

129—20.5(8B,427) Appeals.

20.5(1) Notice of appeal. Within 20 days after the office makes its final determination of whether a particular broadband block constitutes a tier 1, tier 2, or tier 3 targeted service area pursuant to rule 129—20.4(8B,427), any person or party aggrieved or adversely affected by such determination may challenge the office's finding by filing a notice of appeal with the office.

a. The notice of appeal shall set forth:

(1) The name, address, telephone number, and email address of the person or party;

(2) The particular broadband block(s) designation the person or party is challenging by stating:

1. The broadband block number(s) or other unique identifier as provided on the statewide map referenced in rule 129—20.4(8B,427);

2. The county in which the broadband block(s) is located as provided on the statewide map referenced in rule 129—20.4(8B,427);

(3) The manner in which the person or party is aggrieved or adversely affected by the office's determination; and

(4) The grounds upon which the appeal is based.

b. Accompanying the notice of appeal, the person or party shall provide the office with all evidence and information necessary to support the appeal.

20.5(2) Filing. Except to the extent that electronic filing is not feasible, a notice of appeal and all corresponding evidence and information shall be filed by email at ociogrants@iowa.gov. To the extent electronic filing is not feasible, the notice of appeal and all corresponding evidence and information shall be mailed to: Office of the Chief Information Officer, 200 East Grand Avenue, Des Moines, Iowa 50309. If the notice of appeal and corresponding evidence and information are filed by mail, such filing shall be accompanied by a written explanation of why electronic filing was not feasible.

20.5(3) Notification of and input from affected persons or parties. Within ten calendar days of receipt of a notice of appeal, the office shall provide notification to any affected persons or parties by posting the notice of appeal at ocio.iowa.gov/broadband. From the date of such posting, any affected persons or parties will have 20 calendar days to submit evidence and information in support of, or in opposition to, such appeal. Except to the extent not feasible, any such evidence and information shall be submitted by email to ociogrants@iowa.gov. To the extent electronic submission is not feasible, such evidence and information shall be mailed to: Office of the Chief Information Officer, 200 East Grand Avenue, Des Moines, Iowa 50309. If such evidence or information is submitted by mail, the evidence or information shall be accompanied by a written explanation of why electronic submission was not feasible.

20.5(4) Internal review. At the end of the time periods specified in subrules 20.5(1) and 20.5(3), the office shall consolidate all appeals involving the same broadband block(s) and conduct an internal review of the evidence and information submitted by all appellants related thereto, in conjunction with any other evidence and information submitted by any affected persons or parties pursuant to subrule 20.5(3), the maps and data sources identified and originally utilized in rules 129—20.3(8B,427) and 129—20.4(8B,427), and any other information deemed relevant by the office.

20.5(5) Final agency decision. Following the internal review set forth in subrule 20.5(4), the office will issue a final agency decision stating the reasons for the office's decision concerning the broadband block(s) in question. In issuing the decision, the office shall consider the evidence and information submitted by all appellants related thereto, in conjunction with any other evidence and information submitted by any affected persons or parties pursuant to subrule 20.5(3), the maps and data sources identified and originally utilized in rules 129—20.3(8B,427) and 129—20.4(8B,427), and any other information deemed relevant by the office. The final agency decision will be posted online at ocio.iowa.gov/broadband. The final agency decision shall become final unless within 30 days of such posting an appellant or an affected person or party that submitted evidence in support of, or in opposition to, the appeal files a request for a contested case proceeding pursuant to rule 129—20.6(8B,427).

20.5(6) Time of filing. In determining the date on which an appeal or request for a contested case proceeding is filed with the office, the following shall apply: an appeal or request for a contested case proceeding delivered by mail shall be deemed to be filed on the postmark date; an appeal or any other document delivered by any other means shall be deemed to be filed on the date of receipt.

20.5(7) *Public records.* The office's release of public records is governed by 129—Chapter 2 and Iowa Code chapter 22. Persons are encouraged to familiarize themselves with 129—Chapter 2 and Iowa Code chapter 22 before submitting evidence or information to the office as part of the appeals and contested case process outlined in this chapter. The office will copy and produce public records upon request as required to comply with Iowa Code chapter 22 and will treat all evidence and information submitted by persons or parties as public, nonconfidential records unless a person or party requests that specific parts of the evidence or information submitted be treated as confidential at the time of the submission to the office.

a. A person or party requesting confidential treatment of evidence or information submitted must:

- (1) Fully complete and submit to the office Form 22 (available online at ocio.iowa.gov/broadband);
- (2) Identify the request in the notice of appeal or, if evidence or information is submitted pursuant to subrule 20.5(3), identify the request in the transmittal email or the written explanation of why electronic filing was not feasible;
- (3) Conspicuously mark the outside of any submission as containing confidential evidence or information;
- (4) Mark each page upon which confidential evidence or information appears; and
- (5) Submit a public copy from which claimed confidential evidence and information has been excised. Confidential evidence and information must be excised in such a way as to allow the public to determine the general nature of the evidence and information removed and to retain as much of the otherwise public evidence and information as possible.

b. Form 22 will not be considered fully complete unless, for each confidentiality request, the person or party:

- (1) Enumerates the specific grounds in Iowa Code chapter 22 or other applicable law that support treatment of the specific evidence or information as confidential;
- (2) Justifies why the specific evidence or information should be maintained in confidence;
- (3) Explains why disclosure of the specific evidence or information would not be in the best interest of the public; and
- (4) Sets forth the name, address, telephone number, and email address of the individual authorized by the person or party submitting such evidence and information to respond to inquiries from the office concerning the confidential status of such evidence and information.

c. Failure to request that evidence or information be treated as confidential as specified herein shall relieve the office and state personnel from any responsibility for maintaining the information in confidence. Persons may not request confidential treatment with respect to a notice of appeal or other similar documents. Blanket requests to maintain all evidence and information submitted as confidential will be categorically rejected.

20.5(8) *Probative evidence and information.* Examples of evidence and information the office would consider particularly probative of broadband service at or above the tier 1, tier 2, or tier 3 download and upload speeds specified in the definition of targeted service area as of the as of date for purposes of adjudicating an appeal of the office's determination of whether a particular broadband block constitutes a tier 1, tier 2, or tier 3 TSA include:

a. Signed attestations submitted to the office under penalty of perjury on forms provided by the office that the applicable broadband block(s) was or was not served as of the as of date with broadband service at or above the tier 1, tier 2, or tier 3 download and upload speeds specified in the definition of targeted service area.

b. Bills or invoices provided to or received by customers in the applicable broadband block(s) which identify the specific download and upload speeds provided or received as of the as of date.

[ARC 2782C, IAB 10/26/16, effective 11/30/16; ARC 4606C, IAB 8/14/19, effective 9/18/19; ARC 5173C, IAB 9/9/20, effective 10/14/20; ARC 5658C, IAB 6/2/21, effective 5/7/21]