



**FILED**  
09/05/18  
01:20 PM

WAC/avs 9/5/2018

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

**ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON  
THE ELIGIBILITY FOR AND PRIORITIZATION OF BROADBAND  
INFRASTRUCTURE FUNDS FROM THE CALIFORNIA ADVANCED  
SERVICES FUND**

Summary

Pursuant to Assembly Bill (AB) 1665 the goal of the California Advanced Services Fund Program (CASF or Program) has been modified to provide broadband internet access services (broadband service), such that 98 percent of California households in each consortia region should have access to broadband service by December 31, 2022. The California Public Utilities Commission (Commission) must make programmatic changes to the CASF in order to:

- 1) determine the optimal approach to allocate CASF grants and loans; and
- 2) develop an efficient and expeditious process by which staff can process CASF broadband infrastructure applications and challenges. The Commission hosted a workshop on July 25, 2018 (Workshop) to solicit input on some of the proposed changes to the CASF Infrastructure Grant Account rules. This Ruling seeks additional comment on: 1) the appropriate funding criteria determination for a CASF applicant to receive a 100% funding level or partial funding and specific suggestions for potential funding criteria such as Location/ Accessibility, Existing Infrastructure, and Significant Contribution; 2) a requirement that CASF grantees

offer affordable broadband service plan(s) as a condition of receiving CASF funding; 3) Commission Staff's proposals for eliminating the previously used scoring criteria and replacing it with minimum performance requirements, along with revising the proposed ministerial review and funding level determinations; 4) a proposal to limit a CASF grantee's administrative expenses to 15% of the cost of the CASF-funded broadband infrastructure project; 5) a determination on how best to align the new prohibition in statute against spending CASF funding (in certain) instances with other CASF rules; and 6) proposed additions to Application Item 1 (Project Summary).

## **1. Background**

On October 25, 2012, the Commission issued a Rulemaking (R.) 12-10-012 proposing to change the eligibility rules for CASF applicants to allow service providers that are not telephone corporations to apply for CASF grants and loans. Subsequently, the Legislature enacted Senate Bill (SB) 740 (Padilla)<sup>1</sup> expanding eligibility and making that issue moot. On October 15, 2017, the Governor signed AB 1665 (Garcia)<sup>2</sup> into law. This urgency legislation amended the statutes governing the CASF program, Public Utilities Code §§ 281, 912.2, and 914.7. On July 11, 2018, assigned Commissioner Martha Guzman Aceves issued a ruling setting workshops and seeking comment on eligibility for and prioritization of broadband infrastructure funds from CASF.<sup>3</sup> On July 11, 2018 the Assigned Commissioner issued a Ruling (ACR) seeking additional comments related to six topics: 1.) The Eligibility and Challenge Process for CASF Grants;

---

<sup>1</sup> Ch. 522, Stats. 2013.

<sup>2</sup> Ch. 851, Stats. 2017.

<sup>3</sup> See <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M217/K471/217471824.PDF>.

2.) The Process for Prioritizing Projects and Areas to Support; 3.) A method(s) for Providing Access to Broadband Service to Areas Adjacent to CAF II Areas; 4.) A Cost Reimbursement Process; 5.) Verification of Middle Mile Infrastructure; 6.) Issues related to Line Extension. On July 25, 2018, the Commission hosted a workshop to discuss the issues set forth in the July 11 (ACR). Given the robust discussion during the Workshop and the existence of issues for which input from stakeholders is still needed, this Ruling provides an additional opportunity to submit comments.

## **2. Questions for Comment**

The Commission seeks the input of stakeholders to these suggestions and questions in these topics set forth below:

- 1) *How should the Commission determine whether a CASF project application should be eligible for 100 percent funding?*
  - a. How should the CPUC implement the funding level for a CASF infrastructure application pursuant to Pub. Util. Code Sec. 281(f)(13)<sup>4</sup>?
    1. How should the Commission define "location and accessibility" of an area, as required in statute?
    2. How should the Commission define the "existence of communication facilities" that may be upgraded to deploy broadband?

---

<sup>4</sup> Cal. Pub. Util. 281(f)(13): "(13) The commission may award grants to fund all or a portion of the project. The commission shall determine, on a case-by-case basis, the level of funding to be provided for a project and shall consider factors that include, but are not limited to, the location and accessibility of the area, the existence of communication facilities that may be upgraded to deploy broadband, and whether the project makes a significant contribution to achievement of the program goal."

3. How extensively should an applicant be required to use communication facilities in order to receive credit for doing so under the funding criteria?
  4. What factor(s) would justify that a project makes a "significant contribution" to achieving the program goal? For example, if the application proposed to serve more than 300 households, would that be a "significant contribution?"
- b. Should additional factors be included in this funding determination?
1. For example, should the Commission provide additional funding for applications that serve low-income communities?
  2. Should other criteria previously raised in comments be included, such as unconnected public safety infrastructure? Please provide specific recommendations about objective and reasonable methods by which the CASF should implement these criteria.
- c. What are the appropriate values, expressed as points or percentages, for each potential factor in the CASF eligibility criteria?
1. Is it necessary for those percentages to add up to 100 provided there is a maximum funding level of 100 percent?
  2. Should there be the multiple paths to 100 percent funding? If so, what/how?
- 2) *Should the Commission require CASF grantees to offer affordable broadband service plans as a condition of receiving CASF funding?*
- a. Should the CASF Program require CASF grantees to offer affordable broadband service plan(s) to receive CASF funding? If so describe the justification.

- For example, a provider offering a national, affordable low-income plan would meet this requirement so long as the plan is available to customers in the CASF grant area.
- b. Should the Commission incentivize applicants to provide affordable plans though the funding determination required in Pub. Util. Code Sec. 281(f)(13)?
  - c. What is an affordable monthly price? What other factors should the Commission consider?
  - d. How should applications in low-income areas be eligible for 100% funding? For example, should the “Maximum Funding Level: 100%” table below be modified.
- 3) *Should the Commission eliminate the current scoring criteria and replace it with a different evaluation process focused on eligibility, minimum performance standards and funding level determinations?*
- a. Should the Commission eliminate the Scoring Criteria used in the program and included in the Staff Proposal and replace it with minimum performance requirements. These requirements would include:
    - A commitment to serve all households in the proposed project area;
    - Speeds of at least 10 mbps downstream and 1 mbps upstream;
    - Latency of 100 ms or less;
    - If the project receives a categorical exemption under CEQA, it would be completed in 12 months or less and projects requiring additional CEQA/NEPA review must be completed within two years of the approval of those reviews;

- Data caps, where used, exceed 190 GBs per month; and
  - The applicant offers an affordably priced plan (See Question 2).
- b. Staff proposes to revise its previous Ministerial Review proposal so that the process for reviewing applications, including funding level determinations, is done in the manner outlined in the table below.

<b>Maximum Funding Level: 100%</b>	
<b>Baseline for Eligible Project: 60% of total construction costs</b>	
<b>Presence of Dial-up Only: + 40%</b>	
<b>Low Income: Up to + 40%</b>	
<ul style="list-style-type: none"> <li>• Median Household Income for community in application is less than \$49,200.</li> <li>• Applicant offers an affordable entry-level product to low-income customers.</li> </ul>	
<b>PU Code Sec 281 (f)(13) Requirement: + 10% per criterion, up to + 20%</b>	
<ul style="list-style-type: none"> <li>• Inaccessible Location</li> <li>• Uses Existing Infrastructure</li> <li>• Makes a Significant Contribution to the Program</li> </ul>	
<b>Ministerial Process</b>	<b>Resolution Process</b>
Maximum Cost/HH <ul style="list-style-type: none"> <li>• \$4,000 - 8,000 for wireline</li> <li>• \$1,500 for fixed wireless</li> </ul>	Does not meet all criteria under Ministerial Process  Amounts, up to 100%, by commission determination
Maximum Grant Amount: \$5,000,000	
Must be CEQA-exempt, or approval letter must state that authorization to construct and release funds will be provided in a forthcoming resolution.	

4) *Should the Commission limit a CASF grantee's Administrative Expenses to 15 percent of total project costs?*

- a. The Commission limits the reimbursements of service providers' claimed administrative expenses funded by California's universal service fund programs, including the High-Cost Fund Program and the California

LifeLine Program. Should the CASF Program also limit the reimbursement of administrative expenses claimed by CASF grantees?

1. How should the CASF Program define an administrative expense?
  2. Should the reimbursement of administrative expenses claimed by CASF grantees be limited to 15% of the CASF-funded project?
- 5) *How should the Commission treat CAF providers seeking CASF funds? How should the Commission treat satellite broadband service?*
- a. Pub. Util. Code Sec. 281(f)(13) and 281 (f)(5)(C)(i) prohibits spending and CASF funding in census block with Connect America Fund accepted locations, except, as noted in 281 (f)(5) (C)(ii), when the provider receiving Connect America Fund support applies to build beyond its CAF accepted locations. How should the Commission require applicants submitting applications under these circumstances separate CASF and CAF financing?
    1. For example, if a census bloc in an application contains ten households and three CAF accepted locations, should the Commission assume the CAF locations are households, and only fund the seven remaining households?
  - b. How should the Commission treat satellite providers receiving CAF support?
    1. Is a satellite provider an "existing facility-based provider," as that term is used in Pub. Util. Code Sec. 281 (f)(5)(C)(ii)? (Note this is particularly important because the FCC recently awarded CAF funding to a satellite provider.)
    2. If a satellite provider is an existing facility-based provider, should the Commission revise CASF rules

to include satellite service in the definition of a served area? (Note that currently, an area served by satellite is considered served only if that service was provided through a CASF grant.)

6) *Should the Commission require additional information in project summaries?*

In addition to current requirements, Staff proposes that the Commission require applicants to include the following items in Application Item 1 – Project Summary:

- Identify main major infrastructure: miles of planned fiber, Central Offices used, number of remote terminals/fiber huts/wireless towers to be built, and if an IRU is used;
- Identify major equipment expenses (*e.g.*, number of DSLAMs, multiplexers, etc.);
- Estimated breakdown of aerial and underground installation and if the poles or conduits are already in place; and
- Estimated construction timeline.

Parties shall file comments by September 21, 2018. Reply comments to this Ruling and the July 11, 2018 Assigned Commissioner Ruling<sup>5</sup> must be filed by September 28, 2018.

**IT IS SO RULED.**

Dated September 5, 2018 at San Francisco, California.

/s/ W. ANTHONY COLBERT

W. Anthony Colbert  
Administrative Law Judge

---

<sup>5</sup> See <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M217/K471/217471824.PDF>.