Broadband Utility
Accommodation Rulemaking

11 July 2022

AGENDA

• Goals and Objectives of Broadband Negotiated Rulemaking
• 2021 Broadband Rulemaking Review
• HB640 aaS 2022 – “Idaho Broadband Dig Once and Right-of-Way Act”
• UAP Section 7 – Broadband Infrastructure
• Discussion
GOALS AND OBJECTIVES OF BROADBAND NEGOTIATED RULEMAKING

Goals and Objectives of Rulemaking

• Orderly use of highway right-of-way by all utilities
• “Dig Once” within the highway right-of-way
• Manage current and future demands on the ROW for transportation purposes and accommodate all utilities when possible
Goals and Objectives of Rulemaking

- Serving the greatest public interest through collocation and other space saving practices
- Create a competitively neutral environment that is unbiased in its treatment of utility providers
- When feasible, to support the strategic deployment of broadband infrastructure across the State of Idaho

Managing the ROW

- Updating UAP and GUM will provide a framework for managing broadband facilities within the Right-of-Way (ROW) or State owned property
- Develop policies and procedures for accommodating and managing access for broadband infrastructure
- Manage ROW on a competitively neutral and non-discriminatory basis
COMMENTS
FROM
JUNE 13, 2022
NEGOTIATED RULEMAKING
MEETING

Comments from Jun 13th Meeting

• UAP & GUM do not specify SWF fees as stated in IDAPA 39.03.43 fee rule

• UAP did not describe FCC Shot Clocks

• ITD should consider macro wireless towers in the state’s ROW
Comments from Jun 13th Meeting

• Build for the Future – ITD to facilitate access/plans for multiple providers

• Placement of additional capacity would support growth and promote competition

• Concern from public & non-profit providers that speculative practices by private/closed network providers may limit competition

Comments from un 13th Meeting

• Joint Use Program for newly added capacity for both public and private providers

• Dedicate a portion of added capacity to public use by Govt., non-profits, education and health care

• Dedicate a portion of added capacity to any entity to bolster network models & investment
Comments from Jun 13th Meeting

• Limit awarding total additional capacity to any one provider

• Consider Open Access Providers for priority access to projects with limited capacity

• Recognize ITD’s efforts to include different types of providers in discussions

Comments from Jun 13th Meeting

• Continued need for shared or “Open Access” to broadband infrastructure

• Level playing field that will spur competition

• Collaborate with rural partners, non-profits, traditional providers and local governments
Comments from Jun 13<sup>th</sup> Meeting

• Definition of Broadband Providers should include non-profits – don’t exclude entities that can provide broadband services or infrastructure

• Ensure potential participants are aware of the Broadband Provider Registry and are eligible to participate in projects

Comments from Jun 13<sup>th</sup> Meeting

• Equitably prioritize requests from all participants

• Ensure projects provide open access and address long-term growth in Idaho
HB640 “Idaho Broadband Dig Once and Right-of-Way Act”

• At the beginning of the 2022 Legislative Session, industry authored legislation was introduced seeking access to State Highway System ROW for broadband infrastructure

• Legislative intent is for ITD to develop rules, standards and policies consistent with “Dig Once Policy”

• Coordinate installation of broadband infrastructure on highway ROW, and during ITD sponsored road construction projects
DIG ONCE

• “Dig Once” is a policy or practice that minimizes the number and scale of excavations or construction and costs when installing broadband infrastructure in highway rights-of-way.

I-90 Widening, Coeur d’Alene
DRAFT 2023 UAP

• 2022 UAP approved by ITD Board & Legislature
• 2023 DRAFT UAP addresses HB640 aas 2022 requirements
• New Section 7 – Broadband Infrastructure

UAP Section 7 - Broadband Infrastructure

• Update broadband related definitions
• 7.2 Broadband Provider Registry
• itd.idaho.gov/broadband
UAP Section 7 - Broadband Infrastructure

7.3 Procedures for Processing & Reviewing Statements of Interest
- Providers can view ITD ground disturbance projects using ITD's Dig Once App
- Prepare a Letter of Interest addressed to District Planning & Scoping Section POC
- ITD will make final determination on suitability of project for broadband infrastructure and may prescribe conditions, requirements, restrictions or other provisions

UAP Section 7 - Broadband Infrastructure (cont.)

7.4 Non-Exclusive Installation & Occupancy Agreements
- Details Terms & Conditions of the agreement between ITD and Provider
- Agreement in place prior to issuance of utility encroachment permits
- Each separate permits describes the installation of broadband infrastructure
- Does not convey equitable or legal title in the ROW
- ITD may be granted access to broadband infrastructure for public safety warnings, road notification and amber alerts to motorists
7.5 Shared Resource Agreements
- Providers requesting access to ITD conduits and vaults on the State Highway System shall enter into Shared Resource Agreements with District Engineer or Division Administrator
- Exchange of facilities or services in lieu of fees or other financial transactions

7.6 Speculative Practices That May Impact and Compromise State Right-of-Way
- State Highway ROW is a limited resource
- Broadband infrastructure projects must be constructed and operational
- Provide documentation that broadband facility is operational
- Seeking input from industry on what may constitute speculative practices
7.7 Small Wireless Facilities Permit Application Review

- Implementing FCC “Shot Clocks”
- Collocation – review within 60 days of application
- New, modified or replacement structures – review within 90 days of application
- 10 days to determine if application is complete

Utility Permitting Discussion

Utilities wishing to locate on highway ROW where ITD does not have deeded rights need to acquire approval from federal land management agencies (USFS, BLM, Tribal Lands, R/R) prior to issuance of ITD encroachment permits.
COMMENTS & DISCUSSION

Points of Contact

Ramon Hobdey-Sanchez  
Project Manager, Office of Governmental Affairs  
(208) 334-8810  
Ramon.hobdey-sanchez@itd.idaho.gov

Robert Beachler
Broadband Program Manager, Division of Highways, Planning Services Section  
(208) 772-1216  
Robert.Beachler@itd.idaho.gov