

Recommendations and Policy Options: Broadband Deployment in Virginia

Recommendations

RECOMMENDATION 1

The Virginia Department of Transportation (VDOT) central office should develop and publish on its website, by March 1, 2025, the specific information each VDOT residency requires from applicants for broadband-related land use permits and include on the permit application itself a link to these requirements.

RECOMMENDATION 2

The Virginia Department of Transportation (VDOT) should, by March 1, 2025, modify its land use permit application to direct applicants to indicate in the “project description field” whether the requested permit is related to a Virginia Telecommunication Initiative project funded with federal pandemic relief funding that expires at the end of December 2026; a Broadband Equity, Access, and Deployment project; or other time-sensitive broadband project.

RECOMMENDATION 3

The Virginia Department of Transportation residency and district offices should prioritize processing broadband-related land use permit applications for Virginia Telecommunication Initiative projects funded with federal pandemic relief funding that expires at the end of December 2026, when practical.

RECOMMENDATION 4

The Department of Housing and Community Development Office of Broadband should distribute detailed information at least twice per year on the location, completion schedule, and funding time constraint for every state-administered current and future broadband deployment project to all stakeholders involved in broadband deployment. These stakeholders should include investor-owned utilities, electric cooperatives, railroad companies, Virginia811, the State Corporation Commission, and the Virginia Department of Transportation central and appropriate district and residency offices.

RECOMMENDATION 5

The General Assembly may wish to consider amending § 2.2-2699.3 of the Code of Virginia to expand the membership of the Broadband Advisory Council to include representation from the Virginia Department of Transportation, Virginia811, and investor-owned utilities.

RECOMMENDATION 6

The Department of Housing and Community Development Office of Broadband should require that all future contracts between state/local government entities and internet service providers contain (1) clear and measurable performance requirements, (2) specific penalties if internet service providers do not meet these performance requirements if the non-performance is attributable to the internet service provider, and (3) criteria and a process for contract termination if performance requirements continue to not be met.

RECOMMENDATION 7

The Department of Housing and Community Development Office of Broadband should, for all ongoing and future Virginia Telecommunication Initiative projects and future Broadband Equity, Access, and Deployment projects, (1) require corrective action plans be completed by the internet service provider and/or local government entity (if applicable) when projects do not meet performance requirements or otherwise do not comply with program requirements and (2) monitor whether the corrective actions included in plans are implemented.

RECOMMENDATION 8

The Department of Housing and Community Development Office of Broadband should seek legal guidance to determine whether local entities that have entered into broadband deployment contracts pursuant to the Virginia Telecommunication Initiative (VATI) have the legal right to terminate contracts with internet service providers involved in 2022 VATI projects considered at risk, without penalty, if an internet service provider has not met the performance requirements of the contract.

RECOMMENDATION 9

The Department of Housing and Community Development Office of Broadband should, prior to granting an extension to any ongoing Virginia Telecommunication Initiative project, require the local government entity and its internet service provider to amend their broadband deployment contract to include (1) specific performance requirements and (2) provisions to allow the local government entity to terminate the agreement when those requirements are not met, if the contract does not already contain adequate provisions to this effect.

RECOMMENDATION 10

The General Assembly may wish to consider including language in the Appropriation Act (1) directing the Department of Housing and Community Development (DHCD) Office of Broadband to identify by July 1, 2025, any broadband deployment projects funded with federal funds set to expire on December 31, 2026, that are unlikely to be completed by that deadline, and, for those projects, (2) requiring the appropriate unit of local government under contract with DHCD for project delivery to, by July 15, 2025, initiate the process to either transfer all or part of the project to another internet service provider, transfer all or part of the project to another active Virginia Telecommunication Initiative funded project, or take another action that would improve the likelihood of project completion by December 31, 2026.

RECOMMENDATION 11

The Department of Housing and Community Development (DHCD) Office of Broadband should, in consultation with the Department of General Services, issue a Request for Qualifications (RFQ) to identify internet service providers (ISPs) that may be able to provide broadband to unserved locations that are part of 2022 Virginia Telecommunication Initiative projects currently considered at risk of not being completed by December 2026. The RFQ should be completed by March 1, 2025, and DHCD should share the results with the local government entities that are party to the contracts for the at-risk projects to help them identify potential new ISPs.

RECOMMENDATION 12

The Department of Housing and Community Development Office of Broadband should not award funding to Virginia Telecommunication Initiative projects or Broadband Equity, Access, and Deployment projects that are using internet service providers with a recent history of underperformance on broadband deployment projects.

RECOMMENDATION 13

The Department of Housing and Community Development Office of Broadband should require applicants for all future Virginia Telecommunication Initiative and Broadband Equity, Access, and Deployment projects to (1) request information from utility pole owners on the need for “make ready” work in the proposed project areas, (2) estimate anticipated “make ready” costs based on previous broadband deployment projects in similar geographic areas, and (3) submit in their grant applications evidence of these efforts and project cost estimates directly based on the information collected.

RECOMMENDATION 14

The Department of Housing and Community Development Office of Broadband should compare “make ready” cost estimates submitted by applicants for all future Virginia Telecommunication Initiative and Broadband Equity, Access, and Deployment projects to data on actual “make ready” costs from previous projects to verify the reasonableness of those estimates.

Policy Options to Consider

JLARC staff typically make recommendations to address findings during reviews. Staff also sometimes propose policy options rather than recommendations. The three most common reasons staff propose policy options rather than recommendations are: (1) the action proposed is a policy judgment best made by the General Assembly or other elected officials, (2) the evidence indicates that addressing a report finding is not necessarily required, but doing so could be beneficial, or (3) there are multiple ways in which a report finding could be addressed and there is insufficient evidence of a single best way to address the finding.

POLICY OPTION 1

The General Assembly could include language in Item 103 of the Appropriation Act requiring internet service providers to include in their required annual submission of information to the Department of Housing and Community Development information on the monthly rate customers pay by locality, on average, for the base and low-cost broadband service plans and the speed of the service.

POLICY OPTION 2

The General Assembly could direct the Department of Housing and Community Development (DHCD) Office of Broadband to seek federal approval to use Broadband Equity, Access, and Deployment program funding to create a pilot program intended to encourage adoption of new broadband service by low-income households. DHCD could (i) include a geographically diverse subset of the state's internet service providers in the program and require them to offer a standardized discounted monthly broadband subscription rate to new customers who meet income eligibility parameters established by DHCD, (ii) evaluate the program's effectiveness in encouraging low-income households to adopt broadband service after six months and one year, (iii) determine whether the program should be expanded and/or extended based on that evaluation, and, if so, (iv) propose a program design, including the estimated amount of necessary funding, in a future budget request.
