

**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

**COMMENTS OF THE CALIFORNIA CABLE AND TELECOMMUNICATIONS  
ASSOCIATION ON THE ASSIGNED COMMISSIONER RULING  
REQUESTING COMMENTS ON BROADBAND INFRASTRUCTURE RULES  
AND APPLICATION WINDOWS – COVID-19 QUESTION**

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Pursuant to the email ruling of Administrative Law Judge Stevens on March 26, 2020, setting April 9, 2020 as the filing date, the California Cable and Telecommunications Association (“CCTA”)<sup>1</sup> hereby submits to the California Public Utilities Commission (“CPUC” or “Commission”) these comments on the *Assigned Commissioner Ruling Requesting Comments on Broadband Infrastructure Rules and Applications Windows* issued on March 26, 2020 (“Ruling”) in the above-captioned proceeding on the California Advanced Services Fund (“CASF”).

**I. INTRODUCTION**

CCTA and its member companies operate advanced broadband networks in California and nationwide that have experienced different usage patterns due to stay-at-home orders and other impacts of the COVID-19 public health crisis. Maintaining these networks as fully operational to meet increased uses for telehealth, distance learning, telecommuting, and staying connected to family and friends is critical during the COVID-19 pandemic crisis.<sup>2</sup> While keeping their networks operational,

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<sup>1</sup> 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.

<sup>2</sup> See “Metrics Show Cable Internet Networks Continuing to Perform Well Despite Significant Increases in Peak Demand” (March 31, 2020) available at <https://www.ncta.com/whats-new/ncta-launches-covid-19-internet-dashboard> (describing launch of dashboard by NCTA The Internet & Television Association to monitor network performance during the COVID-19 crisis, available at <https://www.ncta.com/COVIDdashboard>).

CCTA companies also immediately came forward with measures to ensure access to services and to address the economic impacts of the pandemic. CCTA and the cable industry also have been engaged with federal, state and local officials to support and collaborate on initiatives that prioritize deployment of broadband infrastructure to enable end user Internet access and provide critical backhaul for wireless service.

From this perspective, CCTA submits these comments responding to Question 1 of the Ruling asking about potential use of CASF grants to address COVID-19. As discussed below, while looking forward to learning more details about what the CPUC is proposing, CCTA generally supports use of CASF funds related to COVID-19 if that use (1) is consistent with legislative direction and limitations in the CASF authorizing statute – Public Utilities Code Section 281,<sup>3</sup> (2) supports and complements (not duplicates) activities already funded by other public or private investment, (3) can reasonably be implemented in a timely and effective manner given the urgency and (hopefully) relatively short duration of the COVID-19 crisis, and (4) does not undermine or divert from achieving the CASF program’s long-standing statutory purpose to deploy broadband infrastructure in completely unserved areas of California where no business case exists for private investment without a subsidy.

## **II. COMMENTS**

The Ruling asks for a response to the following Question 1:

### *1. Actions to Consider in Response to COVID-19*

*Question 1. In the context of the CASF, what can and should the Commission do in response to COVID-19? For example, should the Commission—*

- begin awarding Adoption grants on a rolling basis?*
- increase the amount of up-front funding for Adoption grantees to improve the ability of grantees to increase broadband adoption?*

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<sup>3</sup> All further section references are to the Public Utilities Code.

- *expeditiously make hotspots available through the Adoption account?*
- *make changes to the tasks assigned to staff? And if so, how would any modifications be implemented?*

The Ruling does not include any other discussion of how the CPUC views the CASF program in the context of COVID-19 or provide any other background for the inquiries in Question 1. Thus, appreciating the urgency to address COVID-19 impacts, CCTA provides preliminary feedback in these comments and can respond in more detail in reply comments.

**A. The CPUC should actively promote service offerings and relief measures that are already available to ensure continued access during the COVID-19 crisis.**

Even before COVID-19 crises, CCTA member companies, and many communications service providers, have been offering low-income broadband service, including, for example, *Spectrum Internet Assist* from Charter, *Internet Essentials* from Comcast, *Connect2Compete* from Cox, and *Altice Advantage* from Altice/Suddenlink. With the onset of the COVID-19 crisis, CCTA members immediately signed on to the Federal Communications Commission’s (“FCC”) *KEEP AMERICANS CONNECTED PLEDGE* and have committed to the following:

- (1) Not terminate service to any residential or small business customers because of an inability to pay their bills due to the disruptions caused by the coronavirus pandemic.
- (2) Waive any late fees that any residential or small business customers incur because of their economic circumstances related to the coronavirus pandemic.
- (3) Open Wi-Fi hotspots free of charge for use by any American who needs them.

CCTA member companies have additional offerings, beyond those in the FCC pledge, that are specifically designed to address COVID-19 impacts and have communicated that information to the Commission.

Service providers are using a variety of channels to promote these low-income broadband service offerings and relief measures to assist consumers during the COVID-19 crisis. The CPUC

posting on its website a list of these service offerings and measures is helpful to promote consumer awareness.<sup>4</sup> The CPUC also could circulate this information with local governments to ensure it is included in government resource guides for the public, especially low-income and vulnerable populations. In addition, the CPUC could direct all CASF consortia and all CASF adoption grantees to promote this information. These efforts to promote communications service provider offerings and relief measures that are available *now* can provide an immediate and tangible benefit for consumers suffering health and economic impacts from COVID-19.

**B. Changes to CASF grant application deadlines should be tailored to the COVID-19 crisis and not delay funding CASF infrastructure projects.**

The Ruling asks whether the CPUC should begin awarding CASF adoption grants on a rolling basis. In Decision 19-02-008, the CPUC established January 1 and July 1 of each year as deadlines for CASF adoption grant applications. The CASF rules allow filing an adoption grant application at any time but require staff to review as a batch all applications filed prior to each of these deadlines, which means that July 1, 2020 is the next time applications will be reviewed.<sup>5</sup>

Although the Ruling does not specify details regarding the proposed change to review adoption grant applications on a rolling basis, CCTA does not oppose this change based on existing information for the purpose of addressing the immediate impacts of the COVID-19 pandemic. CCTA supports an approach to address immediate COVID-19 impacts with one-time specific modifications, rather than wholesale changes to the CASF program made under pressure during a crisis. Thus, CCTA urges the CPUC to consider more tailored alternatives, such as simply (1) moving up the July 1, 2020

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<sup>4</sup> From the CPUC home page, a visitor can view these communications service offerings by navigating from the link “Coronavirus COVID-19 Information,” to “Consumer Protections,” to “Communications Companies,” available at <https://www.cpuc.ca.gov/covid19protections/#Telco>.

<sup>5</sup> Rule 1.10 of CASF Broadband Adoption Account Application Requirements and Guidelines.

application window to an earlier date such as May 15 or June 1, 2020, or (2) reviewing on a rolling basis any adoption application filed up through July 1 or August 1, 2020. In either of these alternatives, the special process would be only for applications to fund adoption projects designed specifically to address COVID-19 impacts. Other adoption applications would remain subject to the regular application schedule established in Decision 19-02-008.

In addition, CCTA urges the CPUC to consider the proposed change to the *adoption* application process in conjunction with potential changes to the application window for CASF *infrastructure* grants. CCTA will address the compelling reasons for changing the application window for CASF *infrastructure* grants in comments to be filed in this proceeding on April 15, 2020. Given limited time and CPUC staff resources to review all CASF applications, CCTA supports finding the right balance to enable expeditious award of CASF adoption grants that will provide immediate relief to address COVID-19 impacts, while not creating delay in award of infrastructure grants to deploy broadband to unserved areas of California.

**C. The proposal to award CASF adoption grants to fund hotspots is unclear.**

CCTA is unclear as to what the CPUC has in mind with the proposal to “expeditiously make hotspots available through the Adoption account.” As described above, in committing to the *Keep Americans Connected* pledge, CCTA member companies have opened up public WiFi hotspots in their service territories nationwide at no charge to increase Internet access during the COVID-19 crisis. CCTA looks forward to learning more from opening comments and addressing this hotspot proposal in reply comments.

For now, CCTA notes that, in Decision 18-06-032, the CPUC declined to fund “‘homework ready’ type of mobile devices or hotspot devices” from the CASF adoption account and also stated that

it “may revisit this issue and the potential coordination with other public purpose programs in the future.”<sup>6</sup> The Commission will need to keep in mind that Section 281(j) limits applicant eligibility, requires adoption programs to be “publicly available,” and prohibits use of adoption funds to pay for the underlying service.<sup>7</sup> In addition, any award of CASF grants to fund hotspot devices must require the funding recipient to comply with the underlying network provider’s terms of use applicable to the underlying service. CCTA looks forward to reviewing proposals that address current urgent needs resulting from COVID-19 crisis and that also satisfy existing statutory requirements.

**D. Any changes to staff authority should be tailored to apply during the COVID-19 crisis while also meeting transparency, notice, and other statutory requirements.**

It is not clear from the Ruling what “changes to the tasks assigned to staff” the CPUC has in mind. Thus, CCTA will further address this proposal in reply comments. At a minimum, however, CCTA urges the CPUC to narrowly tailor any changes to apply only during the COVID-19 crisis. In addition, the CPUC must ensure compliance with Section 281 transparency requirements such as

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<sup>6</sup> D.18-06-032 at 18 to 21.

<sup>7</sup> Section 281(j)(1) Moneys in the Broadband Adoption Account shall be available to the commission to award grants to increase publicly available or after-school broadband access and digital inclusion, such as grants for digital literacy training programs and public education to communities with limited broadband adoption, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption.

(2) Eligible applicants are local governments, senior centers, schools, public libraries, nonprofit organizations, and community-based organizations with programs to increase publicly available or after-school broadband access and digital inclusion, such as digital literacy training programs.

(3) Payment pursuant to a grant for digital inclusion shall be based on digital inclusion metrics established by the commission that may include the number of residents trained, the number of residents served, or the actual verification of broadband subscriptions resulting from the program funded by the grant.

(4) The commission shall, in a new or existing proceeding, develop, by June 30, 2018, criteria for awarding grants and a process and methodology for verifying outcomes. The commission shall be prepared to accept applications for grants from the Broadband Adoption Account no later than July 1, 2018.

(5) The commission shall give preference to programs in communities with demonstrated low broadband access, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption. In the proceeding specified in paragraph (4), the commission shall determine how best to prioritize projects for funding pursuant to this paragraph.

(6) Moneys awarded pursuant to this subdivision shall not be used to subsidize the costs of providing broadband service to households. (emphasis added)

posting and serving all applications and amendments to applications<sup>8</sup> and providing opportunities for any party to challenge an application.<sup>9</sup>

**E. Changes to up-front funding of CASF adoption grants should be tailored to apply only during the COVID-19 crisis.**

CCTA has no comment at this time on the proposal to increase the amount of up-front funding for adoption grantees but again urges the CPUC to tailor changes to apply only during the COVID-19 crisis.

**III. CONCLUSION**

CCTA appreciates the opportunity to submit these comments and looks forward to reviewing other parties' comments.

Respectfully submitted,

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<sup>8</sup> Section 281(f)(10) and Section 281(k).

<sup>9</sup> Section 281(f)(8).