



COM/MGA/mef 10/26/2020

FILED
10/26/20
11:50 AM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 20-08-021

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This Scoping Memo and Ruling sets forth the issues, need for hearing, schedule, category, and other matters necessary to scope this proceeding pursuant to Public Utilities (Pub. Util) Code Section 1701.1. and Article 7 of the Commission's Rules of Practice and Procedure.

1. Procedural Background

The Commission established the California Advanced Services Fund (CASF) in Decision (D.) 07-12-054 and the Legislature subsequently codified the program in statute to spur the deployment of broadband facilities in unserved and underserved areas of California.¹ The program has been revised via multiple bills and Commission decisions.²

On October 25, 2012, the Commission opened Rulemaking (R.) 12-10-012 to revise the eligibility requirements for participation in the CASF and consider modifications to the program. The Commission issued D.20-08-005 on

¹ Cal. Pub. Util. Code, § 281; Interim Opinion Implementing California Advanced Services Fund D.07-12-054, December 21, 2007 at 2; See also Finding of Fact 3.

² More background and historical information about the CASF is available at <https://www.cpuc.ca.gov/casf/>.

August 11, 2020; the Decision stated that R.12-10-012 would remain open until September 10, 2020.

Currently, the statutory goal of the CASF program is to provide broadband access to 98 percent of households in each consortia region by December 31, 2022.³ The CASF program consists of the following:

- Broadband Infrastructure Grant Account (Infrastructure Account)
- Line Extension Program (LEP)
- Rural and Urban Regional Broadband Consortium Grant Account (Consortia Account)
- Broadband Public Housing Account (Public Housing Account)
- Broadband Adoption Account (Adoption Account)
- Tribal Technical Assistance

On September 2, 2020, the Commission initiated the instant Order Instituting Rulemaking (OIR) to continue modifications to the CASF program. All unresolved matters in Rulemaking (R.) 12-10-012 were transferred to this proceeding, as well as the existing record developed in R.12-10-012. The September 2 OIR summarized the legislative, procedural, and substantive background of the proceeding. The OIR also discussed potential issues to be addressed in this proceeding.

A Prehearing Conference (PHC) was held on October 1, 2020 to discuss the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary. After considering the comments and reply comments on the OIR and discussion at the PHC, I have determined the issues and initial schedule of the proceeding to be set forth in this scoping memo.

³ Cal. Pub. Util. Code, § 281 (b)(1)(A).

2. Issues

This proceeding will be divided into three phases as described below. Throughout the proceeding, the Commission will also consider the issue of impacts on environmental and social justice communities, including improvements to better achieve any of the nine goals of the Commission's Environmental and Social Justice Action Plan, as well as any issues identified as a result of emergencies or pending activities. The Commission may also consider other issues identified by Communications Division and included in staff proposals or reports.

2.1. Phase I

Phase I will address the most time-sensitive issues in the proceeding. To address these matters as quickly as possible, there will be two decisions – a Phase I-A decision, and a Phase I-B decision.

Phase I-A will consider leveraging federal funding from the Rural Digital Opportunity Fund (RDOF). This issue is being considered in response to Assembly Bill (AB) 82, signed in June 2020. AB 82 permitted Infrastructure Account funds to be applied to projects also receiving funding from federal programs.⁴

The issues to be determined in Phase I-B are:

1. Submission of necessary data related to exercising the Right of First Refusal and completion reports.

As part of participating in the CASF program, providers are required to submit technical and subscriber data. This proceeding will consider modifications to those data submission requirements.⁵

⁴ A staff proposal on this topic was issued via email ruling on October 1, 2020.

⁵ See Appendix A for a staff proposal on this issue.

2. Whether broadband service providers should be required to offer open access to infrastructure funded by CASF.⁶

2.2. Phase II

Phase II will address near-term program refinements. The issues to be determined in Phase II are:

1. Rural and Urban Regional Broadband Consortia Grant Account program modifications to clarify Consortia region rules adopted in D.18-10-032.

This may include clarifying language related to Consortia region rules for overlap of geographic area, defining county lines for the purpose of determining Consortia geographic boundaries, and defining county representation.

2. Line Extension Program modifications.
3. California Interactive Broadband Map data improvements and submission requirements.

2.3. Phase III

The issues to be considered in Phase III are in part dependent on whether significant program funding remains at the time this phase is underway. If program funds are largely exhausted, topics that would require additional funding may not be addressed. The issues that may be determined in Phase III are:

1. Broadband Infrastructure Grant Account challenge process and other program modifications.
2. Rural and Urban Regional Broadband Consortia Grant Account program modifications

This may include identification of additional strategies to facilitate broadband deployment, resolve deployment

⁶ An approach for open access is described in the staff proposal in Appendix A.

issues, and provide technical assistance to local governments and applicants.

3. Broadband Public Housing Account program modifications.
4. Broadband Adoption Account program modifications.
5. Approaches to expand or supplement current CASF funding.

Among other approaches, this could include leveraging funding from the federal government (beyond the RDOF program), other state agencies, public-private partnerships, or local or regional initiatives.

6. Approaches to increase non-monetary coordination with other agencies and organizations relating to the CASF program.
7. Strategies to support broadband deployment and adoption in Tribal Lands and communities.
8. Strategies to support broadband deployment and adoption in low-income households and communities.
9. Community outreach approaches to address issues in this proceeding and in CASF program implementation (*e.g.*, community workshops or listening sessions).

3. Coordination with Other Proceedings

Several other Commission proceedings address issues that may be relevant to this proceeding. These include R.20-09-001 (broadband infrastructure deployment); R.18-07-006 (affordability); R.20-02-008 (LifeLine); R.18-03-011 (emergency disaster relief); and R.11-12-001 (service quality). Parties are requested to note in their submissions in this proceeding any relevant information about related issues in other Commission proceedings.

4. Need for Evidentiary Hearing

In the OIR, this Commission preliminarily determined that evidentiary hearings would not be needed in this proceeding. No party objected to that determination. This Scoping Memo confirms that there are no issues of material disputed fact. Accordingly, evidentiary hearing is not needed.

5. Schedule

The following schedule is adopted here and may be modified by the Administrative Law Judge (ALJ) as required to promote the efficient and fair resolution of the Rulemaking. All documents filed by parties must be served electronically only. No paper copies may be sent to the ALJ, Commissioner, or Commissioner’s Advisors unless specifically directed.

The proceeding will stand submitted upon the filing of the final set of reply comments in Phase III, unless the Administrative Law Judge requires further evidence or argument. Based on the schedule below, the proceeding will be resolved within 18 months as required by Pub. Util Code Section 1701.5.

5.1. Phase I

Event	Date
<i>Staff Proposal on State-Federal Broadband Infrastructure Funds Leveraging (“Staff RDOF Proposal”), Issued</i>	October 1, 2020
Comments on Staff RDOF Proposal, Filed and Served	October 15, 2020
Reply comments on Staff RDOF Proposal, Filed and Served	October 22, 2020
Scoping Memo and <i>Phase I Revisions for Broadband Infrastructure Grant Account</i> staff proposals (“Broadband Infrastructure Staff Proposals”), Issued	October 26, 2020

Comments on (1) the Scoping Memo as relates to Phase I, and (2) Broadband Infrastructure Staff Proposals (10 pages maximum), Filed and Served	November 3, 2020
Reply comments on (1) the Scoping Memo as relates to Phase I and (2) Broadband Infrastructure Staff Proposals (10 pages maximum), Filed and Served	November 10, 2020
Phase I-A Proposed Decision, Issued	November 13, 2020
Phase I-A Commission Decision Expected, Filed and Served	December 2020
Phase I-B Proposed Decision, Issued	January 4, 2021
Phase I-B Commission Decision Expected	February 2021

5.2. Phase II

Event	Date
Comments on the Scoping Memo relating to Phases II and III, Filed and Served	November 12, 2020
Reply Comments on the Scoping Memo relating to Phases II and III, Filed and Served	November 19, 2020
Staff Phase II Proposals, Issued	January 2021
Comments and reply comments on Staff Phase II Proposals, Filed and Served	Q1 2021
Phase II Proposed Decision, Issued	April 2021
Phase II Commission Decision Expected	May 2021

5.3. Phase III

Staff Phase III Proposals, Issued	Q3-Q4 2021
Comments and Reply Comments on Staff Phase III Proposals, Filed and Served	Q3-Q4 2021
Phase III Proposed Decision, Issued	End of 2021
Phase III Commission Decision Expected	Early 2022

6. Alternative Dispute Resolution (ADR) Program and Settlements

The Commission's ADR program offers mediation, early neutral evaluation, and facilitation services, and uses ALJs who have been trained as neutrals. At the parties' request, the assigned ALJ can refer this proceeding to the Commission's ADR Coordinator. Additional ADR information is available on the Commission's website.⁷

Any settlement between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Rules of shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

7. Category of Proceeding and *Ex-Parte* Restrictions

This ruling confirms the preliminary determination in the OIR that this is a quasi-legislative proceeding. Accordingly, *ex-parte* communications are permitted without restriction or reporting requirement pursuant to Article 8 of the Rules.

⁷ See D.07-05-062, Appendix A, § IV.O.

8. Public Outreach

Pursuant to Pub. Util Code Section 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and business that subscribe to it and posted on the Commission's website.

In addition, the Commission served the Order Instituting Rulemaking on the service list of R.12-10-012 (the predecessor to this proceeding) and the Commission's CASF Distribution List. This Scoping Memo is also being served on the CASF Distribution List and on the Service List of R.12-10-012. However, future proceeding documents will only be served on this proceeding's service list.

9. Intervenor Compensation

Pursuant to Pub. Util Code Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by November 2, 2020, the first business day that is at least 30 days after the prehearing conference.

10. Response to Public Comments

Parties may, but are not required to, respond to written comments received from the public. Parties may do so by posting such response using the "Add Public Comment" button on the "Public Comment" tab of the online docket card for the proceeding.

11. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public

Advisor at 866-849-8390 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

12. Filing, Service, and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

12.1. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 requires only electronic service on any person on the official service list, other than the ALJ. Rule 1.10 notwithstanding, for this proceeding parties must never send hard copies of documents to the ALJ, unless specifically instructed to do so.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

13. Assignment of Proceeding

Martha Guzman Aceves is the assigned commissioner and presiding officer for the proceeding. Joanna Gubman is the assigned ALJ.

14. Comments

Parties may file and serve comments on this Scoping Memo as relates to Phase I of the proceeding, and on the *Phase I Revisions for Broadband Infrastructure Grant Account* staff proposal, attached to this Scoping Memo as Appendix A. Comments are due on November 3, 2020. Reply comments are due on November 10, 2020. Parties may not exceed 10 pages per filing.

IT IS RULED that:

1. The scope of this proceeding is described above and is adopted.
2. The schedule of this proceeding is set forth above and is adopted.
3. Evidentiary hearing is not needed.
4. The category of the proceeding is quasi-legislative.
5. The presiding officer is Commissioner Martha Guzman Aceves.
6. Parties shall not submit paper copies of any filings unless specifically instructed otherwise by the Administrative Law Judge or assigned Commissioner.
7. Parties may file and serve comments on (1) the Scoping Memo as relates to Phase I, and (2) the staff proposals found in *Phase I Revisions for Broadband Infrastructure Grant Account*, attached to this Scoping Memo as Appendix A. Comments are due on November 3, 2020. Any reply comments must be filed by November 10, 2020. Each of these filings is limited to 10 pages or fewer.

8. Parties may file and serve comments on the Scoping Memo as relates to Phases II and III by November 12, 2020. Reply comments are due on November 19, 2020.

This order is effective today.

Dated October 26, 2020 at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES

Martha Guzman Aceves
Assigned Commissioner

ATTACHMENT