WEST VIRGINIA CODE: §31G-1A-2

§31G-1A-2. Powers and duties of the Office of Broadband generally.

(a) The Office of Broadband shall have the following duties:

(1) Explore any and all ways to expand access to broadband services, including, but not limited to, middle mile, last mile, and wireless applications;

(2) Gather data regarding the various speeds provided to consumers in comparison to what is advertised. The office may request the assistance of the Legislative Auditor in gathering this data;

(3) Cooperate and assist in the expansion of electronic instruction and distance education services;

(4) Gather and report data regarding the adoption by broadband services, by speed, and by community, separately for residential and non-residential consumers;

(5) Gather and report data regarding prices charged for broadband services to residential and non-residential consumers, including, but not limited to one-time fees, monthly fees, termination fees, equipment fees, and other fees;

(6) Incorporate the goal of digital equality in its fulfillment of responsibilities, which is a condition where all individuals and communities have the information technology capacity needed for full participation in our society, democracy, and economy;

(7) Provide for the increased public awareness of issues concerning broadband services; and

(8) Report to the Joint Committee on Government and Finance of the West Virginia Legislature on or before December 30 of each year.

(b) In addition to the powers set forth elsewhere in this article, the Office of Broadband is hereby granted the authority necessary and appropriate to carry out and effectuate the purpose and intent of this article, including, but not limited to, the authority to:

(1) Make and execute contracts, commitments, and other agreements necessary or convenient for the exercise of its powers, including, but not limited to, the hiring of consultants to assist in the mapping of the state and categorization of areas within the state;

(2) Acquire by gift or purchase, hold, or dispose of real or personal property in the exercise of its powers and performance of its duties as set forth in this article;

(3) Receive and dispense funds appropriated for its use by the Legislature or other funding sources or solicit, apply for, and receive any funds, property, or services from any person,

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governmental agency, or organization to carry out its statutory duties;

(4) To oversee the use of conduit installed pursuant to §31G-3-2 of this code;

(5) Make recommendations to the Legislature on bringing broadband service to areas of the state;

(6) Contract with and retain outside expert consultants to assist in the purposes of this article;

(7) Create guidelines for, and recommend to the Legislature, a means of implementing a voluntary donation program to allow for pipeline, railroad, and other similar structures and rights-of-way in the state to be donated to the state for use by public or private entities to facilitate broadband service and availability through placement of fiber;

(8) Create guidelines for, and recommend to the Legislature, a means of implementing a program to allow for an easement program to be established to allow public or private entities to facilitate broadband service and availability through placement of fiber;

(9) Coordinate with the Consumer Protection Division of the Office of the Attorney General to provide for the following consumer protections:

(A) If a broadband service to a subscriber is interrupted for more than 24 continuous hours, such subscriber shall, upon request, receive a credit or refund from the broadband operator in an amount that represents the proportionate share of such service not received in a billing period, provided such interruption is not caused by the subscriber;

(B) A broadband operator may not deny service, deny access, or otherwise discriminate against subscribers, channel users, or any other citizens on the basis of age, race, religion, sex, physical handicap, political affiliation, political views, or exercise of other speech protected by the 1st Amendment to the United States Constitution, or country of natural origin;

(C) A broadband operator shall provide subscribers 30 days advance written notice of any changes to rates or charges, including the expiration of any promotion or special pricing that would result in an increase in the subscribers billing or cost of service; and

(D) A broadband operator shall inform subscribers and provide written notice to subscribers that disputes regarding interrupted or substandard service or billing issues, which are unresolved to satisfaction of the subscriber; and

(10) Perform any and all other activities in furtherance of the purposes of this article.

(c) In furtherance of the purposes of this article, the Office of Broadband is permitted to seek non-state funding and grants. The Office of Broadband may utilize funding and grants to support the responsibilities, initiatives, and projects set forth in this article. The Office of

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Broadband may additionally disburse such moneys to fund projects and initiatives in furtherance of the enhancement and expansion of broadband services in this state, and the other purposes of this article.

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