

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

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

**COMMENTS OF THE CALIFORNIA EMERGING TECHNOLOGY FUND
ON QUESTION 1 COVID-19 ON ACR REQUESTING
COMMENT ON BROADBAND INFRASTRUCTURE RULES
AND APPLICATION WINDOWS**

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April 9, 2020

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Pursuant to Rule 6.2 of the Commission’s Rules of Practice and Procedure, the California Emerging Technology Fund (“CETF”) hereby files timely comments on Question 1 on the “Assigned Commissioner Ruling Requesting Comments on Broadband Infrastructure Rules and Application Windows,” issued March 26, 2020 (“ACR”). In an email ruling of Assigned Administrative Law Judge Stevens issued on March 26, 2020, he extended the schedule for filing these opening comments to and through April 9, 2020, with reply comments to and through April 15, 2020.

Background. CETF was directed to be established by the California Public Utilities Commission (“CPUC” or “Commission”) as a public benefit from mergers in 2005 with the mission to close the Digital Divide in California. A nonprofit organization, CETF pursues goals of 98% deployment of broadband infrastructure and 80% adoption for use of high-speed Internet service at home. CETF’s policies are technology neutral. Further, CETF uses the term “broadband” to refer generically to high-speed Internet service, including both wireline and wireless infrastructure. CETF has worked extensively -- and intensely -- throughout the entire

state of California in pursuing the mission assigned by the Commission. Over a decade, CETF has gained wide and deep experience that support these comments and recommendations on issues addressed in R.12-10-012.

CETF's comments are based on ten years of experience in awarding and managing \$44.89 million in grants to more than one hundred non-profit community-based organizations ("CBOs") and government agencies to provide digital literacy training to more than 830,000 individuals and achieve adoptions by more than 270,000 low-income households. CETF also invested more than \$10 million to develop and manage a comprehensive initiative called School2Home to close both the Digital Divide and Achievement Gap at low-performing middle schools in low-income neighborhoods throughout California.¹ School2Home includes parent engagement and education to provide digital literacy training to use school-issued devices at home. In the last decade, School2Home has been implemented in 35 schools in 12 districts reaching more than 600 teachers and 14,000 students and their parents. Before this Commission, CETF has been appeared in numerous proceedings including the California Advanced Services Fund ("CASF") rulemaking, LifeLine, California Alternate Rates for Energy ("CARE") and Energy Savings Assistance ("ESA"), in addition to intervening as a formal party in various corporate consolidations of communications companies that are Internet service providers. More about CETF's leadership, programs, and Annual Surveys may be found at our website:

<http://www.cetfund.org/>

¹ Please see CETF School2Home Initiative webpage at <http://www.cetfund.org/investments/school2home>

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 Adoptions grantees to improve the ability of grantees to increase broadband adoption?**
- expeditiously make hotspots available through the Adoption account?**
- make changes to the tasks assigned to staff?**

Summary: CETF commends the Commission for its leadership addressing the need to review and revise the existing rules and regulations for administration of the CASF in response to the COVID-19 pandemic. This health crisis has highlighted the imperative to close the Digital Divide in California. It spotlights the inequities experienced by digitally-disadvantaged residents who are the least able to protect themselves from infection, seek healthcare via Internet or voice communication, engage in distance learning, and work from home. Thus, CETF supports the Commission in this urgent inquiry in this proceeding and underscores the elevated higher priority to achieve Digital Equity for all Californians by accelerating broadband deployment and adoption. With wildfires, floods, and pandemic, it has become self-evident that public safety demands ubiquitous and reliable high-speed Internet infrastructure throughout the state -- with all households being online. Universal connectivity also will be needed for economic recovery and preparedness for future emergencies.

CETF supports immediate modifications to the CASF programs to respond to customers needs during the COVID-19 emergency. The needs may be summarized simply: consumers who are not connected to reliable broadband at home need to have immediate connections in order to receive critical health, education and job information, and to function in a society that has a shelter in place order for a number of months. This Commission must act very swiftly to make necessary changes in order to have a real-time impact, so reduced timeframes for comment should be implemented. Applications should be taken any time and adopted on a rolling basis.

For the Adoption Account, any grants must still have as a goal a verified adoption. Payment processes must be changed and streamlined from the current inefficient process.

CETF also recommends that the Commission order all regulated utilities to immediately distribute information on free and affordable home Internet service offerings from all Internet Service Providers (“ISPs”) in the state.

On the CASF Infrastructure Account, CETF supports the move of the April 1, 2020 deadline for the CASF Infrastructure Grant applications to May 4, 2020. Thus, CETF recommends the focus be on driving efforts to increase the adoption rate statewide and subscription “take rates” within each region, especially in conjunction with deployment of new broadband infrastructure. Increasing the adoption rate statewide requires an intense focus on two goals simultaneously:

- (a) deployment to unserved rural areas; and
- (b) adoption by low-income households and other digitally-disadvantaged populations, such as people with disabilities, non-English speaking families, and older seniors.

A. Broadband is an Essential Public Utility Service and Immediate Action Is Warranted In this Emergency

This crisis has underscored the fact that broadband is an essential public utility service regardless of how it is treated in the law or regulations. CETF has called for this same sense of urgency and need for intense focus in its prior Adoption Account comments in this rulemaking.² In CETF’s view, Digital Equity is a 21st Century civil right. Access delayed is access denied. The Digital Divide is another manifestation of embedded disparities and institutionalized racism that does not belong in the State of California.

² See Comments of CETF on Phase I Issues, filed March 16, 2018 (CETF Phase I Comments) and Comments of CETF on Phase I Proposed Decision, filed June 7, 2018 (CETF Phase I PD Comments) in R. 12-10-012.

Today's health crisis only underscores the call for immediate action. All powers and authorities of the Commission should be exercised to aggressively pursue and unequivocally achieve Digital Equity. That should include the Commission ordering all regulated industries to immediately distribute information about free and affordable home Internet service offers from all Internet Service Providers (ISPs) in the state. This action can be taken immediately by the Commission without any rulemaking proceeding. It is simply a matter of leadership in the face of this severe health emergency, which restricts people to their homes with broadband as their only lifeline to the outside world for critical health and medical information, job opportunities, education, telework, and social contact with loved ones.

B. Leadership and Accountability for Outcomes is Critical

The full list of 24 Questions in the ACR reflect the depth of commitment and extent of thinking by the Commission and Staff. As we respond today only to Question 1, we note that all of the issues are interrelated. A comprehensive, integrated approach should be fostered and led by the Commissioners and Staff. A set of rules and regulations—as extensive as they may be—are never a substitute for insightful, committed, and agile leadership. As CETF has stated in prior comments, the Commission must bring proactive leadership to the statutory obligation to achieve at least 98% deployment in each region that meets the Legislature's stated declarations in Assembly Bill ("AB") 1665 and the Governor's "Broadband for All" vision for a world-class broadband infrastructure throughout California.³ The key to pro-active agile leadership that achieves this kind of vision is accountability for outcomes vs. compliance with regulations and rules that often are arbitrary and rigid for the convenience of bureaucracy.

³ See <https://www.gov.ca.gov/2019/11/08/in-fresno-at-the-california-economic-summit-governor-newsom-highlights-new-investments-in-higher-education-actions-to-strengthen-californias-workforce-his-administrations-focus-on-regional/>

CETF reminds the Commission that there is an inextricable relationship between broadband deployment (supply) and broadband adoption (demand). Thus, CETF recommends the focus be on driving efforts to increase the adoption rate statewide and subscription “take rates” within each region, especially in conjunction with deployment of new broadband infrastructure. Increasing the adoption rate statewide requires an intense focus on two goals simultaneously:

- (a) deployment to unserved rural areas; and
- (b) adoption by low-income households and other digitally-disadvantaged populations, such as people with disabilities, non-English speaking families, and older seniors.

Increasing adoption rates statewide happens only if that is the outcome for which Staff, community-based partners, and grantees are held accountable. Therefore, the most fundamental reform that the Commission must embrace is to require actual adoptions from the CASF Adoption Account. This is the starting point for the Answer to Question 1.

Unfortunately, the current rules and administration of the CASF Adoption Account fall far short of the potential for the \$20 million in collections authorized by the Legislature and signed into law in Assembly Bill (AB) 1665⁴ by Governor Brown in 2017. As CETF has explained in our prior CETF Phase I Comments, the Commission should be able to achieve at least 70,000 documented adoptions through administration of the Adoption Account while allowing for 10% administration fees.⁵ The term “Adoption Account” was used intentionally in AB1665, the authorizing statute; it is not called the “Digital Literacy” or “Computer Lab”

⁴ Assembly Bill 1665 (Garcia), Chapter 851, An Act to Amend Section 281, 912.2 and 914.7 of the Public Utilities Code, relating to communications, and declaring the urgency thereof, to take effect immediately. Approved by the Governor and filed with the Secretary of State, October 15, 2017 (“AB 1665”)

⁵ CETF Phase I PD Comments, at 5.

Account, yet that is how it was interpreted and now implemented by this Commission and its Staff. The scope of the program should be flexible and broader as adoption needs dictate.

C. Immediate Action Should Be Taken to Change and Improve CASF Payments for Grants

While many well-meaning non-profit community-based organizations (CBOs) have applied and received grants from the Adoption Account, evidencing the need for funding to increase adoption rates, the Staff is woefully-behind in approving “reimbursement-based” invoices, which causes hardship to the CBOs. Below at pages 13 and 16, CETF suggests some fixes to the method of payment for approved grants.

D. There is a Lack of Transparency for Adoption Grants and Adoptions to Date

CETF observes that so far, there is a lack of transparency and no publicly available documentation to date on increasing broadband adoptions through the Adoption Account. The Staff has not yet publicly reported the impact of the approved Broadband Adoption Program grants on adoption rates.

E. CETF Recommends Comprehensive Changes to the Adoption Account

While CETF submitted comprehensive Phase I comments supported by on-the-ground, in-the-trenches experience in achieving documented adoptions, that input largely was ignored and not implemented in the Adoption Account program rules and actual management of the Adoption Account. For historical reference, the CETF Comments from Phase I is summarized below. Notwithstanding these concerns, CETF welcomes and applauds the Commission and Staff for revisiting the Adoption Program in light of the COVID-19 emergency, and CETF

stands ready to support and assist the Commission in actually achieving adoptions as a result of Adoption Account grants.

This new phase of the CASF rulemaking proceeding is a welcomed opportunity to ensure both immediate response to the COVID-19 emergency and also to refocus investment of the Adoption Account on achieving actual adoptions. However, CETF is concerned that a sub-question in Question 1 given as potential examples of changes to use of the Adoption Account funds suggests the Commission is considering making the Adoption Account more of a “give-away” program of equipment for the sake of apparent activity instead of a renewed commitment to immediate action that will have longer-term adoption results after the current health crisis passes but the imperative for Digital Equity remains.

Therefore, CETF recommends the following changes to administration of the Adoption Account, all of which are consistent with AB1665.

- Require all grants from the Adoption Account to: (a) achieve documented adoptions in the form of verified new subscriptions for home Internet service; or (b) propose a process in their application for measuring and documenting the actual impact of their grant on adoptions. The Commission should prioritize grants that achieve documented adoptions in the immediate future. All CBOs with an established track record of delivering measurable outcomes (regardless of their focus of service) with their current target populations are capable of achieving documented adoptions.
- Allow all reasonable costs related to achieving the adoptions up to \$250 per adoption, including:
 - Outreach in-language and in-culture to unconnected households and digitally-disadvantaged households.

- Distribution of information about interim free and available affordable offers.⁶
 - Counseling and assistance to the household in acquiring an affordable device for connecting to the Internet, including refurbishing devices (if the grantee already does refurbishing as part of their “ecosystem” of services to increase broadband adoption).
 - Training to establish foundational digital literacy to use the technology (both the device and navigate the Internet).
 - Assistance to select and sign-up for Internet service (resulting in documentation of getting an unconnected household online).
- Disallow or discourage use of Adoption Account grants to purchase and distribute new devices or hotspots in the absence of a stated coherent approach of how the applicant intends to get an unconnected household actually online and increase the likelihood of a “sustained” adoption (defined as an ongoing use of the technology and a subscription for home Internet service) beyond the “free period” and interim connectivity solution. Further, all device and hotspot distribution should be accompanied by basic digital literacy training and counseling about affordable Internet home service offers in that service area. At present, most major Internet service providers have announced interim free offers during the COVID emergency.⁷ The Commission should require the ISPs to advertise these free offers widely to the target communities, including in-language and in-culture via the community media. Above, CETF suggested all regulated utilities be required to provide information about free and affordable Internet offers immediately. An integrated strategy that

⁶ CETF has made efforts to collect the interim offers at its Internet for All website:
http://www.internetforallnow.org/get_affordable_internet_today

⁷ <http://www.internetforallnow.org/>

drives to sustained adoption is entirely possible now as part of the emergency response to the COVID-19 health crisis.

- Invite and allow applications for the Adoption Account on a continuous or frequent “rolling” basis. Be ready and willing to vary from the current rules to ensure unconnected families can get connected immediately. Encourage quality applications to be submitted when ready and grant them on a rolling basis as quickly as possible. Consider increasing the ministerial dollar amount on COVID-19 related projects for Staff approval on projects for unconnected and underconnected households, so long as the projects can be implemented swiftly and there is a strategy for delivering actual adoptions. The Commission Staff should convene online webinars to help prospective applicants understand the application process, how to achieve adoptions, and resources to identify affordable broadband offers in your area.
- Increase upfront payments for grantees pursuant to performance based on compliance with the Work Plan and Budget submitted with the CASF application. But, more importantly, completely reform the basis of CASF Adoption grant payments to become performance-based regarding the number of adoptions achieved and convert to performance-based payments, instead of the current time-consuming, inefficient, reimbursement-based invoices that have nothing to do with performance. Seek and direct the following reforms.

- Instruct Staff to immediately pay outstanding invoices to Adoption Account grantees with a Grant Amendment letter setting forth an obligation to achieve documented adoptions at \$250 per adoption reconciled to grant payments to date and going forward.
- Instruct Staff to immediately convert Adoption Account grants and payments to performance-based contracts instead of invoice-reimbursement procedures. If necessary, contract out to another government entity or experienced non-profit to manage the Adoption Account and grant payments on a performance basis.
- Seek immediate approval and concurrence from the Controller to accomplish both of the above two actions to increase impact of the Adoption Account and streamline administration. The greatest delays and inhibitors to immediate effective use of the Adoption Account in response to COVID-19 is the current administration process.
- Request all existing Adoption Account grantees to distribute information about interim free and available affordable home Internet service offers. This can be done by sending them the available fliers (in the five most commonly-spoken languages in California) and asking them to distribute to the people they reached with their Adoption Account grant (without additional grant funding). All grantees dedicated to digital empowerment will do this on their own if they receive the information from the Commission.
- Urge all investor-owned utilities (IOUs) to distribute information about interim free and available affordable home Internet service offers to all its CARE/ESA customers,

and add it to their CARE/ESA websites. CETF and community-based partners are available to assist the IOUs and establish reliable support for CARE customers who need assistance in signing up for the interim free and affordable home Internet service offers.

- Communicate with all ISPs to: (a) urge them to establish or thank them for their response to COVID-19 with interim free offers and customer-billing reliefs; and (b) request that they individually and collectively improve the promotion of the free and affordable offers with improved customer service at their call centers per the attached recommended 10 Steps. The Commission should seize this opportunity to work with the ISPs in the COVID-19 response to ensure widespread awareness of free and affordable offers by unconnected households and digitally-disadvantaged populations and to ensure customer representatives at the ISP call centers provide service to low-income households with clarity and transparency. This action now will establish a trusted working relationship to encourage consistency of provisions and administration of affordable offers in the future.
- It is essential that both the Digital Literacy Project and Broadband Access Project grantees are accountable for results that contribute to broadband adoption. If the Commission is going to award grants based on metrics other than verified new subscriptions by low-income households, then grantees should be required to delineate in their applications documented evidence or data as to why and how the proposed grant activities will lead to broadband adoption. For grants awarded on metrics other than verified subscriptions, grantees should be required to conduct surveys of every person served regarding their socio-economic demographic data and

status of their home connectivity to establish a baseline of the population being served and to conduct a statistically-reliable survey of persons served after the grant to determine if it resulted in increased adoption. All grantees should be required to set forth in both their application and final report the overall cost per outcome for transparency, public accountability, and analysis of cost-effectiveness of various strategies for increasing adoption for future policymaking. This is the fairest approach to assessing success in closing the Digital Divide.

- Grantmaking based on reimbursement of expenses instead of outcomes is inefficient and will waste precious funds in the Adoption Account for administrative costs. The Commission should seek the cooperation of the Controller to find a better approach to grant payments based on performance and/ or seek legislation to allow management of the grants in a more efficient manner
- Broadband adoption is most effective when incorporated into an existing program managed by an organization (non-profit or government agency) that already interacts with large numbers of low-income households and disadvantaged populations. The Commission should use caution in awarding grants to “start-ups” that have little experience in Digital Inclusion and accountability for outcomes. Unfortunately, the allowed costs for equipment and furniture invite applications that don’t focus on results. Further, purchase of devices should not be a major use of the Adoption Account because grantees should have a plan for sustainability of their program after the grant. There are legions of examples of devices being bought for computer labs and classrooms that were used until the grant was over or they wore out and then there was no sustained adoption effort. Districts with schools in low-income

neighborhoods can afford to buy devices by prioritizing existing funds and should be encouraged to do so to support appropriate technology education for their students.

The Adoption Account should not be used for expenditures that any government institution will need to make on an ongoing basis to sustain a program. If the Commission proceeds with allowing Adoption Account grants to purchase devices, equipment and furniture, then a plan should be required of the grantee to ensure that these purchased items will continue to be used to support Digital Inclusion after conclusion of the grant (and not mingled with their general inventory).

- It is laudable that expedited review is being proposed for smaller grants. However, \$50,000 is a very small amount to accomplish significant impact, particularly if there are metrics other than verifiable subscriptions. A more appropriate level for administrative approval of grants is \$100,000. Further, even for experienced CBOs, it takes time to ramp up activity to have an impact and one year often is too short a timeframe. Larger grants with up to two years for results will optimize return on investment.
- The Commission should encourage partnerships between grantees and ISPs to promote existing affordable offers and sign up low-income households, although grantees must be required to provide information about all available offers to prospective customers. CETF proposed the provision in AB1665 that declares: “It is the policy of the state to encourage collaboration among stakeholders and to promote public-private partnerships to harness the expertise and strengths of all partners to serve the public interest.” The impact of the Adoption Account grants can be much greater if ISPs significantly increase their media advertising about affordable offers

and coordinate activities of CBOs on outreach in-language and in-culture and jointly-convene community connect fairs to sign up eligible households.

- In the spirit of public-private collaboration, the Commission should urge ISPs to regularly and publicly report their progress on signing up low-income households in California for their available offers. Today there is no way to determine what is working and where to promote affordable offers and to target grants from the Adoption Account. Public reporting of progress is critical for transparency and accountability.
- Broadband adoptions (measured by verified new subscriptions) can be achieved for \$250 per adoption if ISPs are sincere partners in advertising about affordable offers and collaborating on events. The \$250 per adoption figure was set forth by CPUC Administrative Law Judge Karl J. Bemesderfer in the Proposed Decision for Application No. 14-04-013 (Comcast acquisition of Time Warner Cable) based on testimony and cost analysis submitted by CETF and CBO partners. The \$250 is sufficient to cover outreach, digital literacy training, help to find an affordable device (purchased by the customer and not part of grant funding), and assistance with comparing offers and signing up for service. That figure is a good benchmark for allowed amounts per adoption in a grant. All grant applications that have lesser outcomes that are not as labor-intensive as adoption verified by new subscriptions—such as number the number of people using a computer lab or the people trained—should be allowed much less per outcome in a grant to better stretch the limited funds in the Adoption Account.

- It is a good practice to require a work plan and budget from applicants to evaluate the viability and practicality of the proposed strategies and activities to produce stated outcomes. However, the Commission should fund grants based on performance (stated above) and find an arrangement with the Controller to accommodate a performance-based payments, even seeking legislative authority if necessary. A grantee with the discipline and capacity to develop specified outcomes for a set amount per deliverable usually also has the management skills to prepare a coherent work plan and logical budget.
- If grant payments are made based on documented outcomes, then the process can be much more efficient with greater transparency and accountability. One approach to performance-based grantmaking that also is sensitive to the cash-flow challenges for many CBOs is to provide the first quarterly payment at the time the grant agreement is signed, the second quarterly payment based on good-faith progress in implementing the work plan and meeting milestones, and quarterly payments thereafter pursuant to performance reconciled to funding per number of agreed-upon outcomes. It also is prudent to withhold a portion of the last payment until a final report is submitted and accepted by the Commission.
- Requiring a match is a good way to assure real commitment by the applicant and 15% is rather modest, so that match amount should not be that big a hurdle for grantees. Grantees should be allowed to meet the 15% required match by dedicated personnel that are supported by other funds. CETF will provide the match (up to \$37.50 or 15% of \$250) per verified subscription adoption for CBOs interested in partnering. Pursuant to Memoranda of Understanding (MOUs) with Frontier Communications

and Charter Communications, CETF currently manages grants in Frontier service areas for \$60 per adoption plus a new computing devices and has awarded grants in the Charter services areas for \$120 per adoption and will be working with those grantees to explore how they can leverage CETF funding as match for Adoption Account grants. The Staff should reach out to other foundations to explore and invite a pool of matching funds.

- The Commission should convene workshops for grantees as a “learning community” to sharing of best practices and solving of common problems, peer support and coaching, and mutual accountability for results. This practice and discipline by the Commission will ensure better overall results and impact from the Adoption Account.

WHEREFORE, CETF respectfully requests that this Commission consider its suggestions in acting on immediate reforms to the CASF programs in light of the COVID emergency.

Respectfully submitted,

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