

**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

**CALIFORNIA CABLE AND TELECOMMUNICATIONS ASSOCIATION
COMMENTS ON THE PROPOSED DECISION IMPLEMENTING THE
CALIFORNIA ADVANCED SERVICES FUND LINE EXTENSION
PROGRAM PROVISIONS**

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The California Cable and Telecommunications Association (“CCTA”),¹ pursuant to Rule 14.3 of the California Public Utilities Commission’s (“CPUC”) Rules of Practice and Procedure, hereby submits these comments on the Proposed Decision (“PD”) issued on March 26, 2019 in the above-captioned proceeding to implement the line extension program within the California Advanced Services Fund (“CASF”).

CCTA supports the CPUC moving forward to implement the provisions of Public Utilities Code Section 281, as amended by AB 1665 (Garcia 2017), that allow for individual unconnected households and property owners to participate in the CASF program to gain broadband access.²

¹ CCTA is a trade association consisting of cable providers that have collectively invested more than \$40 billion in California’s broadband infrastructure since 1996 with systems that pass approximately 96% of California’s homes.

² AB 1665 added the following paragraph to subdivision (f) of Section 281 to authorize the CPUC to award CASF grants for line extensions:

(6) (A) An individual household or property owner shall be eligible to apply for a grant to offset the costs of connecting the household or property to an existing or proposed facility-based broadband provider. Any infrastructure built to connect a household or property with funds provided under this paragraph shall become the property of, and part of, the network of the facility-based broadband provider to which it is connected.

(B) (i) In approving a project pursuant to this paragraph, the commission shall consider limiting funding to households based on income so that funds are provided only to households that would not otherwise be able to afford a line extension to the property, limiting the amount of grants on a per-household basis, and requiring a percentage of the project to be paid by the household or the owner of the property.

However, CCTA objects to the PD imposing an across-the-board cap on CASF line extension grants, specifically the cap of \$5,300 per household for wireline line extensions.³ CCTA respectfully submits that this cap (1) constitutes legal error in that it is contrary to the plain language, purpose and legislative intent of the line extension provisions in Section 281, and (2) constitutes factual error in that it is erroneously based on a cost estimate in the record that does not reflect eligible line extension projects.

Paragraph (A) of Section 281(f)(6) requires the CPUC to allow an individual household or property owner to be eligible for a CASF grant “to offset the costs of connecting the household or property to an existing or proposed facility-based broadband provider,” known generically as a line extension grant. This provision was added to AB 1665 in order to enable broadband access to unserved households that, because of their distant location, typically would not be included in a regular CASF infrastructure project covering entire communities. As stated in the legislative history of AB 1665, the intent of the line extension provision is to provide the benefits of the CASF program to Californians that live far from a community or point of connection to a broadband network:

This bill allows an individual property owner to apply for an infrastructure grant in order to build a line extension to their property. The author argues that such cases may be warranted when a driveway is very long, or the property is far from the community. (Emphasis added).⁴

Paragraph (B) of Section 281(f) provides the CPUC with direction on options it shall *consider* when approving a proposed line extension project for a CASF grant, including “limiting funding to households based on income so that funds are provided only to households that would not otherwise be

(ii) The aggregate amount of grants awarded pursuant to this paragraph shall not exceed five million dollars (\$5,000,000).

All further section references are to the Public Utilities Code.

³ PD at 14, Rules 4 and 8 in Appendix A.

⁴ AB 1665 (Garcia 2017), *Analysis of Senate Committee on Energy, Utilities and Communications* (August 29, 2019) at 15.

able to afford a line extension to the property, limiting the amount of grants on a per-household basis, and requiring a percentage of the project to be paid by the household or the owner of the property” (emphasis added). The statute does not *require* or indicate that the CPUC *shall* limit the amount available for line extension grants, and instead directs the CPUC to *consider* whether to limit funding when approving a particular project application for a CASF line extension grant.

Although not required by statute, the PD imposes an across-the-board per-household limit on any line extension grant before any applications are even filed. This is contrary to the directives the Legislature gave to the CPUC. In adopting the per-household cap, the PD states that “costs can vary greatly for line extensions due to a variety of factors” and that “this will make certain that available funds are distributed in a cost-effective manner.”⁵ The PD states that this approach is adopted instead of a cap on the length of line extensions.⁶ In combination with the 95% maximum subsidy level adopted in the PD, the cap means that a line extension project using wireline technology is eligible for a CASF grant of no more than \$5,300 per household regardless if this is far less than 95% of the project cost to extend broadband access to an unconnected household or property.

CCTA agrees with the PD statement that line extension costs vary greatly due to a variety of factors, including the length of a line extension and how many households may be included in a particular line extension project. But CCTA is unclear what the PD means in stating that a \$5,300 cap “will make certain that available funds are distributed in a cost-effective manner.” In fact, CCTA asserts that this cap is not consistent with and will likely undermine the purpose and legislative intent of the line extension program – to afford broadband access to households located far from connected communities or with long driveways off the main road where network infrastructure may pass.

CCTA also asserts that the PD’s adoption of a \$5,300 cap for wireline line extensions is flawed

⁵ PD at 14.

⁶ PD at 13 and 14.

based on the factual record. The PD states that this cap is based on the cost estimate provided in comments by the North Bay North Coast Broadband Consortium (“NBNCBC”).⁷ The PD states: “[a] cost of \$5,277.18 per household was used as an example of an aerial fiber line extension from Comcast by the NBNCBC.”⁸ Without any analysis of how this cost estimate may reflect a *typical* line extension project, the PD states:

The Commission adopts the cost estimate provided by NBNCBC for its wireline maximum cap ... NBNCBC’s cost estimate for deployment of wireline facilities for a line extension is based on an actual quote provided by Comcast in 2012 and adjusted for inflation to 2018 price levels. We designate a \$5,300 cap (rounded from \$5,277.18) for wireline extensions.⁹

However, key facts that the PD fails to include are, first, that the price quote was for a line extension that was only 1/8 of a mile (660 feet), which is likely far shorter than many eligible line extension projects of the type described in the legislative history of AB 1665.¹⁰ Second, the price quote is based on an average cost that was shared among 26 households.¹¹ While the PD allows line extension applications for multiple households, a line extension to a single household is an eligible project that will be far more common but will not benefit from cost sharing among multiple households. Finally, the \$5,300 per-household cap for a wireline line extension is considerably lower than the \$9,300 per-household maximum the CPUC adopted for ministerial review of regular infrastructure grants in Decision 18-12-018,¹² and is substantially lower than the historical per-household cost of CASF-funded fiber projects, which have ranged from \$10,000 to more than \$23,000

⁷ PD at 13-14.

⁸ PD at 13.

⁹ PD at 14.

¹⁰ NBNCBC Comments at 8.

¹¹ *Id.* Moreover, the project cited in NBNCBC’s comments was in an affluent area, Marin County, and therefore likely would not qualify for a line extension grant, which is more reason why it is not an appropriate representative project to establish parameters for the line extension program.

¹² See D.19-12-019, at 27 and Rule 12 on page 26 of Appendix 1.

per household, as summarized in a Commission staff report.¹³ Thus, it is apparent that the \$5,300 cap is far too low to effectuate the purpose and legislative intent of AB 1665.

CCTA understands that the CPUC is constrained by having only \$5 million for line extension grants. However, given the legal and factual concerns with the \$5,300 wireline line extension cap in the PD, CCTA urges the CPUC to instead adopt a preference for line extension projects that are low-cost. This would be consistent with the direction in Section 281(f)(6)(B) that the CPUC consider limiting the grants on a per-household basis, and would preserve the CPUC discretion to deny a grant application that is deemed too costly. Moreover, the PD's application deadline schedule and approach of considering line extension applications in batches after each deadline will enable this preference approach.¹⁴ Thus, CCTA recommends that the CPUC modify the Rules in Appendix A to the PD to eliminate the line extension cap and instead provide a preference for applications that have a low cost-per-household.

Respectfully submitted,

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¹³ See CASF Workshop Staff Report (May 17, 2017) at 75.
<ftp://ftp.cpuc.ca.gov/Telco/CASF/Reports%20and%20Audits/CASF%20Workshop%20May%2025th.pdf>

¹⁴ PD at 22, Rule 7 in Appendix A.