

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider	)	
Modifications to the California Advanced	)	
Services Fund	)	R.12-10-012
	)	(filed October 25, 2012)
_____	)	

**COMMENTS OF CITIZENS TELECOMMUNICATIONS COMPANY OF CALIFORNIA  
INC. (U-1024-C), FRONTIER COMMUNICATIONS OF THE SOUTHWEST INC. (U-1026-  
C), AND FRONTIER CALIFORNIA INC. (U-1002-C) ON ADMINISTRATIVE LAW  
JUDGE'S RULING ON THE ELIGIBILITY FOR AND PRIORITIZATION OF  
BROADBAND INFRASTRUCTURE FUNDS FROM THE CALIFORNIA ADVANCED  
SERVICES FUND**

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September 21, 2018

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Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California (U-1024-C), Frontier Communications of the Southwest Inc. (U-1026-C), and Frontier California Inc. (U-1002-C) (collectively “Frontier”), pursuant to Rule 6.2 of the Commission’s Rules of Practice and Procedure, hereby respond to the California Public Utilities Commission (“CPUC”) Administrative Law Judge’s Ruling filed September 5, 2018 (“Ruling”) seeking additional comments on the eligibility for and prioritization of broadband infrastructure grants from the California Advanced Services Fund (“CASF”).

As a Connect America Fund (“CAF”) provider and long-time participant in the CASF program, Frontier has worked diligently and expended significant time and resources to develop CASF applications that follow the direction of the Legislature and CPUC to leverage federal and state funds. Frontier’s responses to the questions presented in the Ruling are based on its active experience in the CASF program for many years and from recent previous filings, which include Frontier’s Comments and Reply Comments filed in Phase II of this Rulemaking related to the Staff Proposal, Frontier’s Comments on the July 25, 2018 Workshop, as well as Frontier’s Comments and Reply Comments on both Resolution T-17613 and Resolution T-17614, awarding Frontier CASF grants for Lytle Creek and Desert Shores projects.

- I. How should the Commission determine whether a CASF project application should be eligible for 100 percent funding?**
  - a. How should the CPUC implement the funding level for a CASF infrastructure application pursuant to Pub. Util. Code Sec. 281(f)(13)4?**

Pursuant to Pub. Util. Code Sec. 281(f)(13)4, the CPUC is expressly authorized to award 100 percent funding to any CASF broadband infrastructure grant application. Under this provision, the CPUC is required to determine funding levels for CASF projects on a case-by-case basis and after a mandatory review of relevant public interest factors. Pub. Util. Code Sec. 281(f)(13)4 explicitly sets forth a list of “included, but not limited to” public interest factors to be weighed. By its express wording, the list is not exhaustive and reflects the Legislature’s clear direction to the CPUC to look beyond the public interest factors explicitly stated in AB 1665, which include the scope of location and accessibility of the area, the existence of communication facilities that may be upgraded to deploy broadband, and whether the project makes a significant contribution to achievement of the program goal. Thus, on a case-by-case basis, the CPUC may determine that a grant for full funding of the costs of an infrastructure project is warranted based on consideration of the specified factors as well as other pertinent factors consistent with the language and purpose of the code section.

**1. How should the Commission define "location and accessibility" of an area, as required in statute?**

The Legislature included the full funding provision in AB 1665 to address the fact that an infrastructure grant award of 70% (the maximum award amount under the 2012 CASF rules) is insufficient to sustain a viable broadband project in the most remote, sparsely populated, high-cost and historically unserved areas in the state. These factors – remoteness, population density, and high-cost nature – should be incorporated into a CPUC definition of location and accessibility of a CASF project. These areas are currently not served primarily due to these factors and, therefore, will most likely never be a viable business model for a provider without full funding.

**2. How should the Commission define the "existence of communication facilities" that may be upgraded to deploy broadband?**

Existence of facilities should be determined by whether a provider has the facilities necessary to transport and deliver service already deployed. This should be determined on a case-by-case basis and be a required inclusion in each CASF application.

**3. How extensively should an applicant be required to use communication facilities in order to receive credit for doing so under the funding criteria?**

This should not be a requirement. However, if using existing facilities helps facilitate the proposed deployment timeline and mitigates the cost of a project, it should be encouraged. Frontier

maintains that this should be addressed on a case-by-case basis, and factor into the public interest assessment, but should not be an explicit requirement of an application.

- 4. What factor(s) would justify that a project makes a "significant contribution" to achieving the program goal? For example, if the application proposed to serve more than 300 households, would that be a "significant contribution"?**

The CASF program goal is to expand broadband access to no less than 98% of California households in each Consortia region by approving infrastructure grants to “unserved” areas, defined as areas where no facility-based provider offers broadband service at speeds of at least 6 mbps downstream and one mbps upstream. Rather than focus on particulars of household numbers, the CPUC should follow the direction of AB 1665 and, on a case-by-case basis, identify the important public interest factors that provide a “significant contribution” to improve communities and achieve the program goal, which includes extending first-time Internet access to households that currently lack any broadband service.

- b. How should the CPUC implement the funding level for a CASF infrastructure application pursuant to Pub. Util. Code Sec. 281(f)(13)4?**
  - 1. For example, should the Commission provide additional funding for applications that serve low-income communities?**
  - 2. Should other criteria previously raised in comments be included, such as unconnected public safety infrastructure? Please provide specific recommendations about objective and reasonable methods by which the CASF should implement these criteria.**

Every proposed CASF project has unique public interest factors that must be considered on a case-by-case basis by the CPUC when assessing the level of funding for a CASF project. While Frontier agrees that *one* of the public interest factors includes the life-changing benefits that broadband can provide to low-income communities, it is not the *sole* nor should it be the *controlling* public interest factor. There are myriad of relevant public interest factors the CPUC should account for when assessing the funding level for a CASF project. Because every project will have its own distinct attributes, the CPUC should instead exercise flexibility when evaluating applications to enable it to identify appropriate criteria that ensure successful and sustainable projects.

- c. What are the appropriate values, expressed as points or percentages, for each potential factor in the CASF eligibility criteria?**
  - 1. Is it necessary for those percentages to add up to 100 provided there is a maximum funding level of 100 percent?**

**2. Should there be the multiple paths to 100 percent funding? If so, what/how?**

Requiring providers to grapple with the minutia of overly complex new processes and limiting criteria – which are not required by statute – will further discourage participation in the CASF program and continue to delay the awarding of grants to providers who choose to participate. Frontier respectfully urges the CPUC shift its focus to follow the direction of the Legislature and immediately implement the provisions of AB 1665 to address the key factor which has deterred providers from seeking grants for high-cost, unserved areas – the lack of availability of full funding.

Further, the most effective way to expeditiously fund CASF projects that cover the neediest areas in the state is to act quickly to establish a list, as proposed by AT&T, of completely unserved communities with an explicit invitation to demonstrate the need for full funding. As previously stated in this proceeding, expeditiously implementing full funding is the most significant action the CPUC can take to fulfill the Legislature’s intent to give a preference to completely unserved areas, while also incentivizing providers to participate in the CASF program.

**II. Should the Commission require CASF grantees to offer affordable broadband service plans as a condition of receiving CASF funding?**

- a. Should the CASF Program require CASF grantees to offer affordable broadband service plan(s) to receive CASF funding? If so describe the justification. For example, a provider offering a national, affordable low- income plan would meet this requirement so long as the plan is available to customers in the CASF grant area.**

Affordable broadband offerings are not required by law and should not be made a requirement of grants. The purpose of the grant program is to fund deployment, not adoption. Many providers provide a low-income broadband product on their own initiative and should not be constrained by a CASF requirement of a particular condition in the grant area, which drives up costs and delays implementation with no demonstrable incremental benefit.

- b. Should the Commission incentivize application to provide affordable plans through the funding determination required in Pub. Util. Code Sec. 281(f)(13)?**

No.

- c. What is an affordable monthly price? What other factors should the Commission consider?**

This should not be a consideration in the grant program.

- d. How should applications in low-income areas be eligible for 100% funding? For example, should the “Maximum Funding Level: 100%” table below be modified.**

Funding levels must to take multiple factors into account and on a case-by-case basis, including low-income, geography, public safety and difficulty to serve.

**III. Should the Commission eliminate the current scoring criteria and replace it with a different evaluation process focused on eligibility, minimum performance standards and funding level determinations?**

- a. Should the Commission eliminate the Scoring Criteria used in the program and included in the Staff Proposal and replace it with minimum performance requirements. These requirements would include:**

- **A commitment to serve all households in the proposed project area;**
- **Speeds of at least 10 mbps downstream and 1 mbps upstream;**
- **Latency of 100 ms or less;**
- **If the project receives a categorical exemption under CEQA, it would be completed in 12 months or less and projects requiring additional CEQA/NEPA review must be completed within two years of the approval of those reviews;**
- **Data caps, where used, exceed 190 GBs per month; and**
- **The applicant offers an affordably priced plan (see Question 2)**

The CPUC should comply with current law as outlined in AB 1665 rather than continue implementation of the 2012 rules. AB 1665 passed as an urgency bill, and therefore, took effect immediately upon Governor Brown’s signature in October 2017. Thus, it is the duty of the CPUC to follow the direction of the Legislature and immediately comply with current law, rather than continue operation under the 2012 rules, which reflect outdated scoring criteria. Moreover, expending more time and resources on establishing overly complex processes **that are not required by statute** unnecessary prolongs the implementation process and creates additional roadblocks for providers that seek to help close the Digital Divide through CASF grant applications.

- b. Staff proposes to revise its previous Ministerial Review proposal so that the process for reviewing applications, including funding level determinations, is done in the manner outlined in the Ruling.**

Consistent with previous comments, Frontier agrees that staff must revise its Ministerial Review proposal in order to improve the overall effectiveness of the CASF program.

**IV. Should the Commission limit a CASF grantee’s Administrative Expenses to 15 percent of the total project costs?**

- a. **The Commission limits the reimbursements of service providers' claimed administrative expenses funded by California's universal service fund programs, including the High-Cost Fund Program and the California LifeLine Program. Should the CASF Program also limit the reimbursement of administrative expenses claimed by CASF grantees?**

No. The CASF program is for infrastructure deployment and it is up to Applicants to submit claims for legitimate expenses for the grant. This should be evaluated as part of the grant review process.

1. **How should the CASF Program define an administrative expense?**

Administrative expenses should be defined in accordance with §32.6534 and should include costs incurred in the general administration of plant operations, specific to the project being funded. They may also include expenses defined in §32.6720 to the extent they are directly attributable to the project being funded.

2. **Should the reimbursement of administrative expenses claimed by CASF grantees be limited to 15% of the CASF-funded project?**

No, this may vary by grant applicant and application.

- V. **How should the Commission treat CAF providers seeking CASF funds? How should the Commission treat satellite broadband service?**

- a. **Pub. Util. Code Sec. 281(f)(13) and 281 (f)(5)(C)(i) prohibits spending and CASF funding in census block with Connect America Fund accepted locations, except, as noted in 281 (f)(5) (C)(ii), when the provider receiving Connect America Fund support applies to build beyond its CAF accepted locations. How should the Commission require applicants submitting applications under these circumstances separate CASF and CAF financing?**

1. **For example, if a census block in an application contains ten households and three CAF accepted locations, should the Commission assume the CAF locations are households, and only fund the seven remaining households?**

It is imperative that each provider makes its own determination of how to proceed when applying for state and federal grants. This is critical to the project design and application process, which takes into account a multitude of internal determinations about the feasibility and capability of serving a particular area. Thus, it must remain incumbent upon each provider, when considering which path is best for its business and the public interest, to make key decisions about its application, including whether it should: (1) build with CAF funds only; (2) proceed with the combined

“checkerboard” approach which would incorporate the leveraging of both CAF and CASF grants; or (3) fully forfeit its CAF census blocks and proceed with the opportunity to apply for a CASF grant.

Should a provider choose to forfeit its CAF locations, it must comply with the provisions of Pub. Util. Code Section 281 (f)(5)(C)(i) and provide notice to the CPUC that the specified census blocks be made generally available for a CASF infrastructure grant – as Frontier did with its Desert Shores CASF application on February 6, 2018. In that circumstance, Frontier determined that the most cost-effective use of public broadband funds was to forego use of CAF funds for the 79 CAF eligible households and instead seek CASF funding to serve *all* households in the much larger project area.

This approach is wholly consistent with the Legislature’s direction to the CPUC to leverage CASF grants with broadband deployment by providers that are participating in the CAF program. CAF-funded deployment must be complete by the end of 2020, which means the window for coordinating CAF deployment with CASF infrastructure grants is rapidly closing. The Phase II procedural schedule specifies November 18, 2018, as the date for a final order on the infrastructure grant process with a proposed date of April 30, 2019, as the first date for accepting new applications. Assuming timely review, this would result in CPUC action on applications in late 2019. This timeline would leave virtually no time to coordinate CASF grants with CAF-funded projects. Furthermore, because areas with very small amounts of CAF-eligible households often present an economically infeasible choice for use of CAF funds, the CPUC must remain nimble and work with those providers seeking solutions to close the Digital Divide. Thus, it is imperative that the CPUC continue to accept infrastructure applications in the interim and act expeditiously on all applications to fulfill the Legislature’s direction in AB 1665.

**b. How should the Commission treat satellite providers receiving CAF support?**

**1. Is a satellite provider an "existing facility-based provider," as that term is used in Pub. Util. Code Sec. 281 (f)(5)(C)(ii)? (Note this is particularly important because the FCC recently awarded CAF funding to a satellite provider.)**

Frontier believes the CASF funds are best invested in fully facility-based providers due to the strong quality of service and reliability attributes of such services. While Satellite providers play an important role in serving remote areas, they do not offer the scale and scope of facility-based provider projects funded by CASF grants, as was envisioned by the Legislature. Accordingly, Frontier does not support extension of CASF support to Satellite providers.



2. **If a satellite provider is an existing facility-based provider, should the Commission revise CASF rules to include satellite service in the definition of a served area? (Note that currently, an area served by satellite is considered served only if that service was provided through a CASF grant.)**

No.

**VI. Should the Commission require additional information in Project Summaries? In addition to current requirements, Staff proposes that the Commission require applicants to include the following items in Application Item 1 – Project Summary:**

- **Identify main major infrastructure: miles of planned fiber, Central Offices used, number of remote terminals/fiber huts/wireless towers to be built, and if an IRU is used;**
- **Identify major equipment expenses (e.g., number of DLAMS, multiplexers, etc.);**
- **Estimated breakdown of aerial and underground installation and if the poles or conduits are already in place; and**
- **Estimated construction timeline.**

Since the enactment of AB 1665, Frontier has proactively gone above and beyond to submit Project Summaries that provide extensive detail and specific rationale underpinning its need in order to support its request for full project funding. Requiring even more detailed information in the Project Summary is not necessary to make a full assessment of whether a particular project is in the public interest and should be funded. Moreover, additional detail requirements will unreasonably cause providers to expend time and resources in preparing applications, which will likely have an adverse effect on program participation, and ultimately its core goal – bridging the Digital Divide in California as quickly as possible. Further requests for information that include market and network sensitive information should continue to be treated as confidential and be provided only at staff request during the review process. For this reason, Frontier does not support such action.

## **CONCLUSION**

Frontier looks forward to reviewing the comments of other parties and submitting reply comments to help improve the CASF program to close the Digital Divide in California.

Respectfully submitted,



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September 21, 2018