

**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

**OPENING COMMENTS OF AT&T ON PHASE II STAFF PROPOSAL**

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Pursuant to the schedule set forth in the *Amended Scoping Memo and Ruling of Assigned Commissioner*, issued February 14, 2018 in the above-captioned docket (“Amended Scoping Memo”), AT&T<sup>1</sup> hereby provides its Opening Comments on the Phase II Staff Proposal appended to the Amended Scoping Memo as Appendix C (“Appendix C”).

## **I. INTRODUCTION**

In AB 1665 the Legislature authorized the Commission to dispense \$300 million to providers to use in deploying broadband service to unserved areas throughout the state, thereby bringing consumers in those areas the many benefits of broadband for education, economic opportunities, and enjoyment of life.<sup>2</sup> That laudable objective is one that providers, Staff, and the Commission all support. Phase II of this proceeding therefore presents a unique opportunity for providers, Staff, and the Commission to work together in crafting the CASF program to create the strongest possible incentives for providers to participate. After all, the only way to achieve the goals of AB 1665 is to dispense the \$300 million collected from consumers for this specific purpose, not leave it on the table. It would be disappointing if the CASF program’s goals are not achieved because the rules failed to accommodate the strongest incentives for providers to participate in the program.

Enhanced incentives to participate in the CASF program will come from using a streamlined process that relies on existing data and procedures where possible, makes it easier to

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<sup>1</sup> Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C); AT&T Corp. (U 5002 C); Teleport Communications America, LLC (U 5454 C); and AT&T Mobility LLC (New Cingular Wireless PCS, LLC (U 3060 C), AT&T Mobility Wireless Operations Holdings, Inc. (U 3021 C), and Santa Barbara Cellular Systems, Ltd. (U 3015 C)).

<sup>2</sup> On October 15, 2017, the Governor signed AB 1665 into law. That legislation amended Sections 281, 912.2, and 914.7 of the Public Utilities Code, which are the statutes governing the California Advanced Services Fund (“CASF”) program. Pursuant to AB 1665, the goal of the CASF program was revised to provide funding for infrastructure projects so that by December 31, 2022, no less than 98% of California households in each consortia region (as identified by the Commission) would have broadband access.

submit applications, ensures prompt decisions based on objective criteria, removes any non-essential administrative obligations during construction, and provides a dependable flow of funds as costs are incurred. More participation will mean more applications covering more unserved areas, which ultimately will make broadband service available to more consumers. AT&T California looks forward to working with the Staff, Commission, and other providers in revising the CASF program to promote maximum provider participation and achieve the maximum benefit for Californians.

AT&T's Opening Comments focus on Staff's recommendations in part 1 of Appendix C to the Amended Scoping Memo, which deal with proposed changes for administering the Broadband Infrastructure Grant Account. AT&T commends the Staff for its detailed proposals. As discussed herein, however, AT&T recommends modifying those proposals where appropriate to more closely resemble the FCC's Connect America Fund II ("CAF II") program, which provides targeted federal funding to providers to promote the availability of retail broadband internet services in FCC-identified areas. As demonstrated by the high degree of voluntary provider participation in the CAF program, CAF has proven to be an effective framework to deliver financial support to address broadband availability needs.<sup>3</sup> Using rules modeled on the FCC's CAF program also will allow carriers to leverage existing product development, back-office systems, and reporting processes. AT&T's proposals seek to clarify, simplify, and streamline the CASF process as a way to promote broader participation.

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<sup>3</sup> In August 2015, AT&T accepted the FCC's offer of CAF Phase II ("CAF II") model-based support to offer broadband at speeds of at least 10 Mbps download/1 Mbps upload ("10/1") to 141,540 California locations in FCC-identified eligible census blocks by the end of 2020. In 2016, rate-of-return carriers elected whether to receive model-based CAF support or to continue with legacy support. Additionally, beginning July 24, 2018, the FCC will hold a reverse auction ("CAF II Auction") to award additional support to providers in exchange for offering broadband service to other geographic areas that the FCC identified as lacking 10/1 broadband service.

There are six main steps in the process for awarding and using CASF funds. We address each of these steps and recommend modifications to Staff's proposals below. Certain proposals, however, should be noted at the outset because of their importance to improving the CASF funding process. These proposals form a package that is essential to attract providers to participate in the CASF program. AT&T's proposed timeframes also ensure that the CASF process can be completed once each year.

With regard to the application process and timing, AT&T proposes that all applications for CASF funding be due on a specified date once a year. Limiting applications in this way will enable providers to focus their resources and make the best proposals possible on that date, knowing that it is their only opportunity for the year. It is more helpful to applicants to make their best proposals, and know sooner whether they have been granted, than to deal with multiple application dates. Similarly, requiring *all* applications to be due at the same time (including those that cover low-income and/or high-priority areas) will allow the Commission to evaluate all applications against one another and as part of a single process, better enabling the Commission to rank applications. *See infra*, part III.P. The Commission can create strong incentives to submit applications for low-income or high-priority areas by awarding points to such applications in its scoring process, without requiring a separate procedure.

AT&T also proposes that all applications be granted or denied within 120 days of the application date. Requiring approvals or denials within 120 days will enable providers to begin the permitting and construction process more quickly, thus bringing broadband service to more customers more quickly. By contrast, the longer the delay the more difficult it is for applicants to plan for future construction and allocation of resources. *See infra*, part IV.B.

In order to make these time frames feasible, AT&T proposes other changes to the process. In particular, AT&T proposes that rather than having providers submit applications that are subject to subsequent eligibility challenges, the Commission should create a single definitive list of CASF-eligible census blocks, including which census blocks qualify as low-income and/or high-priority, in advance of the application date. The process for creating this list would include an opportunity for providers to challenge the eligibility of a census block(s). Once such a definitive list is established, submitting and reviewing applications should be easier and move more quickly, given that applicants and the Commission will know in advance that the designated census blocks are eligible for CASF funding. *See infra*, part II.B.

As part of establishing the definitive census block list (and demonstrating later completion of a project), AT&T proposes that the Commission rely on publicly available Form 477 data, prior CASF grants, any CASF Right of First Refusal, census blocks awarded through the upcoming CAF II auction, and locations that providers identified as having deployed 10/1 internet access pursuant to CAF.<sup>4</sup> Reliance on these sources would replace use of the CalSPEED testing tool or other speed testing tools, which, as discussed in more detail below, are less useful than the Form 477 data and other supplemental data in identifying unserved areas. *See infra*, parts III.D and V.C.

When it comes to scoring applications, AT&T's most important proposal is that the Commission add latency as a factor. As discussed in more detail below, latency is a different measure than bandwidth speed, and one that significantly affects the customer experience of

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<sup>4</sup> Auction 903, the CAF II Auction, is scheduled to begin on July 24, 2018 and will award up to \$1.9 billion over 10 years. *See Connect America Fund Phase II Auction Scheduled for July 24, 2018 Notice and Filing Requirements and Other Procedures for Auction 903*. FCC 18-6, AU Docket No. 17-182 & WC Docket No. 10-90 (rel. Feb. 1, 2018); Public Notice, *Revised List and Map of Eligible Census Blocks for the Connect America Fund Phase II Auction (Auction 903)*, DA 18-111, AU Docket No. 17-182 & WC Docket No. 10-90 (rel. Feb. 6, 2018).

broadband service. It therefore makes sense to include low latency as a separate scoring element, just as the FCC will weigh latency in its upcoming CAF II Auction. AT&T also proposes that points not be awarded for bandwidth speed, since all applicants will need to promise speed of 10/1 or better. *See infra*, part IV.A.

Finally, when it comes to reports and payments after an application has been granted, AT&T has four proposals. First, progress reports should be due only on an annual basis. This will reduce administrative burdens and avoid unnecessary repetition from too-frequent reports. Given the 24-month time frame for CASF-projects and the need to promptly ask for extensions when unexpected circumstances arise, the Commission is likely to quickly become aware of any project that is falling behind schedule, and for projects that are on schedule the annual reports will give the Commission a sufficient mid-point update on progress. *See infra*, part V.A.

Second, AT&T proposes that applicants that submit proposals with a per-household cost below the threshold listed by Staff in Section 1.7 of Appendix C be removed from certain application and reporting requirements. Removing such administrative burdens should lead to more applications with low per-household costs, thus allowing the \$300 million to go farther and benefit more consumers. *See infra*, part V.B.

Third, AT&T proposes that in preparing completion reports at the end of a project, providers be allowed to use either the speed testing methodology adopted by the FCC for CAF, which we understand the FCC will adopt prior to the July 24 CAF II Auction, or, until then, use their own speed tests. This would replace Staff's proposed requirement to use the CalSPEED test, which tends to under-report speeds. *See infra*, part V.C.

Fourth, and importantly, AT&T proposes that payments of 80% of the CASF funds awarded to an applicant be dispensed in 30 monthly installments to ensure a steady flow of



funding as work proceeds, with the final 20% of the funds being dispensed only after the provider submits its completion report. This will create a stronger incentive to participate because providers will not have to self-finance projects for several months at a time when they would not have undertaken these types of projects in otherwise uneconomic areas but for the CASF funding. The 20% holdback and the Commission's penalty authority give the Commission ample oversight tools without also depriving providers of funding as project costs are incurred. *See infra*, part VI.

Finally, the process proposed by AT&T could begin in full for calendar year 2019. However, if the Commission adopts this process this year, providers should be allowed to use that process immediately after the Commission adopts it, so that Californians in unserved areas can begin getting broadband as soon as possible. Providers would use the new rules this year based on the eligible census block list already published by the Commission. Not only would this speed up deployment of infrastructure necessary to bring broadband internet access services to unserved areas, it would allow recipients of CAF funds to leverage those monies to deploy broadband to unserved areas, as envisioned by AB 1665.<sup>5</sup>

Two tables illustrating AT&T's proposed timeline for the entire process are provided as Attachment 1 to these Comments.

## **II. ELIGIBLE CASF PROJECT AREAS AND APPLICANTS**

Applicants for CASF funding submit their proposals for specific project areas. As proposed by Staff, eligible project areas<sup>6</sup> are geographic areas defined by the applicant in terms

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<sup>5</sup> AB 1665, § 2(d).

<sup>6</sup> Also defined as an "Eligible Project" in Appendix C, § 1.3; *see also* AB 1665 § 281(f)(5).

of census blocks (or portions thereof) or census block groups and must meet several criteria, including the following: the area contains “unserved households” (households with no 6/1 Internet access from any facility-based provider);<sup>7</sup> the area is not within a CAF II, ROFR (Right of First Refusal), or existing CASF project area; and the proposal is not limited to “middle mile” facilities but rather will involve facilities to provide 10/1 broadband service all the way to end-users. AT&T recommends three important changes to the proposed eligibility criteria to improve the program, increase participation, and ease administrative burdens.

**A. Refine the Definition of Households**

Appendix C refers in several places to the concept of “unserved households” to determine whether an area is eligible for CASF funding and to measure progress on a CASF-funded project. Neither AB 1665 nor Appendix C, however, defines the term “households.” For purposes of CASF, “households,” should not be defined to include only occupied service locations. Using such a definition would make it impossible for providers to submit and attest to applications or report progress in terms of “households,” because the number of occupied housing units in any given area is constantly changing and is not readily tracked by any data available to providers. For example, consider an apartment building. While the number of housing units in the building would remain fixed, the specific number of units in the building that are actually occupied can vary from month to month. Thus, each provider could at best only provide some estimate of “households” in an area, which could lead to different providers using materially different measures. That, in turn, would prevent the Commission and Staff from making a true apples-to-apples comparison between applications. Each application would have a

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<sup>7</sup> Appendix C, § 1.3 (definitions). 6/1 internet access refers to broadband service with speeds of at least 6 megabits per second (Mbps) download and 1 Mbps upload. 10/1 internet access refers to broadband service with speeds of at least 10 Mbps download and 1 Mbps upload.

number for households to be served and projected costs per “household,” but that number would have little utility for comparison purposes if providers were not all computing the number of “households” in the same or similar ways.

Moreover, service providers like AT&T budget, evaluate, and plan construction projects and deployment in terms of the potential service locations in an area. In other words, when AT&T or other providers deploy new infrastructure to an area, they do so to reach the housing units in the area, not just the units that happen to be occupied at a given point in time. The same would be true for CASF-funded projects.

In order to recognize this reality and ensure that the Commission and Staff have the best objective data to compare applications and evaluate completed projects, AT&T proposes that Appendix C define the term “household” to include all housing units (whether occupied or not) in the project area. Specifically, AT&T proposes that the Commission modify Appendix C to define “households” as the California legislature has previously defined that term elsewhere in the Public Utilities Code, as “a house, an apartment, a mobilehome, a group of rooms, or a single room that is intended for occupancy as separate living quarters.”<sup>8</sup> Using this definition will remove the vagaries that would arise from counting “households” as only occupied housing units. This is consistent with the FCC’s approach to its CAF program, which imposes requirements on CAF recipients related to offering broadband to “locations.”<sup>9</sup> Thus, using AT&T’s proposed definition would allow carriers that have participated in the CAF process to leverage the information that is available to them from the infrastructure design and deployment perspective, and build on their past experience.

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<sup>8</sup> Cal. Pub. Util. Code 5890(j)(3).

<sup>9</sup> *See, e.g.*, 47 C.F.R. § 54.316.

**B. Establish a Definitive List of Eligible Census Blocks Prior to the Application Date**

As just noted, it is critical that providers submit their bids based on the same set of objective data to the extent possible. This is as important for defining eligible census blocks as for defining unserved households. As currently structured, Staff’s proposal in Appendix C would require applicants to determine which census blocks are eligible for CASF funding by relying on the Commission’s California Interactive Broadband Map (“Broadband Map”) and CalSPEED tests (or public feedback).<sup>10</sup> After a provider submits its application, others could then challenge whether the census blocks are actually eligible before the Commission decides whether to grant the application.<sup>11</sup>

Rather than entertain application-by-application challenges, AT&T submits that it would be more effective and efficient, and encourage greater participation, for the Commission to establish a definitive list of all CASF-eligible census blocks each year *before* applications are submitted.<sup>12</sup> By doing so, the Commission could ensure that all carriers are using the same list as they prepare their applications. Preparing an application is not a small undertaking and requires considerable analysis and dedication of a provider’s time and resources. Providers may be unwilling to invest the necessary time and resources in the face of the uncertainty that post-application challenges would present. Consequently, under AT&T’s recommendation, each provider would know that as long as its application included only census blocks on the approved list it would not have to worry about later challenges and could be confident that its proposed project area is, in fact, eligible for CASF infrastructure grants. In other words, the provider

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<sup>10</sup> Appendix C, § 1.6 at 10.

<sup>11</sup> Appendix C, § 1.13.

<sup>12</sup> As discussed below in part II.O, AT&T further recommends that the Commission implement a single, annual deadline for the submission of applications for infrastructure grants each year.

would not have invested time and resources planning a project area for nothing. Similarly – and with the same purpose of making the application process easier and the Commission’s and Staff’s review process easier – the definitive list of CASF-eligible census blocks should indicate which census blocks qualify as “low-income” and/or “high-priority.”

Establishing the definitive list of eligible census blocks at the front end will reduce work for all concerned over the course of the entire process. Specifically, the Commission would propose its own list of eligible census blocks (identified by GEOID), including which are designated as low-income<sup>13</sup> or high-priority. The Commission should do so based on publicly available Form 477 data, prior CASF grants, any CASF Right of First Refusal, census blocks awarded through the upcoming CAF II auction, and locations that providers identified as having deployed 10/1 internet access pursuant to CAF. After the Commission publishes its proposed list, any interested entity would then have 60 days to submit data and evidence challenging any of the designations (providing the data recommended by Staff for challenges in Section 1.13 of Appendix C, except for CalSPEED test results, for the reasons stated in parts III.D and V.C). Submission of CASF Rights of First Refusal would also be due on the same date. The Commission would then issue its final, definitive list of eligible census blocks within 60 days, identifying the eligible census blocks by GEOIDs and on the Broadband Map.

Under this process, Application Item 6 – Project Eligibility – would be limited to an assertion that the applicant reviewed the final list of eligible census blocks and determined that its proposed project area is eligible. Appendix C, § 1.13 also would need to be modified

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<sup>13</sup> Consequently, the Median Household Income components of Proposed Application Items 1 and 5 should be removed, because the Commission will already have identified low-income census blocks before applications are submitted.

consistent with this framework. Attachment 1 hereto illustrates AT&T's proposed application timeline, as well as its proposal for review of applications and deployment and payment.

The front-end step of establishing the census block list would have a significant efficiency payoff when applications are submitted and approved. Having a definitive census block list up front will ensure that all providers can focus on tailoring their applications to those identified areas rather than spending significant time attempting to verify whether a proposed area is eligible or to respond to post-application challenges. It also will eliminate later disputes and should allow the Commission to review and decide on applications more quickly, leading to construction beginning more quickly and end-users receiving 10/1 broadband access more quickly.

**C. Eligible Applicants - Applications By Governmental Entities (Appendix C, § 1.4)**

Section 1.4 of Appendix C states that local governmental agencies can apply for CASF funding to serve an area only if no other eligible entity applies. For clarity, and for the same reason local governmental entities must wait to apply, Section 1.4 should be modified to refer to both local *and state* governmental entities, or else to *any* governmental entity. Although AB 1665 refers specifically to local governmental entities submitting applications only after no private entity applies, the same logic – promoting deployment by private entities and preventing them from effectively having to bid against the government – likewise applies to governmental entities of all kinds.

**III. PROCESS AND REQUIREMENTS FOR APPLICATIONS**

**A. Number and Scope of Applications (Appendix C, § 1.6)**

AT&T agrees with Staff that a single application should be able to include noncontiguous areas and any combination of census blocks (or partial census blocks) and/or technologies.

However, the Commission should clarify that a single entity can submit multiple applications at the same time, as long as each application covers a different project area. This will allow entities to tailor their applications to different project areas that may have different demands. It also could encourage more applications for a variety of project areas, rather than requiring each applicant to put all its eggs in one basket.

**B. Information Regarding a Project Area (Appendix C., § 1.6, Proposed Application Item 1)**

Proposed Application Item 1 lists information that must be included in a project summary. A few of the requirements for Item 1 should be clarified.

First, Staff uses the term “households” in several places, including in Proposed Application Item 1. As discussed above in part II.A, because providers do not have reliable data regarding the number of occupied housing units, “households” should be defined to include all housing units, and that revised definition would apply here as well.

Second, Proposed Application Item 1 (and Proposed Application Item 5) also would require an applicant to specify the “Median Household Income” for census blocks. That would not be necessary if the Commission adopts AT&T’s proposal in part II.A.2 above to create a single definitive list of CASF-eligible census blocks that indicates which census blocks qualify as “low-income.” AT&T’s proposal would allow an applicant to simply indicate which of the census blocks in the proposed project area have been designated as low-income in the Commission’s list (and perhaps the percentage of census blocks in the entire project area that are designated as low-income, if needed for scoring of applications (see part IV.A.4 below)).

**C. Information on Existing Infrastructure (Appendix C, § 1.6, Proposed Application Item 3)**

Proposed Application Item 3 requires an applicant to provide a description of other providers’ infrastructure within the project area that can be leased, purchased, or accessed via

interconnection. Applicants, however, are highly unlikely to possess specific information or details on the infrastructure owned by other carriers in the project area, so compliance with this requirement would be very difficult, if not impossible. The Commission should therefore remove this requirement, or at least clarify that information on other providers' infrastructure is only required if it is publicly available to the applicant.

**D. Project Eligibility and Challenges to the Broadband Map Speeds  
(Appendix C, § 1.6, Proposed Application Item 6)**

Staff's Proposed Application Item 6 contemplates that an applicant will show that a project area is eligible for funding by using the Broadband Map, but also would allow an applicant to show that an area is eligible based on other data, including CalSPEED tests. As discussed, AT&T proposes a different procedure for establishing which census blocks are eligible for CASF funding, specifically a procedure in which the Commission establishes a definitive list of eligible census blocks in advance of providers submitting their applications. If that proposal is adopted, Application Item 6 would simply require the applicant to certify that all of the census blocks in the project area are on the Commission's approved list.

AT&T also opposes the use of CalSPEED or other speed tests to evaluate service speeds in determining the eligibility of a census block (or for other purposes in the CASF program) for the reasons stated below in part V.C. There are at least two significant problems with relying on CalSPEED or other speed tests. The first is that speed tests can be conducted only to locations where there is an active customer. That means they are not useable to determine whether areas with no active customers have broadband speeds of 6/1 or better available, even though identifying such areas is an important part of the CASF. The second problem is that when used to test speeds to an active customer, a speed test will only measure up to the speed to which the customer has subscribed. For example, if a customer has subscribed to 3/1 service, a speed test



will only show whether the service reaches 3 Mbps download speed, not whether the service is also *capable* of speeds of 6/1 or above to that location. This could lead to under-reporting the areas with 6/1 service available. Accordingly, eligibility determinations should be made using Form 477 data or the supplemental data noted in part II.B above, rather than speed tests.

**E. Add Latency as a Factor to be Addressed in Applications**

As explained in more detail below in part IV.A.1, latency, which is different from bandwidth speed (*i.e.*, 6/1 or 10/1), is an important factor in the overall customer experience of broadband service. Services with the same bandwidth speed but different latency can be much different from the consumer’s perspective. In its CAF program, the FCC requires existing CAF recipients to offer internet service with latency suitable for real-time applications, including VoIP.<sup>14</sup> The FCC decided that such providers satisfy this obligation if they demonstrate round-trip latency of 100 milliseconds (ms) or less.<sup>15</sup> In its upcoming CAF II Auction, the FCC will score bids based on whether the applicant is proposing “low” or “high” latency, in which “low latency” is defined as round-trip latency of 100 ms or less. AT&T recommends that, like the FCC’s CAF II Auction, CASF applicants specify the latency of their proposed service as part of their applications, and latency should be included in scoring applications for ranking purposes.

**F. Deployment Schedule (Appendix C, § 1.6, Proposed Application Item 7)**

Proposed Application Item 7 would require applications to “identify and describe construction milestones and include start and end dates for each milestone.” AT&T recommends that this requirement be removed. Given the short 24-month construction time frame, as well as the requirements to notify the Commission of unexpected delays and to provide a progress report

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<sup>14</sup> 47 C.F.R. § 54.309(a).

<sup>15</sup> *Connect America Fund Report & Order*, 28 FCC Rcd. 15060, at ¶¶ 19-25 (2013).

and the Commission's ability to withhold the final 6 months' of payment until a project is complete, there is no need to require applicants to also define and meet interim milestones along the way. Different applicants are likely to use different construction processes and schedules that they have determined work best for their company. As long as the overall progress of a project remains on track during the 24-month period, the applicant would be meeting its obligations, and the added burden of defining and meeting interim milestones is unnecessary.

**G. Proposed Project Expenditures (Appendix C, Proposed Application Item 8)**

AT&T proposes that if an application proposes a cost that falls below Staff's projected per-household cost levels by technology, as set forth in Section 1.7 of Appendix C, the applicant should be exempt from submitting the detailed projected cost and other data that otherwise would be required under proposed Application Item 8. This change would create a strong incentive to propose per-household costs lower than the Staff projections, which would minimize costs to CASF. It also would reduce the administrative burden on Staff to review and on providers to prepare and submit highly detailed cost projection data for applications.

**H. Performance Bond (Appendix C, § 1.6, Proposed Application Item 9)**

Staff proposes that CPCN/WIR holders be required to provide a performance bond unless they certify that the percentage of total project costs they are providing comes from the capital budget and is not obtained from outside financing. However, Staff also seeks comment on whether requiring a performance bond is a good idea.

As a threshold matter, the performance bond requirement should be removed. Given the Commission's ability to impose penalties<sup>16</sup> and the ability to hold back payment on the last 20% of funding (see AT&T proposal below in part VI), the Commission already has significant

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<sup>16</sup> See Appendix C, § 1.18.

leverage over providers to create a strong incentive to meet all CASF requirements. A performance bond would not increase that incentive. Rather, it would simply create another administrative hurdle and cost for applicants, which could deter participation.

If the Commission elects to continue requiring a performance bond, it should also give applicants the option of providing a letter of credit. This is consistent with the FCC's requirements under CAF II, which can serve as a template for the Commission here.<sup>17</sup>

**I. Pricing Commitment (Appendix C, § 1.6, Proposed Application Item 10)**

Staff proposes that applicants submit the monthly service rates that they will offer to consumers during a 24-month period following completion of the project, and also agree to waive installation charges during the commitment period.<sup>18</sup> The Commission should not adopt the requirement that providers waive installation charges. Waiving those charges would create an unnecessary change to providers' business processes and current pricing structures. Moreover, requiring carriers to waive installation charges during the commitment period would depart from the FCC's CAF program, which does not require such a waiver. Rather, parties should be able to maintain their current practice regarding installation charges and the pricing commitment should cover only recurring monthly service rates.

**J. Funding Sources (Appendix C, § 1.6, Proposed Application Item 13)**

Staff proposes that an application identify funding sources for a project, including "public or private broadband adoption or deployment program funds, federal and state grants or funds." The Commission should not adopt that language. Any areas receiving other government support should not be eligible for CASF support for the same facilities in the same geographic areas.

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<sup>17</sup> 47 C.F.R. § 54.315(c).

<sup>18</sup> Appendix C, § 1.6 at 12.

This is the simplest way to ensure there is no “double dip” of government funding for the same network facilities in the same area.

**K. Financial Qualifications and Project Viability (Appendix C, § 1.6, Proposed Application Items 14 and 15)**

Applicants like AT&T should only be required to submit their most recent three (3) years of audited financial statements, SEC Form 10-K submissions, and annual reports for their publicly held holding company (*e.g.*, AT&T Inc.), to the extent such information is not already provided to the Commission for other purposes. Pro Forma Financial Forecasts and Five-Year annual EBIT (Earnings Before Income and Taxation) projections should not be required.

In addition, and importantly, if an application seeks CASF funding that falls below Staff’s projected per-household cost levels by technology, as set forth in Section 1.7 of Appendix C, the applicant should not be required to submit the detailed financial data that otherwise would be required by proposed Application Items 14 and 15. This change would create a strong incentive to propose costs lower than the Staff projections, which would drive efficiencies and thereby minimize costs to CASF. It also would reduce the administrative burden on Staff to review and on providers to prepare financial qualifications data for applications.

**L. Low-Income Communities – Expedited Ministerial Review (Appendix C, § 1.7)**

Staff proposes an expedited ministerial review process for applications that contain low-income areas. While AT&T understands and supports the importance of encouraging the availability of internet services in low-income areas that are not already being served, all applications should be submitted at the same time and evaluated on the same time frame. Such a “one process” approach is important to providers, which need to know which of their applications have been accepted in order to plan and coordinate deployment. They cannot do that if different types of applications have different time frames for approval. Moreover,

proposed project areas are likely to include a mix of low-income and other census blocks (and perhaps high-priority census blocks as well). Networks are designed without regard to such categories, so requiring low-income areas to be addressed through a separate process would unnecessarily complicate the application process and potentially require inefficient network deployments. Finally, as discussed below in part IV.B, AT&T proposes that the review/approval timeframe for all applications be shortened, which would be easier if there is only a single deadline and single process for submitting and evaluating all applications for all eligible areas. If the Commission wants to attract applications for low-income areas, it can, as Staff proposes, do so by granting extra points for such applications in the scoring process (see part IV.A.4 below), but still should require all applications to be submitted and evaluated at the same time and on the same criteria.

**M. High-Priority Areas and Request for Ministerial Review (Appendix C, § 1.8)**

Staff proposes a ministerial review process for applications to serve high-priority areas. For all the reasons stated in the preceding section, AT&T opposes such a separate review process. Rather, all applications for all project areas should be submitted and evaluated on the same timeline. To the extent the Commission wants to provide extra incentive to apply to serve high-priority areas, it can do that through the scoring process for applications.

**N. Right of First Refusal (Appendix C, § 1.9)**

As discussed in parts III.D and V.C, AT&T opposes the use of CalSPEED or other speed tests in determining whether Internet service speed in an area is sufficient to create a right of first refusal by the ILEC for that area. This also applies in determining whether an area is subject to a right of first refusal. And as discussed in part II.B and Attachment 1 hereto, any CASF right of first refusal should also be submitted on the same date as challenges to presumptively eligible census blocks.

**O. Incentivizing Buildout in CAF II Areas and Notice to Commission of Buildout Status (Appendix C, § 1.10)**

Staff seeks comment on how the Commission can encourage existing facilities-based broadband providers to build out their CAF II obligations.<sup>19</sup> AT&T does not believe any Commission action is necessary on this point, because the CAF II rules already provide sufficient incentives and penalties regarding timely completion of service availability obligations and carriers are required to report to the FCC if they are not making their milestones.<sup>20</sup> The Commission can monitor those reports. The Commission also can obtain access to the locations that CAF recipients are required to report in USAC's HUBB (High Cost Universal Broadband portal), which identifies locations to which the carrier has deployed broadband service pursuant to CAF.<sup>21</sup>

**P. Application Timeline (Appendix C, § 1.11)**

Staff seeks comment on whether to allow one round of CASF applications per year. AT&T supports limiting applications to once per year (for *all* types of applications, as discussed above in parts III.L and M). It is more important to providers to receive a prompt decision on their applications rather than to be able to submit applications more frequently. With a single deadline, all applications can be evaluated at the same time and relative to one another. Moreover, having a single round of applications will give providers the strongest incentive to put their best proposals forward knowing that, if they do not, their applications may not succeed and it will be another year before they can try again.

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<sup>19</sup> Appendix C, § 1.10.

<sup>20</sup> 47 C.F.R. §§ 54.316 & 54.310.

<sup>21</sup> "Filing Geolocated Broadband Deployment Data," at <https://www.usac.org/hc/tools/hubb.aspx>.

**Q. Challenges to Applications (Appendix C, § 1.13)**

As discussed above in part II.B, AT&T recommends that the Commission create a definitive list of CASF-eligible census blocks well before the application date each year. If the Commission adopts that approach it would remove the need for a process to challenge specific applications based on the alleged ineligibility of census blocks and thereby streamline the review and grant of applications. Instead, entities would have their opportunity to challenge the eligibility of census blocks by reviewing the Commission's proposed list each year and submitting challenges to that list before it becomes final. That way, providers and the Commission could focus their resources by having all challenges evaluated at the same time.

If the Commission does not adopt AT&T's proposal, and instead continues to allow application-specific challenges based on the alleged availability of 6/1 broadband service in an area, it should not use CalSPEED to evaluate such challenges, for all the reasons stated in parts III.D and V.C. Rather, the Commission can rely on Ookla or on advertised speeds for service in the area, or on providers' certifications based on their own speed tests. Advertised speeds are likely to be more representative than actual speeds, which can vary by the specific location of the customer being test (*e.g.*, near or far from a cell tower). Form 477 reports advertised broadband speeds to the FCC,<sup>22</sup> and it is reasonable for the Commission to accept the same.

**IV. PROCESS FOR EVALUATING AND GRANTING APPLICATIONS**

**A. Scoring Criteria (Appendix C, § 1.14)**

AT&T does not oppose the Commission's continued use of a scoring system to evaluate applications, but proposes some refinements to Staff's proposal.

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<sup>22</sup> FCC Form 477 Local Competition and Broadband Reporting Instructions, at 17 (Dec. 5, 2016) (OMB Control No. 3060-0816), available at [www.fcc.gov](http://www.fcc.gov).

## 1. Add Latency as a Factor

It is very important that the scoring process include a point factor for latency, which is a significant part of the customer experience. 10/1 service with high latency is very different from (and inferior to) 10/1 service with low latency, and points for low latency should be part of the scoring process, which also would be consistent with the FCC's approach in the upcoming CAF II Auction.<sup>23</sup>

The 10/1 or 6/1 figures typically used in referring to broadband service "speed" reflect bandwidth measured in megabits per second (Mbps). Bandwidth reflects the amount of data that can be downloaded or uploaded at once. Network latency, by contrast, measures the time it takes for data to get to its destination across the network (the time between when you click something and when you see it). It is usually measured as a round-trip delay – the time taken for information to get to its destination and back again – and is measured in milliseconds (ms). The round-trip delay is an important measure because TCP/IP (the most widely used networking protocol) sends a limited amount of data to its destination and then waits for an acknowledgement to come back before sending any more. Thus, the round-trip delay has a key impact on the performance of the network, because latency drives the maximum throughput of a connection (how much data can be transmitted by each connection *in a given time*).

The amount of latency depends largely on how far away the user is from the server. To put this in real-world terms, assume a user visits a web page and that page contains 100 objects (things like images, etc.). The user's browser has to make 100 individual requests to the site's host server(s) in order to retrieve those objects. Each of those requests experiences the network

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<sup>23</sup> [www.fcc.gov/auction/903#technology](http://www.fcc.gov/auction/903#technology).



latency. Given that a page can have upwards of 300 or 400 objects and that latency can reach a full second for some satellite broadband users, latency can become a major problem.

In light of the importance of latency to the customer experience, latency should be included as an item on applications (see part III.E above) and accounted for in the scoring process. AT&T recommends that up to 20 points be awarded for projects promising low latency (100 ms or less round-trip).

## **2. Remove “Speed” From the Scoring Criteria**

Given that bandwidth “speed” of at least 10/1 is a mandatory prerequisite for any application, the Commission should eliminate the points that Staff proposes to allocate for bandwidth speed. If the goal of AB 1665 is to bring at least 10/1 broadband service to as many locations as possible, the Commission should not tempt applicants to skew their applications by promising to serve fewer locations at higher speeds in hopes of gaining more points. Rewarding applications that propose speeds higher than 10/1 would very likely result in higher funding needs, which in turn would result in fewer underserved California locations getting broadband. That would be counterproductive, given that CASF program dollars are finite. Accordingly, “speed” should not be included in the list of scoring criteria.

## **3. Use of “Bonus” Points**

Staff’s proposal identifies specific points available for specific criteria, but then also refers to “bonus” points for other criteria, such as community support. If points are going to be awarded for a criterion and awards are going to be based on total points, it would make more sense for all points to be treated the same (a point is a point) and awarded as part of the standard scoring rather than as a “bonus.”

#### **4. Define the Standard for “Low-Income” and “High-Priority” Points**

Staff proposes to award up to 10 points for an application that includes “Low-Income Areas” or “high-priority areas.” There is no standard proposed, however, for what *portion* of the housing units covered by an application would need to qualify as low-income or high-priority in order to receive these points (or whether there is some sort of sliding scale). As noted above, applications may include a mix of low-income or high-priority areas and other areas, and there may be wide variation in the percentage or number of low-income or high-priority housing units covered by a particular application. In order to clarify the scoring and make it more objective, the Commission should determine the points to be awarded under this criterion based on the ratio of low-income and/or high-priority census blocks to the entire number of census blocks covered by the application. To illustrate, if an application proposes to cover 100 census blocks total, 50 of which are low-income census blocks, then the maximum available 10 points for this criterion would be multiplied by 0.50, the ratio of low-income census blocks to the total census blocks covered by the application.

#### **5. Eliminate Points for Timeliness of Completion and Guaranteed Pricing Period**

Staff’s proposal includes points for “timeliness of completion.” It is unclear how this would be applied. Until construction is finished, one cannot know whether a project was completed in a timely fashion. Thus, at the application stage there is no way to know whether the project will ultimately be completed on time. In addition, given that there is a two-year

deadline for projects,<sup>24</sup> it is unclear how one could be completed in a more “timely” fashion than another. AT&T therefore recommends eliminating this factor from the scoring process.<sup>25</sup>

AT&T similarly recommends eliminating the points for “Guaranteed Pricing Period.” Under Section 1.6, Proposed Application Item 10, applicants would already be required to commit to a fixed monthly rate for 24 months, so all applicants would be granted full points for this factor. Since that is so, it adds nothing to the comparative scoring process, and should be eliminated as unnecessary.<sup>26</sup>

## 6. Summary of Scoring Proposals

Based on its proposals above, AT&T recommends that the following scoring be used for applications:

- |   |           |
|---|-----------|
| • Funds Requested per Potential Household <sup>27</sup> | 30 points |
| • Latency (100 ms round-trip or less)                   | 20 points |
| • Financial Viability                                   | 10 points |
| • Low-Income Areas                                      | 10 points |
| • High-Priority Areas                                   | 10 points |
| • Pricing   | 10 points |
| • Total Number of HHs in Proposed Area(s)               | 5 points  |
| • Government and Community Support                      | 5 points  |

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<sup>24</sup> Appendix C, §§ 1.17 & 1.18.

<sup>25</sup> It could be that this factor is meant to address proposals to complete deployment in less than 24 months. If so, that should be made explicit.

<sup>26</sup> It could be that this factor would grant more points for a pricing commitment of longer than 24 months. If so, that should be made explicit.

<sup>27</sup> Consistent with the proposed change in part II.A above to present applications in terms of households (as defined to include unoccupied housing units) to be served, the “Funds Requested per Potential Customer” criterion listed by Staff should be changed to “Funds Requested per Potential Household.”

## **B. Period for Approval/Denial**

Consistent with the goals of AB 1665, applicants and the Commission should make every effort to ensure that broadband service is deployed as quickly as reasonably possible. To that end, AT&T proposes that the Commission set a deadline to approve or reject applications each year that is 120 days after the application deadline. See Attachment 1. Providers need certainty on whether they will receive funding for a proposed project, and they need it sooner rather than later. A longer application review process would only have the effect of delaying deployment to unserved customers. AT&T believes that if the Commission adopts AT&T's proposal above in part II.B to establish a definitive list of eligible census blocks in advance of applications, and streamlines the application requirements and process as AT&T suggests above in part IV, the review and approval process going forward should be able to proceed more quickly than in the past.

## **C. Matching Funds**

AB 1665 authorizes the Commission to award "up to" 100% funding for CASF-approved projects. Staff's proposal recommends funding of 80% to 100% but, in a section dealing with high-priority areas, also asks whether the Commission should "provide additional incentives, such as no-matching funds required?"<sup>28</sup> AT&T agrees that granting applications without any requirement to provide matching funds would provide an important extra incentive for applicants to seek CASF funding, but believes that approach should not be limited to high-priority areas. That is consistent with CAF II and is the best way to induce more applications for all unserved areas. The availability of 100% project funding also will create an incentive for applicants to submit the lowest bids they reasonably can (in hopes of winning funding) and may also attract a

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<sup>28</sup> Appendix C, § 1.8.

wider variety of applicants. Accordingly, the Commission should indicate in Appendix C that it will be liberal in granting no-matching-fund proposals.

#### **V. REPORTING REQUIREMENTS (Appendix C, § 1.17)**

Staff states that reporting requirements and payment schedules are intrinsically interrelated and that “more frequent payments imply more frequent reports as well.”<sup>29</sup> While AT&T agrees that both reports and payment schedules are important, it does not agree that the connection must be as linear as Staff contends. Progress and completion reports are useful, but there must be a balance between the information Staff and the Commission desire and the administrative burden on providers, which can distract from focusing on advancing the project itself. As Staff recognizes, too-frequent reports, such as the quarterly reports previously required, add little value and impose unnecessary burdens.<sup>30</sup> That is true regardless of how often the provider is being paid. In other words, being required to file unnecessarily frequent reports should not be the price of receiving more frequent payments.

AT&T therefore proposes again that the Commission revise Staff’s recommendations to more closely track the FCC’s approach under its CAF program, including annual progress reports and monthly payments, as discussed below. No one is likely to argue that providers should have to produce monthly progress reports as the price of receiving monthly payments, nor would such reports be helpful. On the other hand, monthly payments would be helpful in promoting participation in the CASF program. After all, the projects funded by CASF are, by definition, projects for which there is no business case for private investment and that would not be undertaken without governmental funding. Because expenses for such projects are incurred

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<sup>29</sup> Appendix C, § 1.17.

<sup>30</sup> Appendix C, § 1.17.

each month, it makes sense for payments to be disbursed each month. If a provider fails to make adequate progress, the Commission has other tools, such as penalties or a holdback of the final payment, to address the problem. Applying those tools to specific projects and providers would be more effective and less burdensome than requiring all providers to accept much less frequent payments.

**A. Frequency of Progress Reports**

Staff proposes to move from quarterly reporting to biannual reporting.<sup>31</sup> AT&T agrees that less frequent reporting is appropriate, but proposes annual reporting. Annual reporting will reduce the administrative burden on successful applicants and is consistent with the annual progress reports the FCC requires under its CAF program.<sup>32</sup> Staff notes that quarterly reports were too frequent because one report often added little to the prior report. The same would be true of biannual reporting. Requiring only annual reports should be sufficient to keep the Commission apprised of progress. With a 24-month time frame, an annual report amounts to a “half-time” report to show that progress is being made and the applicant is on track to meet the 24-month deadline. Staff’s proposal also recognizes the obligation of providers to promptly notify the Commission when unforeseen circumstances arise that might cause them not to meet the 24-month deadline.<sup>33</sup> That obligation serves to alleviate the need to submit progress reports more often than once a year.

**B. Content of Progress Reports**

Page 20 of Appendix C contains a list of items to be included in progress reports. AT&T proposes clarification or modification of certain items.

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<sup>31</sup> Appendix C, § 1.17.

<sup>32</sup> 47 C.F.R. § 54.316(b)(1) & (c)(1).

<sup>33</sup> Appendix C, § 1.18.

Items 1 and 3: Items 1 and 3 refer to describing events during the past “quarter.” For clarity, “quarter” should be changed to “reporting period.”

Items 2 and 4: Item 2 would require a provider’s progress report to include “[i]dentification of project milestones in the percent complete to date” and item 4 would require a description of milestones or accomplishments planned for the next reporting period. AT&T recommends that these items be eliminated. As discussed below, AT&T recommends a payment method that is not based on achievement of interim milestones, which would remove the need for specific reporting on such milestones. In addition, given the short 24-month time frame for CASF projects and AT&T’s proposal for annual reports, reporting on interim milestones would not seem particularly helpful.

Item 5: This item would require a provider to include “[s]ubscribership information to date” in its progress report. Given AT&T’s typical construction project schedule, it would not have subscribers until a project is complete. More importantly, however, to the extent providers do report subscribership information, that information should be treated as strictly confidential and not subject to public disclosure. The Commission has long recognized that subscribership information is competitively sensitive and require strong protections from public disclosure,<sup>34</sup> and the same protection should apply to any subscribership information in reports submitted as part of the CASF program.

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<sup>34</sup> See, e.g., *In re Pacific Bell Wireless LLC*, Decision (D.) 02-10-061, 2002 WL 31470000 (C.P.U.C. Oct. 24, 2002) (granting request that information consisting of “identification of Cingular’s total California subscriber base” should remain under seal; “the Commission has confirmed the need to preserve the confidentiality of proprietary and competitively sensitive information, such as ... customer base information”); *OIR/OII Into Competition for Local Exchange Service*, Decision (D.) 99-07-048, 1999 Cal. PUC Lexis 452, at \*25 (C.P.U.C. July 22, 1999) (“The Commission... has consistently protected” “customer base information”).

### C. Completion Reports

Pages 20-21 of Appendix C contain a list of items to be included in completion reports.

AT&T proposes clarification or modification of several of these items.

Item 1: This item would require a grantee to provide a “[c]omparison of approved versus actual costs of construction.” This requirement should be modified to state that it does not apply to a provider whose application reflected a per-household cost for the technology(ies) used that is at or below the per-household cost that Staff identifies at page 16 of Appendix C. Applications that reflect a per-household cost below the levels listed by Staff reflect a presumptively reasonable level of costs, and the provider can only receive CASF funding at the level of those costs. Given this, the provider should be spared the extra administrative burden of providing detailed information on actual costs when the funding it receives is already below a presumptively reasonable level. Furthermore, removing this administrative burden for such winning applicants would create a significant additional incentive for providers to submit applications with per-household costs below those levels. This is similar to the “reserve” dollar figures that will be used in the CAF II Auction.<sup>35</sup>

Item 2: This item refers to reporting “any changes in the project construction and alignment.” AT&T proposes that this requirement be eliminated. As noted elsewhere in this section, the purpose of a completion report should be to show that the project was completed in the areas where it was supposed to make service available. Whether the project changed in any

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<sup>35</sup> See Public Notice, *Comment Sought on Competitive Bidding Procedures and Certain Program Requirements for the Connect America Fund Phase II Auction (Auction 903)*, FCC 17-101, AU Docket No. 17-182 & WC Docket No. 10-90, at ¶¶ 65-70 (rel. Aug. 4, 2017). See also Public Notice, *Connect America Fund Phase II Auction Scheduled for July 24, 2018 Notice and Filing Requirements and Other Procedures for Auction 903*, FCC 18-6, AU Docket No. 17-182 & WC Docket No. 10-90, at ¶¶ 211-212 (rel. Feb. 1, 2018).



way from the original plan would not seem to be particularly relevant to whether the project has achieved its stated purpose in making broadband internet service available to a specific, previously unserved area.

Item 3: Item 3 would require a completion report to address “[m]ilestones and completion dates for each milestone.” AT&T proposes that this item be eliminated as unnecessary. As discussed below, AT&T proposes a payment method not based on achieving “milestones.” More importantly, in a completion report the relevant question is whether the entire project was completed and when it was completed, not when interim milestones were met on the way to completion. Reporting on interim milestones would therefore be an extra administrative burden that does not serve the purpose of a completion report.

Item 4: Item 4.c refers to asserting that all households in the project area are offered a minimum of 6/1 speed. This presumably should be changed to 10/1 speed.

Item 4.d: This item refers to providing speed testing results for each census block in the project area, based on the CalSPEED test. AT&T proposes that the Commission instead allow carriers to use their own speed testing methods until the FCC settles on an approved testing methodology for CAF, and thereafter use that approved methodology.

As AT&T understands CalSPEED, it measures speeds from a customer location to one of two servers on either side of the country (one in California and one in Washington, D.C.). As the data travel, they traverse facilities over which the provider has no control. From the customer’s internet connection, the data could travel through AT&T’s network to peering links with other carriers and perhaps through multiple other peering links between other carriers until it gets to the CalSPEED test servers. This could mean the data would traverse tens, if not hundreds, of internet routers before getting to the CalSPEED server. The provider should not be held

accountable for speeds caused by facilities over which it has no control, because those other facilities can lead to significantly slower speed readings.<sup>36</sup>

The FCC is in the process of evaluating speed testing methodologies for use in its CAF program and it is likely to complete that process prior to the July 24 CAF II Auction.<sup>37</sup> The Commission should allow providers that receive CAF support to use the FCC-approved testing methodology when it is available. Until then, the Commission should allow providers to use a speed test they use in the course of their regular businesses. AT&T, for example, has already developed a speed testing tool for CAF II purposes, which it could readily also use for CASF purposes. Other broadband providers presumably also have tools to test and confirm broadband speeds for their own services for purposes like advertising. Allowing providers to use such tests could lead to more accurate reporting and more well-targeted disbursement of CASF funds.

Item 4.f: This item refers to reporting “[t]he geographic location of all households that are served.” The Commission should clarify that this refers only to the geographic location of

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<sup>36</sup> For example, the Ookla speed testing tool measures speed between a customer location and more than 3000 servers on the Internet which typically would be closer to the customer and often in the same provider’s network. So the test transmission would not be traversing the large number of servers that it would if CalSPEED were used. This can lead to large differences compared to CalSPEED. An AT&T employee recently used CalSPEED and Ookla to test his broadband and LTE (wireless data) speeds and found that Ookla reports materially higher speeds, with the following results:

	CalSPEED Measurements	Ookla Measurements
Wireline Broadband Download	62Mbps	331Mbps
Wireline Broadband Upload	62Mbps	664Mbps
LTE Download	16Mbps	28Mbps
LTE Upload	6Mbps	10Mbps

CalSPEED, by contrast, generally reports much lower speeds than Ookla, which could lead to significant errors in identifying eligible census blocks or evaluating performance of newly deployed equipment.

<sup>37</sup> See Public Notice, *Comment Sought on Performance Measures for Connect America High-Cost Universal Service Support Recipients*, WC Docket No. 10-90, DA 17-1085 (rel. Nov. 6, 2017) (“CAF 2017 Performance Measures Public Notice”).

households that are served *as a result of the CASF project* being reported on. Attempting to gather data on “all” households served in the census block if the whole census block is not part of the project would be very difficult and is not relevant to the specific CASF project report.

Item 4.h: This item requires a completion report to include the “Number of subscribers that actually signed up as of the date of the request for reimbursement versus the projected number of subscribers.” AT&T proposes two modifications to this item. First, the language “as of the date of the request for reimbursement versus the projected number of subscribers” should be replaced with “as of the date of the completion report.” This will help clarify the date being referred to and remove the need to compare subscribers to date to the projected number of subscribers. AT&T, for example, will not begin adding new subscribers until a project is complete, and therefore information on subscribers at the time of the completion report versus projected subscribers would have little value and should not affect AT&T’s (or any other provider’s) ability to be fully compensated for the costs of a project once deployment is finished.

Second, as noted above, any subscribership information should be kept strictly confidential and not disclosed to the public, because such information is very competitively sensitive. The Commission has recognized this and the FCC likewise recognizes it by keeping confidential the subscribership information submitted in Form 477 reports.

Item 4.i: Item 4.i is unclear. It seeks reporting on “the number of served households in the project area that have broadband availability at or above the aforementioned minimum speeds.” It is unclear whether this means only previously unserved households added as a result of the CASF project or all households in the project area. As noted above, if the project area includes only part of a given census block, attempting to gather data on “all” households served in such a census block would be very difficult and is not relevant to the specific CASF project

report. Rather, items 4.f and 4.i should be clarified to refer to providing the geographic location and number of housing units to which 10/1 service has been added as a result of the CASF project.

## **VI. PAYMENT (Appendix C, § 1.18)**

Staff proposes two alternatives for payment of CASF funds. First, it proposes payments on a progress billing basis, which would involve payments of 25% of total costs based on demonstrating completion of 25%, 50%, 75%, and 100% of the project.<sup>38</sup> Alternatively, Staff proposes payments on a deliverable basis, where a provider's application indicates that it will submit invoices upon completion of specified construction phases.<sup>39</sup>

AT&T proposes that the Commission instead adopt a schedule like that used for the FCC's CAF program, under which CAF recipients are paid on a monthly basis.<sup>40</sup> Specifically, given the need for permitting (presumed to take up to 6 months), the expected 24-month construction period, and the need for review of a completion report, AT&T proposes that 80% of the awarded funds be distributed in 30 monthly payments, followed by a final payment for the remaining 20% of the funds. The process would work as follows:

- (i) Monthly payments (worth 1/30th of 80% of the total awarded funds) begin one month after the grant award and continue for up to 6 months while the grantee obtains permits and does engineering and other preparatory work. If the permitting period takes longer than 6 months, monthly payments will stop and then resume following completion of the permitting process.
- (ii) Monthly payments for 24 months during construction of the project, subject to extensions for good cause shown. The Commission would retain an amount equal to the final 6 months of payments as security for completion of the project.

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<sup>38</sup> Appendix C, § 1.18.

<sup>39</sup> *Id.*

<sup>40</sup> 47 C.F.R. § 54.302.

- (iii) Upon completion of the project and submission of a completion report, the Commission would make a final payment equal to the remaining 20% of the awarded funds.

Monthly payments make sense because a grantee incurs ongoing costs for a project that it presumably would not have undertaken but for the CASF funding. The payments for that project should therefore occur as the provider incurs its costs, subject to the Commission's power regarding penalties, audits, etc. Long gaps between payments, during which providers must finance projects themselves, may well discourage providers from participating in the CASF program and thus undermine the goal of AB 1665.

## **VII. EXECUTION AND PERFORMANCE**

In Section 1.19 of Appendix C, Staff proposes that a CASF grantee be required to provide advance notice to the Commission if it plans to "sell or transfer its assets," whether that occurs during the construction phase or within three years after the project is completed.<sup>41</sup> The Commission should clarify that this applies *only* to a sale of *all* the provider's assets. A company like AT&T sells or transfers some assets on a fairly regular basis, and providing notice of every such transaction would be both burdensome and unnecessary. Moreover, the Commission should also make clear that the notice requirement applies only to the sale or transfer of assets that have been deployed using the CASF funds or are used to serve the locations added by the CASF-funded project. Notice of the sale or transfer of assets unrelated to the CASF-funded project is not related to the Commission's ability to continue its oversight of a CASF-funded project as it is constructed or for a few years after completion.

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<sup>41</sup> Appendix C, § 1.19.



**PROPOSED ANNUAL CASF BROADBAND INFRASTRUCTURE GRANT ACCOUNT  
TIMELINE FOR APPLICATIONS AND APPROVALS**

<b>Interval</b>	<b>Activity</b>	<b>Hypothetical Dates</b>
	CPUC publishes proposed list of eligible CBs (indentifying low-income and high-priority CBs)	December 15, 2018
60 days	Due date for: (1) CASF Right of First Refusals (2) Challenges to proposed list of eligible CBs	Feb. 15, 2019
60 days	CPUC publishes final list of eligible CBs	April 15, 2019
90 days	Due date for Infrastructure grant applications	July 15, 2019
120 days	Date to grant or deny applications	November 15, 2019

**PROPOSED ANNUAL CASF BROADBAND INFRASTRUCTURE GRANT ACCOUNT  
TIMELINE FOR PERMITTING, DEPLOYMENT, REPORTS, AND PAYMENTS**

<b>Interval</b>	<b>Activity</b>	<b>Hypothetical Dates</b>
Presume 6 months	Grantee seeks necessary permits.  *Monthly payments of 1/30 or 80% of projected total cost stated in the application begin and continue for up to 6 months.	October 15, 2019- March 15, 2020
Presume 24 months	Construction phase. Day 1 = Project Start Date; day 365 = Project Report due  *Monthly payments of 1/30 of 80% of projected total cost stated in the application begin and continue for up to 24 months.	March 15, 2020 to March 15, 2022  *Progress Report Due March 15, 2021
90 days	Completion Report and Request for Final Payment due by Day 90 after completing construction	June 15, 2022
TBD	Payment for final 20% of projected total costs stated in the application, upon approval	Upon approval of Completion Report