

**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)

**OPENING COMMENTS OF THE UTILITY REFORM NETWORK
ON THE FEBRUARY 14, 2018
AMENDED SCOPING MEMO AND ASSIGNED COMMISSIONER'S RULING**

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March 16, 2018

I. INTRODUCTION

Pursuant to the February 14, 2018, Amended Scoping Memo and Assigned Commissioners' Ruling, The Utility Reform Network ("TURN") respectfully submits these opening comments. In submitting these comments on the Broadband Adoption Account, TURN does not address every aspect of Staff's Phase 1 proposal and reserves its right to address those issues in reply.

II. DISCUSSION

A. The Proposed Application and Evaluation Process Should Be Broadened

The CASF program is intended "to encourage deployment of high-quality advanced communications services to all Californians."¹ To best serve that purpose, the Commission should consider a variety of approaches to expand digital literacy and broadband access. The application criteria described in the staff's proposal should be broadened in certain areas to give staff and the Commission more discretion in its evaluation process to allow more flexibility in determining an applicant's eligibility and worthiness to receive CASF funds.

The proposal's narrow application and evaluation criteria limits the number and types of applicants and projects at the expense of potential applicants who may have otherwise contributed to digital literacy and broadband access through a different approach. For example, the proposal forbids grant recipients from charging for a digital literacy class, while at the same time only funding up to 85 percent of the grant recipient's costs and only for specific expenses.² While the proposal requests applicants provide information on the "availability of matching

¹ California Public Utilities Code §281(a).

² Appendix B at p. 3. The Commission should have more discretion on what is eligible to receive up to 85% funding. In another example, the proposal allows reimbursement for the grant recipient's "education and outreach efforts and materials" but it is not clear whether that would include funding of the staff's time to distribute the outreach materials, and it does not appear to fund overhead and administrative costs.

funds to be supplied by applicant,” the requirement that grant recipients cannot charge for classes may be cost prohibitive for a potential applicant who would have otherwise charged a small, reasonable fee, perhaps on a sliding scale to pay for expenses that are not eligible for CASF funding.³ Other examples include a proposal that digital literacy applicants may not develop their own curriculum, and broadband access applicants cannot pay more than \$250 for each computing device or distribute smartphones.⁴ Unless these limitations and restrictions are otherwise required by statute or other Commission rules, the proposal should allow more flexibility at the application stage to accommodate the needs of a wider variety of communities that may ultimately benefit from the CASF program funds.

The application and evaluation should be framed by the unique needs and circumstances of the community the CASF project aims to serve. If a community’s primary language is not English, it may be appropriate for a digital literacy program to develop curriculum to better engage and reach that community. If a potential applicant can purchase high-quality computing devices in bulk for just over \$250 each or receives a grant to pay for devices that exceed \$250, the potential applicant should not have to forgo those higher quality devices in favor of lower-quality devices to receive CASF funds. If wireline broadband service and other types of devices are cost prohibitive to the community, under certain circumstances a smart phone device may be an appropriate alternative to increase broadband adoption.

Instead of proscribing outer limits to *apply* for CASF funds, the proposed application criteria should be expanded, and instead, the applicant should be required to justify how their

³ Appendix B at p. 7.

⁴ Appendix B at pp. 3-4. The proposal should be clarified whether section 1.6 of the Staff proposal that limits subsidy payments to no more than \$250 for devices distributed to participants and \$1,000 for devices used in “public spaces” is applicable to both expedited review projects and non-expedited review projects. Section 1.7 does not list the same limitations while section 1.10 (expedited review) does include these dollar limits, as well as a cap in funding of \$50,000.

project proposal is designed to meet the needs of the community in a cost effective and tailored manner. For example, if an applicant proposes a 4-hour training for community members who may work three-jobs and have limited time for training, and the Commission finds the applicant's justifications for the 4-hour training is appropriate in the context of the entire application and community needs, the applicant should not be discouraged from applying and the Commission should be able to approve the application.⁵ By focusing on the applicant's justifications for its proposed project, the Commission can better evaluate the merits of the proposed project, meet the needs of the community, and fulfill the goals of the CASF program.

B. Other Issues for Comment

The proposal requests comments on several questions regarding the efficacy of the Adoption Account.⁶ Many of these issues and questions can be addressed by requiring applicants to explain how they will measure whether the program is successful, describe the anticipated socioeconomic benefits of the project, and provide research on the different barriers faced by the community where the applicants proposes to establish their projects.

An applicant who seeks CASF Adoption Account funds is in the best position to understand and present the barriers to broadband access for its proposed project's community, how its project seeks to overcome those barriers, and the metric by which to measure the success of the project. The proposed reporting requirement already anticipates that the applicant will report to the Commission how many participants subsequently subscribed to broadband Internet service in their home; the proposed application should be modified to require an applicant to

⁵ Appendix B at p. 8.

⁶ Appendix B at p. 10.

discuss the metric it will use to made this determination (e.g. exit survey, post follow-up survey).⁷

Further, the proposal acknowledges that an applicant cannot guarantee that its project will result in increased adoption rates among their community.⁸ Therefore, the Commission should not seek to require the applicant to make such a guarantee.⁹ There are many external influences, considerations, and factors that the Commission and CASF grantees cannot control that will impact broadband adoption for participants of these programs. Any requirement that a CASF grantee must guarantee that a certain percentage of program participants will subsequently subscribe to broadband will surely dissuade otherwise worthy applicants. However, the Commission should review the effectiveness of the CASF application criteria and evaluation process after gathering two years' worth of data from grant recipients. With data comparing projects' effectiveness, the Commission would be in the best position to determine whether the project selection has been effective. If the Commission determines the Adoption Account program's application criteria and evaluation process needs to be changed, it can propose adjustments at that time.

C. Appeals Process

The proposal should be modified to clarify an applicant's due process rights to appeal a denial of CASF funding under the non-expedited and expedited processes. Under the proposal, a non-expedited application is reviewed through the Commission's resolution process and an applicant's appeal of denial would presumably be an application for rehearing.¹⁰ However, the proposal is silent as to an applicant's appeal of denial under the expedited review process. If an

⁷ Appendix B at pp. 11-12.

⁸ Appendix B at p. 11.

⁹ Appendix B at p. 11.

¹⁰ Appendix B at p. 29.

application was denied under the expedited review process, would the applicant's appeal be a request for funding through the resolution process? Would applicants be informed why their applications were denied through expedited review? Would applicants who were denied through the expedited review process have an opportunity to fix any deficiencies or would the applicant have to restart the application process? TURN does not have specific suggestions for an appeals process at this time, but the proposal should be clarified to include an appeals process.

D. Repeat Applicants

A digital literacy project and a broadband access project appear to be complementary, one project provides the knowledge base and the other project provides the tools to utilize the knowledge. However, it is unclear from the proposal whether one organization can apply for both grants to serve the same community. Should dual adoption-literacy applications be encouraged and, if yes, how will these be treated? Can an organization apply for one grant and then apply for the other grant in the future and, if yes, will the first project affect the second application? Can an organization apply for the same grant again in the future to serve the same or a different community and, if yes, will the first project affect the second application? The proposal should be clarified to include a dual application or multi-application process with the appropriate restrictions to ensure that a wide variety of communities are served by CASF funding.

E. No Exclusivity for Carriers

The proposed digital literacy project description asks the applicant to describe any “partnership with carriers and any existing affordable plans that will be offered in the community.”¹¹ TURN does not oppose digital literacy projects partnering with carriers so long

¹¹ Appendix B, p. 5.

as the project does not promote the partnered carrier's services exclusively or suggests the partnered carrier's service is superior to any competitors. While some carriers have created voluntary low-income broadband programs, the Commission has no insight into the efficacy and success of those programs unless carriers provide meaningful disaggregated data. Especially because there is little accountability for these voluntary programs, a CASF-funded partnership with a digital literacy project should not create an unfair marketing advantage for the partnering carrier. Therefore, TURN urges the Commission to review any partnership agreements between digital literacy projects and carriers to ensure the terms of the agreement do not obligate the project to market or otherwise exclusively promote the carrier's service. Further, the proposal should be modified to prohibit digital literacy projects from marketing or exclusively promoting any partnered carriers' services without equal treatment for competitive carriers.

III. CONCLUSION

For the reasons set forth above, TURN request that the Staff Proposal be modified in accordance with our recommendations here.

Dated: March 16, 2018

Respectfully,

/s/

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