

**BEFORE THE PUBLIC UTILITIES COMMISSION**

**OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider Modifications ) Rulemaking No. 12-10-012  
to the California Advanced Services Fund. ) (Filed October 25, 2012)

**Reply Comments of California Emerging Technology Fund on Proposed Decision of  
Commissioner Guzman Aceves Implementing the California Advanced Services Fund  
Line Extension Programs Provisions**

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April 22, 2019

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Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, the California Emerging Technology Fund (“CETF”) hereby timely files its Reply Comments on the Proposed Decision of Commissioner Guzman Aceves Implementing the California Advanced Services Fund Line Extension Program Provisions (“PD”), issued on March 26, 2019. CETF is a party to the rulemaking proceeding. In its prior comments on Phase II issues, CETF had commented on the Line Extension Program (“LEP”).<sup>1</sup> CETF had not filed Comments on the LEP PD previously, but files in rebuttal to other parties’ comments on the PD.

At the outset, CETF thanks the Commission for the opportunity to comment and expresses its appreciation for the hard work and close attention of all Commission staff, Administrative Law Judge, and the assigned Commissioner on this phase of the CASF docket.

**I. Section 4, Eligible Applicants.**

In its Opening Comments, Frontier Communications took issue with the portion of the PD at page 11 proposing that the LEP pilot program be limited to parties meeting low-income thresholds (for example, eligibility by participation in CARE or LifeLine programs) or by having a household income equivalent to those programs. Frontier noted that the plain language of AB1665 does not support such a requirement, and that such a requirement limits the pool of

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<sup>1</sup> In CETF’s Comments on Phase II Issues, at p. 6, filed April 16, 2018, it advocated as to LEP: (1) Applicants should show there is no better alternative and this is the last resort to obtain broadband service; (2) The CPUC should determine there is no larger project in the foreseeable future that can reach the households requesting a line extension before approving large amounts of funds for the purpose; and (3) There should be a fair sharing of costs by the applicants and some kind of repayment by incumbents that assume ownership of the facilities to the CASF fund. In its Reply Comments, CETF added that there should be a fair sharing of costs by a LEP applicant (household) to “put some skin in the game” and supported a reasonable cap on the LEP amount to stretch the dollars further. CETF Reply Comments in Phase II, at pp. 17-18, filed May 1, 2018.

eligible applicants in a way “not in synch” with the goal of the AB1665 legislation to reach 98 percent of California households in each Consortia region regardless of financial standing.<sup>2</sup> CETF strongly agrees with Frontier and its interpretation of the law on the LEP. The LEP program was included to offset the costs of closing the Digital Divide and to connect the most difficult to serve properties to a broadband provider. CETF recommends that the Commission allow households *of any financial standing* apply for the LEP program, regardless of the small size of the LEP funding and the fact this is a pilot program.

Having said that, CETF is sympathetic to the underlying rationale for the preference expressed in the PD to only allow low-income households to benefit from the LEP pilot program. CETF recommends instead that households that are not low-income be made eligible to be consistent with the statutory language and intent, and a priority given to low-income households using some method (such as establishing a low-income households filing window that occurs first, or by designating a reserved portion of LEP funds for low-income applicants).

As CETF pointed out before in its prior comments, the Line Extension Program concept arises from the traditional cable industry, where there were set geographic cable franchise areas. Households outside the cable franchise area that were uneconomic to serve often had to personally pay a line extension cost to the cable company in order to obtain cable service. In our earlier comments, CETF pointed out this favored wealthier households (i.e. ranchettes) and left low-income households on the wrong side of the Digital Divide.

In the AB1665 context, the Line Extension Program was proposed by the cable industry to connect unconnected homeowners that want broadband but are uneconomic to serve given the high cost of the build to bring infrastructure to that one homeowner. Even though there are no franchise areas for ISPs, the LEP provision of AB1665 essentially grants Internet Service Providers (ISPs) subsidies to build one-off extensions and be reimbursed by the CASF. Under AB1665, the ISP then is allowed to take ownership of the CASF-subsidized infrastructure. CETF brings this odd bit of AB1665 history to the Commission’s attention so that it can understand the motivations behind the LEP provisions. After reading the opening comments and being painfully familiar with the motivations and dynamics in the negotiation of AB1665, CETF respectfully recommends that the Commission make a distinction between low-income

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<sup>2</sup> Opening Comments of Citizens Telecommunications Company of California, Inc., Frontier Communications of the Southwest Inc, and Frontier California Inc. on the Proposed Decision Implementing the CASF Line Extension Program Provisions, at p. 2, filed April 15, 2019 (“Frontier Comments”).

households and non-low-income households, and then craft a program that allows participation by both. CETF urges again its prior recommendations that: (1) applicants should show there is no better alternative and this is the last resort for the household to obtain broadband service; and (2) that the Commission staff has determined there's no larger project in the foreseeable future (i.e. 6-12 months) to reach that specific household requesting the line extension.

CETF applauds the portion of the PD that states that ISPs may pursue and build longer line extension projects that include both eligible and non-eligible applicants, and that only the costs directly related to providing line extensions to eligible applicants shall be reimbursed through the LEP program. CETF would go further and require ISPs to inquire to unconnected households along the same path as to whether they also desire service to make the build as economic as possible and have the LEP dollars stretch further.

CETF also respectfully disagrees with Frontier's objection to the PD's suggestion that broadband providers help prepare a LEP application, and its fear of lawsuits if it draws up a contract for the line extension.<sup>3</sup> Further Frontier urges the Commission to have the Regional Consortia instead assist eligible homeowners with LEP applications.<sup>4</sup> The record reflects at least three broadband providers that are willing to help homeowners with their LEP applications<sup>5</sup> and so the current language giving broadband providers' the option to help is appropriate and should remain. However, expertise regarding engineering and costs for line extensions lies with the broadband providers, and not the Regional Consortia. Further, Regional Consortia need to focus priority attention on helping the Commission achieve 98% broadband deployment and not become preoccupied with preparing LEP applications. If the Commission adopts Frontier's suggestion to have Regional Consortia assist with preparation of LEP applications, then it must be clear that this is a secondary activity in terms of priority, and additional CASF funding needs to be allocated to willing Regional Consortia for that purpose. Further, CETF recommends that the CPUC consult the individual Regional Consortia before this task to assigned or mandated as part of their responsibilities.

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<sup>3</sup> Frontier Comments, at 3.

<sup>4</sup> *Id.*

<sup>5</sup> PD, at 10 (Conifer, AT&T and Race).

## **II. Subsidy Level**

On the subsidy level, CETF responds to the various comments on the 95% LEP – 5% ISP Proposal in the PD. On this point, CETF recommends that for low-income households, LEP should contribute 65%, the applicant/homeowner 10% (to have “skin in the game”) and the facilities-based broadband provider 25% (since it will own the infrastructure once built). For households that are not low-income, LEP should contribute 50%, the applicant/homeowner 25% (to have “skin in the game”), and the facilities-based broadband provider 25% (since it will own the infrastructure once built). AB1665 does allow the Commission to require homeowners to pay something.<sup>6</sup>

In its opening comments, the California Cable and Telecommunications Association (“CCTA”) objected to the PD imposing an across-the-board cap on line extensions of more than \$5,300, which effectively removes projects for more remote households.<sup>7</sup> Frontier is in accord.<sup>8</sup> CETF strongly agrees with both CCTA and Frontier. The cap defeats the main purpose of the LEP to connect to broadband remote and rural unconnected households. CETF recommends that subsidy levels should be variable with a higher percentage of shared costs for more expensive line extensions.

## **III. Execution and Performance**

CETF commends the Commission on its proposal to have the facilities-based provider inform the applicant of the availability of low-income plans in the service area.<sup>9</sup> Should the Commission allow households that are not low-income to participate in the LEP as suggested above, CETF suggests that this requirement will only be applied to households that meet low-income eligibility.

CETF also supports the PD requirement that these projects only be statutorily or categorically exempt from CEQA requirements.<sup>10</sup>

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<sup>6</sup> Section 281(f)(6)(B)(i).

<sup>7</sup> California Cable and Telecommunications Association Comments on the Proposed Decision Implementing the CASF Line Extension Program Provisions, at 3 (filed on April 15, 2019).

<sup>8</sup> Frontier Comments, at 2.

<sup>9</sup> PD, at 27.

<sup>10</sup> Id.

#### IV. Conclusion

WHEREFORE, CETF respectfully requests that the Proposed Decision be changed consistent with its reply comments above. Suggested edits to the PD are provided in Attachment A hereto.

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## ATTACHMENT A

### CETF Suggested Edits to PD

PD, Section 4.2, para. 1 at page 11: Replace first paragraph of Section 4.2, second through fourth sentence with the following: “We wish to focus funds on low-income households, and will give such low-income households priority over households that do not meet low-income eligibility. Low-income eligibility will be determined two ways: ‘(1) applicants whose households qualify for the California LifeLine<sup>28</sup> or California Alternative Rates for Energy (CARE)<sup>29</sup> programs; and (2) those households having a household income equivalent to the CARE program’s income guidelines.”

PD, Section 4.2, para. 2 at page 11: Insert new second sentence: “Thus, the LEP program will allow more than one household to be connected by a single LEP grant. We require that broadband providers ask other unconnected households along the direct path from the existing provider’s distribution facilities to the project applicant’s household if they wish to also be connected, in order to connect as many unconnected households with one LEP grant.”

PD, Section 5, page 13-14: “For low-income applicants, we decide that the LEP will contribute 65% of the grant, the applicant/homeowner 10%, and the facilities-based broadband provider (that will own the infrastructure after it is built) 25%. For applicants who do not meet low-income eligibility, we decide that the LEP will contribute 50%, the applicant/homeowner 25%, and the facilities based-broadband provider 25%.”

PD, Section 5, replacing first full paragraph on page 14: “The Commission will not limit the maximum cost of the line extensions as recommended by Cal Advocates, because the purpose of the LEP program is to connect rural and remote households that may lie far from existing distribution facilities of facilities-based broadband providers and are currently considered uneconomic to serve by such providers. Further, we understand that costs vary greatly for line extensions due to a variety of factors including terrain, geography, foliage, distance, and the like. Subsidy levels shall be variable with a higher percentage of shared costs for more expensive line extensions.”

PD, Section 5, replacing second and third full paragraphs on page 14: “The Commission declines to adopt hard caps on the LEP grants, because of the fact that costs may be variable depending on the project. While numerous parties recommended certain caps -- \$500 for fixed wireless broadband and \$5,300 for wireline line extensions – we find those cost estimates generally reasonable but not dispositive. In light of the small amount of the LEP fund (\$5 million), we would entertain variable subsidy levels depending on (1) whether the applicant is

low-income or not; (2) the cost of the line extension project as compared to historical CASF fixed wireless or wireline per household cost; and (3) unique circumstances of the project that may cause us to have the applicant/homeowner pay more than the 10% - 25% range. We find that it is reasonable for the facilities-based provider to provide a match of 25% of the project cost given it will own the infrastructure.”

Section 9.2, second paragraph, third bullet: “The proposed project cost is within a reasonable range from our guidelines of \$500 for Fixed Wireless installations and a maximum of \$5,300 for Wireline installations per household, or if it is higher, there is a specific reason stated for the deviation such as difficult terrain, distance from the distribution facilities, etc.”

Section 13.2, third bullet after first full paragraph, replace third bullet to read: “Affordability: The facilities-based broadband provider shall inform the applicant of the availability of low-income plans, if the applicant is eligible due to low-income status.”

Non Substantive Corrections:

Section 6, at page 15: Bullets 4 & 5 should be combined into one. (typographical error)

Section 13.2, at page 27: Third bullet “Affordability” has a typo. The word “application” should be “applicant”.