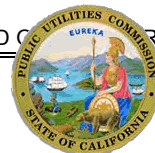


## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

**FILED**09/21/18  
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September 21, 2018

Agenda ID #16867  
Quasi-legislative

## TO PARTIES OF RECORD IN RULEMAKING 12-10-012:

This is the proposed decision of Commissioner Guzman Aceves. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's October 25, 2018, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ ANNE E. SIMONAnne E. Simon  
Chief Administrative Law Judge

AES:jt2

Attachment

Decision **PROPOSED DECISION OF COMMISSIONER GUZMAN ACEVES**  
**(Mailed 9/21/2018)**

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

Order Instituting Rulemaking to Consider  
Modifications to the California Advanced  
Services Fund.

Rulemaking 12-10-012

**DECISION IMPLEMENTING THE CALIFORNIA ADVANCED SERVICES FUND  
RURAL AND URBAN REGIONAL BROADBAND CONSORTIA GRANT  
ACCOUNT PROVISIONS**

**Table of Contents**

<b>Title</b>	<b>Page</b>
DECISION IMPLEMENTING THE CALIFORNIA ADVANCED SERVICES FUND RURAL AND URBAN REGIONAL BROADBAND CONSORTIA GRANT ACCOUNT PROVISIONS .....	1
Summary .....	2
1. California Advanced Services Fund Procedural Background .....	3
2. Consortia Account Application Requirements and Guidelines .....	5
2.1. Background .....	5
2.1.1. Parties’ Comments .....	6
2.1.2. Discussion.....	6
2.2. Definitions .....	6
2.2.1. Parties’ Comments .....	6
2.2.2. Discussion.....	7
2.3. Account Objective and Allowable Activities .....	7
2.3.1. Parties’ Comments .....	7
2.3.2. Discussion.....	9
2.4. Eligible Applicants.....	10
2.4.1. Parties’ Positions.....	10
2.4.2. Discussion.....	11
2.5. Information Required From Applicants .....	13
2.5.1. Parties’ Comments .....	13
2.5.2. Discussion.....	14
2.6. Reporting and Payment .....	14
2.6.1. Parties’ Comments .....	15
2.6.2. Discussion.....	15
3. Comments on Proposed Decision .....	16
4. Assignment of Proceeding .....	16
Findings of Fact.....	16
Conclusions of Law .....	19
ORDER .....	20

Appendix 1– Rural and Urban Regional Broadband Consortia Grant Account,  
Application Requirements and Guidelines  
Appendix 2 – Consortia Regions Identified by the Commission

**DECISION IMPLEMENTING THE CALIFORNIA ADVANCED SERVICES FUND  
RURAL AND URBAN BROADBAND CONSORTIA GRANT  
ACCOUNT PROVISIONS****Summary**

In this decision, we continue to implement programmatic changes to the California Advanced Services Fund (CASF) program as required by Assembly Bill (AB) 1665 (Garcia).<sup>1</sup> Specifically, this decision implements provisions of AB 1665 relating to the Rural and Urban Regional Broadband Consortia Grant Account (Consortia Account), which was established in Decision (D.) 11-06-038.<sup>2</sup> These provisions were assigned to Phase II of this proceeding by the Amended Scoping Memo and Ruling of the Assigned Commissioner.<sup>3</sup> In the instant decision we adopt new and updated rules for administering this account as set forth in Appendix 1 (Rural and Urban Regional Broadband Consortia Grant Account Application Requirements and Guidelines).

Pursuant to AB 1665, the statutory goal of the CASF program was revised to provide funding for infrastructure projects so that by December 31, 2022, 98% of California households in each consortia region, as identified by the Commission on or before January 1, 2017, would have broadband access.

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<sup>1</sup> AB 1665 is codified at Public Utilities (Pub. Util.) Code, § 281.

<sup>2</sup> *Decision Implementing Broadband Consortia Grant* [D.11-06-038] (2011) at 2-3; 2011 Cal. PUC LEXIS 345.

<sup>3</sup> Amended Scoping Memo and Ruling of Assigned Commissioner, February 14, 2018.

**1. California Advanced Services Fund Procedural and Factual Background**

To date, the Rural and Urban Regional Broadband Consortia Grant Account (Consortia Account) has \$967,372 remaining. This includes \$8,523,106 disbursed for the first solicitation process and \$4,611,114 approved for the second solicitation process, with 34 applications approved. Assembly Bill (AB) 1665 supplements the existing \$15 million authorized for the consortia grants with an additional \$10 million.

AB 1665 requires that moneys in the Consortia Account be available to fund grants to eligible consortia to facilitate broadband deployment services by assisting infrastructure applicants in the project development and grant application process. The bill also adds a requirement that each consortium conduct an annual audit of its expenditures for programs funded by the Consortia Account. Finally, AB 1665 requires that the Commission consult with regional consortia, stakeholders, local governments, existing facility-based broadband providers, and consumers regarding priority areas and cost-effective strategies to achieve the broadband access goal, through public workshops conducted at least annually no later than April 30 of each year. This decision sets up the guidelines and application requirements to fulfill these requirements taking into account the comments previously filed by parties in this proceeding on the Amended Scoping Memo and Ruling and draft Staff Proposal. The findings, conclusions and orders in this decision are also informed by past experiences.

On February 14, 2018, assigned Commissioner Martha Guzman Aceves issued an Amended Scoping Memo and Ruling (Amended Scoping Ruling) which set forth the amended procedural schedule and scope of this proceeding.<sup>4</sup> Due to the necessity that the Broadband Adoption Account begins accepting applications by July 1, 2018, the Amended Scoping Ruling bifurcated the proceeding into Phase I and Phase II, in order to focus on the Adoption Account first. Phase I also addressed the relatively non-complicated implementation issues related to the Public Housing and Loan Accounts. Lastly, the Amended Scoping Ruling provided that the Commission, as part of its enhanced collaboration and partnership efforts, would hold workshops/public forums throughout the state, in order to solicit input on the implementation of the program changes, learn of existing carrier commitments, and develop partnerships for regional solutions. Phase II will resolve the Broadband Infrastructure, Line Extension, and Consortia Account issues.

The Amended Scoping Ruling also contained draft Staff Proposals, prepared by the Commission's Communications Division (CD) implementing program changes to be considered in Phase I and II of this proceeding. Decision (D.) 18-06-032 resolving Phase I issues was adopted on June 21, 2018.<sup>5</sup> Comments on the draft Staff Proposal (Phase II) were filed by April 16, 2018, and reply comments by May 1, 2018. Parties filing comments and reply comments included telephone corporations, a cable industry group, consumer groups, government entities, consortia, the California Emerging Technology Fund

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<sup>4</sup> Amended Scoping Memo and Ruling of Assigned Commissioner, February 14, 2018.

<sup>5</sup> D.18-06-032 at 44.

(CETF), and other regional and community groups focused on broadband adoption and deployment.<sup>6</sup> The Commission held workshops/public forums throughout the state in March 2018 in order to solicit input on the implementation of these program changes, learn of existing carrier commitments, and develop partnerships for regional solutions.<sup>7</sup>

## **2. Consortia Account Application Requirements and Guidelines**

In this decision, we adopt revisions to the rules, application requirements and guidelines for the Consortia Account, as summarized below and set forth in Appendix 1.

### **2.1. Background**

Section 1.1 Background of Appendix 1 briefly discusses how AB 1665 revised the goal of the California Advanced Services Fund (CASF) program and changed requirements of the Consortia Account.

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<sup>6</sup> The following parties filed comments/reply comments: AT&T, California Cable & Telecommunication Association (CCTA), California Center for Rural Policy (CCRP), California Emerging Technology Fund (CETF), California Internet, L.P. dba GeoLinks (GeoLinks), Central Coast Broadband Consortium (CCBC), Frontier Citizens Telecommunications Company of California (Frontier), Gold Country Broadband Consortium (GCBC), North Bay North Coast Broadband Consortium (NBNCBC), Race Telecommunications Inc., Office of Ratepayer Advocates (ORA), and The Utility Reform Network (TURN) and the Greenlining Institute

<sup>7</sup> Workshops/public forums were held in Oroville (March 14, 2018); Madera (March 16, 2018); El Centro (March 28, 2018); and Los Angeles (March 30, 2018). Information regarding these workshops/public forums is available at <http://www.cpuc.ca.gov/internetforall/>.

### **2.1.1. Parties' Comments**

In its opening comments, the North Bay North Coast Broadband Consortium (NBNCBC) proposed changes to the Section 1.1 Background of Appendix 1, which specified:

AB 1665 was signed into law on October 15, 2017. A key goal of the bill is to provide broadband access to no less than 98% of the California households in each regional consortia area. The regional consortia areas are those identified by the Commission on or before January 1, 2017. To achieve this goal it is the objective of the Commission to approve funding by December 31, 2022, for infrastructure projects that will provide this broadband access.<sup>8</sup>

### **2.1.2. Discussion**

In order to ensure consistency with the statute, we revised the first paragraph of Section 1.1 Background to better reflect Pub. Util. Code, § 281(b)(1)(A) and § 281(g).

## **2.2. Definitions**

AB 1665 revised the definition of “unserved household” and accordingly, the updated definition is included in Appendix 1.

### **2.2.1. Parties' Comments**

NBNCBC recommended defining the regional consortia areas to be used in implementing the 98% goal:

“Regional Consortia Areas” to be applied in implementing AB 1665 are those geographic areas identified by the Commission on or before January 1, 2017. A map and list of the regional consortia areas may be found at the following location on the CPUC website at <ftp://ftp.cpuc.ca.gov/Telco/CASF/Consortia/CONSORTIA>

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<sup>8</sup> NBNCBC Opening Comments at 19.



MAPS v2/CASF Approved Consortia 20170430.pdf.<sup>9</sup>

### **2.2.2. Discussion**

We agree with NBNCBC's suggestion to define "consortia region" or "regional consortia areas" and provide a map identifying the consortia regions, consistent with Pub. Util. Code, § 281(b)(1)(A). We added the following definition to Section 1.3, Definitions:

"Consortia region," are geographic boundaries for the 16<sup>10</sup> consortia regions, as identified by the Commission on or before January 1, 2017. See Map 1 of Appendix 2 for a map and list of the consortia regions. Map 1 will also be available on the CPUC CASF page at <http://www.cpuc.ca.gov/casf/>.

### **2.3. Account Objective and Allowable Activities**

Section 1.4, Account Objective and Allowable Activities of Appendix 1 lists allowable activities consistent with the statutory mandate specified in Pub. Util. Code, § 281.

#### **2.3.1. Parties' Comments**

Various parties suggested additional activities that should be included as allowable activities for the Consortia Account.

Both the CETF and Race Telecommunications, Inc. (Race) suggested the need to "Inventory Public Assets and Aggregate Demand,"<sup>11</sup> where "Regional Consortia convene all stakeholders to better collaborate on broadband projects,

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<sup>9</sup> NBNCBC Opening Comments at 19-20.

<sup>10</sup> Currently, there are 17 consortia groups including Tahoe Basin Project, which is not considered to be a separate "consortia region" as it is located within the boundaries of Gold Country Broadband Consortium (GCBC).

<sup>11</sup> CETF Opening Comments at 6.

clarify the unserved and underserved areas remaining, and catalog existing public assets to provide broadband builds in a more coordinated and cost-effective manner.”<sup>12</sup> Joint Consumers also agreed with funding aggregation of demand.<sup>13</sup>

Other parties, such as CETF,<sup>14</sup> the Central Coast Broadband Consortium (CCBC),<sup>15</sup> the California Center for Rural Policy (CCRP),<sup>16</sup> and Joint Consumers<sup>17</sup> recommended allowable activities should include “engage local government elected officials in their governance and activities, including assisting local governments in developing and adopting policies, ordinances, and provisions in their General Plans to encourage broadband deployment and adoption.”<sup>18</sup> Additionally, both CCRP<sup>19</sup> and CETF<sup>20</sup> agreed that consortia should be allowed to “assist applicants with local environmental permit procedures and access to right of way in local jurisdictions.”<sup>21</sup>

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<sup>12</sup> Race Opening Comments at 3.

<sup>13</sup> Joint Consumers Reply Comments at 16.

<sup>14</sup> CETF Opening Comments at 6.

<sup>15</sup> CCBC Opening Comments at 9.

<sup>16</sup> CCRP Opening Comments at 13.

<sup>17</sup> Joint Consumer Reply Comments at 16.

<sup>18</sup> CETF Opening Comments at 6.

<sup>19</sup> CCRP Opening Comments at 13.

<sup>20</sup> CETF Reply Comments at 19.

<sup>21</sup> CCRP Opening Comments at 13.

The Utility Reform Network (TURN) emphasized the important role of consortia in promoting broadband adoption and to allow an optional adoption component of consortia plans.<sup>22</sup> CETF agreed.<sup>23</sup>

Finally, CCBC suggested consortia applicants should be allowed to “assist applicants who wish to apply for any sort of infrastructure grant, including but not limited to programs offered by U.S. Department of Agriculture, Economic Development Administrations, Federal Communications Commission, and local governments.”<sup>24</sup>

### **2.3.2. Discussion**

We recognize parties’ desire for clarification on activities that are within the scope of the Consortia Account. Therefore, we added the suggested activities to Section 1.4, Account Objectives and Allowable Activities in Appendix 1. The following activities are within scope, but must lead to infrastructure applications:

- Supporting project permitting activities;
- Supporting local government to develop and implement broadband policies (i.e. changes to General Plans, ordinances, goals, etc. that promote broadband deployment);
- Conducting an inventory of public assets and aggregate demand, including speed tests and the identification and updates of priority areas.

Consistent with Pub. Util. Code, § 281(g)(1), the Consortia Account no longer funds adoption activities. Any eligible applicants interested in CASF

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<sup>22</sup> Joint Consumer Opening Comments at 15-16.

<sup>23</sup> CETF Reply Comments at 19.

<sup>24</sup> CCBC Opening Comments at 9.

funding for adoption programs may apply to the newly enacted Adoption Account.<sup>25</sup>

We disagree with CCBC's recommendation to expand the type of infrastructure applications eligible for consortia assistance as such activities would not be within the scope of the CASF program. Finally, we note that a consortium may receive CASF funding to assist a CASF applicant also pursuing funding from CASF and another infrastructure program (such as a U.S. Department of Agriculture grant) pursuant to the Work Plan.

#### **2.4. Eligible Applicants**

Section 1.5, Eligible Applicant of Appendix 1 specifies consortium eligibility criteria and the Commission's consideration of consortia formation and geographic boundaries.

##### **2.4.1. Parties' Positions**

Parties' comments indicated different interpretations of "Eligible Applicants" in the Staff Proposal. CETF commented "that there is no need for additional Regional Consortia at this time. The current Regional Consortia adequately represent the areas that are most of need of broadband..."<sup>26</sup>

NBNCBC's suggested the guidelines "state the Commission is not open to creating new 'regional consortia areas.'"<sup>27</sup> Given this assumption, NBNCBC asked in its comments:

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<sup>25</sup> D.18-06-032.

<sup>26</sup> CETF Reply Comments at 19.

<sup>27</sup> NBNCBC Opening Comments at 20.

What is not clear is whether or not multiple entities from more than one of the Commission's defined regional consortium areas can join forces and apply for a Consortium grant. If so, how does such a Consortium apply the 98% goal in its Action Plan and Work Plans? In essence, must an application for a Consortia Grant be for one of the Commission's defined regional consortium areas or can an application for a Consortium Grant be for all or portions of two or more of the Commission's defined regional consortium areas?<sup>28</sup>

#### **2.4.2. Discussion**

Parties' comments reflect the need for clarity regarding the consortium eligibility criteria for new grant cycle(s).

Pub. Util. Code, § 281(b)(1)(A) requires the Commission to fund infrastructure projects that will provide broadband access to no less than 98% of California households in each "consortia region," as identified by the Commission on or before January 1, 2017.<sup>29</sup> The Consortia Account has three grant cycles in years 2011, 2013, and 2016. The 2016 Grant Cycle funds consortia activities ranging from one year to five years. As of January 1, 2017, the Commission has 16 identified "consortia regions." Map 1 of Appendix 2 illustrates the distribution of the 16 "consortia regions" within California. The map shows that four out of 58 counties are not represented by a regional consortium. They are San Francisco, San Mateo, Santa Clara, and Orange counties. The Commission will track progress to the 98% goal in each "consortia

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<sup>28</sup> NBNCBC Opening Comments at 21.

<sup>29</sup> Pub. Util. Code, § 281(b)(1)(A). The goal of the program is, no later than December 31, 2022, to approve funding for infrastructure projects that will provide broadband access to no less than 98% of California households in each consortia region, as identified by the commission on or before January 1, 2017. The commission shall be responsible for achieving the goals of the program.

region” as required by Pub. Util. Code, § 281(b)(1)(A) and Pub. Util. Code, § 281 (f)(3) and provide CASF Baseline Maps and Data by State, Consortia and County Regions on the CPUC CASF page at <http://www.cpuc.ca.gov/casf/>.

For future grant cycles, we will not restrict the number of consortia or consortia geographic boundaries as long as the boundaries are along county lines and the areas do not overlap. Eligible applicants do not have to organize according to “consortia regions” and may include the four counties not represented by a regional consortium. The Commission does not intend to create new “consortia regions” for the purposes of meeting the 98% goal. Further, the Commission will select eligible Consortia among those submitting applications, and award grants by Commission resolution based on designated criteria set forth in Appendix 1. Specifically, we will not predetermine or mandate the precise number of consortia to receive CASF grants; however, we will award CASF grants only to one consortium per geographic region in order to ensure that CASF funds are spent efficiently and effectively.

To provide further clarification, we have included a definition to Section 1.3 of Appendix 1 to provide further clarification:

A “geographic region” means a regional area within California that consists of cities, counties, and/or unincorporated areas that have united to form a network of leaders representing public, non-profit, and/or for-profit entities that share common goals and objectives regarding broadband deployment and adoption. We define a “Regional Consortium” as a network of leaders in a geographic region that represents public, non-profit, and/or for-profit entities that share common goals and objectives.<sup>30</sup>

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<sup>30</sup> D.11-06-038 at 2.

As for the application of the 98% goal in NBNCBC's hypothetical, where regional consortium areas "join forces and apply for a Consortium grant," the applicant would apply and provide Section 1.6, Information Required from Applicants, similar as to any other applicant. Applicants would develop Work Plans detailing goals and activities consistent with the Section 1.4 Account Objective and Allowable Activities in Appendix 1.

## **2.5. Information Required From Applicants**

Each Consortium application shall include the following required information: Applicant Information and Experience, Work Plan and Performance Metrics Plan Requirements, Annual Audit, Budget Requirements, Assignment of a Fiscal Agent, and Affidavit of Application's Truth and Accuracy.

### **2.5.1. Parties' Comments**

NBNCBC suggested, "given the CASF goal and revised Account objectives and how the Consortium is organized there may be a need or desire to have multiple Work Plans to carry out the Action Plan" and provided two examples of this need: when there are multiple counties within a consortium and when a consortium may be assisting in multiple project developments.<sup>31</sup>

NBNCBC also submitted several comments and questions regarding the new audit requirement added by Pub. Util. Code, § 281(g)(2):

- Would the annual audit of expenditures place a potentially costly burden on a consortium?
- Is it meant to re-enforce that the current requirement of an annual Attestation Report?

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<sup>31</sup> NBNCBC Opening Comments at 21-22.

- Can a consortium's fiscal agent's general annual audit of all the expenditures of the organization meet the new requirement?
- Must a consortium engage an independent audit firm just to do the annual audit of the CASF grant?
- If either bullet 2 or 3 applies, does this new requirement replace the current requirement of an Attestation Report?<sup>32</sup>

### **2.5.2. Discussion**

We appreciate NBNCBC's comments and the need to clarify the Work Plan and Annual Audit requirement. We also agree with NBNCBC that multiple work plans may be necessary. As delineated in Section 1.6 C, Information Required from Applicants: Annual Audit, consortia applications should include any functions and activities necessary for the preparation of the annual audit in the Work Plan and the cost of the annual audits in the budget. Thus, the cost of the annual audits should be included in the grant request and should not place a financial burden on the consortia. The new audit requirement replaces the previously required Attestation Report<sup>33</sup> and the audit shall be prepared by an independent, licensed Certified Public Accountant, as stated in Section 1.6.E, Information Required from Applicants: Assignment of a Fiscal Agent of Appendix 1. Therefore, a general audit of the fiscal agent's overall organization would not fulfill the annual audit required by Pub. Util. Code, § 281(g)(2).

### **2.6. Reporting and Payment**

Sections 1.11, Reporting and 1.13, Payment outline the Consortia Account's reporting and payment requirements.

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<sup>32</sup> NBNCBC Opening Comments at 22.

<sup>33</sup> D.11-06-038, p. 26.



### **2.6.1. Parties' Comments**

GCBC disagreed with Staff's bi-annual reporting proposal<sup>34</sup> and requests to continue to report quarterly, as waiting for bi-annual reimbursements would make it difficult for non-profit's to cover costs.<sup>35</sup> NBNCBC expressed similar flow of grant funds concerns and suggested "each consortium in its application state its preference for a quarterly or biannual reporting and payment request cycle and have the content of the application reflect that choice."<sup>36</sup>

Finally, regarding disbursement of grant funds, CETF recommended "[t]he Commission should provide performance-based grants to Regional Consortia and abandon the inefficient, time-consuming, bureaucratic process of reimbursement payments."<sup>37</sup>

### **2.6.2. Discussion**

We generally agree with the above parties' recommendations and will implement a performance/outcome based payment regime by requiring that the reporting and payment requests include documentation of performance/outcomes consistent with an approved Performance Metrics Plan and Work Plan. In order to receive payment, grantees must show documentation that activities have been completed consistent with approved plans.

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<sup>34</sup> Amended Scoping Memo and Ruling of Assigned Commissioner, February 14, 2018.

<sup>35</sup> GCBC Opening Comments at 3-4.

<sup>36</sup> NBNCBC Opening Comments at 22-23.

<sup>37</sup> CETF Opening Comments at 7.

Regarding the issue of frequency of reporting and payment, Sections 1.11, Reporting and 1.13, Payment have been revised to require bi-annual progress reports. In order to receive a progress payment, the Consortium must first submit the Progress Report to the Communications Division, together with all requests for payment and reimbursement supported by relevant invoices receipts, etc. We appreciate parties' concern regarding the flow of grant funds and have revised Sections 1.11 and 1.13 to allow Consortia grantees to request an initial start-up costs payment, up to 25% of the entire grant. If a grantee requests an initial start-up cost payment, then a "Start-up Period Report" is required.

### **3. Comments on Proposed Decision**

The proposed decision of Commissioner Martha Guzman Aceves in this matter was mailed to the parties in accordance with Section 311 of the Pub. Util. Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_ by \_\_\_\_\_ with reply comments filed on \_\_\_\_\_ by \_\_\_\_\_.

### **4. Assignment of Proceeding**

Martha Guzman Aceves is the assigned Commissioner and W. Anthony Colbert is the assigned Administrative Law Judge in this proceeding.

#### **Findings of Fact**

1. On October 15, 2017, the Governor signed AB 1665 into law, which amended Pub. Util. Code, §§ 281, 912.2, and 914.7, the statutes governing the CASF program.
2. The February 14, 2018 Amended Scoping Ruling bifurcated the proceeding into Phase I and Phase II.

3. The Amended Scoping Ruling sought comments on draft Staff Proposals, prepared by the Commission's CD implementing program changes to be considered in Phase I and II of this proceeding.

4. Phase I of this proceeding addresses implementation issues related to the Adoption, Public Housing and Loan Accounts.

5. Phase II addresses Broadband Infrastructure, Line Extension and Consortia Account issues.

6. The Amended Scoping Ruling contained draft Staff Proposals, prepared by the Commission's Communications Division, implementing program changes, to be considered in Phases I and II of this proceeding.

7. The Commission held workshops/public forums throughout the state in March 2018 in Oroville (March 14), Madera (March 16), El Centro (March 28) and Los Angeles (March 30), in order to solicit input on the implementation of these program changes, learn of existing carrier commitments, and develop partnerships for regional solutions.

8. AB 1665 requires the following changes to the Consortia Account:

- Monies are available to consortia for assisting infrastructure applicants in the project development or grant application process
- Each consortium to conduct an annual audit of its expenditures and submit to the Commission an annual report

9. The Consortia Account Application Requirements and Guidelines, included as Appendix 1 of this decision, have been revised and updated in response to parties' comments as well as feedback from the workshops/public forums held in this proceeding.

10. Updated rules, application requirements, and guidelines for the Consortia Account are set forth in Appendix 1.

11. Appendix 1 lists the activities eligible for funding in the Consortia Account.
12. Appendix 1 includes a maximum funding cap for consortia grants.
13. Appendix 1 states the Commission will begin accepting applications from consortia whose grant programs have ended and will consider accepting applications from existing consortia that voluntarily submit amended Work Plan and Performance Metrics Plan to conform to Section 1.4 Account Objective and Allowable Activities of Appendix 1 before the end of the existing grant cycle.
14. Appendix 1 does not predetermine or mandate the precise number of consortia to receive CASF grants but limits CASF grants only to one consortium per geographic region.
15. Appendix 1 includes a list of information required from applicants as part of the application submission and review process.
16. Appendix 1 includes evaluation and criteria for scoring applications.
17. Appendix 1 includes an Annual Audit requirement for all consortia.
18. Appendix 1 includes Reporting and Payment reimbursement requirements, which includes both start-up costs and bi-annual payment.
19. Appendix 1 requires each consortium application to include the following information: Applicant Information and Experience, Work Plan and Performance Metrics Plan Requirements, Annual Audit, Budget Requirements, Assignment of a Fiscal Agent, and Affidavit of Application's Truth and Accuracy.
20. Appendix 1 requires all consortia receiving CASF grants to attend at least one of the annual public workshops to be conducted by Communications Division.

**Conclusions of Law**

1. The Commission is authorized to implement measures necessary to enable qualifying applicants to seek funding through the Consortia Account in accordance with the directives of AB 1665, as codified by Pub. Util. Code, § 281.

2. The Application Requirements and Guidelines set forth in Appendix 1 are consistent with the intent and objectives of the Consortia Account as stated in Pub. Util. Code, § 281(g)(1)-(g)(2).

3. Pub. Util. Code, § 281(g)(1) requires Consortia grants to be used to facilitate deployment of broadband service by assisting infrastructure applicants in the project development or grant application process.

4. Pub. Util. Code, § 281(g)(2) requires each consortium to conduct an annual audit of its expenditures for programs funded by the Consortia Account.

5. Pub. Util. Code, § 281(g)(1) describes which entities may be eligible applicants for the Consortia Account.

6. The budgeted level of program activities approved for each consortium should be subject to a maximum funding cap of \$150,000 per year per consortium, plus \$10,000 (per consortium for up to 5 representatives) for attendance to at least one of the annual public workshops.

7. A performance/outcome based payment regime should be implemented by requiring reporting and payment requests to include documentation of performance/outcomes, consistent with the application's Performance Metrics Plan and Work Plan.

8. The Commission may pay start-up costs (up to 25%) upfront and require documentation of performance/outcome thereafter for payments.

**O R D E R**

**IT IS ORDERED** that:

1. The programmatic changes to the California Advanced Services Fund program as set forth in Appendix 1 (Rural and Urban Regional Broadband Consortia Grant Account Application Requirements and Guidelines) attached hereto are adopted.

2. All eligible Rural and Urban Regional Broadband Consortia Grant Account applicants are authorized to begin submitting applications for the California Advanced Services Fund program Rural and Urban Regional Broadband Consortia Grant Account as set forth in Appendix 1.

3. The remaining issues in this proceeding including Broadband Infrastructure and Line Extension Grant Account issues will be addressed in a subsequent decision in Phase II of this proceeding.

4. Rulemaking 12-10-012 remains open.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

# **Appendix 1**

**APPENDIX 1****Rural and Urban Regional Broadband Consortia  
Grant Account Application Requirements and  
Guidelines****1.1 Background**

The goal of the CASF program is, no later than December 31, 2022, to approve funding for infrastructure projects that will provide broadband access to no less than 98 percent of California households in each consortia region, as identified by the Commission on or before January 1, 2017.

Public Utilities Code, § 281, which governs the Rural and Urban Regional Consortia Grant Account (Consortia Account), states:

(g) (1) Moneys in the Rural and Urban Regional Broadband Consortia Grant Account shall be available for grants to eligible consortia to facilitate deployment of broadband services by assisting infrastructure applicants in the project development or grant application process. An eligible consortium may include, as specified by the commission, representatives of organizations, including, but not limited to, local and regional government, public safety, elementary and secondary education, health care, libraries, postsecondary education, community-based organizations, tourism, parks and recreation, agricultural, business, workforce organizations, and air pollution control or air quality management districts, and is not required to have as its lead fiscal agent an entity with a certificate of public convenience and necessity.

(2) Each consortium shall conduct an annual audit of its expenditures for programs funded pursuant to this subdivision and shall submit to the commission an annual report that includes both of the following:

(A) A description of activities completed during the prior year, how each activity promotes the deployment of broadband services, and the cost associated with each activity.

(B) The number of project applications assisted.



AB 1665 made the following changes to the Consortia Account:

- Change Consortia eligibility and require that monies in the Consortia Account are available for assisting infrastructure applicants in the project development or grant application process;
- Require each consortium conduct an annual audit of its expenditures and submit to the Commission an annual report.

## **1.2 Amount Available for Grants**

The total Consortia program appropriation as authorized in AB 1665 is \$10 million. To date, the Consortia Account has \$967,372 remaining. This includes \$8,523,106 disbursed for the first solicitation process and \$4,611,114 approved for the second solicitation process.<sup>1</sup> AB 1665 supplements the existing \$15 million authorized for the Consortia grants with an additional \$10 million.

### **Amount of Grant Funding Allocations**

Consistent with Decision (D.) 11-06-038, the Commission will continue to award grants based only upon the budgeted level of program activities approved for each Consortium, subject to a maximum funding cap of \$150,000 per year per Consortium, plus \$10,000 (per consortium for up to 5 representatives) for attendance to at least one of the annual public workshops as required by AB 1665. Where an application seeks multi-year funding, however, the application must still present separate year-by-year annual Work Plans and budgets. Given the program is operating with a limited amount of funding available, the Commission may award more grants of smaller amounts (proposals requesting less funding) and/or that offer services for less than three years. It is likely that awards will be less than the allowed maximum amounts in order to leverage available funding.

Any CASF grants awarded will be limited to and apply only to activities and programs that are not already funded by any other public or private sources.

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<sup>1</sup> AB 1262 (Stats. 2015, Ch. 242) redirected \$5 million from the CASF Revolving Loan Account to the Consortia Account. This reflects the balance (net of funds awarded to grantees).

### **1.3 Definitions**

“Consortia region,” are geographic boundaries for the 16 consortia regions, as identified by the Commission on or before January 1, 2017. See Appendix 2 (Map 1) for a map and list of the consortia regions. Map 1 will also be available on the CPUC CASF page at <http://www.cpuc.ca.gov/casf/>.

A “geographic region” means a regional area within California that consists of cities, counties, and/or unincorporated areas that have united to form a network of leaders representing public, non-profit, and/or for-profit entities that share common goals and objectives regarding broadband deployment and adoption. We define a “Regional Consortium” as a network of leaders in a geographic region that represents public, non-profit, and/or for-profit entities that share common goals and objectives.<sup>2</sup>

“Unserved household” means a household for which no facility-based broadband provider offers broadband service at speeds of at least 6 megabits per second (mbps) downstream and 1 mbps upstream.

### **1.4 Account Objective and Allowable Activities**

AB 1665 revised the objective of the Consortia Account to facilitate deployment of broadband services by assisting infrastructure applicants in the project development or grant application process.<sup>3</sup> The new legislation changed the objective of consortia activities, which was previously promoting “regionally appropriate and cost-effective broadband deployment, access, and adoption”.<sup>4</sup>

Consistent with the revised objective, the Commission will fund grantees for activities consistent with the statutory mandate specified in Pub. Util. Code, § 281:

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<sup>2</sup> D.11-06-038, p. 2.

<sup>3</sup> Pub. Util. Code, § 281(g)(1).

<sup>4</sup> D.11-06-038, p. 10.

- Collaborating with the Commission to engage regional consortia, local officials, internet service providers (ISPs), stakeholders, and consumers regarding priority areas and cost-effective strategies to achieve the broadband access goal.
- Identifying potential CASF infrastructure projects, along with other opportunities, where providers can expand and improve their infrastructure and service offerings to achieve the goal of reaching 98% broadband deployment in each consortia region.
- Assisting infrastructure applicants in the project development or grant application process.
- Conducting activities such as the following, as long as they lead to infrastructure applications:
  - Supporting project permitting activities
  - Supporting local government to develop and implement broadband policies
  - Conducting an inventory of public assets and aggregate demand, including speed tests and the identification and updates of priority areas.
- Assisting the Commission in publicizing requests for wireline testing volunteers in areas, as needed.

According to a prior Commission decision, “the California Emerging Technology Fund (CETF) partners or any other external Consortia grantees will have no formal role in the Commission’s review of CASF applications for infrastructure grants. The CASF review and approval function must remain exclusively under Commission authority.”<sup>5</sup> While consortia shall work with grant recipients and offer input on proposed CASF infrastructure grant projects, a Consortia Account grant shall not be used for construction of infrastructure facilities.

Consortia grantees are free to advocate on any state or federal legislation of their choosing. However, no work on proposed state or federal legislation, including meetings, travel, or lobbying, may be billed to or reimbursed by the CASF Consortia program.

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<sup>5</sup> D.11-06-038 at 12.

### **1.5 Eligible Applicants**

Pub. Util. Code, § 281(g)(1) specifies consortium eligibility criteria:

Moneys in the Rural and Urban Regional Broadband Consortia Grant Account shall be available for grants to eligible consortia to facilitate deployment of broadband services by assisting infrastructure applicants in the project development or grant application process. An eligible consortium may include, as specified by the commission, representatives of organizations, including, but not limited to, local and regional government, public safety, elementary and secondary education, health care, libraries, postsecondary education, community-based organizations, tourism, parks and recreation, agricultural, business, workforce organizations, and air pollution control or air quality management districts, and is not required to have as its lead fiscal agent an entity with a certificate of public convenience and necessity.

The Commission, itself, will not organize Consortia but will select eligible Consortia among those submitting applications, and award grants by Commission resolution based on designated criteria set forth herein. It will be the responsibility of each Consortium applicant to assemble its own membership and to delineate its geographical region of responsibility. The Commission will approve Consortia Account funding based upon eligibility and scoring.

With regards to new consortia applications, the Commission will allow both existing and newly formed consortia to submit applications. The Commission will not predetermine geographic region or mandate the precise number of consortia to receive CASF grants; however, the Commission shall award CASF grants only to one consortium per geographic region, along county lines. A consortium may represent more than one county, but a county may not be represented by more than one consortium. The Commission will continue to provide general standards and guidelines to govern the formation and membership of eligible consortia and the details regarding the membership of each consortium should be worked out within each geographic region.

## 1.6 Information Required from Applicants

Each Consortium application shall provide the following required information:

### A. Applicant Information and Experience

- Identification (i.e., name, contact information, etc.) of each Consortium member, including which, if any members are telecommunications carriers that are certificated by or registered with the Commission, identifying their Utility Identification number in such instances.
- Background, description, and role that each member of the Consortium will play in the proposed Consortium.
- Governing board structure in place that provides for direct representation from affected cities, counties, and tribes; the application must describe the governing board structure.
- Identification and description of the geographical regions/population groups/community interests to be covered by the proposed Consortium project, including a description of the area, maps, and list of Census Blocks (CBs).
- Description of existing and past projects including: (1) budget, timelines, and funding source; (2) demonstration that there will be no overlap and/or duplication of such projects (i.e., provide description of geographic region served and geographic region that will be served, etc.); and (3) best practices learned from said projects.

A CASF Consortia Application Checklist will be included in the Administrative Manual, which will be available on the CPUC CASF website.

### B. Work Plan and Performance Metrics Plan Requirements

Each Consortium applicant must submit a Work Plan and a Performance Metrics Plan as part of the application. The Work Plan and Performance Metrics Plan will serve as the tools in the initial review of the applications.<sup>6</sup>

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<sup>6</sup> Metrics is a measurement used to gauge quantifiable components of performance, e.g., survey of 150 community-based organizations, five project application meetings with local ISP, etc.

The Work Plan should identify the Consortium's goals as they relate to the region's needs for broadband deployment and include detailed functions and activities related to implementation of each goal. The Work Plan documents are to be tailored to fit the needs of a given Consortium region's constituents and geography, incorporating core responsibilities, including goals, measurable deliverables, expected outcomes, and specific timeline milestones as they relate to broadband deployment.

The Work Plan should align with the activities outlined in Section 1.4 Account Objective and Allowable Activities. The Work Plan should represent the viewpoints of a consensus of stakeholders and anchor institutions, and it should aim to increase broadband deployment, specifically assisting with the filing of infrastructure projects and identifying priority areas and cost-effective solutions in the Consortium's respective region. Additionally, the Work Plan should broadly describe how the Consortium would track and measure performance results with respect to broadband deployment goal of AB 1665.<sup>7</sup>

The Work Plan should include:

- Detailed functions, activities, and deliverables related to implementing the consortia grant program;
- A timeline identifying milestone dates for completion of key Work Plan activities and deliverables; the timeline should describe each of the monthly milestones, including performance metrics to be accomplished; and
- Identified start-up activities.

A Work Plan for each funding year shall be submitted, e.g., Work Plan Year 1, Work Plan Year 2, Work Plan Year 3. A detailed description of Work Plan Contents and sample of the Work Plan Format will be included in the Administrative Manual, which will be available on the CPUC CASF website.

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<sup>7</sup> "Supporting Materials for May 25 Communications Division Staff Workshop on CASF Reform," Communications Division, May 2017 at 11-14.

#### Performance Metrics Plan

The Performance Metrics Plan should also explain how the performance results from the proposed functions and activities will be tracked and measured following milestone dates and/or completion of functions/activities/deliverables, as described in the Work Plan.

#### C. Annual Audit

Any functions and activities necessary for the preparation of the annual audit must be included in the Work Plan. The cost of the annual audits must be included in the budget requirements. Staff will provide instructions for the annual audit in the Administrative Manual, which will be available on the CPUC CASF website.

#### D. Budget Requirements

The requested amount of Consortia grant funds shall be based upon and consistent with the total budget presented in the application. A Budget for each funding year shall be submitted, e.g., Budget Year 1, Budget Year 2, Budget Year 3. The budget must detail the expected costs directly related to the Work Plan. A sample Budget format will be included in the Administrative Manual, which will be available on the CPUC CASF website.

Each proposed consortium budget must expressly exclude any costs for activities or programs funded from other sources. CASF grants shall not duplicate funding from other sources. The proposed consortium budget must be accompanied by a description of any existing broadband deployment activities funded by any other state or federal grants within the same region, together with confirmation showing that the CASF consortium budget does not duplicate any other sources of funding.<sup>8</sup>

#### E. Assignment of a Fiscal Agent

Each regional Consortium must retain at least one Fiscal Agent with lead responsibility and legal authority to represent the Consortium for

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<sup>8</sup> D.11-06-038, Ordering Paragraph 11 at40.

purposes of sponsoring the application, administering fiscal activities between the Consortium and the Commission, receiving and dispersing Consortium grant funds and ensuring Consortium compliance with the grant.

The Fiscal Agent must affirmatively agree, on behalf of the Consortium, to comply with the Commission's directives and conditions relating to the review, approval, and administration of any consortia application grants. The Fiscal Agent must provide assurance that Consortium members or contractors retained by the Consortium are capable and committed to fulfilling the commitments.

The Fiscal Agent may be a local public institution e.g., city, county, academic institution, tribal government, etc., as defined under Section 50001 of the Government Code, or a town, as defined by Section 21 of the Government Code. The Fiscal Agent may also possibly be a certificated telecommunications carrier.

The Fiscal Agent must submit a letter stating its commitment to act as a Fiscal Agent for the Consortium. The letter must include:

- The name and contact information of the responsible party within the agency, including the person responsible for the administrative tasks, if different.
- Affirmation that the work outlined in the Consortium Work Plan will be completed and verification by an Annual Audit instead of the previously required Attestation Report,<sup>9</sup> to be prepared by an independent, licensed Certified Public Accountant will be submitted annually to the Communications Division. The letter must also state the Consortium's acceptance of the Fiscal Agent's rights, duties, and responsibilities.

The Fiscal Agent shall comply with the all rules and requirements herein and the Resolution authorizing the award, including but not limited to

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<sup>9</sup> D.11-06-038 at 26.



ensuring implementation of the approved Work Plan within the allocated budget (in conjunction with staff), and shall be responsible for notifying Communications Division of any proposed changes to Work Plan, Performance Metrics Plan, or budget during the course of the grant cycle.

Any changes to the substantive terms and conditions underlying Commission approval of the grant (e.g., changes to the Work Plan, Performance Metrics Plan, budget or designated Fiscal Agent, etc.) must be communicated in writing to the Director of Communications Division at least 30 days before the anticipated change, and may be subject to approval by either the Director or by Commission resolution before becoming effective.

Any subsequent change in the Fiscal Agent must first be approved by Commission resolution.

F. Affidavit of Application's Truth and Accuracy

As part of the application, an applicant's Fiscal Agent must sign an affidavit, under penalty of perjury, that to the best of their knowledge all the statements and representations made in the Consortium application are true and correct.<sup>10</sup> A sample Affidavit form will be included in the Administrative Manual, which will be available on the CPUC CASF website.

In the Affidavit, the Regional Consortia members and their associated Fiscal Agent must agree to comply with Rule 1.1 of the Commission's Rule of Practice and Procedures and certify that:

No member, officer, director, partner of a Consortium or its Fiscal Agent has: 1) filed for bankruptcy; 2) was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; nor 3) has been found either civilly or criminally liable

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<sup>10</sup> Rule 1.1 of the Commission's Rules of Practice and Procedure.

by a court of appropriate jurisdiction for violation of § 1700 et. seq. of the California Business and Professions Code, or for any action which involved misrepresentations to consumers, nor is currently under investigation for similar violations.

If the Consortium fails to perform in good faith, or in accordance with the expectations set forth in its Work Plan or Performance Metrics Plan, as affirmed in the affidavit, the Commission may withhold subsequent grant disbursements, suspend, or terminate the Consortium grant, as warranted.

### **1.7 Scoring and Evaluation Criteria**

Applications will be evaluated based on meeting all the requirements in the Information Required from Applicants. Applicants may submit endorsements or letters of support from the state or local government, community groups, and anchor institutions supporting their application.

An evaluation team comprised of Communications Division Staff will assess all completed applications. The following table summarizes the scoring criteria and weight:

#### **Scoring Criteria**

<b><u>Criterion</u></b>	<b><u>Weight (Points)</u></b>
(1) Regional Consortium Representation and Endorsements	15
(2) Regional Consortium / Members' Experience	35
(3) Work Plan and Performance Metrics Plan	30
<u>(4) Budget</u>	<u>20</u>
Total	100

Applications will be objectively evaluated on how well they meet the goals of the CASF Consortia program. Judgment regarding each area will be rendered in the form of a numerical score. Each application will be assigned a total score. Those applicants who meet a minimum score of 70 points (out of a possible 100 points) will be considered for funding. Where multiple Consortia apply for the same region only the applicant in a region who has the highest score will be considered for an award. If said scoring criteria threshold is not met in any region(s), no award will be disbursed for said region(s) and as a result, a second

application process for said region(s) will be required and announced to the CASF Distribution List and posted on the Commission website at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/CASFConsortiaGrant.htm>.

The Commission will issue approval of qualifying consortia applications, together with the grant amount per consortium, through a Commission resolution(s).

Staff shall notify an applicant by letter specifying reasons for rejection, should an application fail to meet the criteria set forth in these rules.

### **1.8 Submission and Timelines**

The Commission will begin accepting applications from consortia regions in which consortia grant programs have ended. The Commission will also consider accepting application from existing consortia that voluntarily submit amended Work Plan and Performance Metrics Plan to conform to the revised Account objective and activities before the end of the existing grant cycle.

When the Commission is ready to begin issuing grants under the CASF Consortia Account program, a Notice will be sent to members of CASF Distribution List to inform prospective applicants that the staff is accepting proposals.

The consortia applications will not be formally filed with the Commission's Docket Office, but will instead be submitted through the procedures set forth below. Since these applications are not to be filed with the Commission's Docket Office, they will not be assigned formal proceeding number(s), but will be tracked separately by the Commission's Communications Division.

Completed applications for consortia grants must be submitted as follows:

1. Via an electronic format at the Commission's website at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/CASFConsortiaGrant.htm>; and
2. Via U.S. mail in the form of a paper copy mailed separately to the CPUC Communications Division, Attention: CASF Consortia Account, 505 Van Ness Ave., Third Floor, San Francisco, CA 94102.

**Public Notice of Consortia Application Information**

The Communications Division will post a list of all pending applications on the CASF Consortia Account webpage at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/CASFCo nsortiaGrant.htm>

Given that multiple applicants may potentially be competing for the same grant money, the Commission will not post the full contents of each application on the webpage. However, parties seeking to review the contents of a Consortium application may contact the respective Consortium to request an electronic or paper copy for review.

Prospective applicants may contact the CASF Consortia Grant Administrator for questions on the application process and program questions at: [CASF Consortia Grant Administrator@cpuc.ca.gov](mailto:CASF_Consortia_Grant_Administrator@cpuc.ca.gov)

**1.9 Public Workshop**

AB 1665 directs the Commission to consult with regional consortia, stakeholders, local governments, existing facility-based broadband providers, and consumers regarding unserved areas and cost-effective strategies to achieve the broadband access goal, through public workshops at least annually no later than April 30 of each year through year 2022.<sup>11</sup> All consortia receiving CASF grants shall attend at least one of the annual public workshops to be conducted by Communications Division.

Consortia may claim reimbursement for travel expenses and per diem costs associated with each public workshop hosted by staff. Expense claims must comply with the travel expense, limitation rules applicable to State of California employees and contractors.<sup>12</sup> The maximum reimbursement allowable is \$2,000 per person for up to five delegates for each workshop, for a total of up to \$10,000 per consortium.

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<sup>11</sup> Pub. Util. Code, § 281(f)(2).

<sup>12</sup> See e.g. <http://hrmanual.calhr.ca.gov/Home/ManualItem/1/2201>.

### **1.10 Annual Audit**

AB 1665 requires each consortium to conduct an annual audit of its expenditures for grant programs funded and submit to the Commission an annual report that includes both of the following:

- A description of activities completed during the prior year, how each activity promotes the deployment of broadband services, and the cost associated with each activity.
- The number of project applications assisted.

Applicants may include such costs in its budget request.

### **1.11 Reporting**

Consortia grantees are required to submit bi-annual progress reports. Any progress payment requests shall be submitted along with bi-annual reports. Staff will provide a template for all necessary reports in the Administrative Manual, which will be available on the CPUC CASF website. Consortia grantees are required to submit bi-annual progress reports.

In addition, the Commission will allow Consortia grantees to request an initial start-up costs payment, up to 25% of entire grant. If a grantee requests an initial start-up cost payment, then a "Start-up Period Report" is required.

Start-up Period Report: "A start-up period report" is required only if the grantee requests an initial start-up cost payment. This report must be submitted no later than three months after the completion of the start-up activities. In this report, recipients will report on the completion of start-up activities per the Work Plan as well as milestones met.

Bi-Annual Progress Reports: The bi-annual progress report is required every six months, i.e., at the end of the six month period, at the end of the 12 month period, at the end of the 18 month period, of deployment, at the end of the 24 month period, etc. These reports must be submitted by no later than three months after every six months. In these report, recipients will report on the status of bi-annual milestones per the Work Plan, as well as request payment for relevant expenses to date.

Completion Report: A completion report is required at the end of the grant cycle. This report must be submitted by no later than three months after completion of the project. In this report, recipients will report on the completion of the overall project, milestones met per the Work Plan, as well as request payment for final and remaining relevant expenses.

### **1.12 Oversight of Consortia Activities Subsequent to Grant Approval**

Staff is authorized to implement administrative controls necessary to assure that funds disbursed to a Consortium are administered efficiently and cost-effectively, consistent with the stated purposes and objectives for which the funds are to be used.<sup>13</sup> The start of the Consortia grant program will begin upon grant approval.

Grant funds will be disbursed in accordance with, and within the time specified in California Government Code Section 927. Staff has the authority to initiate any necessary audit, verification, and discovery of Consortium members relating to grant funding activities to ensure that CASF Consortia grant funds are spent in accordance with the adopted rules and standards for the Account.<sup>14</sup> Each Consortia grantee shall maintain books, records, documents and other evidence sufficient to substantiate expenditures covered by the grant, according to generally accepted accounting practices. Each Consortia grantee shall make these records available to the Commission upon request and agrees that these records are subject to a financial audit by the Commission at any time within five years after the Grantee incurred the expense being audited. A Consortia grantee shall provide access to the Commission upon 24-hour notice to evaluate work completed or being performed pursuant to the grant.

Each Consortia grantee must use the grant funds solely for the approved project as described in the Grantee's Commission-approved Work Plan and Performance Metrics Plan as affirmed by the signed Affidavit. Each Consortia grantee must complete the project in accordance with and within the project performance

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<sup>13</sup> D.11-06-038 at 28.

<sup>14</sup> D.11-06-038 at 29; Pub. Util. Code, § 270.

period set forth in the Commission-approved Work Plan, see Section 1.14 Execution and Performance on changes to the substantive terms and conditions underlying Commission approval. Grantee's performance and completion of the project must comply with all applicable laws and regulations. The Progress Report must present the results of performance metrics. Grantees must notify Communications Division as soon as they become aware that they may not be able to meet performance metrics set forth in the Work Plan and Performance Metrics Plan. Any changes to the substantive terms and conditions underlying Commission approval of the grant (e.g., changes to the Work Plan, schedule/timeframe, Work Plan budget or designated Fiscal Agent, etc.) must be communicated in writing to the Director of Communications Division at least 30 days before the anticipated change, and may be subject to approval by either the Director or by Commission resolution before becoming effective.

### **1.13 Payment**

The disbursement of funds at any time is subject to Commission discretion, including a review-and-approval process of each grantee through regular site visits, progress reports on a bi-annual basis, and supporting invoices and receipts. All requests for progress payments and reimbursements must be supported by documentation, e.g., receipts, invoices, quotes, etc.

The Consortia grantee may request reimbursement of start-up costs equivalent to a maximum of 25% of the total award. Such payment requests must be supported by documentation, e.g., receipts, invoices, quotes, etc. Start-up costs include administrative expenses, e.g., rental of building, hiring of personnel, purchase of office supplies, etc. Subsequent disbursements are on a bi-annual progress report-review basis.

In order to receive a progress payment, the Consortium must first submit the Progress Report to the Communications Division, together with all requests for payment and reimbursement supported by relevant invoices receipts, etc.

All performance specified under the terms of any award must be completed on or before the termination date of the award. A project completion report is required before full payment showing that all activities in the Work Plan have been accomplished. The final disbursement will be equal to the outstanding balance due under the Consortium grant or actual expenditures, whichever is less. The grantee's final payment report, including all documentation and

receipts, should be submitted no later than three months after project completion.

No payment will be made for any payment requests received three months after relevant reports are due (i.e., bi-annual progress reports and/or completion reports).

### **1.14 Execution and Performance**

The Commission's grant of any award is subject to satisfaction of the conditions set forth in the decision adopting this proposal, and any additional conditions that may be specified in the Commission resolution approving a grant. Each grant is made expressly only to the Consortia grantee as identified in the Commission resolution. The Consortia grantee may not assign the project in whole or in part, except as expressly provided by the Commission's approval.

By receiving a CASF Consortia grant, the grantee agrees to comply with the terms, conditions, and requirements of the grant and thus submits to the jurisdiction of the Commission with regard to disbursement and administration of the grant.<sup>15</sup>

Should the Consortia grantee fail to commence work at the agreed upon time, the Commission, upon ten business days written notice to the Consortia grantee, may terminate the award. The Commission may also impose penalties.

In the event that the Consortia grantee fails to complete the project, in accordance with the terms of approval granted by the Commission, the grantee will be required to reimburse some or all of the CASF Consortia Account funds that it has received.

If the Consortia grantee fails to perform in good faith, or in accordance with the expectations set forth in its Work Plan and Performance Metrics Plan, as affirmed in the affidavit, the Commission may withhold subsequent grant disbursement, suspend, or terminate the Consortia grant, as warranted.

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<sup>15</sup> D.11-06-038 at 12-13.



Any changes to the substantive terms and conditions underlying Commission approval of the Consortium grant (e.g., changes to Work Plan, budget, or designated Fiscal Agent, etc.) must be communicated in writing to the Communications Division Director at least 30 days before the anticipated change, and may be subject to approval by either the Director or by Commission resolution before becoming effective.

(End of Appendix 1)

# Appendix 2

APPE63NDIX 2

Map 1



(End of Appendix 2)