank you for that.</td>
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<td>11 regarding how ITD can refine conduit management and</td>
<td>11 BEN ARON: Yeah. Yeah.</td>
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<td>12 exchange concepts in support of &quot;dig once&quot; and the</td>
<td>12 THE MODERATOR: Yeah. So you're thinking right</td>
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<td>13 efficient management of rights-of-way for current and</td>
<td>13 here, just directly reference the administrative rule</td>
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<td>14 future use during the next year.</td>
<td>14 itself?</td>
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<td>15 That kind of concludes our presentation.</td>
<td>15 BEN ARON: Yeah, so at the -- the bottom one</td>
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<td>16 And at this point, we're open for</td>
<td>16 there -- right? -- it says that these are based on the</td>
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<td>17 questions and comments from our stakeholders onsite</td>
<td>17 Master License Agreement, but in reality --</td>
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<td>18 here and those online.</td>
<td>18 THE MODERATOR: [Unintelligible] based on the</td>
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<td>19 BEN ARON: So I can kick us off. I've got a</td>
<td>19 rule?</td>
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<td>20 handful of questions.</td>
<td>20 BEN ARON: Yeah, so that -- we thought that</td>
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<td>21 MR. BEACHLER: That would be great.</td>
<td>21 would be a better --</td>
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<td>22 THE MODERATOR: And -- and just for -- for</td>
<td>22 THE MODERATOR: Yeah.</td>
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<td>23 everyone online and for our recordkeeping, if you</td>
<td>23 BEN ARON: -- reference there.</td>
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<td>24 could please just identify yourself and who you</td>
<td>24 So that's -- that's one.</td>
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<td>25 represent before any questions or comments, and it'll</td>
<td>25 The second one's nitpicking, but -- but</td>
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Idaho Transportation Department

Audio Transcription

Utility Accommodation Rulemaking
November 16, 2021

1. BEN ARON: Okay.
2. MR. BEACHLER: So we did not pursue the full -- what we were doing, our Guide forUtility
3. Management, a full update if we [unintelligible].
4. We're just moving forward with small wireless. So we will -- when we complete the fiberoptics side of the
5. house --
6. BEN ARON: Yeah.
7. MR. BEACHLER: -- we'll do a final update to our Guide to Utility Management. "Shot Clock" information
8. will be included in there also.
9. BEN ARON: All right. That was another question
10. that you already answered.
11. So the GUM itself, when the overall -- the terrestrial broadband is addressed, that'll be part of
12. the GUM.
13. UNIDENTIFIED SPEAKER: Right.
14. BEN ARON: It will be done in that
15. [unintelligible] --
16. UNIDENTIFIED SPEAKER: Yeah.
17. BEN ARON: -- with that -- okay. That makes sense. I kind of suspected that was going to be the
18. answer, but -- yeah.
19. Okay. So --
20. THE MODERATOR: Now, if I could ask there too,

---

1. I've got to admit I didn't write down the
2. exact spot where it -- where it looks at them the same
3. way, but I will -- again, we'll get you a specific
4. reference. I think we commented on this over the
5. summer, so it's probably already in writing with ITD.
6. But this was a, you know, I think, a minor concern,
7. but we definitely have been [unintelligible], so we'll
8. suggest upon there.
9. I -- I think Rob had mentioned -- and,
10. Rob, if it wasn't you -- if it was Ron, then I'm
11. sorry, but somebody had mentioned "Shot Clocks."
12. And I guess the one question is, will they
13. be incorporated in either the UAP or the rule or where
14. would those sit in writing anyways?
15. MR. BEACHLER: They'll be in the Master License
16. Agreement.
17. BEN ARON: The MLA?
18. MR. BEACHLER: Yeah.
19. BEN ARON: Okay. And then --
20. MR. BEACHLER: And then when -- when we go for
21. our bigger update to our Guide for Utility
22. Management --
23. BEN ARON: Yeah.
24. MR. BEACHLER: -- they'll also be included in
25. there.

---

1. though.
2. So are you recommending the "Shot Clock"
3. language be in the UAP versus the GUM or --
4. BEN ARON: So candidly --
5. THE MODERATOR: -- or -- yeah -- versus the
6. Master License Agreement, kind of just like the other
7. stuff or...
8. BEN ARON: Well, I -- I guess -- so if
9. you -- one question about the MLA.
10. So are MLAs "Take it or leave it?" In
11. other words, is this a, "Here is the document. Just
12. sign it" or is it subject to negotiation by the
13. parties?
14. Because if it's the latter, if it's
15. subject to negotiation by the parties, it's probably
16. to have it -- better to have it somewhere that it's
17. fixed --
18. UNIDENTIFIED SPEAKER: Permanent?
19. BEN ARON: Yeah. So as between the MLA and the
20. GUM or the UAP or the rule, I don't know that to
21. have -- I don't mind which of those three, the latter
22. three, it sits in, but in terms of having it only in
23. the MLA, maybe not the best solution, just for
24. certainty that we know what applies.
25. UNIDENTIFIED SPEAKER: Absolutely.
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| 1. BEN ARON: So that would be the suggestion, as between sort of where it sits. And then the -- it sort of raises the other question, which is -- so the -- we're struggling with the relationship between the GUM, the rule, and the UAP. I mean, they're -- they all seem to have some role in governments -- right? -- and we respect that. I'm not sure we know how to unpack it. Now, if they all say the right thing, it doesn't really matter how we, you know -- where it sits and what it does, but we -- we actually were sort of curious. What -- what is that? When you guys look at those three, how do they function as a unit? What is its -- do they have separate roles? And we recognize that you're going back to the GUM, so don't worry about the -- you know, we had a lot of comments about the GUM, but set that aside. Just curious about how those three kind of work in tandem. THE MODERATOR: Yeah. That's a great question. And, you know, we probably haven't been as clear as we could about that because it does get complicated. When I think about this legal authority and legal hierarchy -- so we've got the administrative rule at the very top. Now what that does, is it incorporates by reference the UAP, which essentially gives the same legal authority to that policy. BEN ARON: Right. THE MODERATOR: So essentially, the UAP and the chapter have the same legal authority. And then, as it relates to the GUM, that's more of an internal -- that is more of an internal piece. Now, the way we've had it set up in yesteryears, in the past, is we just have tucked in the UAP, which is the incorporated policy, as an appendix -- BEN ARON: Right. THE MODERATOR: -- to that GUM, but as -- the GUM doesn't have the same legal standing that the UAP or the rule does. BEN ARON: Okay. That's helpful. THE MODERATOR: And -- and so that's -- that's something, I think, that could be part of our continued conversation as we continue working on the GUM is, should the GUM be incorporated by reference. BEN ARON: Right. THE MODERATOR: So again, you know, we're only -- we've only tagged the UAP. Is that something that maybe we should discuss further? I think that question's definitely on the table. But to Rob's point, right now we thought it was more prudent -- because the majority of the work, if you'll recall, from the GUM was really Chapter 6. BEN ARON: Yeah. THE MODERATOR: It was all the new stuff, and then we did some cleanup and updating in other sections. So that was the thinking behind breaking that off for -- for this point in time, but that would kind of be the explanation I'd provide as far as how the three relate. BEN ARON: So I'll make just the one observation that -- so the rule, if it incorporates the UAP -- right? -- it is approved by the legislature. And so the question, then, is, does that fix in place the UAP no matter what. In other words, can that change later even though it was approved by the Legislature and the [unintelligible]? THE MODERATOR: And so it can change with the authority and approval of the Legislature. BEN ARON: All right. THE MODERATOR: So if we -- if we were to go through this session, make the updates and changes, and then next summer on the broadband it was like, "Oh, we need to change some more things in the UAP," -- BEN ARON: Right. THE MODERATOR: -- we've got to go back to the Legislature and make sure that we get permission and authority for any UAP changes. BEN ARON: All right. THE MODERATOR: And so that's the -- that part of the -- that's the flip side of incorporating the GUM. BEN ARON: Right. THE MODERATOR: So you think about -- that's really an internal document for -- BEN ARON: Yeah. THE MODERATOR: -- procedures and process. We want to be a -- we want to have, probably, a little bit more flexibility with that and not have to go every year when -- you know, if we want to make a change. So that is the discrepancy on those two. BEN ARON: Yeah. I -- I was going to sort of observe the same thing and almost behoove you to keep one of them -- right? -- UNIDENTIFIED SPEAKER: Yes. BEN ARON: -- as your own, so you don't have
1. And then I'm -- I -- you know, one of these days I'm actually going to get bifocals, but that day's not today -- not today. So --
2. JASON VERDUZCO: Is it okay if I just add --
3. BEN ARON: Yeah.
4. JASON VERDUZCO: -- one thing as well to what you were just saying?
5. BEN ARON: Yeah.
6. JASON VERDUZCO: Not to -- yeah. Just because as we -- it's -- it was more of a language thing in the sense of like broadband has always been kind of -- you know, it's fiber stuff, and wireless is wireless.
7. We kind of separated the two.
8. As wireless becomes just as dependable as fixed -- you know, as fiber -- you still need both.
9. I'm not saying one's better than the other. You know, so you still need both.

1. So we -- what I've noticed is, is that industry and even some, you know, public entities are starting to view broadband as both/and, and so they call it "Fixed Broadband" and "Wireless Broadband."
2. And so just as -- as you guys kind of...
It may be -- I haven't looked at the GUM seem to make a whole lot of sense. So there's that.

THE MODERATOR: Five?

BEN ARON: Yeah. So it's --

THE MODERATOR: Five?

BEN ARON: Yeah. It's just Roman N 2 there.

So this is the quirk. So this, I think, is under the definitions of "small cells;" right? And it focuses on 5G, which is sort of problematic -- can be problematic. So let me sort of play this out for you.

The [unintelligible] -- so one. 5G is not even referenced in the UAP or anywhere else in the rule, so having it defined for no other reason doesn't seem to make a whole lot of sense. So there's that.

It may be -- I haven't looked at the GUM
to the Legislature to get more small cells --

UNIDENTIFIED SPEAKER: [Unintelligible].

BEN ARON: -- for the next generation of

[unintelligible]. Not really; right? It
doesn't -- it doesn't really help anybody.

So defining the, you know, "small wireless
facilities" specifically as "5G" might be more
problematic than supportive. It might be exclusionary
for types of development and technology deployments
that can be helpful.

So the suggestion would be either to have
it as something defined separately if you wanted to
define it -- there's no harm in defining it -- but not
defining a "small wireless facility" as a "5G
facility."

So --

UNIDENTIFIED SPEAKER: That's helpful. Thanks.

THE MODERATOR: Or -- or could I ask -- just
simply striking it?

BEN ARON: Yeah. I mean, I would. I would
suggest that.

THE MODERATOR: Yeah.

BEN ARON: I mean, everything else in that
definition, I think, is spot on from my recollection.

So --
BEN ARON: And, again, it doesn't always mean a 300-foot tower, but it -- you know, it might differ slightly in what's deployed.

So that's a mouthful and a long way of saying we like what we have. We have -- we -- we definitely want to accommodate macro.

We can give you some suggestions on language and writing. And if it has to come up at your next tranche, the -- you know, the GUM and the -- you know, the terrestrial broadband, we can deal with it then too. We're happy to remain engaged.

But it's -- that's a lot. So...

THE MODERATOR: Well, and, you know, too, what caught my attention in those comments was just the geography, and Idaho has very unique geography.

I mean, north Riggins -- and we struggle with connectivity and wireless connectivity in north Idaho. We hear it all the time. And so I could see those situations, where there's a grove of trees or there's a hill or a mountain that's a little bit too much in the way. And you don't need a 300-footer --

BEN ARON: Right.

THE MODERATOR: -- but you need a little bit more something to get the signals right -- the right direction. So, yeah.

UNIDENTIFIED SPEAKER: Macro.

BEN ARON: Yeah. Yeah. I would say it's unlikely that it'll -- it'll miss -- that a -- a cubic foot because there's no other manufacturing for it.

So that's the existing definition of a "small cell."

BEN ARON: So the 5.1-foot antenna. Why would you?

So it's more likely than not that you're going to be seeing heights that are a little bit out of that definition, and that would put you in a "macro." So it's -- that's the more likely case.

But you might have, you know, a slightly one-off, where you do want something that's -- it's a macro tower, and you want it near an office on the property, but it's slightly off the right-of-way or it's a wide right-of-way. [Unintelligible].

So -- and then the [unintelligible] part of it is -- you know, Jason was saying a minute ago that Verizon has -- is using -- they are -- a high-band spectrum for 5G.

5G, as a technology standard, can use lower-band spectrums as well. So while Verizon's concentrating on high-band/mid-band right now, some of the other carriers are using the lower-band spectrum to do their [unintelligible] deployment.

So depending on which area or which frequency bands, you might see people coming in, and they'll be telling you, "Well, I can't do it on small cells. I need a macro deployment."

So it doesn't always have to be a -- you know, this very separate radio tower deployment. It'd literally be a 3-foot -- 3-cubic-foot box, 28 -- I should know this stuff by now -- 28-cubic-foot -- it's very helpful to have it up there. It could be that deployment, just on something taller, in which case it doesn't fit this definition, but you still want those to come in; right?

So our suggestion would be -- and we can maybe make a suggestion now. And, you know, if you want to table it and do that during the next tranche, we get that. But I wouldn't exclude the possibility that you might want to allow for more than just "small cells," again, because it might be, you know, a couple of feet taller. It might be --

UNIDENTIFIED SPEAKER: Slightly outside of [unintelligible].

BEN ARON: Yeah. Yeah. I would say it's unlikely that it'll -- it'll miss -- that a -- a cubic foot because there's no other manufacturing for it.

So that's the existing definition of a "small cell."
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<tbody>
<tr>
<td>1 UNIDENTIFIED SPEAKER: Yeah.</td>
<td>1 easy answer to this because, to your point, like,</td>
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<td>2 THE MODERATOR: Appreciate that.</td>
<td>2 yeah, you can't have a rule that's so wide open that</td>
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<td>3 BEN ARON: So it's -- you know, it's important.</td>
<td>3 you can have something --</td>
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<td>4 So -- well, like I said, we'll -- we'll get something</td>
<td>4 MR. BEACHLER: We've got to draw the line.</td>
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<td>5 to you. And if it can go in this round, great. Love</td>
<td>5 BEN ARON: -- right -- that's got to be out over</td>
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<td>6 it. If it is the next round, then, like I said, we'll</td>
<td>6 there. It can't be next to the highway; right? And I</td>
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<td>7 [unintelligible]. We'd be happy to see it in the</td>
<td>7 get that. So it's -- I mean, you're right.</td>
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<td>8 rules or the UAP, either way. But we'll -- we'll get</td>
<td>8 How do you draw the line? And I -- you</td>
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<td>9 you something. Yeah.</td>
<td>9 know, candidly, right now, there's one line.</td>
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<td>10 THE MODERATOR: We do appreciate that. We'll</td>
<td>10 It's -- you've got your small cells and then</td>
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<td>11 definitely keep that in mind.</td>
<td>11 everything else, but that's an awkwardly broad line on</td>
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<td>12 UNIDENTIFIED SPEAKER: Thank you.</td>
<td>12 the non-small-cell side.</td>
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<td>13 BEN ARON: And that's all I have.</td>
<td>13 So I -- you know, we'll -- we'll try to</td>
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<td>14 THE MODERATOR: Well, that was great.</td>
<td>14 think of a way to rationalize that if we can. And if</td>
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<td>15 BEN ARON: Other than that --</td>
<td>15 not, then maybe we can table and get back to it the</td>
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<td>16 THE MODERATOR: [Unintelligible] to us.</td>
<td>16 next round after we can think about it a little</td>
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<td>17 BEN ARON: Always come armed with a bunch of</td>
<td>17 longer.</td>
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<td>18 stats and numbers [unintelligible]. I don't want</td>
<td>18 But -- but the deployments are very much</td>
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<td>19 to [unintelligible] you. So I'll throw them out if we</td>
<td>19 top-of-mind for the industry. The concerns are also,</td>
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<td>20 get really bored and have more time.</td>
<td>20 obviously, like you said, can -- I think it's</td>
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<td>21 UNIDENTIFIED SPEAKER: We're probably good for</td>
<td>21 [unintelligible]; right? Hey. It's 5 foot too tall.</td>
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<td>22 now.</td>
<td>22 It's not really [unintelligible] --</td>
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<td>23 BEN ARON: I'll -- I'll -- I'll shut up and let</td>
<td>23 UNIDENTIFIED SPEAKER: What if it's 10?</td>
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<td>24 others talk. So...</td>
<td>24 BEN ARON: Right. Yeah. And now -- now it's</td>
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<tr>
<td>25 MR. BEACHLER: We talked just internally about</td>
<td>25 100 feet too tall.</td>
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<td>1 that. It was -- what we -- when we do think of macro</td>
<td>1 UNIDENTIFIED SPEAKER: Right.</td>
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<td>2 towers --</td>
<td>2 BEN ARON: But it's -- maybe a little bit -- so</td>
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<td>3 BEN ARON: Yeah.</td>
<td>3 I -- you know, we -- we get it. Like it's -- the</td>
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<td>4 MR. BEACHLER: -- you know, it's the big, fake</td>
<td>4 concerns are rational, and they're legitimate.</td>
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<td>5 tree --</td>
<td>5 You know, I don't know that we have an</td>
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<tr>
<td>6 UNIDENTIFIED SPEAKER: Mm-hmm.</td>
<td>6 easy answer for how do you define whatever that sort</td>
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<td>7 MR. BEACHLER: -- where there's a lot of</td>
<td>7 of muddy, middle area is, where it's a little bit</td>
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<td>8 supporting infrastructure, the back-up generator,</td>
<td>8 beyond or whatever. So -- but -- but if we can figure</td>
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<td>9 there's [unintelligible] vaults. There's all kinds of</td>
<td>9 something out --</td>
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<td>10 stuff.</td>
<td>10 UNIDENTIFIED SPEAKER: Okay.</td>
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<td>11 And so those -- you know, we are -- we're</td>
<td>11 BEN ARON: -- we'll get it to you. If we can't,</td>
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<td>12 not -- in the scope of our rulemaking and</td>
<td>12 then we'll go next round, and you can</td>
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<td>13 consideration for, you know, errant</td>
<td>13 [unintelligible].</td>
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<td>14 vehicles and -- they take up kind of a big footprint.</td>
<td>14 UNIDENTIFIED SPEAKER: [Unintelligible]</td>
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<td>15 So that might be something that -- we could refine</td>
<td>15 discussion.</td>
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<td>16 that.</td>
<td>16 BEN ARON: Yeah.</td>
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<td>17 So in specific cases where we have</td>
<td>17 UNIDENTIFIED SPEAKER: [Unintelligible].</td>
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<td>18 those -- those types of topographic challenges, that</td>
<td>18 MR. BEACHLER: Thanks, Ben.</td>
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<td>19 might be something to -- that we could have a variance</td>
<td>19 THE MODERATOR: Yeah. Thanks a lot.</td>
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<td>20 to or something like that. We're just trying to stay</td>
<td>20 BEN ARON: Thank you, guys. We appreciate it.</td>
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<td>21 in accordance with the FCC ruling and what is --</td>
<td>21 UNIDENTIFIED SPEAKER: [Unintelligible]</td>
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<td>22 BEN ARON: Yeah.</td>
<td>22 appreciate that. That was great.</td>
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<td>23 MR. BEACHLER: -- a small cell, and that was the</td>
<td>23 THE MODERATOR: You -- anything that you would</td>
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<td>24 scope.</td>
<td>24 like -- we've got a lull here in the room. Any</td>
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<td>25 BEN ARON: Yeah, I -- you know, I don't have an</td>
<td>25 comments at this point?</td>
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</table>
UNIDENTIFIED SPEAKER: Just listening.

THE MODERATOR: Any -- any comments in terms of questions about us breaking -- breaking things out -- breaking the broadband away from the small wireless?

UNIDENTIFIED SPEAKER: Nope.

THE MODERATOR: Okay.

UNIDENTIFIED SPEAKER: We mostly just want to make sure we didn't miss anything.

THE MODERATOR: Yeah.

UNIDENTIFIED SPEAKER: We're mildly interested in the wireless and greatly interested in the broadband.

THE MODERATOR: Okay. Good. Well, yeah, definitely -- then stay -- yeah, when it comes up [unintelligible] --

UNIDENTIFIED SPEAKER: Stay tuned.

THE MODERATOR: Stay tuned. And then the -- again, the Idaho Broadband Advisory Board, to give a little context there, what they've done is they broke -- broke up into subcommittees to dive into doing deeper dives within the topics that we've talked about.

So on Day 1, this was like a big one -- now they've got like a "Dig Once," little

subcommittee. So these smaller subcommittees of the Advisory Board are holding their own meetings with the stakeholder industry.

And so, again, right now, it's just a lot of information gathering. I think they're trying to get up to speed as quickly as they can for the endeavor of coming up with a State Broadband Plan.

And so that's kind of their -- their main motivation. So with that, I open it up for anyone that is online listening or logged into the Webex. We'd be happy to field any questions or go over any of the materials.

And if you -- if you do have comments to make, you should be able to un-mute yourself. We don't have -- we don't have too many on there.

There's only about 20 or so, so I don't think we'd get too many people talking over each other. But again, if you'd like to make any comments or ask any questions, we'd be happy to field those.

I think -- yeah. This is a little bit what we -- we expect. A lot of people kind of just checking in, getting the vibe of what we were going to be up to, find out if there was going to be a little more clarity as it relates to a process going forward and what to expect over the next eight or so weeks.

and what to expect over the next eight or so weeks.

MR. BEACHLER: You got all their questions out --

BEN ARON: [Unintelligible].

MR. BEACHLER: -- there.


BEN ARON: They [unintelligible] sleeping [unintelligible]. I don't know.

THE MODERATOR: Well, we really appreciated that. It's the attention to detail that really helps, different perspectives, another set of eyes, and -- yeah.

I mean, this is -- like the rule language itself, yeah, that was our first blush at it, and we will see if the Board Members have some comments as well, so they'll have their opportunity over the next few weeks as well.

With that, Robert and I didn't have much else to add. I don't know that -- [unintelligible] any comments?

UNIDENTIFIED SPEAKER: No.

THE MODERATOR: Okay. So we're pretty set in terms of the information we wanted to share.

Again, written comments are accepted through November 24th. You'll see a pending rule will be published at the beginning of January, so that's -- that'll be after the Board makes their final decision in December, and that will be the language that would be presented to the Idaho Legislature.

Again, we've had some funky situations with rules. The last few years, sometimes we've had opportunities to present; sometimes we haven't. So again, we definitely want to make sure that we get the opportunity to present to both respective committees because this is now -- this is now a fee rule.

Let's see. Yeah. I don't see anyone. We don't have any chats either. Feel free to ask any questions in the chat box if you're feeling a little shy. We can address those as well.

MR. BEACHLER: Should we take a 10-minute break, and then we'll see --

THE MODERATOR: How many are left?

MR. BEACHLER: -- see how many --

THE MODERATOR: Yeah. Why don't we do that?

So this is right at about 3:52 -- oh, let's see. Oh, we do have a question. We've got a little chat here.
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<td>1</td>
<td>utility -- to our standard utility permit, but it's</td>
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<td>2</td>
<td>not [unintelligible], you know, you can't accommodate</td>
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<td>3</td>
<td>[unintelligible], but there is a draft form.</td>
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<td>4</td>
<td>BEN ARON: Got you. Yeah, that -- the, you</td>
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<td>5</td>
<td>know, my -- not that you're interested in seeing it,</td>
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<td>but maybe what I can do in the meantime is to look at</td>
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<td>the accommodation -- look at the forms that are</td>
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<td>already out there that would be similar, just adapt it</td>
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<td>[unintelligible] --</td>
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<td>10</td>
<td>MR. BEACHLER: Right. Because there's a block</td>
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<td>in there that says &quot;fee.&quot;</td>
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<td>12</td>
<td>BEN ARON: Yeah.</td>
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<td>13</td>
<td>MR. BEACHLER: And, you know, how much is it?</td>
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<td>14</td>
<td>Well, if I'm doing three wireless facilities --</td>
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<td>15</td>
<td>BEN ARON: Yeah.</td>
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<td>16</td>
<td>MR. BEACHLER: -- it would be 500. Or if I'm</td>
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<td>17</td>
<td>doing 10 --</td>
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<td>18</td>
<td>BEN ARON: Yeah.</td>
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<td>19</td>
<td>MR. BEACHLER: -- it's 1,000. Or I'm just doing</td>
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<td>20</td>
<td>one pole.</td>
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<td>21</td>
<td>BEN ARON: Yeah.</td>
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<td>22</td>
<td>MR. BEACHLER: So...</td>
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<td>23</td>
<td>BEN ARON: Okay.</td>
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<td>24</td>
<td>THE MODERATOR: Okay. Great questions.</td>
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<td>25</td>
<td>All right. Well then, yeah. We'll take a</td>
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<tr>
<td>1</td>
<td>little, 10-minute break here. So come back live at</td>
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<td>2</td>
<td>4:05 Mountain Time and see if we've got any new</td>
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<td>3</td>
<td>questions or inquiries.</td>
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<td>4</td>
<td>Again, Robert and I are happy to answer</td>
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<td>5</td>
<td>anything as it relates to the proposed language and/or</td>
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<td>6</td>
<td>the process. All right. See you in 10.</td>
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<td>7</td>
<td>(Recess taken from 0:56:32 to 1:01:33 of</td>
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<td>8</td>
<td>audio file.)</td>
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<td>9</td>
<td>THE MODERATOR: Thanks for sticking with us.</td>
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<tr>
<td>10</td>
<td>This is Ramon with the ITD Office of Governmental</td>
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<tr>
<td>11</td>
<td>Affairs here with our Broadband Program Manager Robert</td>
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<tr>
<td>12</td>
<td>Beachler and Niki Benyahklef helping us out with</td>
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<tr>
<td>13</td>
<td>today's meeting.</td>
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<td>14</td>
<td>We're just now approaching the 5:00 hour,</td>
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<td>15</td>
<td>and so that is the time we had scheduled for today's</td>
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<td>16</td>
<td>administrative rule hearing. We got some great</td>
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<td>17</td>
<td>comments, great feedback. We appreciate everyone's</td>
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<td>participation.</td>
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<td>19</td>
<td>Again, just a reminder, comments will be</td>
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<td>20</td>
<td>accepted through November 24th; there'll be a draft</td>
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<td>21</td>
<td>presented to the Idaho Transportation Board this</td>
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<td>22</td>
<td>Thursday, the 18th of November; and then final drafts</td>
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December 9th, preparing us for presentation during the 2022 Idaho Legislature.

So as always, please feel free to contact myself or Robert. And encourage folks to keep an eye on the rulemaking website at “itd.idaho.gov/rulemaking.” And if there are substantive or significant updates, we will be sure to contact everyone via e-mail.

Again, thanks a lot for your participation at today's administrative rulemaking. This is ITD signing off.

(End transcription at 1:03:10 of audio file.)

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