Asa Hutchinson
GOVERNOR

Michael Preston
SECRETARY OF COMMERCE

TO: ALL INTERESTED PARTIES

FROM: ARKANSAS ECONOMIC DEVELOPMENT COMMISSION

DATE: OCTOBER 6, 2020

SUBJ: SUPPLEMENTAL ARKANSAS RURAL CONNECT CORONAVIRUS RULE

NOTICE OF PUBLIC HEARING

Please find attached or available by electronic publication by the Arkansas Economic Development Commission ("AEDC") Proposed Rule, "SUPPLEMENTAL ARKANSAS RURAL CONNECT CONRONAVIRUS RULE." The Director of AEDC ("Director") is filing for public comment and public hearing a proposed regulation addressing participation in the Arkansas Rural Connect Broadband Grant Program (hereafter, the "ARC Program") for communities impacted by the COVID-19 pandemic. Pursuant to Arkansas Administrative Procedures Act, and other applicable laws or rules, NOTICE is hereby given that a PUBLIC HEARING will be held on November 9, 2020, at 08:30 A.M to 9AM. The purpose of the Public Hearing will be to determine whether the Director should adopt the proposed Rule, "SUPPLEMENTAL ARKANSAS RURAL CONNECT CORONAVIRUS RULE." This will be an electronically conducted public hearing using "Zoom." Please join from PC, Mac, Linux, iOS or Android at:

https://arkansas.zoom.us/j/93578300318?pwd=ajRtMWFKejdNbmc2SGM2VkpnWGhhQT09
Password: 237456

Telephone
Dial:
USA 636 651 3141
USA 8774029753 (US Toll Free)
Conference code: 5740401

This hearing will begin on Monday, November 9th, from 8:30 A.M. until 9:00 A.M. Interested persons may type in their questions in the "chat" function and a Department representative will answer them. Alternatively, any interested person may make written or electronic comments, statements or opinions to the address below before the administrative record is closed on November 9, 2020, at 9 A.M., unless the comment period is extended by the Director.

Persons wishing to testify or make comments are requested to submit intended statements in writing in advance. Direct your inquiries to: Dr. Nathan Smith, State Broadband Manager, 501-682-5464, email: Nathan.smith@arkansas.gov or broadband@arkansas.gov ; or to Mr. Clint Moore, 501-682-5917.

A copy of the proposed Rule may be obtained or viewed on the AEDC Website at www.arkansasedc.com/data-reports/rules. The rules may also be received by calling Dr. Nathan Smith or Mr. Clint Moore.

Sincerely,

Steven Porch
Chief Legal Officer
Arkansas Department of Commerce

2020 OCT -6 AM 9:02
SECRETARY OF STATE
STATE OF ARKANSAS

DRAFT SUPPLEMENTAL ARKANSAS RURAL CONNECT CORONAVIRUS RULE

1. BACKGROUND
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SECTION 1. BACKGROUND

The Director of the Arkansas Economic Development Commission ("Director") issues this Rule to respond to urgent, telecommunication needs in this State for communities impacted to the COVID-19 pandemic. On or about February 21, 2020, the Director issued the Arkansas Rural Connect Broadband Rule (hereafter, the "Broadband Rule") to implement the Arkansas Rural Connect Program (hereafter, "Arkansas Rural Connect," or "Arkansas Rural Connect Program," or "ARC"). This Broadband Rule was promulgated prior to the issuance of State and Federal public health guidelines responding to the COVID-19 pandemic.

The COVID-19 pandemic has severely impacted the citizens of this State. New public health guidelines encourage, and, in some cases require, citizens to practice "social distancing," staying at least six (6) feet away from other people as much as possible. In light of these restrictions, COVID-19 has brought about an urgent and immediate need for broadband internet access. Normal day to day activities can no longer be done safely. Broadband enables workers to telework, patients to use telemedicine services, K-12 and college students and unemployed workers in need of reskilling to participate in distance education, religious people to participate in online worship services, and all citizens to shop online, interact with friends through Skype and other video chat tools, and keep up with the latest news and public health guidelines.

While the COVID-19 pandemic has negatively impacted the state's economy, the federal government has instituted a major relief effort under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act provides substantial allocations of funding to states for coronavirus response, broadly defined. Guidance provided by the US Treasury describes allowable uses of CARES Act funding. In general, CARES Act money cannot be used for regular budget support, and must be used for coronavirus response, but this includes both public health related measures and economic relief to address the "second-order effects" of the crisis. All CARES Act funds must be spent before the end of December 30, 2020.

The Arkansas Rural Connect program promotes broadband deployment in rural areas of Arkansas that lacks meaningful and efficient broadband services. The ARC program and its purposes align with allowable uses of CARES Act funds. However, Arkansas Rural Connect is designed as a medium- to longer-term investment program, requiring deployment only by late in 2022, which lies well outside the CARES Act spending window.

An Emergency ARC Coronavirus Rule is currently in force. However, due to the ever increasing need for broadband for distance learning, telemedicine and the need for social

distancing, necessitated by the COVID-19 pandemic, there is a need to issue this Supplemental ARC Coronavirus Rule to add other entities that are capable of deploying broadband quickly within the State of Arkansas, to offer match fund incentives for entities who have received federal awards for broadband deployment in Arkansas and allow the Arkansas Economic Development Commission's Broadband Office to purchase broadband deployment equipment or devices that aid or assist with receiving broadband at an Arkansas resident.

SECTION 2. AUTHORITY

This Rule is authorized to be issued by the Director of the Arkansas Economic Development Commission ("AEDC") under Ark. Code Ann. § 15-4-209(b) (5) which provides that AEDC may promulgate rules necessary to implement the programs and services offered by AEDC. On or about August 9, 2019, Governor Asa Hutchinson authorized a transfer of funding for the implementation and administration of the ARC Program to AEDC. Pursuant to Ark. Code Ann. § 15-4-209(a)(1), AEDC is authorized to administer grants to assist with the economic development in the State. The ARC Program is therefore authorized to administer the ARC grant and authorized to issue administrative rules under Ark. Code Ann. § 15-4-209(b) (5) as a service offered by AEDC.

SECTION 3. ELECTRIC COOPERATIVES, OTHER ENTITIES AND DEADLINES

A. Eligibility: Electric Cooperatives and Other Entities

Electric Cooperatives or their subsidiaries and any other entity that has a one-year track record of providing voice, internet, broadband and/or electric distribution or transmission services to at least 500 retail customers are now eligible to apply for ARC grants. This includes municipalities that own their own utility service. Electric Cooperatives and other qualified entities must follow all ARC rules the same as the internet service providers (ISP) and will receive the same treatment as ISPs under the ARC rules. Financial records, deployment experience and/or retail customer lists are not an absolute bar to funding projects. Moreover, organizations or entities that do not meet this criteria for eligibility may submit an application and the project will be reviewed on a case by case basis. These organizations may be required to submit financial records, customer lists and any other documentation deemed necessary for the Broadband Office to determine the stability of the company and the ability for the company to deploy within the time prescribed by the Broadband Office. ARC funding caps may be waived.

Special attention entitling organizations for expedited review will be given to: (a) qualified projects that are able to deploy six months to a year, to at least 90% of the locations targeted by the project. The number of months to deploy is flexible and can be extended beyond one year at the discretion of the ARC Broadband Office, but one year is the max time preferred. The 90% deployment rate is flexible, but preferred, and must be clearly stated in your application and; (b) projects falling under the Broadband Rule's $3,000 cap per unserved location connection is preferred, but flexible. These qualified projects must state, in a separate writing, attached to the application, how they will assist with telemedicine, distance learning, telework or all three. Areas that are eligible for federal broadband grants will receive a low priority towards funding but will still be eligible to apply. Preference may be given to applications that expedite

current expansion plans of providers. The expansion plans must deploy to areas that lack broadband and can be deployed in six months or a year. The ARC population threshold of five hundred (500) is preferred, but flexible. Failure to accurately state the number of unserved citizens in an area will not be a bar to applying or possibly receiving a grant award. Rural unserved or underserved communities is a primary goal of this program. Communities that do not meet the population threshold will still be able to partner with other communities to meet that eligibility criteria. Focus will be given to internet speed and whether there is internet service in the areas meeting the population threshold. The number of unserved residences in an area is flexible. All approved applications must meet eligibility criteria and follow all program requirements under the ARC rules. However, grant awards under these Supplemental Emergency ARC Coronavirus Rules shall control over any conflicting ARC broadband rules.

B. Deadlines under Broadband Rule

These rules are in defense or preparation for not only COVID-19 but any other pandemic or disaster that may befall Arkansans now or the foreseeable future. Telemedicine/health, telework and distance learning statewide is one of the goals of this program. As such, the Broadband Office and technical review team will evaluate applications until funding ends.

SECTION 4. EFFECTIVE DATE

This Rule is effective after review and approval by the Arkansas Legislative Council, ten (10) days after filing of the approved Rule with the Arkansas Secretary of State.

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MIKE PRESTON, DIRECTOR
ARKANSAS ECONOMIC DEVELOPMENT COMMISSION

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DATE