



MEMORANDUM

To: Selectboards, Trustees, City Council, Managers and Administrators, Municipal Clerks
From: Catherine Dimitruk, Executive Director
CC: NRPC Board of Commissioners, Legislators
Date: 7/15/2020
Subject: Northwest Vermont Communications Union District

The Northwest Regional Planning Commission (NRPC) is assisting with the formation of a Communication Union District in an effort to bring high-quality, high-speed and reliable internet access to communities in Franklin and Grand Isle Counties. Communications Union Districts were established in Vermont Statute to address the need for bringing broadband services to communities that are currently unserved or underserved. The formation of the "Northwest Vermont Communications Union District" (NWCUD) will enable communities to have representation and effect decisions of the District including planning, contracting, building and managing infrastructure that will provide high-speed internet service. The benefits are many including accessing online education opportunities for all ages, telehealth which connects patients with medical providers, connecting rural businesses with clients and employers with employees.

Communications Union District

A Communications Union District (CUD) is formed by two or more municipalities for the purpose of building communications infrastructure under the authority of 30 V.S.A § 3051. CUDs plan, contract, build, and manage the infrastructure that will provide high speed internet. They are governed by a board that consists of 1 representative from each member municipality.

Formation of a CUD

Typically, CUDs are formed by vote at Town Meeting Day. However, due to the pressing need for the expansion of communications infrastructure as a result of COVID-19, the Legislature passed and the Governor signed H.958 to allow municipalities to form a CUD by a vote of the governing body at a regular open meeting during the state of emergency. After the formation of the CUD, additional municipalities can join the CUD through vote by the governing body.

Benefits of a CUD

Forming a Northwest CUD will ensure that member municipalities benefit from the CARES Act funding the state plans to make available for broadband expansion. Specifically, it is expected that the State will provide additional funding to the Broadband Innovation Grant program which provides up to \$60,000 for broadband feasibility studies and business plans. Other state and private funding sources are also likely to be available to CUDs.

The following is a summary of frequently asked questions regarding CUDs:

What do we gain by joining NWVT Communications Union District?

Your municipality gets a seat at the table as critical regional infrastructure is designed and built.

What's the cost to be a part of the CUD? What's the risk to the taxpayer and municipalities?

There are no direct costs to the taxpayer or the municipality. A CUD may ask a municipality to provide space for a communications plant used to store fiber optic cable, electronics and other assets required to operate the network.

Membership in a CUD poses no financial risk to the municipality or individual taxpayers, by state statute, meaning taxpayer dollars will not be used and if the CUD fails no liability falls to the member municipalities or taxpayers. The state statute (specifically – § 3056. Limitations; taxes; indebtedness and § 3083. Dissolution) make it quite clear that the taxpayer and towns may not be held liable in any way for the debts of the CUD. All fiber assets and built infrastructure of the CUD are liable to seizure. (30 V.S.A. Chapter 82; see web address below).

How much will it cost to build the network?

We won't know the estimated cost of the network until we know which municipalities are in the CUD and a network design has been engineered. NRPC will work with the CUD to apply for grant funds to develop a business plan and conduct the initial network engineering for the CUD. Building a network is expensive but community based broadband projects like this qualify for large grants and very low interest loans. Vermont has also set aside a portion of the CARES Act recovery funds specifically for CUDs.

How will the money be raised and by who?

The CUD will be responsible for raising funds to build and operate the network through grants, loans, and bonds. In the next year there will be nearly \$20 Billion in grants available through federal and state organizations like the FCC, USDA, EDA and Vermont Connectivity Fund. We will be well positioned to apply for these funds once the CUD is formed. Public private partnerships are also possible and other CUDs in the state have partnered with private operators to target and build new infrastructure.

How would the CUD governance be handled?

Once two municipalities vote to form a CUD, an initial organizational meeting must be held within 90 days. The Northwest Regional Planning Commission is available to assist in the organizational meeting.

By statute, the district is governed by a Governing Board made up of one representative, and one or more alternates, from every member town. Each town delegation gets one vote on CUD decisions, with majority ruling in most cases. The CUD has the ability to establish an Executive Committee that could be delegated certain powers. This would be established in the bylaws as adopted at the CUDs first public meeting.

How can a municipality join the district?

After the formation of the CUD, additional municipalities can join through vote by governing body at any time at an Open Meeting of the governing body.

Can a municipality withdraw from the CUD?

A municipality can withdraw through the same means in which they joined the CUD. All assets in the municipality that are built by the CUD remain an asset of the CUD. Customers within that municipality can still receive internet services.

What's next after a municipality votes to join a CUD?

Each municipality appoints a resident and an alternate to serve on the CUD board. That board will work to develop a feasibility plan for building the network and raise funds for construct and management.

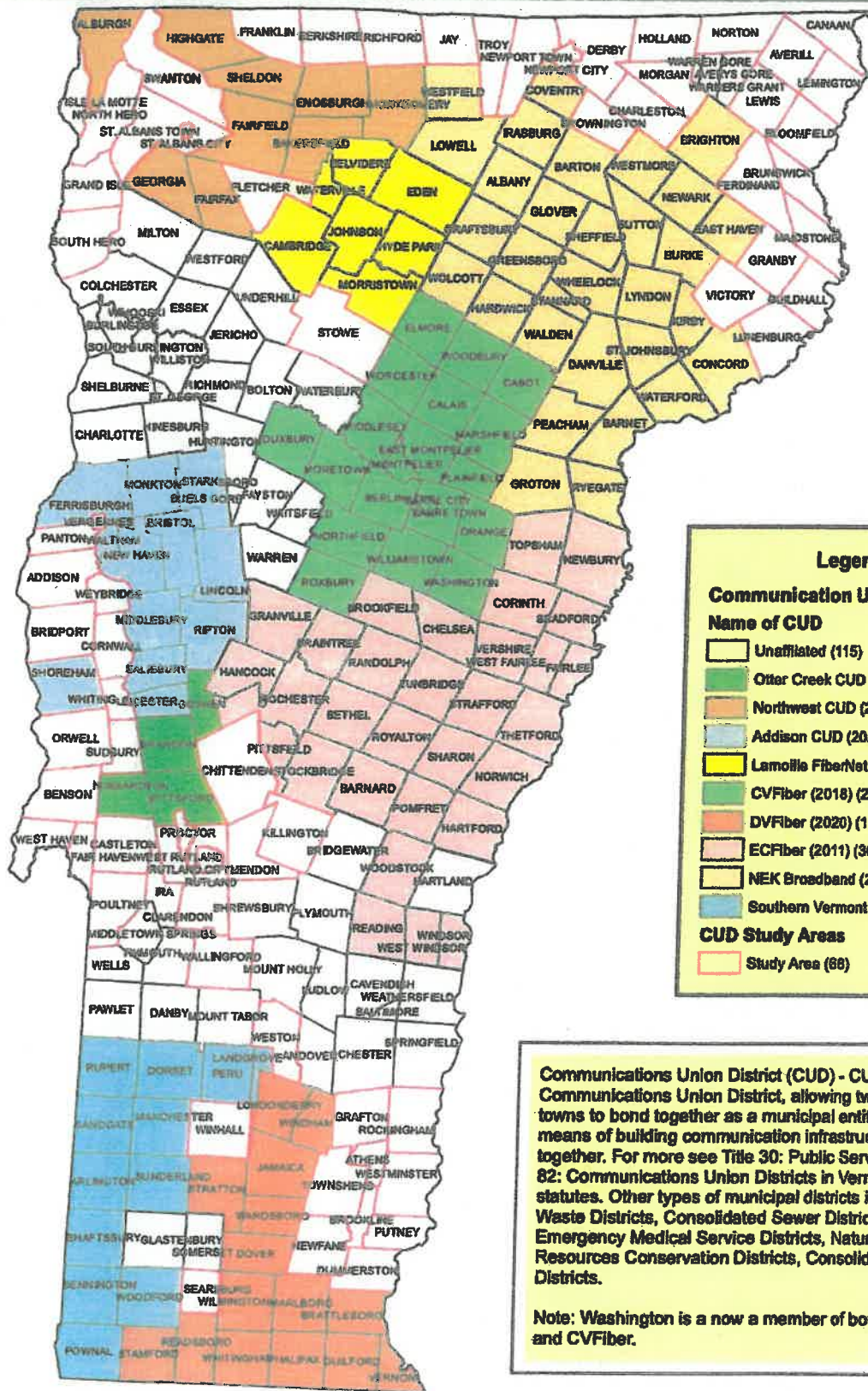
Are there any reasons why a municipality would not want to join?

The primary burden on a town will be to identify one or two residents interested in representing its residents on the CUD board. One reason not to join would be if a municipality does not foresee being able find representatives. Another reason might be to allow the town to pursue its own broadband solutions independently. However, nothing about joining the CUD precludes this from happening.

This is an exciting opportunity and the need could not be more urgent. NRPC anticipates two municipalities will be voting to form a CUD in the coming weeks. We will notify communities within the region when this occurs. We will also be establishing a website for the CUD as a resource to distribute information such as membership, meetings, agendas, minutes, etc.

More information about CUDs can also be found on the [Department of Public Service Website](#). If your municipality is interested in potentially joining the CUD, or if you have questions about this initiative, please contact Catherine Dimitruk, Executive Director at cdimitruk@nrpcvt.com or 802-310-6797.

Communications Union Districts



Legend

Communication Union District
Name of CUD

- Unaffiliated (115)
- Otter Creek CUD (2020) (4)
- Northwest CUD (2020) (9)
- Addison CUD (2020) (12)
- Lamolle FiberNet CUD (2020) (7)
- CVFiber (2018) (20)
- DVFiber (2020) (15)
- ECFiber (2011) (30)
- NEK Broadband (2020) (31)
- Southern Vermont CUD (2020) (12)

CUD Study Areas

- Study Area (68)

Communications Union District (CUD) - CUD is a Communications Union District, allowing two or more towns to bond together as a municipal entity for a means of building communication infrastructure together. For more see Title 30: Public Service, Chapter 82: Communications Union Districts in Vermont state statutes. Other types of municipal districts include Solid Waste Districts, Consolidated Sewer Districts, Emergency Medical Service Districts, Natural Resources Conservation Districts, Consolidated Water Districts.

Note: Washington is a now a member of both ECFiber and CVFiber.