

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

Order Instituting Rulemaking Regarding |
Revisions to the California Advanced |
Services Fund. |

Rulemaking No. 20-08-021

PHASE 1 COMMENTS OF THE CENTRAL COAST BROADBAND CONSORTIUM

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15 October 2020

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Per California Public Utilities Commission (CPUC) Resolution T-17529, the Central Coast Broadband Consortium (CCBC) is the California Advanced Services Fund (CASF) consortia grant recipient representing Monterey, San Benito and Santa Cruz Counties. The CCBC is a party to Rulemaking 20-08-021 and respectfully submits these comments regarding Phase 1 of the above proceeding.

I. The Staff Proposal on State-Federal Broadband Infrastructure Funds Leveraging (Staff Proposal) should be immediately implemented as is.

As tempting as it might be to spend weeks fine tuning the language and program elements contained in the Staff Proposal¹, such an effort would be a counterproductive use of time. Instead, the program as described in the Staff Proposal should be implemented without further delay.

The Federal Communications Commission's (FCC) Rural Digital Opportunity Fund auction is scheduled to begin on 29 October 2020. There are more than two dozen organizations with a

¹ *Staff Proposal on State-Federal Broadband Infrastructure Funds Leveraging*, Rulemaking 20-08-021, published 1 October 2020.

presence in California which have qualified to be bidders² in the auction, either directly or via consortium membership. As the timeline for reviewing the Staff Proposal stands, risking a substantial amount of capital – perhaps millions of dollars – on the outcome of a lengthy, contentious and unnecessary deliberative process would be irresponsible for these organizations.

To rely on notional CASF subsidies, a bidder will need the financial wherewithal to risk prospectively competing in the auction on the basis of the 10% to 20% “kicker” proposed in the Staff Proposal, despite knowing that 1. the amount and qualification criteria could be significantly changed by the Commission, or even rejected completely, after bids are submitted, and 2. any shortfall in CASF subsidies must be topped up by the organization’s own funds, or face severe default penalties.

As a result, the incentive value of the proposed kicker will be greatly diminished, and the objective of motivating organizations to submit bids that are lower – i.e. more competitive *vis a vis* other States – will not be achieved. Instead, any CASF subsidy that is ultimately awarded to successful bidders will merely reimburse them for costs they would have otherwise paid out of their own funds. It will be a gift of public money without the compensatory benefit of more broadband infrastructure and service upgrades for more Californians than would have otherwise occurred.

II. In compliance with unmistakably clear legislative instruction, the Commission delegated specific authority to Staff to implement the RDOF “kicker” program.

Assembly Bill 82, which was approved by the Governor and filed with the Secretary of State on 29 June 2020, amended Section 281 of the Public Utilities Code, which directs the

² Federal Communications Commission Public Notice, "386 Applicants Qualified To Bid in the Rural Digital Opportunity Fund Phase I Auction (Auction 904) Bidding to Begin on October 29, 2020", 13 October 2020.

Commission to “develop, implement, and administer the California Advanced Services Fund program to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies”. To effect this mandate, the amendment gave the Commission special authority to grant CASF subsidies to “projects funded, in whole or in part, from moneys received from the federal Rural Digital Opportunity Fund”.

To comply with this mandate, the Commission approved Decision 20-08-005 on 6 August 2020, which, in turn, directed Staff to “specifically...set additional application window(s) and timeline, via a letter from the Communications Division to the CASF Distribution and Service Lists for Tribal areas and/or other eligible applicants to incorporate federal broadband funding opportunities, such as RDOF”.

No additional authority or direction is required to implement the Staff Proposal. Indeed, to engage in a lengthy and litigious deliberative process is to defy explicit directives to immediately implement an RDOF incentive program from both the California Legislature and the Commission.

III. The program described in the Staff Proposal is consistent with Commission precedent and is a routine exercise of ministerial duties.

In Decision 09-07-020 (29 July 2009) and Resolution T-17452 (11 September 2014), the Commission approved 10% supplements from CASF to, respectively, applicants for broadband-related grants authorized by the American Recovery and Reinvestment Act and bidders in the FCC’s Rural Broadband Experiment subsidy auction. These actions by the Commission established an administrative framework for opportunistic pursuit of federal broadband subsidies

via leveraging of CASF funds. The unmistakably clear and specific instructions from the California Legislature in AB 82 and from the Commission in Decision 20-08-005 fit squarely within this framework. No additional deliberation or cultivation of the record is required to implement the Staff Proposal.

V. Conclusion.

The CCBC respectfully requests Staff to immediately implement the program described in the Staff Proposal, as directed by the California Legislature and the Commission. Delay only benefits those with a vested interest in process for process sake and those with a continuing desire to extract monopoly rents from Californians trapped in outdated broadband systems. All Californians deserve better.

Date: 15 October 2020

Respectfully Submitted,

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