

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider
Modifications to the California Advanced
Services Fund.

Rulemaking No. 12-10-012

**COMMENTS OF THE CENTRAL COAST BROADBAND CONSORTIUM ON THE
PROPOSED DECISION OF COMMISSIONER GUZMAN ACEVES IMPLEMENTING
THE CALIFORNIA ADVANCED SERVICES FUND BROADBAND ADOPTION,
PUBLIC HOUSING AND LOAN ACCOUNTS PROVISIONS**

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I. Summary.

Per California Public Utilities Commission (CPUC) Resolution T-17529, the Central Coast Broadband Consortium (CCBC) is the California Advanced Services Fund (CASF) consortia grant recipient representing Monterey, San Benito and Santa Cruz Counties. The CCBC is a party to Rulemaking 12-10-012 and respectfully submits these comments regarding the Proposed Decision of Commissioner Guzman Aceves Implementing the California Advanced Services Fund Broadband Adoption, Public Housing and Loan Accounts Provisions, dated 18 May 2018 (hereinafter, Proposed Decision).

The CCBC greatly appreciates the work that Commissioner Guzman Aceves, Administrative Law Judge Colbert and other CPUC staff have put into the Proposed Decision and, with the exceptions noted below, strongly endorses it.

II. Technology neutrality is consistent with minimum speed standards.

The Proposed Decision rejects the minimum standard of 10 Megabits per second (Mbps) download and 1 Mbps upload speeds recommended by CCBC in its comments on the Phase I Staff Proposal “because CASF is a technology neutral program, as stated in the statute”¹. It is true that the statute in question (Public Utilities Code Section 281, hereinafter “the Statute”) mandates technology neutrality. However that requirement does not preclude minimum speed standards. In fact, the Statute requires CASF-subsidized infrastructure projects to be both “technology-neutral²” and “capable of providing broadband access at speeds of a minimum of 10 megabits per second (mbps) downstream and one mbps upstream”³.

Setting a minimum speed standard does not violate the Statute’s requirement that CASF-subsidized projects be technology neutral.

III. Public Housing projects are intended to provide "a robust level of connectivity".

The Proposed Decision further rejects the CCBC’s recommended minimum standard of 10 Mbps download and 1 Mbps upload speeds because “Public Housing infrastructure projects in themselves are not intended to replicate the robust level of connectivity of a commercial provider”⁴. This argument has no statutory basis. In fact, the Statute *requires* Public Housing infrastructure projects to achieve such a level: it mandates equal treatment of “all Californians”⁵

¹ Proposed Decision, page 31.

² California Public Utilities Code Section 281(f).

³ *Ibid.*

⁴ Proposed Decision, page 31.

⁵ California Public Utilities Code Section 281(a).

in regards to CASF-subsidized infrastructure projects, regardless of whether or not they live in a “publicly supported community”⁶.

The Statute states that CASF in its entirety exists to “encourage deployment of high-quality advanced communications services to all Californians”⁷ and “to approve funding for infrastructure projects that will provide broadband access to no less than 98 percent of California households in each consortia region”⁸. It further requires the commission to “approve projects that provide last-mile broadband access to households that are unserved by an existing facility-based broadband provider”⁹.

These directives apply equally to the Broadband Infrastructure Grant Account and the Broadband Public Housing Account.

Further, the Statute tasks the Broadband Public Housing Account with providing “grants and loans to a publicly supported community to finance a project to connect a broadband network to that publicly supported community”¹⁰, but only if “the publicly supported community has not denied a right of access to any broadband provider that is willing to connect a broadband network to the facility for which the grant or loan is sought and the publicly supported community is unserved”¹¹.

⁶ California Public Utilities Code Section 281(i).

⁷ California Public Utilities Code Section 281(a).

⁸ California Public Utilities Code Section 281(b).

⁹ *Ibid.*

¹⁰ California Public Utilities Code Section 281(i)

¹¹ *Ibid.*

When the Broadband Public Housing Account was established by Assembly Bill 1299 in 2013, the intent of the Statute could plausibly be interpreted to allow the funding of survival-level broadband service in Public Housing communities where commercial providers offer a robust level of connectivity. The Commission adopted that interpretation when it established the Public Housing program in Decision 14-12-039.

However, the Statute was subsequently amended by Senate Bill 745 in 2016. SB 745 limited Public Housing infrastructure grants to “unserved” properties. Further, in 2017 AB 1665 established 6 Mbps download and 1 Mbps upload speeds as the level below which a residence is unserved.

Because 1. An unserved residence is one where service at 6 Mbps download and 1 Mbps upload speeds is not available, 2. Grants for broadband infrastructure projects in Public Housing may only be made to an unserved residence, and 3. The purpose of all CASF infrastructure projects is to raise the service available to all Californians above the statutorily defined unserved threshold, we must conclude that it would be illegal to fund an infrastructure project, of any kind, that did not provide service at 6 Mbps download and 1 Mbps upload speeds or better.

Arguably, the Statute might be read as allowing subsidies for infrastructure projects in Public Housing that merely provide service at the 6 Mbps download and 1 Mbps upload speed level. However, both common respect and the statutory mandate to upgrade broadband *for all Californians* demand that people who live in publicly supported communities receive equal treatment. If 10 Mbps download and 1 Mbps upload speeds are the minimum acceptable level for some Californians, it must be the minimum acceptable level for all.

IV. Conclusion.

The CCBC respectfully requests that the Proposed Decision be modified as recommended herein and swiftly approved.

Date: 7 June 2018

Respectfully Submitted,

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