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OHIO LEGISLATIVE SERVICE
COMMISSION
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Ohio Administrative Code

Rule 122:30-1-04 Challenges.

Effective: November 13, 2026

A challenging provider may submit a challenge only after a complete application is posted on the program website by development but no later than sixty-five days after the provisional application scoring has been published on the web site, or for an extended period as may be granted by the director. The director may only grant a challenging provider an extended period to submit a challenge to an application for good cause and no extended period may be longer than fourteen days.

(A) Only a challenging provider as defined by division (A) of section 122.4030 of the Revised Code may submit a challenge.

(1) A challenging provider that is not a municipal electric utility must provide evidence satisfactory to the director that:

(a) It is providing service to the residential addresses contained within the application; or

(b) It is providing service in the area directly adjacent to the residential addresses contained within the application and plans to complete construction of tier two service to the residential addresses within two years of the authority agreeing to suspend an application.

(2) A challenging provider that is a municipal electric utility must provide evidence that is provides tier two broadband service to an area within the eligible project that is within the geographic area served by the municipal electric utility.

(B) In order for the authority to consider a challenge, the challenging provider is to timely submit a complete challenge to both development and the applicant. A challenging provider is to mail its challenge to development at the address provided for challenges on the program website and to the applicant at the contact address listed for the application on the program website. Only challenges submitted containing the requirements for a complete challenge, including sufficient evidence, an email address for notification and a certificate acknowledging and agreeing to responsibility to provide tier-two service within two years if the challenge is upheld will be accepted by development for consideration. A challenge will be deemed submitted on the date the challenge is received by development.

(C) Development may only consider submitted challenges that are a complete challenge. Only non-material supplemental information, as determined in development's discretion, may be requested from a challenging provider to cure information submitted in a challenge that is not sufficient evidence to support the challenge. Development will only request supplemental information through written request sent by electronic mail. Failure of a challenging provider to submit a complete challenge within the challenge period or to provide supplemental information to development

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in the time and manner requested by development will result in the challenge being rejected by the authority.

(D) Authority determination to suspend application or reject challenge. Development will provide complete challenges to the authority for its determination to suspend a challenged application in whole or in part or to reject the challenge. The authority will make its determination and notify the applicant and challenger of its decision in writing by electronic mail within thirty days of receipt of a complete challenge by development in accordance with section 122.4033 of the Revised Code and update the status of the complete application on the program website accordingly.

(1) Suspended application. If the authority upholds a complete challenge, in whole or in part, it will suspend the application upon receipt of the return of a signed copy of the authority's decision to suspend the application or portion of the application from the challenging provider, certifying that it is providing tier two service to the challenged addresses or acknowledging and accepting its responsibility to complete the provision of tier two services within two years from the date of the suspension. The determination to suspend the application in whole or in part will provide an explanation of why the challenge is upheld and describe what information is required for the applicant to revise its application.

(a) Revised application submission. An applicant that has its application suspended may revise and resubmit its application to development as directed in the authority's suspension determination within the time allowed by division (A) of section 122.4034 of the Revised Code. The applicant will also provide a copy of its revised application to the challenging provider by electronic mail. Development will review revised and resubmitted applications upon receipt for completeness and public record information. Development will publish the public record information contained in revised and resubmitted applications on the program website following completion of its review.

(i) Failure of an applicant to respond to a suspension determination by timely submitting a revised application is a withdrawal of the portion of the application suspended. Failure of an applicant to provide all of the information requested in the determination to suspend the application in whole or in part is a failure to respond and a withdrawal of the suspended portion of the application. A withdrawal of a suspended application is final and the withdrawn part or whole of the application suspended may not be resubmitted by the applicant in a future application period.

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(ii) Development may request non-material supplemental information it determines is necessary for the authority to review the revised application. Failure of an applicant to timely respond to a request for supplemental information by development may be determined to be a withdrawal, in whole or in part, of a revised application. The need for supplemental information for the authority to review the revised application may be good cause under division (A) of section 122.4034 of the Revised Code, in development's discretion.

(b) Development will provide complete revised applications timely received to the authority for review. The authority will review and issue a determination to accept the revised application or uphold the challenge within the time allowed by section 122.4035 of the Revised Code. The determination will be provided in writing by electronic mail to the applicant and challenging provider and the status of the application will be updated on the program website.

(2) Rejected challenge. If the authority rejects a complete challenge, it will provide its determination in writing by electronic mail to the challenging provider and applicant within the time allowed by section 122.4033 of the Revised Code. Development will update the status of the application on the program website and provide the complete application to the authority for scoring. The authority may score the application upon its determination to reject a challenge or at its next meeting at which applications will be scored.

(E) De facto challenge

(1) Where two applications submitted in any one application period both propose to serve any identical residential addresses and both applications would be approved for funding but for the other serving identical addresses, the authority will choose which application will be funded for those residential addresses. This decision will be based upon the score each application receives. In the event both applications score equally, the decision will be based on objective distinguishing criteria determined in the authority's discretion. The applicant that was not awarded a grant for the identical addresses may revise its application to be considered for other addresses that are not part of the identical set.

(2) Where the authority has granted funds to serve residential addresses in an application period, it shall not provide funds in a later application period to serve the same residential addresses except where a broadband provider previously awarded a grant for those addresses has been found to be noncompliant under the Revised Code and division 122:30 of the Administrative Code.

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(3) Where the authority has upheld a challenge to residential addresses because a challenging provider already provides service within the area, any application for the identical residential addresses will be considered automatically challenged for those addresses that were part of the prior challenge. The applicant will be required to provide evidence to the authority that tier two broadband service is not available in the area to receive funding.

(4) Where the authority has upheld a challenge to residential addresses because a challenging provider planned to provide service within two years of the challenge:

(a) Any application will be partially rejected for any of the same residential addresses from the successful challenge during the two years following the date the challenge is upheld.

(b) If a challenging provider fails to provide tier two service to the challenged addresses within the two years following the date its challenge is upheld, then the authority will consider those addresses eligible for project grants.