

Broadband Map V5 Final Agency Decision

DOCKET NO. 002P

A. CHALLENGER INFORMATION

Entity/Community Name	Night Owl Wireless, LLC
FRN (Provider Only)	21908868
Address	521 N Main St.
City	Walcott
State	Iowa
Zip	52773

B. DESIGNATED CONTACT INFORMATION

Contact Name	Andrew Willey
Contact Phone Number	563-505-6514 & 563-447-0177
Contact Email	andy@nightowlpcs.com

C. CHALLENGE TYPE

<input type="checkbox"/>	Resident
<input type="checkbox"/>	Community
<input checked="" type="checkbox"/>	Provider - Self-reporting
<input type="checkbox"/>	Provider - Third-party
<input type="checkbox"/>	State
<input type="checkbox"/>	Location Not on Map

D. EVIDENCE CONSIDERED

With respect to the address locations forming the basis of this Challenge, the Office has reviewed the evidence and information submitted by Challenger related thereto (see Appendix C for original submission), in conjunction with the maps and data sources originally utilized in determining whether and to what extent service was available to a particular address location.

- Challenger submitted an Attestation as part of its Challenge, affirming under penalty of perjury whether and to what extent Broadband service was offered as of August 2, 2022.
- Challenger submitted additional information in support of its Challenge. This information has been considered by the Office in making its Final Decision.
- Challenged address locations within this Challenge overlap with other Challenge(s) containing one or more of the same address locations. The Office considered evidence submitted in connection with any overlapping Challenge in making its final decision for any overlapping address location.
- The Office sent a Notice to impacted Provider(s) at the challenged address location concerning whether and to what extent reported broadband service was offered as of August 2, 2022. The Office may have received a Response and/or other evidence from impacted Provider(s) in response to such Notices, or in response to the general Notice posted on the website. Refer to Appendix D for a record of these efforts.

Go to <https://ocio.iowa.gov/broadband-availability-map-version-5-challenge-process> for more information regarding how the Office evaluates evidence and makes determinations regarding information reflected on the map.

E. APPEAL

The Office will post its Final Decisions on its website at ocio.iowa.gov/broadband. If a Challenger wishes to appeal the Decision, the Challenger must notify the Office in writing within thirty (30) days of the posting of the Decision. A request for a contested case must be filed by mailing a written request to:

Office of the Chief Information Officer
c/o Matt Behrens
200 E. Grand Ave.
Des Moines, IA 50309

In so doing, the reason for appealing this Decision must be stated, specifically identifying the particular aspects of the Decision with which Appellant disagrees and the reasons why, whether factual or legal in nature. The request for a contested case proceeding should state the name and address of the requester; identify the specific Office action which is disputed; and, where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved, and include a short and plain statement of the issues of material fact in dispute. Iowa Admin. Code r. 129–6.4.

Upon receipt, the appeal will be forwarded to the Department of Inspections and Appeals where an Administrative Law Judge (“ALJ”) will perform an independent review. Iowa Admin. Code r. 129–6.6. At that time, an ALJ will schedule a hearing. If Appellant does not exercise its appeal right within thirty (30) days of the posting of this Decision, this Decision shall become final and no longer subject to challenge.

SIGNED

DATE

Matt Behrens
Chief Information Officer
State of Iowa

12/16/2022

Date of Issuance: December 16, 2022

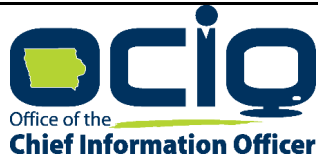
IA Location ID	Street Address	City	State	ZIP Code	No. of Units at address	Basis for Challenge	Challenge Detail	Fastest download speed in Mbps for this type of service	Fastest upload speed in Mbps for this type of service	Technology Type
1150484	16131 77TH AVENUE	BLUE GRASS	IA	52726	1	13-Provider holds an enforceable state/federal agreement to construct service at this location	Provider only: The Map does not correctly reflect service that I facilitate to this location	100	20	Fixed Wireless
759295	17056 80TH AVENUE	WALCOTT	IA	52773	1	11-Provider not reflected on the map	Provider only: The Map does not correctly reflect service that I facilitate to this location	1000	1000	Fiber

IA Location ID	Is this location served, underserved, or unserved?	Technology Type	Sworn Statement/Survey Response	Broadband study expressly citing location	Speed test at this location	Other	When the service of another provider is challenged, this Office will take affirmative steps to send notice to impacted providers.		Final Agency Decision		
							Notice sent?	Response received?	Accepted/Declined	Decision Basis	Overlapping Challenge Docket, if applicable
1150484			1				Not Applicable	Not Applicable	Declined	4	
759295			2				Not Applicable	Not Applicable	Accepted	1	

IA Location ID (if existing)	Street Address	City	State	Zip	Building Type	No. of Units at address	Basis

							Final Agency Decision		
							Accepted/ Declined	Decision Basis	Overlapping Challenge Docket, if applicable
Fastest download speed in Mbps for this type of service	Fastest upload speed in Mbps for this type of service	Technology Type	Sworn Statement/ Survey Response	Broadband study expressly citing location	Speed test at this location	Other			

APPENDIX C
Original Challenge Submission



Broadband Map v5 Community and Provider Challenge Form

The Office of the Chief Information Officer ("OCIO" or "Office") recently published the Statewide Broadband Availability Map version 5 ("Map v5"). Map v5 is designed to facilitate decisions concerning future spending under federally-funded broadband programs. Because Map v5 does not use the tiered structure envisioned by Iowa Code chapter 8B and because future federally-funded grant opportunities made available by the Office in accordance with Map v5 will not conform to Iowa Code chapter 8B, the map challenge process envisioned under Iowa Code section 8B.10 does not apply. However, the Office is making available a challenge process to allow public input into whether the map accurately reflects broadband coverage as of the publication date of Map v5 (the "As Of" date of Map v5).

The Office utilizes maps and data sources made available by the Federal Communications Commission (FCC) and/or developed or produced by contractors or third parties retained or utilized by the Office. These maps and corresponding data sources represent the status of Broadband in Iowa on the As Of date as reported by Communication Service Providers in Iowa. Unlike prior broadband coverage maps, Map v5 identifies broadband coverage by individual locations, making Map v5 far more granular than prior maps that displayed eligibility at the census block level.

Challenges to Map v5 will be based on presence or reliability of service and/or speed. Challengers will be required to provide for every location challenged an address and corresponding IA Location ID, to the extent a Location ID is available on the map. Challenges without this information may not be evaluated.

Every location on Map v5 reflects a status of 'likely eligible' or 'likely ineligible.' This status is based solely on speed and technology type. The eligibility of any particular location is contingent on the requirements associated with the federal funding being used to fund future Notices of Funding Availability ("NOFAs"). Eligibility determinations are subject to change over time. In addition, eligibility designations in no way guarantee facilitation of service in the future through state- or federally-funded broadband builds.

On August 2, 2022, the Office posted the final version of Broadband Availability Map v5 and opened a 30-calendar-day challenge window wherein anyone aggrieved or adversely affected by mapping determinations may challenge the Office's final determination of whether service at a particular location is accurately reflected.

This form is for PROVIDERS and COMMUNITIES only. Resident challengers should fill out the form via the Map on the website.

You must check next to each row that you have read and understood the terms of the challenge process. Without this acknowledgment, the appeal will not be evaluated.

Use the tab titled "Challenge Form" to challenge any particular location. If you would like to report an address not presenting on the map, please use the tab titled "Location Not Present on Map." You can also use this tab to report when the location is not presenting at the correct area.

Challenger acknowledges the following (click checkbox to acknowledge):

The information on the Map may be challenged for conditions existing as of August 2, 2022 (the "As Of" date). Challenges based on changes occurring to broadband service after the As Of date will not be considered.

<p>When submitting a challenge, evidence must be submitted for every location challenged in support of changing the likely eligible or likely ineligible status. Documentation that is speculative, generalized, or vague will not be sufficient. You may use the Sworn Statement/Survey template provided. Supporting documentation must be provided in one pdf. Reference to the page number of the supporting evidence within the pdf must be noted in Challenge Form. Challenged locations without a referenced page will not be evaluated.</p>	<input checked="" type="checkbox"/>	
<p>The Office reserves the right to reject challenges for a variety of reasons, including but not limited to:</p> <ul style="list-style-type: none"> >> Challenges claiming buildout at a future date; >> Challenges received reflecting incomplete information, including lacking IA Location ID; >> Challenges to a provider's service that are submitted without supporting evidence; >> Multiple challenge forms submitted by a provider or a community; >> Challenges received after September 1, 2022; >> Challenges received without all checkboxes marked indicating acknowledgement of the terms. 	<input checked="" type="checkbox"/>	
<p>The Office will notify affected parties by posting to the website any notice of challenge received. Final agency decisions shall become final unless within 30 days of the posting of a final decision, a challenger or person or party aggrieved or adversely affected requests a contested case proceeding pursuant to Iowa Administrative Code chapter 129-6.</p>	<input checked="" type="checkbox"/>	



Broadband Map V5 Provider/Community Challenge Form

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Contact Name	Andrew Willey
Contact Phone Number	563-505-6514 & 563-447-0177
Contact Email	andy@nightowlpcs.com
C. EXPLANATION	
To the extent you believe additional explanation is required to ensure that you are communicating full and accurate information, please provide narrative to further explain your challenge.	
<p>We have one location that we are sure was part of NOFA 3 and we have one location we provide fiber symmetrical 1000Mb / 1000Mb service to that was missed.</p>	
D. ATTESTATION	
By signing and submitting this form, the authorized representative attests that to the best of the authorized representatives knowledge and belief, the information submitted through this challenge form is true and accurate, and the form is signed under the pains and penalties of perjury. By typing your name, you are affixing your signature to this form and attesting to the accuracy of the information submitted herein.	
Authorized Signature:	Andrew Willey
Title:	Owner / Sole Member / The Dude
Date:	8/15/2022

Location Challenge Form: Only Use This Form To Indicate that a Location is Not Present or Improperly Located on the Map

Evidence:
Upload all supporting information for this location in a single PDF. Enter the page number(s) in the cell below identifying the exact location of the proof in the PDF.

IA Location ID (if existing)	Street Address	City	State	Zip	Building Type	No. of Units at address (house, multi-residential units)	Basis	Fastest download speed in Mbps for this type of service (Enter 0-2000)	Fastest upload speed in Mbps for this type of service (Enter 0-2000)	Technology Type	Evidence: Upload all supporting information for this location in a single PDF. Enter the page number(s) in the cell below identifying the exact location of the proof in the PDF.			
											Sworn Statement/ Survey Response	Broadband study expressly citing location	Speed test at this location	Other

NIGHT OWL WIRELESS, LLC

521 N Main St.
P.O. Box 124
Walcott Iowa 52773

There's a bump out on the NOFA V3 Map to me looks like the address called out in the V5 map? Night Owl was awarded in NOFA 3 and on the NOFA 3 map it looks like this address should be covered when compared with V5?

Best Regards,
Andy Willey
Night Owl

521 N Main St. Walcott, Iowa 52773 – P.O. Box 124 Walcott, Iowa 52773

Office: 563-447-0177 | www.NightOwl.pro

NIGHT OWL WIRELESS, LLC

521 N Main St.
P.O. Box 124
Walcott Iowa 52773

We provide Fiber symmetrical 1000Mb Download by 1000Mb Upload service.

Best Regards,
Andy Willey
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