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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

**ASSIGNED COMMISSIONER RULING SETTING WORKSHOPS AND
SEEKING COMMENT ON ELIGIBILITY FOR AND PRIORITIZATION OF
BROADBAND INFRASTRUCTURE FUNDS FROM THE CALIFORNIA
ADVANCED SERVICES FUND**

Summary

Pursuant to Assembly Bill (AB) 1665, the goal of the California Advanced Services Fund (CASF) program was revised to provide funding for infrastructure projects so that by December 31, 2022, 98 percent of California households, would have broadband access. Additional programmatic changes to the California Advanced Services Fund (CASF) are needed to: 1) determine the optimal approach to allocate CASF grants and loans; and 2) develop an efficient and expeditious process by which staff can process CASF broadband infrastructure applications and challenges. This Assigned Commissioner Ruling (ACR) announces a July 25, 2018 workshop and seeks parties' comments on suggestions and questions detailed below.

1. Background

On October 25, 2012, the California Public Utilities Commission (Commission) issued an Order Instituting Rulemaking (R.) 12-10-012 proposing to change the eligibility rules for CASF applicants to allow service providers that are not telephone corporations to apply for CASF grants and loans.

Subsequently, the Legislature enacted Senate Bill (SB) 740 (Padilla)¹ expanding eligibility and making that issue moot. During the 2013-2014 legislative session, the Legislature passed Assembly Bill (AB) 1299 (Bradford).² AB 1299 created an additional account under the CASF program called the Public Housing Account to support the deployment of broadband infrastructure and adoption programs in eligible publicly supported housing communities. In Decision (D.) 14-12-039, the Commission adopted the “Application Requirements and Guidelines for the Public Housing Account” and closed the proceeding.

On March 9, 2017, the Commission issued D.17-03-002, which reopened this proceeding to implement the provisions of SB 745 (Hueso)³ for the Public Housing and Rural and Regional Consortia (Consortia) Accounts. In August 2017, the Commission adopted Resolution T-17575, which modified rules for the Public Housing and Consortia Accounts.

On October 15, 2017, the Governor signed AB 1665 (Garcia)⁴ into law. This urgency legislation amended the statutes governing the CASF program, Public Utilities Code §§ 281, 912.2, and 914.7. On February 14, 2018, assigned Commissioner Martha Guzman Aceves issued an Amended Scoping Memo and Ruling (Ruling) which set forth the amended procedural schedule and scope of this proceeding. Due to the necessity that the Broadband Adoption Account begin accepting applications by July 1, 2018, the Ruling bi-furcated the proceeding into Phase I and Phase II, to first focus on the Adoption Account.

¹ Ch. 522, Stats. 2013.

² Ch. 507, Stats. 2013.

³ Ch. 710, Stats. 2016.

⁴ Ch. 851, Stats. 2017.

Phase I also addressed the relatively non-complicated implementation issues related to the Public Housing and Loan Accounts. Phase II will resolve the Broadband Infrastructure, Line Extension, and Rural and Urban Regional Broadband Consortia Grant Account issues. Lastly, the Ruling indicated that the Commission, as part of its increased collaborative and partnership efforts, would: 1) hold statewide workshops/public forums to solicit input on implementing program changes; 2) learn of existing carrier commitments; and 3) develop partnerships for regional solutions.

The Ruling also contained a draft Staff Proposal, prepared by the Commission's Communications Division (CD) in order to implement Phase I and II of the CASF program, including proposed rules for the new Adoption and Line Extension Accounts, as well as revised rules for the Infrastructure Account.

On June 21, 2018, the Commission issued Decision (D.)18-06-032, which implemented the CASF Broadband Adoption, Public Housing and Loan Accounts Provisions. Specifically, the decision implemented provisions of AB 1665 relating to the Broadband Adoption Account (Adoption Account), Broadband Public Housing Account (Public Housing Account), and Broadband Infrastructure Revolving Loan (Loan Account), which were referred to as the Phase I issues in the Amended Scoping Memo and Ruling of Assigned Commissioner.

The Commission now seeks additional comments related to six topics: 1.) The Eligibility and Challenge Process for CASF Grants; 2.) The Process for Prioritizing Projects and Areas to Support; 3.) A method(s) for Providing Access to Broadband Service to Areas Adjacent to CAF II Areas; 4.) A Cost Reimbursement Process; 5.) Verification of Middle Mile Infrastructure; 6.) Issues related to Line Extension.

2. Questions for Comment

The Commission seeks the input of stakeholders to these suggestions and questions in the six main topics set forth below:

1. Eligibility and Challenge Process

- a. Currently, ineligible census blocks are largely determined by a service provider's claim(s) of serving households within such census blocks and information indicating subscriptions within these census blocks. However, not all households within such census blocks may have broadband internet access service (broadband service) available to them. Given the potential overstatement of ubiquitous availability within census blocks, should a census block only be CASF-eligible if the subscription rate within that census block is less than 51% of all households? We propose that a census block is considered served, if a majority of households in that block subscribe to wireline or fixed wireless Internet service.

What should the CASF challenge process look like? Which trigger(s) should be used to start the challenge process for a CASF application? Which trigger(s) should be used to end the challenge process for a CASF application? Should the Commission create a single definitive list of CASF-eligible census blocks and a pre-application eligibility-map challenge process, as AT&T proposes? (*See* Opening Comments of AT&T on Phase II Staff Proposal, filed April 16, 2018, pp. 9-11).

- b. What should the challenger have to prove (household subscription rate and broadband service speed) during the challenge process? What information should be required of the challengers to an application, other than what is currently proposed in the Staff Proposal? What information should be required of challengers to determine eligibility as indicated on the California Interactive Broadband Availability Map (as proposed by AT&T)? Could such a pre-application eligibility map

challenge partially or entirely replace the post-application challenge? If yes, explain. Is the 21-day staff proposed challenge window timeline and challenge criteria also sufficient for the eligibility-map challenge process? Should the challenges vary by technology? (*e.g.*, should the burden of proof for a fixed wireless Internet service provider submitting a challenge be different than that of a wireline provider?) Why or why not?

2. Prioritizing Projects and Areas to Support
 - a. Which census blocks, census tracts or communities should be prioritized by the Commission? Two examples of previous approaches to prioritization include: Resolution T-17443 (approved by Commission 6/26/14) and the High Impact Analysis developed by Staff and included in the Supporting Materials for the May 25, 2017 CD Staff Workshop on CASF Reform.⁵ Should the Commission use methods similar to this going forward?
 - b. Do parties have additional communities to suggest as priorities? If so, please follow instructions for submitting those priorities in Appendix A.
 - c. In order to ensure that priority projects get developed and funded, how should the Commission treat these areas identified as priorities?
 - i. Should these priority areas be eligible for expedited review?
 - ii. Should these priority areas receive higher funding levels or percentages, perhaps under the argument that they contribute significantly to the program goal, one of the rationale for additional funding in statute?

⁵ Beginning on page 55.

<ftp://ftp.cpuc.ca.gov/Telco/CASF/Reports%20and%20Audits/CASF%20Workshop%20May%2025th.pdf>

3) Providing Access to Broadband Service to Areas Adjacent to CAF II Areas

The number of eligible CAF II locations exceeds the number of required locations to which CAF II providers must offer service. Many census blocks may have more households than CAF II eligible locations, meaning that some households will not benefit. How can the Commission incentivize CAF II providers to build beyond their commitments to the Federal Communications Commission? In order to incentivize CAF II providers to deploy throughout the community and in areas adjacent to CAF II areas, should the Commission:

- a. Provide an expedited review process to approve supplemental grants to expand CAF II-related projects?
 - b. Should there be a separate process or set-aside of funding for these supplemental builds?
 - c. Should supplemental grants be tied to the release of CAF II plans? Should areas where CAF II providers do not commit to build out be reclassified as eligible?
 - d. How should the interests of the CAF II providers to choose which CAF II areas they build out to with federal funding while also requiring them to complete other projects in the state) be balanced with competitor interest in bidding to build out in those same communities?
- 4) Reimbursement Process

Should the CASF reimbursement process change? AT&T has proposed that grantees receive funding on a monthly basis, instead of being reimbursed after submitting invoices.

- a. Is it possible to use a new process and still be in compliance with the State Administrative Manual?
- b. Are there other state programs the Commission could use as an example? Additionally, given current Staff resources, would payments every two months be acceptable?

5) Middle-Mile Infrastructure

How should the Commission verify that a middle-mile build included in a proposed project is “indispensable” to that project, as required by statute? Should Commission Staff rely on the middle-mile location information providers submitted as ordered in D.16-12-025? If middle-mile infrastructure already exists near the proposed project area, under what circumstances may an applicant build its own middle-mile infrastructure? If middle-mile infrastructure already exists near the proposed project area, should there be a limit on how much infrastructure may be built? (*e.g.*, 10 miles, 5 miles, etc.) For purposes of grant funding, is leasing or purchasing middle-mile facilities for terms beyond five years (*e.g.*, IRU for 20 years) allowable or even preferred over building new infrastructure? Alternatively, is a challenge to the project application sufficient to prove it is not indispensable, or a lack of a challenge sufficient to prove that it is?

6) Line Extension Items

- a. What are the components of a wireline technology line extension connection that should be remunerated by the program? About how much on average do line extensions cost per foot?
- b. Is the \$1,000 limit per aerial line extension and the \$3,000 limit per underground drop proposed by Race Telecommunications Inc., sufficient to address properties far away from distribution facilities? (*See* Comments of Race Telecommunications on Phase II Issues, filed April 16, 2018, at 10.) Alternatively, should the Commission allow remuneration for line extensions costs incurred to serve properties several thousand feet away from distribution facilities? What should be the limit? Should there simply be a maximum length of line extension, for example the 750 feet maximum proposed by North Bay North Coast Broadband Consortium? (*See* Comments of the North Bay North Coast Broadband Consortium on Commissioner’s Amended Scoping Memo and Ruling Phase II, filed April 16, 2018, at 16-19.)
- c. What are the components of a fixed-wireless line extension connection that should be remunerated by the

program? And how much on average do fixed wireless extensions cost? Is the \$300 limit per wireless extension connection proposed by Race Telecommunications Inc., sufficient?

- d. Should a service provider be able to apply for line extension connection cost remuneration on behalf of the property owner requesting such line extension service connection?

3. Additional Workshop on July 25, 2018

The Commission will host a workshop on July 25, 2018 from 9:30 a.m. to 4 p.m. located at the California Environmental Protection Agency's Sierra Hearing Room. The address is 1001 I St., Sacramento, CA 95812.

4. Revised Proceeding Schedule

Event	Date
Workshop	July 25, 2018
Comments to July 15, 2018 ACR	August 1, 2018
Publish Proposed Decision on Infrastructure Account, Consortia Account and Line Extension Program rules and Remaining Issues	October 2018
Adopt Final Decision	November 2018

Until new program rules are in place, the Commission will continue funding applications from the remaining funds.⁶ Infrastructure applications submitted after October 15, 2017 will be reviewed pursuant to the requirements set forth in AB 1665.

⁶ Old program accounts and budget balance (approximates as of November 30, 2017, includes state operations): Infrastructure Grant Account (\$33 million); Consortia Account (\$990,000); and Public Housing Account (\$12 million).

IT IS SO RULED:

Dated July 11, 2018 at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES

Martha Guzman Aceves
Assigned Commissioner

Appendix A

We ask parties to provide specific unserved communities (by wireline Internet service) or groupings of nearby unserved census blocks that the Commission should prioritize. We ask that all submitting this information do so in a Microsoft Word document, following the format in the example below, including identifying the following: the name of the community, the specific unserved census blocks, whether any census blocks contained CAF II accepted locations (and the provider), and whether any blocks in the area are partially served by fixed wireless.

Example

Community Name: Community Name, County			
Do the following blocks contain CAF II locations? <input checked="" type="radio"/> Yes, ATT <input type="radio"/> Yes, Frontier <input type="radio"/> No		Are any of the following blocks “partially served” by fixed wireless? <input checked="" type="radio"/> Yes <input type="radio"/> No	
Census blocks⁷			
060010062021037	060010062021127	060010062021141	060010062021150
060010062021038	060010062021129	060010062021142	060010062021156
060010062021040	060010062021140	060010062021145	060010062021159

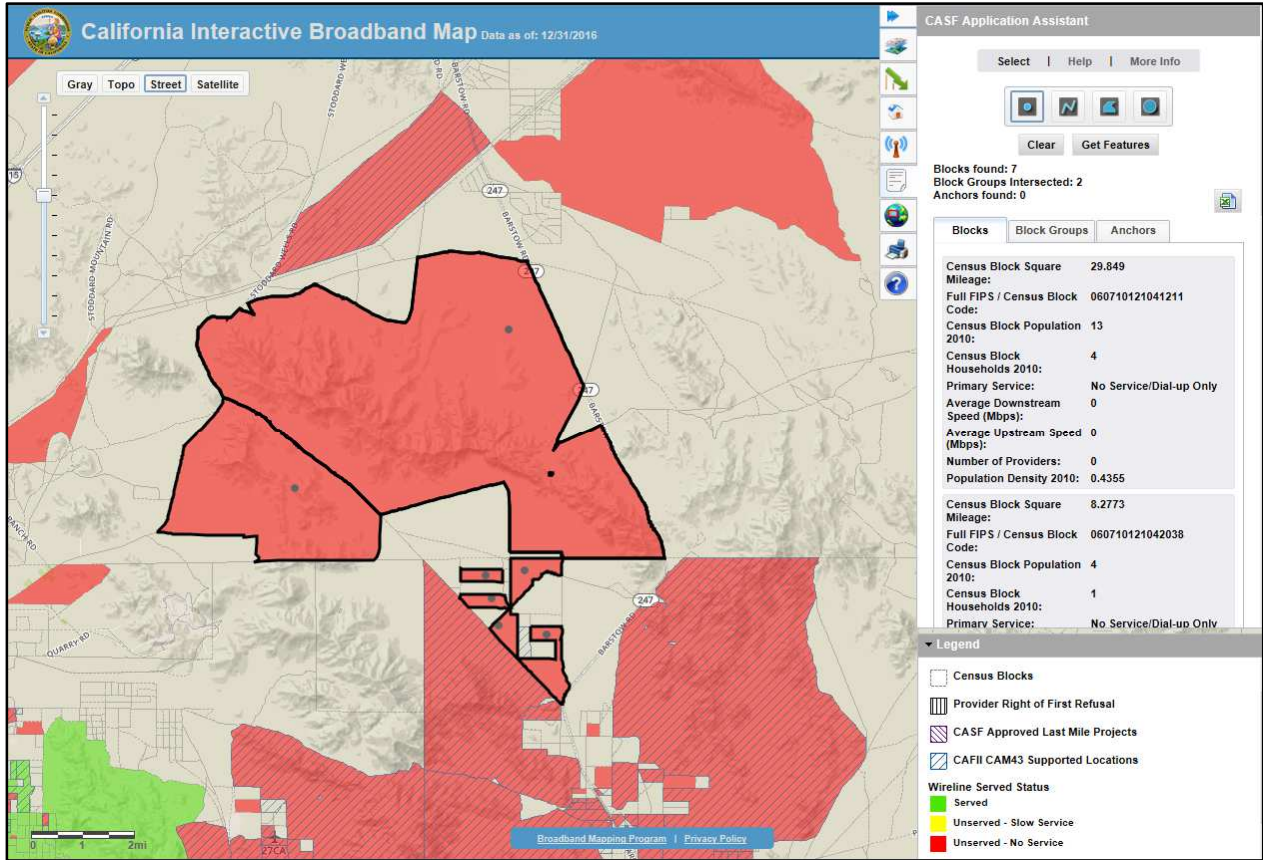
In addition to this Word document, we ask that parties also provide the unserved census blocks as an Excel spreadsheet. Please note that we are specifically asking for communities and other groups of nearby census blocks that are not served by wireline Internet service at speeds of 6 mbps downstream and 1 mbps upstream, the threshold set in statute. Served communities will not be included in any final list.

Parties without access to ArcGIS capabilities can generate a list of census blocks with the CASF Application Assistant Tool, available on the California Interactive Broadband Map. For example, Map 1 shows unserved census blocks outside Victorville, in San Bernardino County. A user may identify the proposed priority area using any of the map’s selection tools, and click on the button labeled, “get features,” to obtain the list of census blocks in that area. A user may then click on the button shaped like the Excel

⁷ Census blocks are identified with a 15-digit US Census Block code. ALL California blocks begin with “06”. See More about Census Blocks. More information on census blocks is available at: https://transition.fcc.gov/form477/Geo/more_about_census_blocks.pdf.

logo, which displays the mouse over text, "Export to Excel," to export that list into Excel.

Map 1



END OF APPENDIX A