

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  
(Filed October 25, 2012)

**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES  
IN RESPONSE TO THE ASSIGNED COMMISSIONER'S RULING SEEKING  
COMMENTS ON THE COMMUNICATIONS DIVISION STAFF REPORT  
PROPOSING RULES TO IMPLEMENT THE CALIFORNIA ADVANCED SERVICES  
FUND BROADBAND PUBLIC HOUSING ACCOUNT**

**KIMBERLY J. LIPPI**  
Staff Counsel

Office of Ratepayer Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-5822  
Fax: (415) 703-4492  
Email: [kimberly.lippi@cpuc.ca.gov](mailto:kimberly.lippi@cpuc.ca.gov)

**SYCHE CAI**  
Analyst

Office of Ratepayer Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-1374  
Email: [syche.cai@cpuc.ca.gov](mailto:syche.cai@cpuc.ca.gov)

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## **I. INTRODUCTION**

Pursuant to the July 7, 2014 Assigned Commissioner Ruling (ACR) issued in this proceeding, the Office of Ratepayer Advocates (ORA) submits these comments on the California Public Utilities Commission's (CPUC or Commission) Communications Division (CD) Report, entitled *Staff Report Proposing Rules to Implement Program Changes to the California Advanced Services Fund Initiated by AB1299* (Report). On January 17, 2014, the Scoping Memo and Ruling of Assigned Commissioner Peevey (Scoping Memo) revised the scope of this proceeding to address additional changes, besides eligibility, to the California Advanced Services Fund (CASF) program instituted by Senate Bill (SB) 740 and Assembly Bill (AB) 1299. Pursuant to the Scoping Memo, CD held workshops to address a number of questions on how to implement the new Public Housing Account. The CD Staff Report contains a number of findings and recommendations on implementing the Public Housing Account. ORA respectfully submits these comments in response to the finding and recommendations made in the CD Report. ORA's recommendations are organized into two main sections labeled "Public Housing Account Infrastructure Projects" and "Public Housing Account Adoption Projects" followed by additional sub-sections identifying the heading of each section of the Report for which recommendations are issued. ORA's recommendations below are focused on the objective of increasing broadband adoption and enhancing program accountability. ORA supported the goals of AB 1299 as it moved through the legislative process and continues its support of the State's goals of ubiquitous broadband deployment and adoption by directing program funds to those in most need.

## **II. DISCUSSION**

ORA acknowledges the substantial work that CD staff has done in presenting its findings and recommendations for implementing the CASF Public Housing Account and appreciates the wealth of information included in the Report. In general, ORA supports a number of the recommendations made in the Report since it is consistent with ORA's position made during the workshops and align with the overall goal to increase broadband access in Publicly-Supported Housing Communities (PSCs). ORA also provides further recommendations to ensure the proposed rules are consistent with the intent of the Public Housing Account and AB 1299 and to seek clarity on some of the CD staff recommendations as further discussed below.

**A. Public Housing Account Infrastructure Projects**

**1. Report Section 7.1.1, Recommendation 10: 15% of Funding Set Aside for Rural Areas**

Recommendation 10 states: “CD staff proposes that the Commission establish a rural set aside of 15 percent to effectuate the language of §281(h)(5), meaning that the Commission will reserve 15 percent of total infrastructure and adoption funds for applicants in rural areas, as defined by §§50199.20 and 50199.21 of the Cal. Health and Safety Code.”<sup>1</sup> Language regarding the amount of funding of 15% of the \$20 million for infrastructure projects in rural areas should specify that this is a minimum. Adopting a minimum percentage will ensure that the Commission has the flexibility to fund projects beyond the 15% threshold to account for a higher number of projects in rural areas. Similarly, the recommendation should be updated to specify that if the minimum 15% of funding set aside for rural areas is not expended, the remainder should be available for other eligible areas.

**2. Report Section 8.3, Recommendation 13: Reimbursable Costs**

The Report finds that “CASF Broadband Public Housing Account funds are intended to fund inside wiring and similar items that provide units with a connection from the [minimum point of entry] MPOE to individual units.”<sup>2</sup> Consistent with this finding, CD staff recommends the Commission approve reimbursement for a number of costs, including tax, shipping, and insurance. Reimbursable costs of taxes, shipping and insurance should specify that these costs are directly related to and associated with the broadband equipment used in the deployment of the CASF Public Housing project. This will ensure that taxes, shipping, or insurance costs related to activities or equipment outside of the CASF infrastructure project are not allowed to be reimbursed.

**3. Report Section 8.4.2, Recommendation 19: Pricing**

CD staff recommends that applicants commit to charging residents “\$20 or less” for Internet service.<sup>3</sup> The recommendation, however, does not specify what speeds are expected to be provided under such price nor if the service includes stand-alone Internet access. ORA

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<sup>1</sup> Report, at 30.

<sup>2</sup> Report, at 34.

<sup>3</sup> Report, at 42.

recommends that a minimum speed standard of 6 Mbps download and 1.5 Mbps upload<sup>4</sup> should be set for services charging the \$20 price cap. Identifying a minimum speed standard would safeguard against a \$20 charge for Internet service that is substandard and avoid the risk of discouraging Internet use due to slow speeds. Comparable programs in the considered price range include Comcast’s Internet Essentials Program and CenturyLink’s Internet Basics<sup>5</sup>, both charging \$9.95 per month with specific broadband speeds. Comcast provides speeds of 5Mbps download and 1Mbps upload for its program<sup>6</sup> while CenturyLink has a tiered low income program that provides 1.5 Mbps for \$9.95, 3 Mbps for \$14.95, and 10 Mbps for \$19.95.<sup>7</sup>

#### **4. Report Section 8.4.2, Recommendation 20: Minimum Speed Requirement**

In order to ensure broadband adoption and the continued use of the Internet, appropriate broadband speeds need to be provided to each unit in the PSCs that are capable of supporting online activities such as distant learning educational applications and real time applications such as video conferencing and Voice-over Internet Protocol (VoIP). The Report recommends that the proposed project network be capable of “offering residents Internet service speeds of at least 6mbps downstream/1.5mbps upstream.”<sup>8</sup> However, this language is vague in that it only requires the project’s network equipment to be capable of offering such speeds but does not require any minimum speeds to be provided to each unit within the PSC. ORA recognizes that providing served speeds to each individual unit would raise expenses<sup>2</sup> but maintains that a minimum standard is necessary because substandard speeds discourage users from utilizing the Internet which hinders the goal of increased broadband adoption, reducing the overall value expected in return for funding 100% of all installation costs. The objective of the Public

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<sup>4</sup> The CASF program recognizes areas as served if broadband speeds are at least 6 Mbps download and 1.5 Mbps upload.

<sup>5</sup> CenturyLink is an Internet Service Provider outside of California but referenced here for illustrative purposes.

<sup>6</sup> Reardon, Maguerite. “Comcast extends ‘Internet Essentials’ program indefinitely.” *CNET*. March 4, 2014. <http://www.cnet.com/news/comcast-extends-internet-essentials-program-indefinitely/>

<sup>7</sup> Based on phone inquiry to CenturyLink’s customer service on July 24, 2014. CenturyLink serves the city of New Pine Creek, which straddles the California-Oregon border. <http://www.centurylink.com/home/internetbasics/>

<sup>8</sup> Report, at 42.

<sup>2</sup> Report, at 39.

Housing Account is not only to expand broadband access to residents but to increase broadband adoption<sup>10</sup>. Setting a minimum speed standard would aid in establishing a strong framework for long term broadband adoption. Since comparably priced programs offered by some service providers have speeds of up to 5 Mbps, it would be prudent and equitable to require a minimum speed standard to be delivered to individual units.

ORA recognizes that identifying a minimum speed to be delivered to each unit will be tricky. One approach is to compare the various speed tiers within the underserved category. CASF defines areas as underserved where broadband service is slower than 6 Mbps download and 1.5 Mbps upload. Within the underserved category, a few speed tiers<sup>11</sup> exist that can be used as guidance to derive a minimum. The speed tiers that fall within the underserved definition are as follow:

Underserved Download Speed Tier	Underserved Upload Speed Tier
≥ 768 Kbps & < 1.5 Mbps	> 200 Kbps & < 768 Kbps
≥ 1.5 Mbps & < 3 Mbps	≥ 768 Kbps & < 1.5 Mbps
≥ 3 Mbps & < 6 Mbps	

At minimum, broadband access to each unit in PSCs should meet preferably the high-end download speed range of the underserved category; speeds greater than or equal to 3 Mbps and less than 6 Mbps. Similarly, for upload speeds, all PSC units should be required to obtain at minimum the high-end upload speed range of greater than or equal to 768 Kbps and less than 1.5 Mbps. This recommendation will ensure that end-users are not obtaining sub-standard speeds.

**5. Report Section 10.1.1, Recommendation 41: Timeline for Applications**

ORA recommends that more information for what qualifies as a “wired” PSC be provided for applications which will be accepted beginning July 1, 2015. Are such projects

<sup>10</sup> Public Utilities Code (P.U. Code) § 281(h)(4)(A) – “Not more than five million dollars (\$5,000,000) shall be available for grants and loans to a publicly supported community to support programs designed to **increase adoption rates** for broadband services for residents of that publicly supported community”.

<sup>11</sup> The speed tiers referenced are based on tiers defined by the National Telecommunications & Information Administration (NTIA) and used for collecting broadband availability data by Internet Service Providers (ISPs)

seeking funding to enhance current speeds of PSCs that already have broadband access? ORA recognizes the importance of providing funding for underserved units that operate under substandard speeds and recommends that funding for wired PSCs be focused specifically to enhance broadband speeds.

**B. Public Housing Account Adoption Projects**

**1. Report Section 9.2.2, Recommendation 25: Quantifiable Contributions**

CD staff recommends the Commission fund up to 85% of the costs for an adoption program, with applicants providing the remaining funds, which may include non-cash sources.<sup>12</sup> A reliable metric to value the grantee’s non-cash matching funds should be established. ORA recommends that sufficient documentation, such as a written document or receipt, identifying the donated goods (i.e. computers) and its monetary value be required.

**2. Report Section 9.4.1, Recommendation 40: Technical Support**

One of the reimbursable costs allowed under the Public Housing adoption projects are costs for technical support. ORA recommends defining “technical support” to include the type of services that will be offered so that it is not confused with network support services (i.e. broadband network is down or customers are experiencing slower than usual speeds) that better qualify under the PSC’s infrastructure project operational and maintenance costs. A better definition or list of examples of what is meant by the adoption project’s “technical support” would ensure that there is no confusion as to what constitutes costs associated with the network’s operation and maintenance, which the Commission will not fund. For example, technical support on how to set up a computer or establish an email account appropriately belongs under an adoption program. As found in the California Emerging Technology Fund (CETF) survey on the extent of the Digital Divide in California, 21% of adults identified not knowing “how to set up or use” the Internet as a reason for not using the Internet at home.<sup>13</sup> Providing residents with such support will be crucial to the increased adoption of broadband in PSCs.

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<sup>12</sup> Report, at 44.

<sup>13</sup> See, <http://www.cetfund.org/files/Field%20Poll-CETF%20Survey%20Results%20and%20Press%20Release.pdf>.

### 3. Report Section 12.3, Recommendation 51: Quarterly Reports

California Pub.Util. Code § 281(h)(4)(A) specifies that grants and loans to a publicly supported community are to support programs “designated to increase adoption rates for broadband services” for residents of that publicly supported community. Publicly supported communities should provide in their quarterly reports a list of residents that have actually connected to the service and making use of it so that the Commission can measure and assess the success of its adoption program.

### III. CONCLUSION

In conclusion, ORA recommends that the speed of broadband service be an essential focus since it impacts long term adoption. California ratepayers are investing substantial funds to ensure an effective and equitable implementation of the CASF Public Housing Account that will help consumers in PSC’s bridge the digital divide. Flexibility and accountability are paramount in how the infrastructure and adoption funds are structured. Allowing the rural “set aside” funding to increase as needed or be used for other areas in case of low demand would benefit everyone in California, as well as requiring nonprofits to quantify their expenditures as much as possible when submitting documentation for matching funds. Further, ORA recommends that “wired” PSCs be more explicitly defined to ensure that funding to these communities is to enhance current broadband speeds. ORA supports the goals of AB 1299 and the CASF program and looks forward to our continued participation in the development of the CASF Public Housing Account.

Respectfully submitted,

/s/ KIMBERLY J. LIPPI

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Attorney for the Office of Ratepayer Advocates

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-5822  
Fax: (415) 703-4492  
E-mail: [kimberly.lippi@cpuc.ca.gov](mailto:kimberly.lippi@cpuc.ca.gov)

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