

**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 CALIFORNIA CENTER FOR RURAL POLICY, RURAL
COUNTY REPRESENTATIVES OF CALIFORNIA, UPSTATE CALIFORNIA
CONNECT CONSORTIUM AND THE NORTHEASTERN CALIFORNIA CONNECT
CONSORTIUM ON ELIGIBILITY FOR
AND PRIORITIZATION OF CASF BROADBAND INFRASTRUCTURE FUNDS**

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OF THE STATE OF CALIFORNIA**

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Modifications to the California Advanced) Rulemaking No. 12-10-012
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**COMMENTS OF THE CALIFORNIA CENTER FOR RURAL POLICY (CCRP),
RURAL COUNTY REPRESENTATIVES OF CALIFORNIA (RCRC), UPSTATE
CALIFORNIA CONNECT CONSORTIUM (UCCC) AND THE NORTHEASTERN
CALIFORNIA CONNECT CONSORTIUM (NECCC) COLLECTIVELY KNOWN AS
THE “RURAL COMMENTERS”**

The California Center for Rural Policy is a research center committed to informing policy, building community, and promoting the health and well-being of the more than five million Californians living in rural and frontier communities. CCRP is the host for the Redwood Coast Connect Broadband Consortium, which covers Del Norte, Humboldt and Trinity Counties. Rural County Representatives of California (RCRC) provides the rural county perspective on a myriad of issues including land use, water and natural resources, housing, broadband, transportation, wildfire protection policies, and health and human services. The core of RCRC’s mission is to improve the ability of small, rural California county government to provide services by reducing the burden of state and federal mandates, and promoting a greater understanding among policy makers about the unique challenges that face California's small population counties.

The Northeastern California Connect Consortium and Upstate California Connect Consortium (NECCC & UCCC) work on improving broadband availability and performance in the rural Northern California region and accomplish this goal through supporting broadband infrastructure expansion and project proposals, developing strategic partnerships, promoting information sharing, assessing current broadband service performance, and supporting development and

implementation of local policies and broadband plans. The NECCC & UCCC consist of counties, cities, non-governmental organizations, anchor institutions and ISPs, among other local public and private partners, and serve ten rural counties: Butte, Colusa, Glenn, Lake, Lassen, Modoc, Shasta, Siskiyou, Plumas, and Tehama.

We are grateful to have an opportunity to offer these comments to the Proposed Changes for CASF Infrastructure Grant Account as part of the open Commission rulemaking proceeding on changes required by the passage of Assembly Bill 1665 (Chapter 851, Statutes of 2017):

1. Eligibility and Challenge Process

Given the potential overstatement of ubiquitous availability within census blocks, should a census block only be CASF-eligible if the subscription rate within that census block is less than 51% of all households?

The rural commenters agree that a 51% subscription rate to determine CASF eligibility seems an appropriate threshold, however we believe the incumbent service provider needs to provide verification to the CPUC that service is available throughout the census block and not in a concentrated area of the block. We believe the use of census blocks in many areas overstates broadband availability in many regions of the state, primarily in rural areas where census blocks can be significantly larger than they tend to be in urban or suburban areas. Additionally, we believe that the subscription rate should count *only wireline* service, as wireless service is often of significantly lower speed, quality, and reliability – particularly in rural areas.

We have many examples where households within served census blocks do not have access to service due to geographic challenges. Our hope is that some of those households will be able to take advantage of the line extension program.

We also support the CPUC initiative of incorporating broadband subscription rate (adoption) to identify unserved areas in order to determine CASF infrastructure eligible areas.

A survey method could also be used to determine if adoption rates are lower in a census block due to 1) no service to these households, 2) households cannot afford current internet service rates, or 3) households not interested in purchasing the service. The first reason addresses the issue of identifying unserved areas for potential CASF projects, and the second reason also addresses an important issue for the commission, which is improving broadband adoption.

In order to test potential new CASF eligible areas based on reported broadband availability and now incorporating subscription rates, we recommend generating an initial version of these new broadband coverage maps and distribute to all stakeholders for feedback. Broadband consortia and local governments would be able to help gathering input from households, especially in rural areas, on updated unserved areas.

What should the CASF challenge process look like? Which trigger(s) should be used to start the challenge process for a CASF application? Which trigger(s) should be used to end the challenge process for a CASF application?

Rural commenters believe the challenge process should be the same for everyone. We support only allowing a 21-day proposed challenge window timeline—without exception. Applications are lengthy and costly and we have seen incumbent providers submit challenges just weeks before CPUC consideration, sometimes on the promise of additional deployment and not on actual service.

We further believe local government should have more input in challenges and should be included in the CASF staff's efforts to validate the service level of the challenger. Challengers should be required to provide a notice of challenge, similar to the public notice of application, to the consortia at the time of filing a challenge. The challenge process, just as the application

process, should incorporate an element of government or community support endorsement or letters-of-support. A challenger should be required to reach out to local governments and the community to inform that a potential CASF project area is actually already being served, if they are making that representation to the CPUC.

This will be a good opportunity to clarify any misperception of their coverage; especially in rural areas. Many rural communities have expressed their concerns to broadband consortia that service availability is overstated. However, in some cases, household residents made initial internet service inquiries in the past and providers have expanded their service. By creating a challenge process that incorporates local government, CPUC would be creating a win-win situation; in one hand, if a CASF project application is funded, then broadband service will expand into an unserved area, and on the other hand, if a CASF project application is challenged, then the challenger will be able to clarify to the community any misperception of an area being unserved. Broadband service reliability should be considered in the challenge process. In March, in the CPUC public forum held by the commission in the City of Oroville, several residents and local institution representatives expressed complaints about broadband service that was unreliable or presented outages under mild weather conditions, such as fog (mist) and light rain during Fall and Winter seasons. Rural commenters acknowledge that strong or severe weather conditions might in some cases impact performance of broadband service and produce temporary disruptions (for either wireline or wireless), however, just fog and light rain disrupting broadband network performance strongly indicate lack of maintenance, an aging network infrastructure or actual lack of adequate service.. Then in the cases of census blocks presenting unreliable service, these census blocks should be considered unserved and become CASF eligible areas.

Following the issue above, we recommend that the commission include reliability and quality of the service items in the public feedback gathering. We commend the commission efforts to make available different avenues for public feedback regarding broadband service availability including 1) downloading and running CalSPEED, 2) filling the online survey in the California Interactive Broadband Map website, and 3) filling and mailing the public feedback form to the commission. Adding the reliability and quality of service items in the public feedback for validation of broadband service coverage will ensure availability of service in a consistent manner.

Should the Commission create a single definitive list of CASF-eligible census blocks and a pre-application eligibility-map challenge process, as AT&T proposes? (See Opening Comments of AT&T on Phase II Staff Proposal, filed April 16, 2018, pp. 9-11).

We do not agree with a single definitive list of CASF eligible area (as AT&T proposes). If the CPUC is going to consider census block subscription rates (broadband adoption) as a CASF eligibility criteria, then a list would be difficult to create, and could not remain static over time. This would also disadvantage potential applicants with limited resources, as they would be obliged to simultaneously review – and potentially challenge – the eligibility determination for each and every area for which they *might consider* applying in the future.

We also have concerns that the list would contain a scattered pattern of census blocks that would be unserved islands surrounded by served areas. If existing providers have a patchwork of areas they have not been willing to serve then we feel that third party providers should be invited to create viable projects that may contain overlap. Projects may therefore need to pass through census blocks that are served in order to create a viable deployment. In that case, the CPUC's practice of providing funding for the project, but denying the applicant the ability to use that

funding to provide service in any served census blocks through which the project may pass, continues to make sense.

1.b What should the challenger have to prove (household subscription rate and broadband service speed) during the challenge process?

Challenges should be based on proof of subscription rate of service at the time the application was filed. They should include only census blocks that have more than 51% subscription rates, with those subscriptions fairly dispersed through the census block. Any census blocks with subscription rates under 51% should not be considered served. Challengers should also be required to demonstrate the reliability of the service provided in each census block throughout the spectrum of weather and other conditions prevalent in the area.

What information should be required of the challengers to an application, other than what is currently proposed in the Staff Proposal? What information should be required of challengers to determine eligibility as indicated on the California Interactive Broadband Availability Map (as proposed by AT&T)? Could such a pre-application eligibility map challenge partially or entirely replace the post-application challenge? If yes, explain. Is the 21-day staff proposed challenge window timeline and challenge criteria also sufficient for the eligibility-map challenge process?

In the challenge process, the challenger should provide subscriber rate at census block level and broadband speeds measured using CalSPEED at different times during the day in order to ensure consistency of service and speeds. Additionally, the CalSPEED measurements should be taken in a representative sample within census blocks; especially in large census blocks in rural areas.

Should the challenges vary by technology? (e.g., should the burden of proof for a fixed wireless Internet service provider submitting a challenge be different than that of a wireline provider?) Why or why not?

We believe the challenge process should NOT vary by technology. Note, however, that we do not believe that the availability of wireless service should provide a viable basis for challenge.

2. Prioritizing Projects and Areas to Support

2.a Which census blocks, census tracts or communities should be prioritized by the Commission? Two examples of previous approaches to prioritization include: Resolution T-17443 (approved by Commission 6/26/14) and the High Impact Analysis developed by Staff and included in the Supporting Materials for the May 25, 2017 CD Staff Workshop on CASF Reform. Should the Commission use methods similar to this going forward?

Prioritization criteria should give a higher weight to low income rural areas, as these have been disadvantaged areas in the Digital Divide for several decades and historically the telecom market has not been able to serve them. Academic research and industry reports conducted in the United States and abroad indicate that broadband services have the capability to extend the reach of and make available services to rural areas in the fields of education, healthcare, economic and workforce development, and emergency services, among others. As a result, rural communities having access to these services will be better positioned to improve their local economies and ensure that coming generations will have access to the same opportunities, services and information as their peers in urban areas.

Additionally, prioritization should also include vulnerable geographic areas which have been recently, or in recent years, impacted by disaster or emergency events, for example, wildfires affecting both urban and rural areas across California resulting in tragic losses of lives and devastation of property. These vulnerable areas should become CASF eligible areas for projects which include last-mile and resilient and redundant middle-mile infrastructure which can ensure availability of emergency communication services during disaster events, and also enable fast recovery of these services after the event. Many broadband consortia have diligently gathered

data and information on the status of broadband services after disaster events and finding showed that broadband infrastructure and services performed poorly regarding resiliency, redundancy, and recovery of communication services. As a result these broadband consortia requested these areas to be open for CASF infrastructure funding. We support that request.

2.b Do parties have additional communities to suggest as priorities? If so, please follow instructions for submitting those priorities in Appendix A.

Please find list of proposed priority unserved communities in attached files. On the Redwood Coast our priority areas currently have CASF grants that are still in the permitting phase. Our other priority communities are CAFII areas which we sincerely hope the incumbents who convinced the legislature to remove from eligibility will deploy service quickly.

2.c In order to ensure that priority projects get developed and funded, how should the Commission treat these areas identified as priorities?

i. Should these priority areas be eligible for expedited review?

Priority areas proposed by stakeholders should be eligible for expedited review.

ii. Should these priority areas receive higher funding levels or percentages, perhaps under the argument that they contribute significantly to the program goal, one of the rationale for additional funding in statute?

Priority areas or communities should receive higher funding levels as they will contribute significantly to the program goal.

3) Providing Access to Broadband Service to Areas Adjacent to CAF II Areas

The number of eligible CAF II locations exceeds the number of required locations to which CAF II providers must offer service. Many census blocks may have more households than CAF II eligible locations, meaning that some households will not benefit. How can the Commission incentivize CAF II providers to build beyond their commitments to the Federal Communications Commission? In order to incentivize CAF II providers to deploy throughout the community and in areas adjacent to CAF II areas, should the Commission:

b. Should there be a separate process or set-aside of funding for these supplemental builds?

No, there should be no separate process or set aside, as that unduly advantages incumbent providers at the expense of the applicants.

c. Should supplemental grants be tied to the release of CAF II plans? Should areas where CAF II providers do not commit to build out be reclassified as eligible?

Areas where CAF II providers do not commit to build out should be reclassified as eligible?

4) Reimbursement Process

Should the CASF reimbursement process change? AT&T has proposed that grantees receive funding on a monthly basis, instead of being reimbursed after submitting invoices.

The CPUC should develop a process under which grantees with limited resources, who are not incumbent providers, can access funding earlier in project development.

5) Middle-Mile Infrastructure

How should the Commission verify that a middle-mile build included in a proposed project is “indispensable” to that project, as required by statute? Should Commission Staff rely on the middle-mile location information providers submitted as ordered in D.16-12-025? If middle-mile infrastructure already exists near the proposed project area, under what circumstances may an applicant build its own middle-mile infrastructure? If middle-mile infrastructure already exists near the proposed project area, should there be a limit on how much infrastructure may be built? (e.g., 10 miles, 5 miles, etc.) For purposes of grant funding, is leasing or purchasing middle-mile facilities for terms beyond five years (e.g., IRU for 20 years) allowable or even preferred over building new infrastructure? Alternatively, is a challenge to the project application sufficient to prove it is not indispensable, or a lack of a challenge sufficient to prove that it is?

Specifically, these standards should clarify that new middle-mile infrastructure is “indispensable” when existing infrastructure is either unavailable due to the owner’s refusal to provide legally binding access commitments, or is unaffordable as determined in accordance with objective standards. There are few regulatory or market incentives for middle-mile infrastructure owners to allow other providers of last-mile serves to access their infrastructure,

and CASF eligibility criteria must therefore recognize that new middle-mile infrastructure is often indispensable as a practical matter, even though existing infrastructure is in place.

In case of a challenge of a CASF project which includes middle-mile deployment, the challenger should provide documentation that it offered a proposed contract (i.e., for 10 or 20 years) that provided reasonable availability, access and affordability conditions to the applicant. These proposed contracts should be bonding in nature and cannot change if the applicant receives an CASF grant. If the challenger is an incumbent, they should further be required to demonstrate that the challenger provided the applicant with timely and accurate information regarding the costs of using their middle mile infrastructure, upon request prior to submission of the application.

6) Line Extension Items

d. Should a service provider be able to apply for line extension connection cost remuneration on behalf of the property owner requesting such line extension service connection?

We agree that both an individual property owners or a provider on behalf of a property owners should be allowed to apply for line extension service connections. Providers are well positioned to help property owners to navigate through the application process. The regional broadband consortia can also support them in the process, for example by contacting property owners with providers and assess the potential line extension connection. Additionally, broadband consortia should help to connect property owners with providers available in the area which would be willing to connect such location.