

Broadband Map V5 Final Agency Decision

DOCKET NO. 006P

A. CHALLENGER INFORMATION

Entity/Community Name	Bernard Telephone Company Inc.
FRN (Provider Only)	0003-7735-04
Address	110 Jess St. PO Box 68
City	Bernard
State	Iowa
Zip	52032

B. DESIGNATED CONTACT INFORMATION

Contact Name	Kyle Manders
Contact Phone Number	563-879-3203
Contact Email	kyle@bernardtel.net

C. CHALLENGE TYPE

- Resident
- Community
- Provider - Self-reporting
- Provider - Third-party
- State
- 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

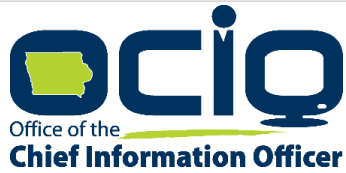
12/16/2022

Date of Issuance: December 16, 2022

Definitions	
Challenged Provider	A provider that has been named in a challenge; the challenge is specific to that provider.
Notice Form	A notice was sent in the form of an Excel workbook to all providers at a challenged address location regardless of whether the challenge named the provider specifically. Multiple Notice Forms may have been sent regarding Map V5.
Unchallenged Provider	A provider that reflects on the Map as serving an address location that is being challenged but the challenge is not specific to that provider.

Basis Number	Decision	Explanation	For Use When:	Result
1	Accepted	The Office accepts the information submitted by the Challenger for this address location because the Office does not possess conflicting information.	(1) A provider confirms they do not serve that address location; (2) The challenged provider did not respond to the Notice Form.	Change to the map
2	Declined	The Office declines the information submitted by the Challenger due to one of the following reasons: (1) the evidence provided by the Challenger is not sufficiently probative; (2) the evidence or explanation given by provider(s) at that location was sufficient to overcome challenger's claim; (3) Challenger's claim was not against this provider, and provider responded to Notice; (4) Location ID is outside of NOFA project area.	(1)The Unchallenged Provider responded to the Notice Form; (2) The address location falls outside the area identified in the evidence; (3) The Challenged Provider responded to the Notice Form with sufficient evidence to rebut the claim.	No change to the map
3	Accepted	The Office accepts the information submitted by the Challenger for this address location despite information having been submitted by impacted provider(s). The Office finds the evidence submitted by the Challenger to be more probative than the information submitted by impacted provider(s).	(1) The Challenged Provider responded without evidence or without sufficient evidence to rebut the claim.	Change to the map
4	Declined	The Office declines the information submitted by the Challenger because there was an insufficient basis for challenge.	(1) No providers reflect at this address location; (2) A provider was noticed for their own submitted challenge and did not respond; (3) Provider claims previous incentive already reflected on the map; (4) Resident claims they are happy with their service and not reporting problems with their provider; (5) Challenged provider is not reflected on the Map for that address location; (6) Map already reflects the stated claim for challenge.	No change to the map

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.

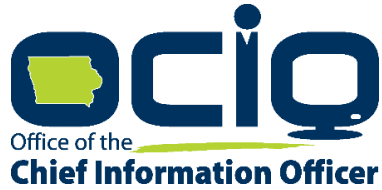
This form is for PROVIDERS and COMMUNITIES only. Resident challengers should fill out the form via the Map on the website.

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):

<p>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>	<p>X</p>	
<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>	<p>X</p>	
<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. 	<p>X</p>	
<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>	<p>X</p>	



Broadband Map V5 Provider/Community Challenge Form

A. CHALLENGER INFORMATION

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City	Bernard		
State	Iowa		
Zip			52032

B. DESIGNATED CONTACT INFORMATION

Contact Name	Kyle Manders		
Contact Phone Number	563-879-3203		
Contact Email	kyle@bernardtel.net		

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.

The locations noted on the challenge form have been served via fiber optic cable since 2013 by Bernard Telephone Company.

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:	S/S Kyle Manders		
Title:	General Manager		
Date:			8/22/2022

IA Location ID	Street Address	City	State	ZIP Code	No. of Units at address (house, multi-residential units)	Basis for Challenge	Challenge Detail	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	Service Conditions The Map Should Reflect		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.			
											Is this location served, underserved, or unserved?	Technology Type	Sworn Statement/ Survey Response	Broadband study expressly citing location	Speed test at this location	Other
1931	1931 Bennetville Rd	Zwingle	IA	52079	1	12-Provider facilitates speeds faster than that reported on the map	Provider only: The Map does not correctly reflect service that I facilitate to this location	1000	1000	Fiber						
22703	22703 Lake View Drive	Bernard	IA	52032	1	12-Provider facilitates speeds faster than that reported on the map	Provider only: The Map does not correctly reflect service that I facilitate to this location	1000	1000	Fiber						
22505	22505 Lake View Drive	Bernard	IA	52032	1	12-Provider facilitates speeds faster than that reported on the map	Provider only: The Map does not correctly reflect service that I facilitate to this location	1000	1000	Fiber						
22501	22501 Lake View Drive	Bernard	IA	52032	1	12-Provider facilitates speeds faster than that reported on the map	Provider only: The Map does not correctly reflect service that I facilitate to this location	1000	1000	Fiber						
10303	10303 Lake View Drive	Bernard	IA	52032	1	12-Provider facilitates speeds faster than that reported on the map	Provider only: The Map does not correctly reflect service that I facilitate to this location	1000	1000	Fiber						
10203	10203 Lake View Drive	Bernard	IA	52032	1	12-Provider facilitates speeds faster than that reported on the map	Provider only: The Map does not correctly reflect service that I facilitate to this location	1000	1000	Fiber						

