

**Public Utility District No. 1  
of Pend Oreille County**

**Community Network System Policy and Fees**



Effective May 20, 2025

## ***Table of Contents***

<b>1</b>	<b>Introduction .....</b>	<b>3</b>
<b>2</b>	<b>About Pend Oreille PUD .....</b>	<b>3</b>
<b>3</b>	<b>Services Offered .....</b>	<b>4</b>
<b>4</b>	<b>Definitions/Acronyms .....</b>	<b>5</b>
<b>5</b>	<b>Ownership of Facilities .....</b>	<b>6</b>
<b>6</b>	<b>Retail Service Provider Requirements .....</b>	<b>7</b>
<b>7</b>	<b>Billing and Payment .....</b>	<b>7</b>
<b>8</b>	<b>Service and Rates Schedules.....</b>	<b>9</b>

## **1 Introduction**

### **1.1 Purpose and Scope**

The purpose of this Community Network System Policy and Fees (“Policy”) is to set forth the terms, conditions, and fees of Public Utility District No. 1 of Pend Oreille County (the “PUD”)’s Community Network System (CN System or CNS) telecommunication services.

### **1.2 Consistency with Applicable Laws and Regulations**

This Policy shall be administered and construed consistent with all then-applicable laws, regulations, or orders, and nothing in this Policy shall be administered or construed inconsistent with any then-applicable laws, regulations, or orders. The PUD will endeavor to update this Policy as often as possible to reflect any changes in applicable laws, regulations, or orders. In the event a question or dispute arises regarding the subject matter of this Policy which requires its interpretation or construction, the issue will be first resolved by the PUD ’s Customer Service Manager, and second and finally by the PUD’s General Manager.

### **1.3 Updates to this Policy**

This Policy may be revised, amended, deleted, or otherwise changed at any time by action of the PUD’s Board of Commissioners (“Board”). Such actions shall cancel and supersede all previous versions of this Policy and the terms, conditions, rules, and regulations contained therein.

## **2 About Pend Oreille PUD**

The voters of the State of Washington authorized the creation of Public Utility Districts by passing Initiative 1 in 1930, which was spearheaded by the granges in order to electrify rural areas. The law reads, “The purpose of this act is to authorize the establishment of public utility districts to conserve the water and power resources of the State of Washington for the benefit of the people thereof, and to supply public utility service, including water and electricity for all uses.”

Public Utility District No. 1 of Pend Oreille County was formed by the people of Pend Oreille County in 1936. The PUD provides electric, water, and wholesale broadband services. The PUD is governed by a three-member Board of Commissioners, elected in staggered six-year terms from three districts within the county, which sets policy and appoints a General Manager who is the chief administrative officer of the PUD. The Board has broad ratemaking authority to meet its obligation to ensure adequate revenues.

The Board typically meets in the morning on the first and third Tuesdays of each month in Newport, and on any fifth Tuesday of the month at Box Canyon Dam. The District also typically holds two evening town-hall meetings per year, and holds special meetings as needed. The public is encouraged to attend all Board meetings. Please check the PUD’s website ([popud.org](http://popud.org)) or call 509-447-3137 to verify the time, date, and agenda of the next meeting.

### 3 Services Offered

The PUD is a wholesale provider of telecommunication services. As such, the PUD sells broadband services and products only to authorized Retail Service Providers (RSPs), for their own internal business use or for resale to their Retail Customers. Each RSP must execute an Agreement with the PUD as a condition of service, which Agreement shall cover all circuits sold to that particular RSP. This PUD policy is incorporated into those RSP Agreements by reference. While each RSP is responsible for their policies and procedures for serving their Retail Customers, these PUD policies shall also set forth certain necessary terms and conditions to enable the provisioning of services to the RSP's Retail Customer.

The CN System is an open access wholesale provider with nondiscriminatory service and product pricing offering service which utilizes fiber optic and wireless infrastructure:

- **Standard Class Wireless Service:** PUD wireless product available to RSP's for resale to their residential and business Retail Customers.
- **Standard Class Service:** PUD lit bandwidth product available to RSPs for resale to their residential and business Retail Customers.
- **Premium Class Service:**
  - Standard Plus Service: PUD's lit bandwidth offering for RSP's internal use circuits as well as an optional service for their Retail Customers that require a slightly higher circuit level of reliability and service response—but not necessarily all the Enterprise Level service offerings.
  - Enterprise Level Service: PUD's lit bandwidth offering for RSP's internal use circuits as well as an optional service for their Retail Customers desiring a higher circuit level of reliability and service response. Additional services include Dark Fiber lease, communication space rental, NoaNet interconnections and NoaNet Internet Pricing. This service may be used for resale purposes, i.e. being resold to another Retail Customer or traded for a like service.

## 4 Definitions/Acronyms

**“Co-Location”** refers to “meet me” facilities where broadband carriers can rent rack space and install equipment and cabling to enable the interconnection of their circuits with other carriers.

**“Community Network System”** (CN System or CNS) means the PUD’s telecommunication facilities used to provide broadband services to the PUD and its customers. The CN System provides wholesale telecommunication services as authorized by the Washington State legislature.

**“Customer Premise Equipment”** (CPE) refers to communications equipment that resides at the terminus of a line on the customer’s premises whether it is a home or business and provides an interface between the customer’s local network and the broadband provider’s network. The PUD requires that this device be located on the outside of any customer premise for standard class service. The PUD will own and maintain the CPE.

**“Dark Fiber”** means fiber optic strands that are not “lit,” meaning no electronics are installed on either end to enable transmission of data. Dark fiber is leased as is, dark, and the lessee then installs their own electronics to enable transference of data. Therefore, the entire strand becomes a sold product, not just a portion of the strand’s capacity.

**“Lit Bandwidth”** means the sale of a portion of the capacity of a fiber optic strand. The seller provides all electronics as well as the fiber optic and then sells various products that will move data for the buyer on the seller’s broadband network.

**“MRC”** means Monthly Recurring Charge, the monthly billing amount a broadband provider quotes to a purchaser for a broadband product or service.

**“NoaNet”** means the Northwest Open Access Network, a Washington nonprofit mutual corporation. NoaNet is a Washington State wholesale transport provider created by public utility districts, and as such, is a public entity, not private carrier. The PUD is an owner-member of NoaNet.

**“NOC”** means Network Operations Center, which is a service that provides 24 hour monitoring of circuit performance. The PUD purchases NOC services from NoaNet.

**“NRC”** means Non-Recurring Charge, the one-time fee a broadband provider charges to establish, or “provision,” a new circuit.

**“PUD”** means the Public Utility District No. 1 of Pend Oreille County, Washington.

**“Retail Customer”** means a customer of RSP that is an end user of telecommunications services provided by the District to RSP under this Agreement.

**“Retail Service Provider”** (RSP) means the person, business or entity, authorized to provide retail telecommunication services and to which the PUD is authorized to provide wholesale telecommunication services under Washington State law.

**“SLA”** means Service Level Agreement, an Agreement between the PUD and another wholesaler or RSP wherein the PUD commits to maintaining a certain level of uninterrupted service and for which certain penalties may be provided if such service level is not maintained.

**“VLAN”** means Virtual Local Area Network. While an actual definition is quite technical, VLAN and Virtual Private Networks (VPN) are ways to use software to create a private communications network. While other broadband circuits may share the same fiber optic and electronics that provide the seller’s lit bandwidth, by using software controls and electronics programming, the traffic for a particular circuit or group of circuits can be made private and virtually as secure as if the network had its own dedicated fiber optic strands and electronics.

**“Wireless Customer Premise Equipment”** (Wireless CPE) refers to a Customer Premise Equipment device that is installed outdoors on a customer premise and is typically a wireless access point that connects to the PUD multi-point WiFi access point. The wireless CPE is purchased and owned by the customer.

## 5 Ownership of Facilities

### 5.1 General Facilities

The PUD shall determine physical requirements necessary to connect existing PUD broadband facilities and provide the service as requested by the Retail Customer. All new fiber services whose fiber build is incomplete, including modification or relocation of service, must be made by application to the PUD pursuant to the PUD's Utility Extension Manual.

The PUD shall determine the location of the interconnection to the RSP (or RSP's Retail Customer) premises and shall normally own the terminal equipment (Customer Premise Equipment or CPE) required at that point of interconnection. This point will normally be located near the power meter for Standard Class Services. The PUD shall own all broadband infrastructure from the CPE back toward the preexisting PUD facilities. The RSP or Retail Customer shall be responsible for the purchase and installation of all terminals, cabling, and other internal communication infrastructure required for the Retail Customer to interconnect to the PUD-owned Customer Premise Equipment.

In the event of a "hand off" interconnection with RSP's infrastructure, or any other telecommunication entity's network, the circuit termination point shall be the connection into PUD owned terminal ports. The PUD shall own the port, the RSP or other entity shall own the connecting cable.

The PUD and RSP may mutually agree on alternative CPE locations and facilities ownership, in writing, for any particular service or circuit. In select cases the PUD may allow qualified telecommunications companies or contractors to build distribution infrastructure to interconnect a customer or retail service provider to the PUD's communication system. In such event, system standards, ownership, and access fees shall be agreed upon, in writing, prior to beginning construction.

On termination of circuit service, the PUD shall normally leave all broadband infrastructure in place to serve potential future customers at the premise. The PUD shall have and assumes no responsibility for dismantling or removal of broadband infrastructure owned or installed by the RSP or Retail Customer.

The PUD and its agents shall have the right and privilege of reasonable physical access to the RSP's and Retail Customer's premises during the duration of this Agreement, subject to reasonable access control requirements, for purposes of accessing and maintaining fiber, terminal equipment, and any other PUD owned communication infrastructure.

### 5.2 Easements

In accordance with the PUD's Utility Extension Manual, the appropriate real property owner(s) shall provide any requested easement to the PUD for locating and access to all PUD owned broadband infrastructure on or approaching the location property. The PUD will not proceed to build broadband infrastructure or provide broadband services or products to the RSP for the related circuit until all necessary easements are obtained.

## 6 Retail Service Provider Requirements

### 6.1 General Requirements

The PUD requires an executed Wholesale Telecommunications Services Agreement (“Agreement”), in substantially the same form as the attached Exhibit A, before providing any broadband products or services to any RSP. All Agreements will provide for notification of Retail Customers in the event the RSP is no longer authorized to resell PUD broadband services. All Agreements shall provide for termination of services in the event the RSP does not comply with these PUD policies, to prevent fraudulent use, or to protect PUD property and shall also provide for limitation of PUD liability in such matters.

To qualify as a third-party Retail Service Provider for PUD provisioned wholesale services, the provider must meet the minimum of the following requirements:

- a) Have a Federal Communications Commission (FCC) Universal Services Administration Company (USAC) Service Provider Identification Number (SPIN) to qualify to provide services to eligible entities.
- b) Maintain liability insurance pursuant to Section 10.4 of the Agreement and provide a proof of insurance to the PUD upon request.
- c) Be licensed to do business in the State of Washington and maintain a Washington unified business identifier (UBI) number.
- a) Have professional technical and customer support ability (provide local access number(s)).
- b) Have the ability to install and provision consumer services including compliance with all applicable laws and regulations, such as certified telecommunications administrator or low voltage licenses, or as otherwise may be required by various regulatory bodies.
- c) Provide the PUD with proof or a statement of intent to operate as a telecom or Internet Service Provider (ISP) or otherwise meet the requirements to resell PUD telecommunication services under Washington law.
- d) Provide a deposit to the PUD as security against bad debts as per Section 7.3.
- e) Provide a copy of Reseller Permit.

## 7 Billing and Payment

### 7.1 Billing Practices

Bills will be generated monthly, unless otherwise designated in the rate schedule, and will be processed on the last business day of each month. The PUD will invoice RSPs for products and services at the end of each month following service. Bills are sent by first-class mail from St. Louis, Missouri, or via email upon customer request, and are due and payable upon receipt, and considered delinquent after the 20th of each month. On the 25th day of each month, a Late Fee will be assessed on all accounts with a missed payment or past due balances. Monthly charges will be prorated for the first and last month based on the number of days of service during the month.

Failure to pay any fee or charge by the due date may be considered default under the RSP Agreement and may result in a pause of service or loss of resale privileges until payment has been made. Loss of resale privileges may result if such has occurred on two prior occasions during the immediate prior twenty-four (24) month period.

### 7.2 Tax Adjustments

Rates and fees listed in this policy do not include any taxes or surcharges applicable to the service.

### 7.3 Security Deposits

RSPs reselling PUD services must furnish an initial security deposit to the PUD as security against bad debts. The deposit amount will be the lesser of \$5,000 or 200% of the expected monthly charges. At the discretion of the PUD, should an established account's credit become unsatisfactory, an increased security deposit may be required. Interest will not be paid on deposits. The PUD, in its sole discretion, may waive the deposit or accept an irrevocable letter-of-credit in lieu of cash deposit.

RSPs purchasing PUD services solely for their own internal use; such as transport circuits, dark fiber leases, tower leases, co-location charges and similar; will not be subject to an initial deposit policy. However, 2 consecutive month's billings with a past due carryover balance will trigger a deposit requirement equal to 200% of the average monthly charges for the trigger period, refundable on request based on 24 consecutive month's good credit history.

### 7.4 How to Pay Your Utility Bill

- Pay Online using SmartHub, the PUD's free online account management system.
  - Register at <http://popud.smarthub.coop> or download the SmartHub app on your mobile device.
  - To register you will need the last name on the account, the account number and an email address.
- Enroll in Auto Pay for an automatic withdrawal from your checking account or credit card; enroll through your SmartHub account.
- Pay Online using the Quick Pay option at <https://popud.smarthub.coop/PayNow.html>. No registration needed.
- Pay by Phone by calling 1-844-971-1058, available 24 hours a day.
- Mail payment to P.O. Box 190 Newport, WA 99156.
- Pay in person at 130 N. Washington Avenue, Newport, WA 99156, open daily Monday-Thursday 7:00 a.m. to 5:30 p.m. or at Box Canyon Visitor Center at 7492 Hwy 31 Lone, WA 99139, a payment kiosk is available 24 hours a day.
- Pay via Wire or ACH, contact the PUD's Treasurer at [information@popud.org](mailto:information@popud.org) for more information.

Forms of payment accepted: Wire or ACH, Cash\*, Check, Money Orders, Visa or MasterCard\*\*

\*Cash is defined as currency, coin, money orders or cashier's checks. The PUD will report cash payments of \$10,000 or more to the Internal Revenue Service by filing IRS Form 8300.

\*\*Credit Card payments are subject to a \$10,000 transaction limit.

### 7.5 Billing Adjustments

In the event of an error in billing, such as equipment failure or employee recording error, the PUD will make an adjustment to the billing on the basis of the best information available. When an underbilling or overbilling of an account occurs, the PUD shall provide the customer with notice of the circumstances and a corrected bill.

All adjustments will be for a period of no more than three (3) years except as approved by the PUD's General Manager. In cases where an underbilling is the result of tampering or false or inaccurate information provided or procured by the customer, this limitation shall not apply.

When a customer is required to pay for an underbilling due to a PUD error, the customer may enter into a payment arrangement at the General Manager's discretion.

Under-billings may be waived at the General Manager's discretion when the cost of recovery makes it uneconomical.



## 8 Service and Rates Schedules

### 8.1 Standard Wireless Service

Standard Wireless Service is a product available to RSPs for resale to their residential and business Retail Customers. As many variables outside of the PUD's control are factored into the throughput available over a wireless link, the PUD deems services offered over its wireless infrastructure to be of a "best effort" nature and wireless connection speeds offered over said infrastructure cannot be guaranteed. Standard Wireless Service is supported Monday through Friday 8:00am to 4:00pm, excluding holidays.

#### 8.1.1 Monthly Recurring Charges (MRC)

Service	MRC
Internet Ports	\$40.00

#### 8.1.2 Non Recurring Access Charges (NRC)

To access Wireless service, the RSP (acting on behalf of the RSP and Retail Customer) will notify the PUD of the desire for service by submitting a connection request. Service will be disconnected only after a disconnect request has been submitted.

The PUD will provide the WiFi Installation Kit to the RSP which includes the following:

- 1 - Provisioned Wireless Customer Premise Equipment (Wireless CPE)
- 1 - Wireless CPE Mounting Hardware
- 1 - Copper Cable Surge Protector

Description	NRC
Installation Kit	\$130.00

The PUD will bill the RSP for the Installation Kit fee. The Installation Kit charges are applicable for the initial installation of electronics at a premise. Replacement of equipment after the initial installation date will also be subject to the Installation Kit fee, unless the equipment is covered by the manufacturer's warranty.

### 8.2 Standard Class Service

Standard Class Service is a PUD best efforts product available to RSPs for resale to their residential and business Retail Customers. This service does not provide NOC monitoring services, VLANs, or protected circuits. Standard Class Service is provided over the PUD's fiber optic network and is supported Monday through Friday 8:00am to 4:00pm, excluding holidays.

Services provided under this class of service are specifically for the use of the customer named on the connection request and may not be shared or resold to another end user; this includes the service being provided to a rental property through a shared CPE or to an additional residence either on the same or an adjoining parcel. This service could be provided through a common CPE provided that each customer is under a unique contract and receiving their service through a separate, activated port.

### 8.2.1 Lit Bandwidth Monthly Recurring Charges (MRC)

To access lit bandwidth, the RSP (acting on behalf of the RSP and Retail Customer) will notify the PUD of the desire for service by submitting a connection request. Service will be disconnected only after a disconnect request has been submitted.

While the RSP speaks for the Retail Customer, the PUD may also consult directly with the Retail Customer concerning installation of the fiber optic infrastructure on their real property and possible landscaping impacts.

PUD staff must determine that the requested use of system will not interfere with any preexisting PUD or CN System communication activities.

<b>Port Access</b>	<b>MRC</b>
Internet Ports	
100 Mb/s, each	\$45.00
Non Internet Ports	
Retail Customer takes Internet Service	
2 Mb/s Miscellaneous Use Port, each	\$5.00
3 Port Package of Video / VoIP Ports	\$5.00
Retail Customer without Internet Service	
2 Mb/s Miscellaneous Use Port, each	\$40.00
3 Port Package of Video / VoIP Ports	\$40.00

Additional 2 Mb/s ports (for home security, and similar) and a package of up to 3 Video / VoIP ports are available for resale by any RSP to the Retail Customer premise provided that there is a 100 Mb/s PUD Internet service, or Premium Class Service, already being billed to the Retail Customer by an authorized RSP. If a Retail Customer is not taking a 100 Mbps internet port, and desires other service(s), such as Video only, the charge is \$40.00 for the port(s). The Video /VoIP MRC is a bundled rate for one (1) to three (3) ports, as may be required, and the ports may be used for either Video or VoIP. Internet services do not qualify for this bundled package deal and will only be provisioned as a standalone Internet Port.

Unless the RSP arranges for NoaNet Upstream Internet service, all data traffic to Standard Class Service Retail Customer ports will be delivered to the RSP business premises within the CN System service territory, or to an agreed upon outside location via Standard Plus or Enterprise Level Service.

### 8.2.2 Non Recurring Access Charges (NRC)

**New Circuit Requests:** All new fiber service requests whose fiber build is incomplete, or modification or relocation of service requests, must be made by application to the PUD pursuant to the PUD's Utility Extension Manual.

A build is considered complete if all Customer Premise Equipment is installed; this entails a fiber line connection from the backbone to the customers premise, a gateway box complete with electronics, (CPE) and power supply. This scenario will normally only exist if service was previously provided at this location.

### Connection Fee:

The PUD will charge a \$100.00 Connection Fee for the provisioning of electronics for all Standard Class Service connection requests. This charge will appear on the first billing statement for the account.

### Reconnect Fee:

If a Standard Class customer has discontinued service a \$100.00 Reconnect Fee will be charged. This charge will appear on the first billing statement following the reactivation.

The PUD will be responsible for replacement of the electronics within the Customer Premise Equipment due to faulty equipment. Electronics or other PUD owned equipment on the RSP's customer premise will be replaced at RSP's customer's cost, if damaged by that customer.

## 8.3 Premium Class Service

To access Premium Class Services, the RSP (acting on behalf of the RSP and Retail Customer) will notify the PUD of the desire for service by submitting an inquiry to [cns-premium@popud.org](mailto:cns-premium@popud.org). The PUD requires a signed Service Order to connect service. A completed and signed Disconnect Request form is required to discontinue service, subject to the terms of the Service Order.

### 8.3.1 Dark Fiber

PUD dark fiber infrastructure capacity is limited. Dark fiber leases must be approved by the PUD's Board of Commissioners and such approval may be withheld for any reason at the sole discretion of the PUD's Board. All dark fiber leases must be entered into by lease agreement with the term of the lease and any renewal provisions specifically stated as well as maintenance and operating obligations of both lessee and lessor.

The monthly rate to lease Dark Fiber, when authorized under the provisions of Section 6.3.A is \$55.00 per strand per fiber mile. Mileage shall be determined and documented with an Optical Time Displacement Reflectometer report, tendered to lessor.

Dark Fiber leases shall have a minimum monthly recurring cost of \$600.00 and a minimum of two fiber strands in the leased segment, rounding always to the next highest mile. The PUD does not lease single strand fiber. Dark fiber segments will be **considered** ended when it enters into a CN System communications hut and a new contract segment beginning should the "circuit" continue beyond the facility.

### 8.3.2 NoaNet Services

NoaNet circuits which are bundled with a PUD circuit:

- a) Any RSP desiring a circuit incorporating PUD broadband service as well as NoaNet services shall pay all applicable NoaNet NRC and MRC fees, which may include a contractually (between NoaNet and the PUD) agreed upon PUD fee. The PUD will furnish current NoaNet pricing, terms and conditions as well as its mark up on those fees on request.
- b) Customers desiring NoaNet service may be subject to exit local loop charges as well as PUD and NoaNet fees, depending on type of service desired and other factors.

NoaNet circuits which do not include a PUD circuit:

- a) The PUD will resell NoaNet services to parties wishing access to NoaNet services directly without utilizing PUD infrastructure. All NoaNet charges will apply as well as a PUD mark up or an account management fee as referenced in the previous section. To avoid PUD infrastructure based NRC and MRCs, the party must access NoaNet through a point of presence that is not owned by the PUD.
- b) Parties desiring transport may not directly connect with NoaNet, or any other carrier, at PUD owned communication hut facilities. The point of interconnection shall be engineered so as to be located outside PUD communication hut facilities and the PUD shall own the infrastructure from that point of interconnection into the communications hut and interconnecting with NoaNet facilities. All such circuits will be subject to PUD NRC and MRC in addition to any outside carrier fees and charges. PUD's charges will be calculated based on individual circumstances, but shall not be less than \$20,000 NRC as well as a MRC calculated based on a lit bandwidth tail circuit sufficient to carry the NoaNet contracted service. Such interconnection charges are not eliminated by requesting co-location space. Co-location facilities are available only at PUD co-location site(s) and only for those RSPs circuits associated with a PUD provided dark fiber lease, lit bandwidth circuit, or tower facility lease incorporating a lit bandwidth circuit.

### 8.3.3 Lit Bandwidth

Enterprise Level and Standard Plus Services are the PUD's required lit bandwidth offering for RSP internal use circuits as well as an optional service for their Retail Customers desiring a higher circuit level of reliability and service response—those Retail Customers whose broadband needs are mission critical.

To access lit bandwidth, the RSP (acting on behalf of the RSP and Retail Customer) will notify the PUD of the desire for service. While the RSP speaks for the Retail Customer, the PUD may also consult directly with the Retail Customer concerning installation of the fiber optic infrastructure on their real property and possible landscaping impacts.

PUD staff must determine that the requested use of system will not interfere with any preexisting PUD or CN System communication activities.

#### Enterprise Level Service

The PUD offers such circuits a multiple VLAN capability, Q in Q, NOC monitoring services, and protects these circuits with a redundant route, which enables an alternative path out of the CN System service territory (pricing is available without a redundant path). This service is supported 24 hours per day, seven (7) days per week. The PUD will evaluate customer requests for SLA's, however, such approval may be withheld for any reason. Enterprise Level local loop monthly fees for each circuit established are:

Port Access	Term	MRC
<b><u>Ethernet Services</u></b>		
10Mbps Port	Month to Month	\$600.00
	3 year Contract	\$550.00
20Mbps Port	Month to Month	\$950.00
	3 year Contract	\$900.00
50Mbps Port	Month to Month	\$1,250.00
	3 year Contract	\$1,150.00
100Mbps Port	Month to Month	\$1,500.00
	3 year Contract	\$1,350.00
Extra Port Connections	Month to Month	\$150.00
	3 year Contract	\$150.00
500Mbps	Month to Month	\$1,800.00
	3 year Contract	\$1,650.00
1 Gigabit Port	Month to Month	\$2,000.00
	3 year Contract	\$1,850.00
10 Gigabit Port	Month to Month	\$8,900.00
	3 year Contract	\$8,500.00
10 Gigabit Non-Protect Port	Month to Month	\$7,100.00
	3 year Contract	\$6,700.00
Service to Cell Tower	Negotiated - up to 10 year Contract	Negotiated
<b><u>TDM Access</u></b>		
T1 / T1 Emulation		\$500.00

By electing to take advantage of the PUD's reduced pricing for a 3 year term, the Retail Service Provider (RSP) acknowledges that they are responsible for all payments until the end of said term. Should their customer elect to terminate service prior to this date, the PUD will continue to invoice the RSP for the remainder of the signed term.

**10 Gig Non-Protect:** This circuit will be similar in all regards to the other Enterprise Level Service Circuits provided by the PUD with the exception of the service protection provided through a redundant route that would have provided an alternative path out of the CN System service territory. This service is still supported 24 hours per day, seven days per week, comes with VLAN capability, and NOC monitoring. The Retail Customer accepts that during a fiber outage, scheduled or unscheduled, they will experience a service interruption.

The Ethernet Service Extra Port Connection applies only to multiple circuits connecting physically separated business premises under common ownership or lease. The extra port connection ONLY applies to point-to-point or point-to-multi-point private line Ethernet connections using the same VLAN within Pend Oreille County. This port option is only available on Ethernet Services up to and including 100Mbps circuits. It is not available to retail service providers wishing to connect to multiple Retail Customers.

Fast Ethernet (100Mbps) can be upgraded from the 10 Mb/s service at no upgrade cost for circuits that originate and terminate from the same backbone access point.

#### Standard Plus Service

The PUD offers such circuits with NOC monitoring services and a second maintenance VLAN, however, Standard Plus Service is only supported Monday through Thursday 7:00am to 4:00pm, excluding holidays. After hours PUD response will be provided when requested by the RSP and will incur a service fee.

Should the request require engineering support beyond the NOC level, a minimum service fee of \$300.00 (first 2 hours) will be accessed; should a field response be necessary a minimum service fee of \$900.00 (first 2 hours) will be accessed. Additional charges will be assessed on an actual costs (time & material basis) as may be necessary to restore service(s). The RSP will be billed the applicable service fee. Standard Plus local loop monthly fees for each circuit established are:

Port Access	Term	MRC
<b>Ethernet Services</b>		
10Mbps Non-Protect Port	Month to Month	\$375.00
20Mbps Port Non-Protect Port	Month to Month	\$600.00
50Mbps Port Non-Protect Port	Month to Month	\$790.00
100Mbps Port Non-Protect Port	Month to Month	\$1,000.00
500Mbps Non-Protect Port	Month to Month	\$1,150.00

#### 8.3.4 NoaNet Internet Pricing for RSP Upstream Use

RSPs aggregating Internet traffic and wishing to purchase the PUD's upstream service, currently provided through NoaNet, shall be charged according to the following tiers. The Internet product provided by NoaNet is a multi-home, diverse path solution via four separate providers in two distinct geographic regions. It is the responsibility of the purchasing party to monitor and control their bandwidth consumption.

RSP Upstream Pricing	Bandwidth	MRC
Tier 1	Up to 100Mb	\$850.00
Tier 2	Up to 250Mb	\$1,250.00
Tier 3	Up to 500Mb	\$1,850.00

#### 8.3.5 Towers

All parties leasing tower space will be required to enter into a tower lease agreement with the PUD.

Lease of space will be considered when such placement does not interfere physically, structurally, or electronically with the facilities currently positioned or planned for that facility.

When available, in its sole determination after considering both present and future use requirements, the PUD will lease required communication rack space in existing communication structures in accordance with the provisions of Section 6.4.

When needs or security requirements necessitate a separate weather tight secured equipment cabinet or enclosure with a footprint of less than 10 square feet and less than 40 cubic feet in volume the PUD will consider accommodating a mutually agreed upon location and lease rate. Larger enclosures will be evaluated on a case-by-case basis. An approved metered electrical service will be required for all enclosures.

When needs or security requirements necessitate a separate secured communication structure the PUD will evaluate the feasibility of a property lease on a case-by-case basis.

All structural attachments will be engineered by a Professional Structural Engineer licensed in the State of Washington, unless the facility has been pre-engineered to accommodate the planned attachment. The entity requesting to attach to the PUD's structure must provide the PUD with a Structural Analysis Report evaluating the ability of the tower to support the proposed equipment; this analysis must include all existing appurtenance configuration(s). All construction and attachment installations shall be performed by an OSHA Certified Tower Worker with current Rescue Certification documentation. Prior to commencing work, written approval of a qualified communications contractor must be obtained from the PUD.

All permits, certificates, or other governmental approvals required by federal, state, or local authorities shall be obtained by the lessee prior to commencing operation.

Facilities proposed on PUD Electric System distribution or transmission poles, above the electric space, as defined in the NESC, will not be allowed by the PUD under any circumstances.

#### **Poles, towers, or structures greater than 70 feet in elevation:**

- Platform mounting is required for three or more antenna and renter shall provide approved platform, installed to industry standard specification by a qualified communications contractor at their own expense.
- The approved platform, upon installation, becomes an integral part of the tower and is therefore the property of the PUD.

<b>Metaline Falls Tower</b>	<b>MRC</b>	<b>NRC</b>
Operational Cellular Site*	\$1,500.00	Refer to section 6.3.F
Position 1/Sector (2 Cables)	\$300.00	\$500.00
Position 2 6 Foot Dish	\$500.00	\$500.00
Position 2 4 Foot Dish	\$400.00	\$500.00
Position 3/Sector (2 Cables)	\$300.00	\$500.00
Position 4 6 Foot Dish	\$300.00	\$500.00
Position 5 2'by 2' Panels	\$200.00	\$500.00
Community Service**, All Positions	\$50.00	Cost

\*The Operational Cellular Site includes one T1 Service from cellular site to CN System Point of Presence. Alternative fiber optic lit broadband circuits are available for an incremental fee.

\*\*Community Service is defined as a Pend Oreille County not for profit public service entity whose primary business is providing essential lifeline services to the community. This might include, but not be limited to, fire districts, not for profit ambulance or medical services, and other agencies.

### 8.3.6 Non Recurring Access Charges

New circuit requests will be made by the RSP. The PUD will solely determine the infrastructure requirements as concerns all infrastructure it will ultimately own; however, if a written desire is expressed by the RSP with the service order, the PUD will consult with the RSP to determine an alternate routing, who will build, pay for, and own the infrastructure. In the absence of full accord on these matters, no infrastructure will be built.

The PUD will furnish its best estimate of actual costs that will be incurred to extend the broadband facilities to serve the new circuit, which estimate shall be binding on the PUD provided that the build was not altered from the route depicted in the line extension quote. There shall be no later true-up cost incurred. This fee shall include engineering, provisioning, customer premise equipment, vehicles, installation equipment use, fiber optic cable, poles, conduit, trenching, labor, payroll overheads, and similar costs. The estimate may also include the cost of previously laid conduit for which cost recovery was not previously received. The PUD will only issue a work order to complete construction and activate service once all required forms and payment have been received.



## 8.4 Other Fees and Charges

### **Administrative Charges:**

Returned Payments	\$25.00
Field Collection Fee Charged when PUD personnel are required to make a special trip to premises for collection procedures.	\$100.00
Field Service Fee Charged when PUD personnel are required to make a special trip to premises.	\$100.00
Late Fee Charged each month on missed payments and past-due balances owing that are greater than or equal to \$5.00 balances.	1.5%
Temporary Disconnect Fee Charged when a request is submitted by an RSP to temporarily disconnect a customer account. (Reactivation of service is included in this cost.)	\$30.00
Unauthorized sharing or resale activity Services provided under the Standard Class service are specifically for the use of the customer named on the connection request and may not be shared or resold to another end user. The monthly fee will be charged to the RSP.	\$50.00 per month
Damage Fees Damage fees may be assessed for Retail Customer damage or RSP damage to PUD facilities. Failure to pay damage fees will be grounds for termination of all applicable circuit(s).	
Co-location Fees PUD co-location fees are \$50.00 per 3 rack units (5.25") per month for a 19" or 23" open rack, or \$300.00 for half of a locked cabinet plus usage-based charges for power. For rack utilization of greater than fifty percent, requesting party shall be assessed a one time, NRC of \$1,000.00 for open rack and \$1,750.00 for a locked cabinet. All installed racks, trays, and cable runs shall remain the property of the PUD. All co-location will require an executed co-location agreement. Co-location shall be provided only at PUD selected locations and then only to RSPs for circuit(s) terminating at the co-location site that are associated with PUD provided services, i.e. dark fiber leases, lit bandwidth services, or tower facility leases incorporating lit bandwidth.	

## EXHIBIT A – Form of Wholesale Telecommunications Services Agreement

## Wholesale Telecommunications Services Agreement

This Agreement for Wholesale Telecommunications Services ("**Agreement**") is made by and between Public Utility District No. 1 of Pend Oreille County, a Washington municipal corporation (the "**District**"), and \_\_\_\_\_, a [INSERT ENTITY TYPE AND DOMICILE] (the "**RSP**"). In this Agreement, the District and the RSP are referred to collectively as the "**Parties**" and individually as a "**Party**."

### Recitals

- A. The District maintains a wholesale broadband telecommunications system with facilities located in Pend Oreille County and Spokane County, Washington.
- B. Customer is a retail telecommunications service provider that provides, or intends to provide, services in or near Pend Oreille County.
- C. The Parties desire to enter into this Agreement, together with its attached exhibits, to establish the rates, terms, and conditions that apply to the Services (as defined below) provided by the District to RSP pursuant to this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, mutually agree as follows:

### Agreement

#### 1. Definitions. As used in this Agreement:

- 1.1. "**Community Network System**" or "**CN System**" means the District's telecommunication facilities used to provide broadband services to the District and its customers.
- 1.2. "**District Policies**" means the District's Community Network System Policies and Fees, and all other District policies applicable to this Agreement and the provision of wholesale broadband service, which may be modified, amended, or replaced by the District from time to time in its sole discretion.
- 1.3. "**NoaNet**" means Northwest Open Access Network, a Washington nonprofit mutual corporation.
- 1.4. "**Retail Customer**" means a customer of RSP that is an end user of telecommunications services provided by the District to RSP under this Agreement.

- 2. **Term.** This Agreement shall be effective on the date when it is fully executed and delivered by the Parties (the "**Effective Date**"). Unless earlier terminated or extended according to the

provisions hereof, this Agreement shall expire five (5) years from the Effective Date (“**Initial Term**”), and, subject to earlier termination as provided in this Agreement, shall automatically renew for successive one (1) year terms (each a “**Renewal Term**” and, together with the Initial Term, the “**Term**”); *provided, however*, if either Party does not wish to enter into a Renewal Term, it may, upon not less than one hundred eighty (180) days’ written notice prior to end of the then current Term, provide notice of such termination. Each Renewal Term shall be governed by and according to the terms and conditions in this Agreement, unless otherwise agreed by the Parties in writing.

- 3. Open Access System.** The District operates the CN System as an open access system, with rates, terms, and conditions for wholesale broadband services that are not unduly or unreasonably discriminatory or preferential. The District will not grant exclusivity to any RSP. If the District decides to provide retail broadband services, such decision shall not terminate its wholesale broadband services or this Agreement. However, nothing in this section shall limit the District's ability to terminate this Agreement for any other reason authorized under this Agreement.

**4. Services Provided.**

- 4.1. The District shall be responsible for all circuit operation over the CN System and NoaNet. The RSP shall be responsible for all circuit operation outside the CN System and NoaNet. The RSP shall not directly or indirectly interfere in any manner with District operations or facilities, and shall not alter, maintain, or repair the District's broadband infrastructure without the written consent of the District.
- 4.2. The RSP shall be responsible for all Retail Customer service activities, including communications with Retail Customer on outages, service quality issues, and all technical needs or concerns of the Retail Customer.
- 4.3. The District wishes to avoid direct correspondence, verbal or written, from the Retail Customer regarding the services provided through this Agreement, and any such contact will be immediately passed on to the RSP. On request of the District, the RSP will notify the Retail Customer of the Parties' desired flow of communication.
- 4.4. The RSP shall accept the credit risk of its Retail Customers and not pass that risk onto the District.
- 4.5. The District and NoaNet do not guarantee uninterrupted availability. The District shall not be liable to the RSP or any other person, for any failure, whether temporary or permanent, to provide uninterrupted telecommunications services, except as may be provided by a specific, separate, service-level agreement duly executed by the Parties and relating to a particular circuit or circuits.

- 4.6. In the event it is necessary (in the sole discretion of the District) to temporarily suspend the availability of bandwidth capacity for the purpose of preventive maintenance , repairs, or improvements to the CN System, the District shall have the right to do so, but shall use reasonable efforts to give advance notice to RSP.
- 4.7. Following unscheduled failures in the District's communications infrastructure, the District will make needed repairs to restore capacity with reasonable diligence.
- 4.8. In the event of an emergency, the District may immediately discontinue service to avoid harm to or interference with its wholesale telecommunications operations or facilities, or the operations or facilities of third parties, and the District shall notify RSP of such disconnection as soon as reasonably practical.
- 4.9. While RSP failure to pay a telecommunications provider other than the District may not result in default or termination under this Agreement, it may result in a termination of circuit service or product that is outside the control of the District. The District assumes no obligation under such circumstances, but will take reasonable efforts to reestablish the complete circuit once any dispute between the RSP and the other telecommunication provider has been resolved.

## **5. Bandwidth Capacity.**

- 5.1. The District hereby agrees to provide RSP access to the District's broadband capacity, throughout the District's local loop (i.e., District-owned infrastructure in Pend Oreille and Spokane Counties), and through NoaNet, to provide any broadband circuits requested by RSP, whether intended for internal use of the RSP or with the intent to resell to Retail Customers, provided such capacity is then reasonably available on the District's CN System and/or NoaNet.
- 5.2. Once a circuit is established for the RSP to resell, the RSP may, at any time upon 60 days written notice to the District, elect to change to a different bandwidth level or to any other service or facility offering then available from the CN System and/or NoaNet.
- 5.3. The RSP's right to access and use District and/or NoaNet capacity does not authorize and shall not be construed to authorize the RSP to have exclusive use of the District or NoaNet capacity.
- 5.4. The RSP shall comply with Circuit Operation and Service Conditions, which are attached hereto as **Exhibit A** and made a part of this Agreement.

## **6. Charges for Services.**

- 6.1. RSP shall pay all applicable charges and fees as set forth in the District Policies, which may be modified, amended, or replaced from time to time by the District in its sole discretion. District pricing shall include any applicable NoaNet related fees, which are also subject to change at discretion of the District and/or NoaNet.
- 6.2. Each Party shall be responsible for its own federal, state, and local taxes, assessments, fees, surcharges and other financial impositions. Notwithstanding the foregoing, RSP agrees that if there is any tax payable by it, but which is to be collected by the District which the District does not collect for any reason, upon assessment thereof by the applicable taxing agency, and demand by the District, the RSP shall immediately remit the same to the District, even if such assessment arises after the termination of the Agreement.

**7. Coordination of Activities.** Each Party shall inform the other Party of operational or maintenance activities that may affect the other Party's communication system. Prior to commencement of any work hereunder, the Parties will confer to schedule and coordinate the work to be performed.

## **8. RSP Eligibility and Representations.**

- 8.1. **Compliance with District Policies and Eligibility Requirements.** To qualify as eligible to receive and provide services on the District's open access CN System, the RSP must, at all times under this Agreement, meet the minimum eligibility requirements identified in the District Policies. The RSP shall, at all times under this Agreement, comply with all terms and conditions required under the District Policies.
- 8.2. **RSP Representations.** As a material inducement to the District entering in to this Agreement, RSP represents and warrants the following to the District:
  - (A) RSP has the power and authority to enter into this Agreement.
  - (B) RSP is duly licensed, has secured all necessary permits and licenses, and is fully qualified to provide telecommunications services in compliance with all terms and conditions of this Agreement.
  - (C) RSP has met all of the eligibility criteria described in § 8.1.

**9. Ownership of Facilities.** The District will provide access to CN System infrastructure at various locations within Pend Oreille and Spokane Counties. In the absence of specific written agreement for a particular circuit, the guidelines for ownership of facilities set forth

in the District Policies shall apply. Ownership of preexisting lines and telecommunications infrastructure shall not change as a result of this Agreement.

## **10. Limitation of Liability, Indemnity, and Insurance.**

- 10.1. **No Guaranty of Continuous Service.** The District does not guarantee uninterrupted availability to RSP or its Retail Customers. The District makes no warranties or representations, express or implied, either in fact or by operation of law, including warranties of merchantability or fitness for a particular use. In addition to RSP's indemnity obligations under Section 10.3 below, RSP shall hold the District harmless from any claims arising from or relating to: (a) service interruptions, service unavailability, content communicated over District facilities, errors in transmission, lack of security and integrity of data or information, virus transmission, broadcast hacker attacks, latency, or failure to establish connection; (b) failure of District communication facilities; (c) the District's failure to have bandwidth capacity available; and (d) the District's compliance with federal and state investigative efforts or discontinuing service as a result of unlawful or fraudulent activity.
- 10.2. **Limitation of Liability.** Neither Party shall be liable to the other, nor shall the District be liable to the Retail Customers or RSP's affiliates, for any consequential, incidental, special, punitive, or indirect damages, including without limitation lost revenue, profits, or other benefit, whether by tort, contract, or otherwise, arising out of or in any way related to this Agreement or the Parties' performance, faulty performance, or non-performance, of any provision of this Agreement; *provided*, this limitation on liability shall not apply to RSP's indemnity obligations for third-party claims made against the District under § 10.3. Each Party specifically and expressly agrees, on behalf of itself and all its customers (including Retail Customers) and affiliates, that the sole liability for any claim or demand arising out of this Agreement or the District's provision, faulty provision, or non-provision of services under this Agreement shall not exceed the monthly rate paid by the RSP to the District for such service under this Agreement within the 30-day period immediately preceding the event that gives rise to the claim or demand.
- 10.3. **RSP Indemnity Obligations.** The RSP shall indemnify, defend, and hold harmless the District from any and all direct and third-party claims, damages, and losses, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, to the extent arising out of or relating to RSP's performance or nonperformance of its obligations under this Agreement, RSP's use of services under this Agreement, RSP's breach or nonperformance of any covenant or obligation of the RSP herein, or RSP's violation of any applicable law or regulation. The RSP's obligation to assume,

protect, defend, indemnify and save the District harmless shall extend to the District's commissioners, employees, and agents, and shall continue for so long as any of the named indemnitees may be subjected to claims or suits calling for such obligations provided. The RSP may not enter into a settlement that imposes any obligation on the District or requires any admission by the District without the written approval of the District.

- 10.4. **Insurance.** Both Parties will maintain, and on request provide proof of, insurance of a minimum of \$1 million general liability and \$1 million property insurance.

## **11. Compliance with Applicable Laws.**

- 11.1. Both the District and the RSP shall comply with all applicable federal, state, and local laws, codes, rules, regulations, and all other obligations under law.
- 11.2. The District will cooperate with appropriate law enforcement and government agencies or other parties involved in investigating claims of illegal or inappropriate activity. The District's broadband services may only be used for lawful purposes. RSP service may be disconnected to prevent fraudulent or unlawful use by RSP or its Retail Customer, including lack of compliance with intellectual property rights and laws, or inappropriate content such as child pornography.
- 11.3. The RSP shall terminate Retail Customer's circuit service in the event RSP becomes aware of failure on the part of the Retail Customer to follow all applicable laws and regulations including, but not limited to, copyrights, trademarks, and material that is obscene, defamatory, or constitutes an illegal threat.
- 11.4. Each Party represents and warrants that any equipment or services provided to the other Party under this Agreement comply with the Communications Assistance for Law Enforcement Act under § 229 of the Communication Act of 1934 (47 U.S.C. § 151 *et seq.*), as amended. Each Party will indemnify and hold the other Party harmless from any and all penalties imposed upon the other Party for such noncompliance and will at the non-compliant Party's sole cost and expense, modify or replace any equipment, facilities, or services provided to the other Party under this Agreement to ensure that such equipment, facilities, and services fully comply with the Communications Assistance for Law Enforcement Act.

## **12. Default and Termination.**

- 12.1. Each of the following shall constitute an event of default:



- (A) The RSP fails to pay any fee within thirty (30) days after it is due;
- (B) The RSP fails to comply with any term or condition, or fulfill any obligation of this Agreement within ten (10) days of written notification of noncompliance by the District;
- (C) A proceeding under bankruptcy, reorganization, arrangement of debts, insolvency or receivership law or assignment of benefit of creditors is made by or against the RSP;
- (D) The RSP becomes insolvent or fails to generally pay its debts as they become due;
- (E) The RSP attempts to make an assignment in violation of § 15.2 and fails to cure such attempted assignment within five (5) days of written notice by the District.
- (F) The RSP voluntarily or involuntarily dissolves or is dissolved or terminates or is terminated; or
- (G) The District breaches any of its material performance obligations under this Agreement and fails to cure such breach within ten (10) days after written notice.

12.2. In the event of default by either Party, the non-defaulting Party shall have the right to exercise any or all of the following remedies:

- (A) Terminate this Agreement by written notice;
- (B) Proceed by court action to enforce performance of this Agreement;
- (C) Suspend its performance under this Agreement, including by disconnecting broadband services and rendering any related communications equipment or infrastructure unusable or inoperable; and
- (D) Exercise any other right or remedy available at law or in equity.

### **13. Uncontrollable Forces.**

13.1. **Generally.** Subject to limitations set forth in this Agreement, if either Party is rendered wholly or partly unable to timely perform any obligation under this Agreement (other than the obligation to pay money when due) because of an Uncontrollable Force, such obligation of a Party shall be suspended to the extent

and for the duration of the Uncontrollable Force. The Party affected by such Uncontrollable Force shall, as soon as reasonably practical after the occurrence of the claimed Uncontrollable Force, give the other Party prompt verbal notice, followed by a written notice that complies with § 14. The Party affected by such Uncontrollable Force shall use reasonable efforts to remedy its inability to perform as soon as reasonably practical.

13.2. **Definition of “Uncontrollable Force”.** As used in this Agreement, an “Uncontrollable Force” is any event that is beyond the reasonable control of the Party affected thereby, including: failure or loss of facilities (including facilities owned or controlled by the PUD and NoaNet); flood; earthquake; storm; fire; lightning; epidemic; pandemic; war; riot; civil disturbance; labor dispute; sabotage; and any order lawfully issued by any court or government agency of proper jurisdiction that renders performance hereunder either unlawful or impossible, and that could not have been prevented nor remedied through the exercise of reasonable care by the Party affected thereby.

13.3. **Limitations.** Notwithstanding the other provisions of this § 13, a Party shall not be relieved of liability for failure of performance if such failure is due to an Event of Default caused by the Party or due to causes that the Party could have remedied or prevented had the Party taken reasonably prompt action. Nothing herein, however, shall be construed to require any Party to remedy a labor dispute against its will.

**14. Notices.** All written notices, demands, or requests required by this Agreement shall be considered effective (1) the same day when delivered in person or sent by email without notice of delivery error; or (2) two days following the date sent by certified U.S. mail, postage prepaid, or by certified overnight delivery service. All written notices, demands, or requests under this § 14 shall be directed to the appropriate persons identified in **Exhibit B**. Either Party may update its contact persons or information in Exhibit B by providing written notice to the other Party.

## **15. Assignment.**

15.1. The District may assign any or all of its rights and obligations under this Agreement to any other person or entity in its sole discretion.

15.2. RSP may not assign any or all of its rights or obligations under this Agreement to any other person or entity unless RSP has first obtained the District’s written consent to such assignment, which shall not be unreasonably withheld. As a condition to consent, the District may require the assignee to establish it meets the District’s criteria to be an authorized RSP, provide performance assurance or collateral acceptable to the District, and execute a new agreement for wholesale telecommunications services with the District.

## 16. Dispute Resolution.

- 16.1. **Governing Law.** This Agreement, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, are governed by, and construed in accordance with, the laws of the State of Washington, including its statutes of limitations, and without giving effect to the conflict-of-law provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Washington.
- 16.2. **Jurisdiction and Venue.** The Parties irrevocably consent to the jurisdiction of the state courts located in the State of Washington. Any dispute arising from or relating to this Agreement shall be litigated exclusively in the Superior Court of the State of Washington in and for Pend Oreille County; *provided*, a final judgment in any such litigation may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
- 16.3. **Attorney Fees and Costs.** In any litigation arising from or relating to this Agreement, the prevailing Party shall be entitled to its reasonable attorney fees and costs, in addition to any other relief allowed.

## 17. Miscellaneous.

- 17.1. **Final Agreement.** This Agreement and the exhibits attached hereto constitute the final agreement of the Parties with respect to the subject matter herein, and supersede and replace any prior communications or representations by or between the Parties concerning the same.
- 17.2. **District Authority.** Nothing in this Agreement shall be construed to alter or affect the authority of the District to provide telecommunications service to a customer within or without the District's service area, or the authority of the District to exercise its discretion and control over the operation and management of the CN System, including budget, financing, and ratemaking authority.
- 17.3. **Amendment.** No amendment, modification or change to this Agreement shall be valid unless set forth in a written instrument executed by both Parties; *provided*, nothing in this § 17.3 shall be construed to limit the District's ability to change its policies, fees, or charges affecting this Agreement in any manner.
- 17.4. **No Waiver.** If either Party fails to require the other to perform any term of this Agreement, that failure does not prevent the Party from later enforcing that term. If either Party waives the other's breach of a term, that waiver is not treated as waiving a later breach of the term.

- 17.5. **Survival of Terms and Conditions.** Whenever required to give meaningful effect to provisions in this Agreement, such provisions shall continue in effect after the expiration or termination of this Agreement, including but not limited to providing for final billings and adjustments related to the period prior to expiration or termination.
- 17.6. **Severability.** If any part of this Agreement is for any reason held to be unenforceable, the rest of it remains fully enforceable.
- 17.7. **Remedies Cumulative.** All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties, or otherwise.
- 17.8. **No Third-Party Beneficiaries.** Nothing in this Agreement creates any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. There are no express or implied third-party beneficiary of this Agreement. No entity or person, other than the Parties or their authorized assignees, have the right to enforce any right under this Agreement.
- 17.9. **Preparation.** This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission, or other event of negotiation, drafting, or execution hereof.
- 17.10. **Calculation of Time.** If any time period specified herein expires on a Saturday, Sunday, or federal holiday, such time period will be automatically extended through the close of business on the next day that is not a Saturday, Sunday, or federal holiday.
- 17.11. **Headings.** Headings are for convenience only and do not affect the interpretation of this Agreement.
- 17.12. **Execution.** This Agreement may be executed electronically and in counterparts, each of which (including signature pages) is an original, but all of which together is one and the same instrument. The Parties also agree to execute any further documents, and take any further actions, as may be reasonable and necessary in order to carry out the purpose and intent of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the date last written below.

**Public Utility District No. 1 of  
Pend Oreille County**

**[RSP NAME]**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit A**  
**Circuit Operation and Service Conditions**

**1. General Provisions for Installation**

All work performed by the RSP, its contractors, or assignees, shall be done in accordance with applicable federal, state, and local codes. The RSP shall comply with all laws, rules, and regulations relating to fire prevention, control, and suppression, and all safety rules and regulations.

Any modification by the RSP to the District or NoaNet connection, communication infrastructure, or interface equipment shall be performed only with the prior knowledge and written consent of the District.

All work by the District or the RSP shall be done in a workmanlike manner and shall be maintained so as not to be hazardous to life or property. Damage to District facilities shall be repaired promptly without cost to the damaged party. The District shall be immediately notified of any such damage, and repairs shall be performed by the District or under strict District supervision.

**2. Wireless Interference During Initial Installation**

In the event that radio frequency interference to the District resulting from the RSP's equipment, installations, or connections, the RSP shall be responsible for immediately ceasing circuit operation and eliminating such interference to the satisfaction of the District before resuming operation.

**3. Interference During Operations**

If interference results from the RSP's circuit operations, the District may order corrective measures be taken immediately and that the interference be eliminated within five (5) working days from receipt of notice. In the event operation of equipment or other actions by the RSP render the District's equipment unusable, the RSP, upon notification by the District, shall immediately cease such operation or actions. The RSP will be responsible and will assume the cost of the corrective measures needed to eliminate the interference or modify it to the satisfaction of the District.

**4. Elimination of Interference**

Elimination of interference shall be accomplished first by modification of the RSP's equipment and then, if not corrected, by modification of District equipment at the expense of the RSP.

**5. Equipment to be Installed**

All equipment to be installed by the RSP shall be FCC type approved, where applicable. However, any such FCC approval shall not relieve the RSP of responsibility to correct incompatibility or interference problems.

## **6. System Integrity**

The RSP agrees to exercise care and caution to preserve the integrity and security of all operation systems, equipment, and facilities located on District or the RSP's business premises covered by this Agreement. The District has the right to limit the manner in which any portion of its network and facilities is used to protect the technical integrity of the network.

## **7. Facility Access Conditions**

The RSP shall have no right of access to District property, equipment, or communications infrastructure other than as may be located on RSP's business premises. RSP personnel may access District-owned equipment only as authorized by the District's technical contact as set forth in **Exhibit B**. When the District grants such access, RSP's employees shall utilize and retain possession of any keys or electronic badges to District-owned sites, and shall not allow duplication or use by contractors or others who are not direct employees of the RSP. The RSP shall provide an employee to remain with contractors or maintenance personnel engaged by the RSP for activities at District-owned sites.

The RSP shall ensure the District has full and unrestricted access to District-owned communications infrastructure located on the Retail Customer's premises and reasonable access to District-owned communications infrastructure located on RSP's premises.

## **8. Interconnectivity and Demarcation on Retail Customer Premises**

The RSP's local loop access point shall be as mutually agreed for each circuit, or at the District's closest CN System backbone access point. The RSP will pay for communications infrastructure to connect from this point of access to the Retail Customer's business premises. Unless mutually agreed otherwise, ownership of newly constructed communication system interconnection shall pass to the District, including fiber optic terminal equipment located on the Retail Customer's business premises.

The RSP or Retail Customer shall be responsible for all internal communications infrastructure necessary for their business operation. The point of demarcation on Retail Customer's business premises shall be the Retail Customer's input port on the terminal equipment installed by the District on such business premises. The RSP shall own the cable connecting into the port; the District shall own the terminal equipment and all communications infrastructure leading from the business premises site.

## **9. Trouble Reports**

The District will be responsible for maintaining signal from the point signal is received by the District to the point that signal is returned to the RSP. Any testing beyond the District's equipment will be the responsibility of the RSP.

**Exhibit B  
Contacts**

	<b>District</b>	<b>RSP</b>
Technical Contact	Nik Reed 130 N. Washington P.O. Box 190 Newport, WA 99156 (509) 447-3137 nreed@popud.org	
Notice Contact	Pend Oreille PUD Attn: Key Accounts P.O. Box 190 130 N. Washington Newport, WA 99156 (509) 447-3137 keyaccounts@popud.org	
Billing Contact	Pend Oreille PUD Attn: Accounts Payable P.O. Box 190 130 N. Washington Newport, WA 99156 (509) 447-3137 <b>Email:</b>	
SPIN No.		
UBI No.		
TIN No.		
24x7 Technical Contact Phone No. (District ability to contact provider)		
24x7 Customer Contact Phone No. (Customer ability to contact provider)		



## EXHIBIT B – Premium Class Service Order



PO Box 190  
Newport WA 99156  
Phone 509.447.3137 Fax 509.447.6733

## Premium Class -Service Order

Date:  
Service Order#:  
Customer ID:  
Quote #:

Bill To:

*Quotation valid until:*  
*Prepared by:*

### Loc A&Z & Comments or special instructions:

*Comments or special instructions:*

Enterprise- CNS Policies & Fees, Section C, Paragraph i

Description	Charge Code "Internal Use Only"	Amount
Provisioning & Installation Cost	16	
Total		
	16	
Total		
Total		\$0.00
Grand Total		\$0.00

**Nikolas Reed**  
**Broadband Administrator**  
[nreed@popud.org](mailto:nreed@popud.org)

I have read, understand, accept, and agree to the terms of this service. All changes must be in writing. Any changes may result in a new installation date and additional charges. The above rates do not include any taxes, fees, or surcharges applicable to the service.

\_\_\_\_\_  
Authorized  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

## EXHIBIT C – Premium Class Disconnect Request



## CNS PREMIUM CLASS DISCONNECT REQUEST

Customer Name \_\_\_\_\_

Billing Account Number \_\_\_\_\_

Monthly Charge \_\_\_\_\_

Requested Disconnect Date \_\_\_\_\_

RSP Authorized By \_\_\_\_\_

RSP Contact Phone # \_\_\_\_\_

RSP Contact Email \_\_\_\_\_

RSP Authorized Signature

Date

\_\_\_\_\_

\_\_\_\_\_

Please fill out the disconnect form and email it back to [nreed@popud.org](mailto:nreed@popud.org) and someone from the CNS Dept. will contact you when the circuit disconnect is complete. If you have any questions, please contact the CNS Dept. at 509.447.3137.

.....