



DEPARTMENT OF COMMERCE
ASA HUTCHINSON | Governor MICHAEL PRESTON | Secretary

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Economic Development Commission ("AEDC")
DIVISION Legal Division
DIVISION DIRECTOR Steven Porch, Chief Legal Officer, Arkansas Department of Commerce
CONTACT PERSON Steven Porch
ADDRESS One Commerce Way, Little Rock, AR 72202
PHONE NO. 501-682-1121 FAX NO. 501-682-7499 E-MAIL SPorch@ArkansasEDC.com
NAME OF PRESENTER AT COMMITTEE MEETING Steven Porch
PRESENTER E-MAIL sporch@arkansasedc.com

INSTRUCTIONS

- A. Please make copies of this form for future use.
B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrator, Administrative Rules Review Section
Arkansas Bureau of Legislative Research
One Capitol Mall, 5th Floor, Room L-513
Little Rock, AR 72201

- 1. What is the short title of this rule? Supplemental Emergency Arkansas Rural Connect Coronavirus Rule
2. What is the subject of the proposed rule? Extending the range of eligible applicants.
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes [] No [X]
If yes, please provide the federal rule, regulation, and/or statute citation.
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes [X] No []
If yes, what is the effective date of the emergency This Rule is effective upon approval under § 10-3-

rule?

309 and shall be in effect for 120 days unless later replaced by a permanent rule.

When does the emergency rule expire?

120 days from approval by executive subcommittee

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

UNKNOWN AT THIS TIME.

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. See Attached Summary.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

This Emergency Rule allows for more capable companies to participate in the ARC grant program and help with the response to the COVID-19 crisis.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

This proposed Rule is 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.

7. What is the purpose of this proposed rule? Why is it necessary?

See Summary. The purpose of this Supplemental Emergency Rule is to increase the number of eligible companies that can apply to the ARC grant program helping in the response to COVID-19 crisis.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <https://www.arkansasedc.com/data-reports/rules>

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

Date: Hearing will occur with permanent rule

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

For the emergency rule, immediately upon approval by executive subcommittee and then for 120 days from that date.

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. Unknown about public hearing at this time. This may be updated in the future.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). We will provide you with a file marked copy when received from SOS.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

The Department does not know at this time but will update BLR and ALC in the public comments summary following the close of the comment period and public hearing.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Economic Development Commission (“AEDC”)

DIVISION Legal Division

PERSON COMPLETING THIS STATEMENT Steven Porch, Chief Legal Officer, ADOC

TELEPHONE 501-682-1121 **FAX** _____ **EMAIL:** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Supplemental Emergency Arkansas Rural Connect Coronavirus Rule

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the Yes No

need for, consequences of, and alternatives to the rule?

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

NONE or NOT APPLICABLE.

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

- (b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____ Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Unknown at this time.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

NONE

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

NOT APPLICABLE

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.



ECONOMIC IMPACT STATEMENT OF PROPOSED RULES OR REGULATIONS

EO 05-04: Regulatory Flexibility

Department: Arkansas Economic Development **Division:** Legal
Commission

Contact Person: Steven Porch
Contact Phone: 501-682-1121

Date: August 26, 2020
Contact Email: SPorch@ArkansasEDC.com

Title or Subject:

Rule: "Supplemental Emergency Arkansas Rural Connect Coronavirus Emergency Rule"

Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints.

This Supplemental Rule allows for other companies capable of deploying broadband in rural Arkansas to apply for ARC funds. The rule allows flexibility towards the 500 population threshold, the one year deployment experience, funding caps and 500 retail customers. Many rural areas cannot meet the 500 population threshold,

2. What are the top three benefits of the proposed rule or regulation?

This Rule: (1) All capable companies can apply for a grant; (2) more rural areas of Arkansas can be reached with broadband; and (3) social distancing, telemedicine, telework and distance learning can take place keeping residents safe while keeping the economy moving.

See the **Summary** we attached to the BLR Questionnaire for more details.

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

Health and economic consequences. See response to question #2, The State of Arkansas could be made to return a large chunk of \$100 million dollars to the federal government without adequate participation in the ARC program. This rule increases the number of company's that can apply.

4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives.

The proposed program and rule uses state and federal grant based funds to partner with eligible areas and internet service providers to encourage market-based participation by partner ISPs and broadband providers.

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of collecting information, completing paperwork, filing, recordkeeping, auditing and inspecting associated with this new rule or regulation.

None.

6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected.

None.

7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.

None.

8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.

None.

9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.

None.

10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.

The propose Rule does not require “small business owners” to implement provisions in the proposed Rule.

11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?

None that we are aware of at this time.

12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.

We have received no comments from small businesses at this time.

SUMMARY

ARKANSAS ECONOMIC DEVELOPMENT COMMISSION

Supplemental Emergency Arkansas Rural Connect Coronavirus Rule

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To: Arkansas Legislative Council & Arkansas Bureau of Legislative Research
From: Steven Porch, Chief Legal Officer, Arkansas Department of Commerce
Date: JUNE 16, 2020

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LEGISLATIVE AUTHORITY FOR RULE

This rule is issued by the Director of the Arkansas Economic Development Commission (“Director”). Ark. Code Ann. § 15-4-209(b) (5) 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. This rule is also authorized to be issued under Ark. Code Ann. § 25-15-204(c). The Director finds that imminent peril to the public health, safety, or welfare or compliance with a federal law or regulation requires adoption of a rule upon less than thirty (30) days’ notice.

BACKGROUND AND PURPOSE OF RULE

The funding round of Arkansas Rural Connect (ARC) is occurring under circumstances that were not anticipated when the Arkansas Rural Connect program was developed. The COVID-19 pandemic has severely impacted the citizens of Arkansas and the world. COVID-19 has necessitated the imposition of new public health guidelines that encourage, and in some cases require, citizens to practice “social distancing,” staying at least 6 feet away from other people as much as possible. 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 entitled 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.

Due to the urgent need for broadband, necessitated by the COVID-19 pandemic, this rule is needed to disperse funds immediately and to accelerate deployment to the extent possible. The ARC program has recently received \$100 million in CARES Act money to fund broadband projects. The Supplemental Emergency Arkansas Rural Connect Coronavirus Rule allows more companies capable of deploying broadband in Arkansas an opportunity to apply and receive ARC grant funding.

The Director finds that a public emergency exists for promulgation of this Rule as an Emergency Rule. Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act funds have to be expended under this Act by the State prior to December 30, 2020 in order to be used by the State. Deploying broadband structures is a time consuming process, and the State needs as much time as possible for funding the various projects before the end of the year deadline.

EXPLANATION OF THE PROPOSED SUPPLEMENTAL RULE

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 organization 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. 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.

DRAFT SUPPLEMENTAL EMERGENCY ARKANSAS RURAL CONNECT CORONAVIRUS RULE

- 1. BACKGROUND**
- 2. AUTHORITY**
- 3. STATEMENT OF EMERGENCY**
- 4. ELECTRIC COOPERATIVES, OTHER ENTITIES AND DEADLINES**
- 5. EFFECTIVE DATE**

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. This rule is also authorized to be issued under Ark. Code Ann. § 25-15-204(c). The Director finds that imminent peril to the public health, safety, or welfare or compliance with a federal law or regulation requires adoption of a rule upon less than thirty (30) days' notice.

SECTION 3. STATEMENT OF EMERGENCY

The Director finds that a public emergency exists for promulgation of this Rule as an Emergency Rule. Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act funds have to be expended under this Act by the State prior to December 30, 2020 in order to be used by the State. Deploying broadband structures is a time consuming process, and the State needs as much time as possible for funding the various projects before the end of the year deadline.

SECTION 4. 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 5. EFFECTIVE DATE

This Rule is effective upon approval under § 10-3-309 and shall be in effect for 120 days unless later replaced by a permanent rule.

MIKE PRESTON, DIRECTOR
ARKANSAS ECONOMIC DEVELOPMENT COMMISSION

DATE



August 27, 2020

Ms. Marty Garrity, Director
Arkansas Bureau of Legislative Research
State Capitol, Suite 315
Little Rock, AR 72201

Re: Arkansas Economic Development Commission ("AEDC") Request for Emergency Rule

Dear Marty:

Please find enclosed a copy of an Emergency Rule filed by the Director of AEDC. The Director needs to accelerate review and funding for broadband access under the Rural Connect Program to respond to the COVID-19 pandemic. The Emergency Rule is issued under the Arkansas Administrative Procedures Act, specifically, under Ark. Code Ann. § 25-15-204(c), as well as under the Director's authority to issue rules under Ark. Code Ann. § 15-4-209(b) (5). The Director requests review of this Rule under Ark. Code Ann. § 10-3-309; please advise us of the next possible meeting so we can present this Rule for consideration and advise me of the time and date of the review. I have attached copies of the Emergency Rule, a Summary, and the Bureau's Legislative Questionnaire and Economic Impact Statement.

If you have any questions, please give me a call.

Sincerely,

A handwritten signature in blue ink, appearing to be "S. Porch", with a long horizontal flourish extending to the right.

Steven Porch
General Counsel
Arkansas Department of Commerce

CC: Jessica Sutton, BLR



STATE OF ARKANSAS
BUREAU OF
LEGISLATIVE RESEARCH

Marty Garrity, Director
Kevin Anderson, Assistant Director
for Fiscal Services
Tim Carlock, Assistant Director
for Information Technology
Matthew Miller, Assistant Director
for Legal Services
Estella Smith, Assistant Director
for Research Services

MEMORANDUM

TO: Members, ALC – Executive Subcommittee

CC: Marty Garrity, Director, Bureau of Legislative Research;
Jessica Sutton, Administrator, Administrative Rules Review Section, Legal Services Division

FROM: Suba Desikan, Legislative Attorney, Administrative Rules Review Section, Legal Services Division

DATE: August 31, 2020

SUBJECT: Legal Authorization for the Arkansas Economic Development Commission’s Emergency Promulgation of the Supplemental Emergency Arkansas Rural Connect Coronavirus Rule

In response to the COVID-19 pandemic, the Arkansas Economic Development Commission is proposing a supplemental emergency rule to the Arkansas Rural Connect (ARC) Coronavirus Rule, which would allow more companies capable of deploying broadband in Arkansas an opportunity to apply for and receive ARC grant funding. ARC grant participation will be extended to include electric cooperatives, their subsidiaries, and other entities that have a one-year track record of providing voice, internet, broadband and/or electric distribution, or transmission services to at least 500 retail customers. Municipalities that own their own utility service will also be included. These additional entities will be required to follow all ARC rules and will receive the same treatment as internet service providers under the ARC rules.

The Arkansas Economic Development Commission has authority to administer grants, loans, cooperative agreements, tax credits, guaranties and other incentives, memoranda of understanding, and conveyances to assist with economic development in the state. *See* Ark. Code Ann. § 15-4-209(a)(1). Additionally, AEDC has authority to promulgate rules necessary to implement the programs and services offered by the commission. *See* Ark. Code Ann. § 15-4-209(b)(5).