



TO: Robert Wullenjohn, Manager, Broadband, Video and Market Branch, Communications Division (CD); Cynthia McReynolds, CD Senior Regulatory Analyst; Cynthia Walker, CD Director.

FROM: Sunne Wright McPeak, President and CEO, California Emerging Technology Fund (CETF); Susan E. Walters, CETF Senior Vice President; Gladys Palpallatoc, CETF Associate Vice President

DATE: December 4, 2017

RE: Response Comments on Resolution T-17590 – California Advanced Services Fund Interim “Right of First Refusal” Processes and Timelines for Existing Facility-based Broadband Providers

The California Emerging Technology Fund (CETF) strongly opposes T-17590 as it is written because it could be interpreted to be rolling protectionism for large incumbents that locks in old technology and blocks the opportunity for fair participation by smaller companies. T-17590 as written is inadequate and incomplete.

CETF was the sponsor of the Internet For All Now Act of 2017 (AB1665) which was modified with industry amendments that CETF did not support. However, in raising several substantive objections to the industry amendments, the authors of AB1665 amended the bill and made statements to the effect that they did not intend by the language in the statute to block the opportunity for smaller non-incumbent companies to participate in the California Advanced Services Fund (CASF). CETF requested a clarifying letter from the authors who have not yet provided a written position. Thus, it is left to the California Public Utilities Commission (CPUC) to promulgate fair rules that allows real opportunities for smaller companies to participate in CASF without incumbents continuously blocking or nullifying their actions in subsequent annual declarations of “right of first refusal”. Infrastructure Implementation

There must be explicit language that requires the CPUC Communications Division (CD) CASF program staff to publish annually after the incumbents submit their “ROFR Demonstration Letter” which areas are open for submission of proposals by other applicants. Further, the rules must provide that if other applicants submit proposals for areas not identified in the ROFR Demonstration Letters in any given year that there may not be subsequent challenges to a proposal for those unidentified areas based on an incumbent’s subsequent ROFR Demonstration Letter or other assertion of intent to serve. The rules for ROFR must not allow “several bites at the apple” which is tantamount to annual vetoes on other providers’ applications. Much work remains to be done to develop a fair process.

To provide an overall context for the CETF approach to administration of CASF, attached are the CETF comments filed in response to CPUC Communications Division CASF staff proposal dated June 14, 2017.