

Arizona Commerce Authority (ACA) State Broadband Office



BEAD Rebuttal Evidence Requirements

This document is created for guidance purpose only. Please contact ACA directly for questions not addressed in this document (broadband@azcommerce.com).

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1.1 AVAILABILITY (SERVICE IS NOT AVAILABLE) CHALLENGE REBUTTAL – CODE A

Only the service provider whose service availability has been challenged can submit an availability challenge rebuttal. Acceptable rebuttal evidence for each Availability challenge type is provided in the table below:

Table 1: Acceptable Availability Rebuttal Evidence

Type	Challenge Reason	Acceptable Evidence (maximum days from evidence collection)
1	Provider failed to schedule a service installation within 10 business days of a request.	<ul style="list-style-type: none"> A copy of the customer bill (redacted or unredacted) that shows that the location subscribes or has subscribed to the providers service (365 days). A screenshot from the provider website that shows service availability at that location (365 days). A copy of an offer sent to the location that provides service is now available as a standard installation (365 days). Geospatial, as-built diagrams or files of infrastructure deployed to provide service to the location (365 days). For fixed wireless service, results from a mobile test unit that demonstrate service availability and speed at the challenged location (365 days).
2	Provider did not install the service at the agreed-upon time.	<ul style="list-style-type: none"> A copy of the customer bill (redacted or unredacted) that shows that the location subscribes or has subscribed to the providers service (365 days). A screenshot from the provider website that shows service availability at that location (365 days). A copy of an offer sent to the location that provides service is now available as a standard installation (365 days).
3	Provider requested more than the standard installation fee to connect the location.	<ul style="list-style-type: none"> A copy of an offer sent to the location that provides service is now available as a standard installation (365 days).
4	Provider denied the request for service.	<ul style="list-style-type: none"> A copy of the customer bill (redacted or unredacted) that shows that the location subscribes or has subscribed to the providers service (365 days). A screenshot from the provider website that shows service availability at that location (365 days). A copy of an offer sent to the location that provides service is now available as a standard installation (365 days).
5	Provider does not offer the technology entered above at this location.	<ul style="list-style-type: none"> Evidence from provider network management system showing an appropriate residential gateway that matches the provided service (365 days).
6	Provider does not offer the speed(s) shown on the Broadband Map for purchase at this location.	<ul style="list-style-type: none"> A copy of the customer bill (redacted or unredacted) that shows that the location subscribes or has subscribed to the providers service (365 days). A screenshot from the provider website that shows service availability at that location (365 days).

Type	Challenge Reason	Acceptable Evidence (maximum days from evidence collection)
		<ul style="list-style-type: none"> A copy of an offer sent to the location that provides service is now available as a standard installation (365 days).
7	No wireless signal is available at this location (only for technology codes 70 and above).	<ul style="list-style-type: none"> Results from a mobile test unit that demonstrate service availability and speed at the challenged location (365 days).
8	New, non-standard equipment had to be constructed at this location.	<ul style="list-style-type: none"> A copy of an offer sent to the location that provides service is now available as a standard installation (365 days). Geospatial, as-built diagrams or files of infrastructure deployed to provide service to the location (365 days).

Area challenges for availability may be rebutted either in whole or by location with evidence that service is available for all BSLs within the census block group, e.g., by network diagrams that show fiber or HFC infrastructure or by subscriber information. For fixed wireless service, the challenge system will offer representative random sample of the area in contention, but no fewer than 10 BSLs, where the provider must demonstrate service availability and speed (e.g., with a mobile test unit)⁶.

To rebut a “Fix Wireless Challenge” submitted under “Type 6 Provider does not offer the speed(s) shown on the Broadband Map for purchase at this location”, the cellular fixed wireless provider must demonstrate both of the following:

- 1 The provider is providing 100/20 Mbps or better service at the relevant locations. The method for rebuttal for this challenge mirrors the procedure described in “Speed Test Requirements” in Section 1.1 Availability Challenge Evidence – Code A of the Challenge Evidence Requirements.

AND

- 2 The Provider has sufficient network capacity to simultaneously serve (i.e., as concurrently active subscribers) at least 80% of claimed locations in the relevant coverage areas. As one option for making such a showing, a provider may describe how many fixed locations it serves from each cell tower and the amount of per-user averaged bandwidth it uses for capacity planning. To provide confidence to ACA that a cellular network is likely to be able to support a reasonable fraction of BSLs in the claimed coverage area, a simpler, approximate analysis will be offered as an evidentiary rebuttal method. The provider must indicate the spectrum available to fixed wireless customers (which may be less than that available to mobile devices) for each tower. A minimum capacity demand of 5 Mbps per BSL is required to be considered served only because of cellular fixed wireless service by the provider, with a spectral efficiency of 10 b/s/Hz. Thus, the rebuttal is successful only if the total capacity of all sectors of a cell tower exceeds the number of claimed BSLs dependent on cellular fixed wireless, multiplied by 5 Mbps.

1.2 AVAILABILITY (SERVICE IS AVAILABLE) CHALLENGE REBUTTAL – CODE A

Inverse Availability Challenges may be rebutted with evidence of the same type that is acceptable for submission as evidence to support an Availability Challenge. See Challenge Evidence Requirements Section 1.1 Availability (Service Is Not Available) Challenge Evidence – Code A.

1.3 SPEED TEST CHALLENGE REBUTTAL – CODE S

⁶ A mobile test unit is a testing apparatus that can be easily moved, which simulates the equipment and installation (antenna, antenna mast, subscriber equipment, etc.) that would be used in a typical deployment of fixed wireless access service by the provider.

Only the service provider whose service speed has been challenged can submit a speed test rebuttal. For an individual location, the service provider can submit countervailing speed test from their own network management system⁷ as evidence showing sufficient speed. The speed test results must include:

- Time and date the speed test was conducted (must be within the last 60 days).
- Location of the speed test or the provider-assigned internet protocol (IP) address identifying the residential gateway where the test is conducted.
- Download and upload speeds.

Additionally, other evidence may be submitted for rebuttal to show sufficient speed. Acceptance or rejection of the rebuttal evidence will be at the discretion of the ACA office.

A service provider may rebut an area or MDU speed test challenge by providing speed tests, in the manner described above, for at least 10% of the customers in the challenged area or MDU. The customers must be randomly selected. Providers must apply the 80/80 rule, i.e., 80% of these locations must experience a speed that equals or exceeds 80% of the speed threshold. For example, 80% of these locations must have a download speed of at least 20 Mbps (that is, 80% of 25 Mbps) and an upload speed of at least 2.4 Mbps to meet the 25/3 Mbps threshold and must have a download speed of at least 80 Mbps and an upload speed of 16 Mbps to be meet the 100/20 Mbps speed tier. Only speed tests conducted by the provider between the hours of 7 pm and 11 pm local time will be considered as evidence for a challenge rebuttal.

1.4 LATENCY CHALLENGE REBUTTAL – CODE L

Only the service provider whose latency has been challenged can submit a countervailing speed test showing latency at or below 100ms. For an individual location, the service provider can submit countervailing speed test from their own network management system or the CAF performance measurements as evidence showing reasonable latency. The speed test results must include:

- Time and date the speed test was conducted (must be within the last 60 days)
- Location of the speed test or the provider-assigned internet protocol (IP) address identifying the residential gateway where the test is conducted.
- Latency results.

Additionally, other evidence may be submitted for rebuttal to show latency at or below 100ms. Acceptance or rejection of the rebuttal evidence will be at the discretion of the ACA office.

A service provider may rebut an area or MDU latency challenge by providing speed tests, in the manner described above, for at least 10% of the customers in the challenged area or MDU. The customers must be randomly selected. Providers must apply the 80/100 rule, i.e., 80% of these locations must experience a latency that equals 100ms. Only speed tests conducted by the provider between the hours of 7 pm and 11 pm local time will be considered as evidence for a challenge rebuttal.

1.5 DATA CAP CHALLENGE REBUTTAL – CODE D

⁷ As described in the NOFO, a provider's countervailing speed test should show that 80 percent of a provider's download and upload measurements are at or above 80 percent of the required speed. See *Performance Measures Order*, 33 FCC Rcd at 6528, para. 51. See BEAD NOFO at 65, n. 80, Section IV.C.2.a.

Only the service provider whose service has been challenged can submit rebuttal to a data cap challenge. The provider must submit their terms of service for the challenged location showing that it does not impose an unreasonable data cap or offers another plan at the location without an unreasonable cap.

Additionally, a service provider can submit other evidence to demonstrate that a monthly data cap of less than 600 GB has not been imposed on a customer. Acceptance or rejection of the rebuttal evidence will be at the discretion of the ACA office.

1.6 TECHNOLOGY CHALLENGE REBUTTAL – CODE T

Only the service provider whose service has been challenged can submit rebuttal to a technology challenge. The provider can submit countervailing evidence from their network management system showing an appropriate residential gateway that matches the provided service.

Additionally, the provider can submit other evidence to demonstrate an appropriate residential gateway that matches the provided service. Acceptance or rejection of the rebuttal evidence will be at the discretion of the ACA office.

1.7 BUSINESS SERVICE ONLY CHALLENGE REBUTTAL – CODE B

Only the service provider whose service has been challenged can submit rebuttal to a business only service challenge. The provider can submit documentation that the service listed in the BDC map is available at the challenged location to residential customers. Rebuttal evidence can include:

- A copy of the residential customer bill (redacted or unredacted) that shows that the location subscribes or has subscribed to the providers service within the last 12 months.
- A copy of an offer sent to the location that provides service is now available as a standard installation.
- Evidence from the provider's network management system showing an appropriate residential gateway that matches the provided service.
- Other evidence to demonstrate that the service at the challenged location is available to residential customers. Acceptance or rejection of the rebuttal evidence will be at the discretion of the ACA office.

1.8 ENFORCEABLE COMMITMENT CHALLENGE REBUTTAL – CODE E

Any entity eligible to submit a challenge (Challenger) may rebut an enforceable commitment challenge. The Rebutter can submit documentation that demonstrates the provider has defaulted on their commitment or is otherwise unable to meet the commitment (e.g., is no longer a going concern). They may also submit evidence that the locations are in an area that are subject to an enforceable commitment to less than 100% of locations and the location(s) are not covered by that commitment. Evidence for this rebuttal may include:

- Text message, email, or letter from provider indicating they do not plan to meet their commitment.
- Voicemail transcript from provider indicating they do not plan to meet their commitment.
- Documentation of phone call or in-person interaction with the provider indicating they do not plan to meet their commitment.
- Documentation from the funding entity indicating the provider has defaulted on their commitment.
- Other evidence that demonstrates a provider has defaulted on their commitment or is otherwise unable to meet the commitment. Acceptance or rejection of the rebuttal evidence will be at the discretion of the ACA office.

1.9 NOT PART OF ENFORCEABLE COMMITMENT – CODE N

No rebuttals may be submitted for Not Part of Enforceable Commitment Challenges.

1.10 PLANNED SERVICE – CODE P

Any entity eligible to submit a challenge (Challenger) may rebut a planned service challenge. The Rebutter can submit documentation showing that the provider is no longer able to meet the commitment (e.g., is no longer a going concern) or that the planned deployment does not meet the required technology or performance requirements. Evidence to rebut a planned service commitment may include:

- Construction contracts, permitting documentation, or similar evidence that indicate the deployment will not be completed by the June 30, 2024, or December 31, 2024, due date (dependent on technology being deployed)
- Other evidence that the deployment is not progressing as planned to meet the deadlines listed above. This can include project letters or other communications from the provider.
- If the challenge includes locations on Tribal Lands, Rebutter may provide evidence that there is no legally binding agreement between the relevant Tribal Government and the service provider for the location(s) at issue.
- Other evidence can be submitted that indicates service is not planned for the challenged BSLs. Acceptance or rejection of the rebuttal evidence will be at the discretion of the ACA office.

1.11 LOCATION IS A CAI – CODE C

The CAI being challenged may rebut that the location does not fall within the definition of CAI defined in the approved version of Arizona’s Initial Proposal Volume I, or is no longer in operation. Evidence that may support this rebuttal can include:

- Location is a residence as documented by:
 - Property records or real estate listing showing the property as a single-family or multi-family dwelling.
 - Utility bills (redacted or unredacted) in the name of the occupant(s) showing usage consistent with residential occupancy.
 - Rental or lease agreement for the property.
 - Internet, cable, or phone bills (redacted or unredacted) indicating the location as a residential address.
- Location is a non-CAI business as documented by:
 - Screenshot of business’s website including their location (address)
 - Business registration documents such as a business license or tax identification number.
 - The property being listed as a commercial property in property records or real estate listings.
 - Photo of address and signage indicating the name and type of business at the location.
 - Business cards or promotional materials that list the location as the business address.
 - Invoices, receipts, or other financial documents referring to the location as the business address.

- Institution does not fall with the CAI definition and listed categories of CAI types (identify the institution type that the location should be listed as)
- Evidence that demonstrates that the location is no longer in operation:
 - Local new source indicating closure of CAI.
 - Confirmation from local government CAI is no longer in operation.
- Other evidence that demonstrates a location is not a CAI will be accepted at the sole discretion of the ACA office.

1.12 LOCATION IS A NOT CAI – CODE R

The CAI being challenged may rebut that the location falls within the definition of a CAI in the approved version of Arizona’s Initial Proposal Volume I, or is still operational. Evidence that may support this rebuttal must include:

- Official entity name of the institution
- The type of CAI, selecting from the categories defined above
- Explanation of how the institution facilitates greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals.
- Current service speed of service provided at this location
- Evidence that the location falls within the definitions of CAIs establish by ACA in the Arizona BEAD Initial proposal Volume I. This can include:
 - Registration documents.
 - Contact information to confirm CAI status.
 - Eligibility for FCC e-Rate or Rural Health Care Program.

Other evidence that demonstrates a location is a CAI will be accepted at the sole discretion of the ACA office.