

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY
SECRETARY OF LABOR AND INDUSTRY

PETITION ACCORDING TO SECTION 8 OF THE PREVAILING WAGE ACT

In re: Request by Broadband Communications
Association of Pennsylvania for Review of
Determinations of Prevailing Wages for
Broadband Equity, Access and Deployment
Projects--Statewide

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STATEWIDE PROJECTS--
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BROADBAND EQUITY, ACCESS,
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AND DEPLOYMENT
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STATEWIDE
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**PETITION OF BROADBAND COMMUNICATIONS ASSOCIATION OF
PENNSYLVANIA REQUESTING REVIEW OF PREVAILING WAGE RATE
DETERMINATIONS MADE BY THE SECRETARY OF LABOR AND INDUSTRY**

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**PETITION OF BROADBAND COMMUNICATIONS ASSOCIATION OF
PENNSYLVANIA FOR REVIEW OF PREVAILING WAGE RATE
DETERMINATIONS MADE BY THE SECRETARY OF LABOR AND INDUSTRY**

Pursuant to section 8 of the Pennsylvania Prevailing Wage Act (“PWA”), 43 P.S. §165.8, the Broadband Communications Association of Pennsylvania (“BCAP”), files this Petition Requesting Review of Prevailing Wage Rate Determinations Made by the Secretary of Labor and Industry (the “Secretary”) for the statewide Broadband Equity, Access and Deployment Projects, and avers as follows:

1. BCAP is a 501(c)(6) organization with a principal place of business at 127 State Street, Harrisburg, PA 17101.
2. BCAP members have been in the forefront of developing, building and servicing physical plant and other infrastructure to support broadband throughout the Commonwealth and have provided broadband and other telecommunication and teledata products and services for decades.
3. BCAP members are applying to participate in Pennsylvania’s Broadband Equity, Access, and Deployment (“BEAD”) program, funded pursuant to the Infrastructure Investment and Jobs Act of 2021, Division F, title I, Section 60102, Public Law 117-58, 135 Stat. 429 (November 16, 2021) (IIJA).¹
4. The BEAD program funding for Pennsylvania was primarily based on the relative number of areas in the Commonwealth identified as unserved or under-served by reliable broadband service. Unserved and underserved localities in the Commonwealth tend to be low-

¹ BCAP members are also participating in Pennsylvania’s American Rescue Plan Act Capital Projects Fund Broadband Infrastructure Program (“BIP”). Concerning the prevailing wages determined for BIP, BCAP intervened as a party in the Grievance initiated by Verizon Pennsylvania LLC and Verizon Pennsylvania at Docket No.: PWAB-1G-2024. All relevant portions of the record in the Grievance matter are incorporated herein by reference.

density areas, rural locations, and other areas of Pennsylvania where the cost of providing broadband service has been economically unfeasible.

5. The Pennsylvania Broadband Development Authority (“PBDA”) is an independent authority under the Department of Community and Economic Development (“DCED”) which receives the federal funding for the BEAD program and administers the program in accordance with the Notice of Funding Opportunity for BEAD (“NOFO”) propounded by the National Telecommunications and Information Administration (“NTIA”).

6. PBDA is a “public body” as defined and directed by the PWA. 43 P.S. §§165.2(4) (definition of public body) & 165.4 (duty of public body).

7. DCED may also be considered a public body for this proceeding under the PWA.

8. BCAP is a representative organization whose members are employers which construct broadband infrastructure and provide broadband services and products in Pennsylvania.

9. Sections 8 of the PWA expressly identifies that “any representative of any group of employers engaged in the particular type of construction, reconstruction, alteration and demolition or repair work involved” may file a petition for review of prevailing wage rate determination made by the Secretary. 43 P. S. §165-8.

10. Members of BCAP are bidders or prospective bidders for projects in the BEAD program.

11. Similarly, section 8 of the PWA permits “[a]ny prospective bidder or his representative” to petition the Secretary for review of prevailing wage rate determinations. *Id.*

12. On July 17, 2025, PBDA published its Broadband Equity, Access, and Development Program, Program Guidelines, July 2025 (“Guidelines”).²

² The link to Broadband Equity, Access, and Development Program, Program Guidelines, July 2025 is at <https://dced.pa.gov/download/broadband-equity-access-and-deployment-bead-guidelines-2025/?wpdmdl=127346>

13. Contemporaneous to the publication of the Guidelines, PBDA published information concerning prevailing wages for the BEAD program.³

14. The prevailing wage information provided by PBDA includes a caveat:

“Please note: The rates included in these determinations reflect current rates as of June 26, 2025, and are valid for 120 days. The rates are informational only. Prevailing wage rates are project specific and subject to change based upon available information. These determinations are intended to provide applicants with necessary information to estimate project costs. Prevailing wage determinations will be required from the PA Department of Labor & Industry should the project in question be approved.”

15. PBDA’s caveat has the effect of making the published prevailing wage determinations for BEAD projects either meaningless or uncertain especially in consideration of Section 4 of the PWA, 43 P. S. §165-4, Duty of the Public Body (it is the public body’s duty “to determine from the secretary the prevailing minimum wage rates which shall be paid by the contractor to the workmen upon such project. Reference to such prevailing minimum rates shall be published”).

16. Further, rates included in the determinations published by PBDA for the BEAD program do not include rates for teledata linemen or teldata splicers.⁴

17. Instead, PBDA and the Department of Labor and Industry (“L&I”) have determined that the only linemen and splicer class is electric linemen.

18. The wage rate for electric lineman is significantly more than the rates for teledata lineman and teledata splicer, approaching approximately a thirty percent increase in wages.

accessed July 26, 2025.

³ The link to the prevailing wage information is at <https://broadband.pa.gov/pa-prevailing-wage-rates/> accessed July 26, 2025.

⁴ The Broadband industry, including the members of BCAP, use teledata linemen and teledata splicers for fiber-optic cable and other telecommunications cable and line work when constructing broadband infrastructure and physical plant. BCAP describes the class of workers as teledata linemen and teledata splicers, but they may also be referred to as telecommunication linemen and splicers or other similar job titles.

19. The custom and usage in the industry for the construction of broadband networks and physical plant is to use teledata linemen and teledata splicers.

20. Electric linemen are not often used for broadband infrastructure, especially network buildouts, except in unusual circumstances or the occasional need for make ready work in the electric space on a shared pole.

21. Make ready work is a term of art in the industry for the work that is required on a pole to make room for additional facilities on the same pole.

22. Federal regulations and national industry standards separate the telecommunication space on a pole from the electric transmission space on a pole, including a space dividing telecommunication from electric spaces referred to as the communication worker safety buffer zone.

23. Although the custom and usage in the broadband industry is to normally and regularly employ teledata linemen and teledata splicers for construction of broadband infrastructure and physical plant; PBDA and the Secretary have ignored the customary industry practice and have failed to provide prevailing wage information for teledata linemen and teledata splicers.

24. Instead, the Secretary, has adopted a classification of worker, the electric lineman, and the attendant wages for that class, despite the paucity of need or use for such a class of worker in broadband infrastructure projects.

25. NTIA explained its policy concerning states which require prevailing wages for BEAD projects as follows:

Finally, to stay within federal grant guidelines on reasonable costs and ensure that prevailing wage laws are applied consistently, **states applying prevailing wage laws should accurately classify workers in the context of a broadband network deployment and clarify wage and/or worker classifications** for potential subgrantees. **NTIA's ongoing grant monitoring**

will include review of state prevailing wage law application to ensure that the Eligible Entity uses appropriate classifications.

Frequently Asked Questions and Answers Version 12, Broadband Equity, Access, and Deployment (BEAD) Program, p. 1, FAQ 1.34 (emphasis added).⁵

26. The Secretary’s purported prevailing wage determinations as published by PBDA show that the Secretary has not accurately classified workers in the context of a broadband network deployment.

27. The use of improper classifications and prevailing wage rates may jeopardize federal funding for Pennsylvania’s BEAD projects.

28. The Secretary has ignored, overlooked or dismissed the existence of at least four collective bargaining agreements for broadband construction in Pennsylvania with classifications and wages for teledata workers, including teledata linemen and teledata splicers or their equivalent job.

29. The teledata agreements referenced above include:

- a. Verizon Pennsylvania collective bargaining agreement with the Communication Workers of America, wages for the relevant classes running from \$45.11 to \$46.08;
- b. Verizon North LLC collective bargaining agreement with the International Brotherhood of Electrical Workers (“IBEW”) locals 1451, 1635, and 1637, wages for the relevant classes running from \$40.33 to \$42.18;
- c. Two IBEW Teledata Agreements with Northeastern Line Constructors, one for IBEW Local 126 and the other for IBEW Local 1319 wages for the relevant classes running from \$35.83 to \$37.97.

⁵ The link to Frequently Asked Questions and Answers Version 12, Broadband Equity, Access, and Deployment (BEAD) Program (“NTIA FAQs”) is at https://broadbandusa.ntia.gov/sites/default/files/2025-07/BEAD_FAQs_v12_7182025.pdf accessed July 27, 2025

30. PBDA explains in the Guidelines that it “will administer the program in accordance with the most current NTIA guidance, with an emphasis on cost efficiency and timely project delivery.” Guidelines at p.1, Section I.C. Updated Federal Policy Notice.

31. Accordingly, the Secretary’s determination that the prevailing wage should be for a class of worker not usually employed in the broadband industry clearly is not “an emphasis on cost efficiency” required by the federal and state guidelines.

32. Further, the Guidelines explain that applicants for BEAD projects are permitted to propose any technology type including Low Earth Orbit Satellites (“LEO”). *See, e.g.*, Guidelines at p.7 & 8, Section V.D & E. Network Architectural Standards and Low Earth Orbit Satellite Service Requirements.

33. LEO companies do not have infrastructure or physical plant to construct.

34. Accordingly, companies, like the members of BCAP, are at a fundamental disadvantage when their proposed BEAD projects require the cost of labor for constructing broadband infrastructure and physical plant. Increased wages based on a classification of worker not usually used by the broadband industry only increases the competitive disadvantage BCAP members will suffer.

35. The use of wage determinations for electric linemen, a wage and class of worker not usually employed in the normal custom and usage of the industry for broadband construction, may also place the BCAP members’ applications outside the competitive scoring rubric. *See, e.g.*, Guidelines at p. 13-14, Section VI. Application Evaluation and Scoring Criteria.

36. Further, the Secretary has previously recognized a teledata classification for Building and Heavy and Highway work in Pittsburgh.

37. The Secretary has also recognized the difference in classifications, especially due to the difference in danger of the work between electricians and teledata workers. *IBEW, Local Union No. 98 v. Department of Labor and Industry*, 816 A.2d 1220, 1222 (Pa. Commw. 2003)).

38. The Secretary's determination of wages identified in the PBDA materials are illogical especially in light of the federal and PBDA funding process for the BEAD program.

39. The Secretary's determination of wages is an abuse of discretion in light of the Pittsburgh determinations and previous determinations specifically involving teledata workers.

40. Additionally, upon information and belief, BCAP avers that the prevailing wage determinations published by PBDA were not determined by the Secretary or the Secretary's duly authorized representative. 43 P.S. §165.2(6) (definition of Secretary).

41. Accordingly, the published prevailing wage determinations should be considered a nullity or an abuse of discretion and the Secretary should properly determine the applicable classifications and prevailing wage.

42. Also, upon information and belief, BCAP avers that the prevailing wage determinations published by PBDA were made without consulting the Prevailing Wage Advisory Board ("Advisory Board") in violation of the requirements of section 7 of the PWA, 43 P.S. §165.7.

43. Accordingly, the published prevailing wage determinations should be considered a nullity or an abuse of discretion and the Secretary should properly consult with the Advisory Board before making any determination of the applicable classifications and prevailing wage.

44. BCAP requests the Secretary conduct an investigation and hold a hearing in accordance with Section 8 of the PWA, 43 P.S. §165.8.

WHEREFORE, the Broadband Communications Association of Pennsylvania respectfully requests the Secretary of Labor and Industry to conduct an investigation and to hold a hearing in accordance with Section 8 of the PWA, 43 P.S. §165.8, to determine prevailing wages in accordance with the custom and usage of the industry in the construction of broadband infrastructure and to comply with the federal and state requirements and policies governing the BEAD projects.

Respectfully submitted:

/s/Lee C. Silverman
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Dated: July 28, 2025

VERIFICATION

I, Todd Eachus, hereby verify that the statements made in the forgoing Petition are true and correct to the best of my knowledge, information and belief. I further verify that I am authorized to make this Verification on behalf of the Broadband Communications Association of Pennsylvania in this action. I understand that false statements herein are subject to the penalties in 18 Pa. C. S. § 4904 relating to unsworn falsifications to authorities.

By: _____

A handwritten signature in black ink, appearing to read "Todd Eachus", written over a horizontal line.

Todd Eachus, President
Broadband Communications
Association of Pennsylvania

CERTIFICATE OF SERVICE

I, Lee C. Silverman, hereby certify that this 28th day of July, 2025, I served a true and correct copy of Petition of Broadband Communications Association of Pennsylvania Requesting Review of Prevailing Wage Rate Determinations Made by the Secretary of Labor and Industry, by email or overnight mail as indicated to the following:

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