

**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 CONIFER COMMUNICATIONS ON THE ELIGIBILITY FOR AND
PRIORITIZATION OF BROADBAND INFRASTRUCTURE FUNDS FROM THE
CALIFORNIA ADVANCED SERVICES FUND**

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Pursuant to the schedule set forth in Rulemaking 12-10-012, issued Sept 5, 2018, Conifer Communications hereby provides its Comments on the eligibility for and Prioritization of Broadband Infrastructure Funds from the Advanced Services, pursuant to Assembly Bill (AB) 1665. Judges Request for Additional Questions from the Rulemaking Order attached as Appendix A. (“Appendix A”).

Introduction

In AB 1665 the California Legislature authorized the California Public Utility Commission to grant \$300 million to internet service providers and other organizations to reach unserved broadband households in the goal of achieving Internet for All in California. As laid out by Commissioner Guzman Aceves and the CPUC staff, the rulemaking process set under 1665 allows for modifications to the California Advanced Services Fund to increase clarity and procedural development in the evaluation of applications and challenges. Additional questions have been asked by the Commission regarding infrastructure, scoring criteria, as a rural Wireless Service Provider, Conifer Communications offers a distinct boots-on-the-ground perspective on some of these additional questions for the rulemaking considerations by the commission.

CASF Project Application Funding Eligibility

If the CPUC is considering altering the percentage of matching funds, Conifer Communications, believes the funds should be evaluated according to a similar process as conducted by the FCC through the Connect America Fund. If the majority of households are stated as high priority, matching funds of a certain percentage (ex. 75-100%) should be given there. All other funds should be set at a standard match rate (ex. 60%). This ratio should be evaluated according to an

equation where by the \$300 million dollar fund is divided by the households it is to serve and the associated weights. This should set a basic value per home available to be served and may aid the providers in cost evaluation of the projects they propose.

In order for the CPUC to implement the funding level for a CASF infrastructure application pursuant to Pub. Util. Code Sec. 281(f)(13) the following factors should be considered.

- 1) A significant contribution in a mathematical sense is a direct contribution that is not simply due to chance. With this definition any planned household served would justify this requirement. However, if the intent is for the project to make a major stride to reducing the digital divide in the state, Conifer Communications believes that a threshold of 1% of the remain households unserved should be the set point.
- 2) In areas that are unserved with internet, the cost of living and transportation is high because the area is either a low-income community or a rural and remote community. Therefore, by the area being in an unserved area it has been identified as an area of need and no further factors should be included in the funding determination.
- 3) Unconnected public safety infrastructure issues are being addressed through the nationwide FirstNet program and so Unconnected public safety infrastructure in general should not be considered by CASF. However, anchor institutions such as

libraries, fair grounds, and schools should all be counted as locations of value and counted the same as a household.

Affordable Broadband Service Plans

The CASF Program should not require CASF grantees to offer affordable broadband service plan(s) to receive CASF funding, however they should be required to participate in the established High-Cost Fund Program and the California LifeLine Programs. The monthly subscription rate a company will received for their services imparted is factored into project plans. Therefore, by requiring a low set service plan, the difference will be made up by an increase in the project plan fund request. This will deplete the CASF at a faster rate and reduce the number of projects, and ultimately households, that can be funded.

Scoring Criteria

The Commission should not eliminate the Scoring Criteria used in the program and but evaluate the progress of the projects with minimum performance requirements and timeline thresholds. These requirements would include:

- The ability to serve all households in the proposed project area;
- Speeds of at least 10mbps downstream and 1mbps upstream;
- Latency of 100ms or less;
- Data caps, where used, exceed 250 GBs per month;

- Timely completion of the project:
 - Project plans should be fully completed and funded within 90 days of award;
 - If the project receives a categorical exemption under CEQA, it should be completed in 12 months or less;
 - Projects requiring additional CEQA/NEPA review to be completed within two years of the approval of those reviews.

Limiting a CASF grantee's Administrative Expenses

The Commission should limit the reimbursements of service providers' claimed administrative expenses in CASF Programs just as they do in in programs funded by California's universal service fund programs. Administrative expenses should be defined with the same verbiage as California's universal service fund programs.

Treatment of CAF and Satellite Broadband Service Providers

- 1) Pub. Util. Code Sec. 281(f)(13) and 281 (f)(5)(C)(i) prohibits spending and CASF funding in census block with Connect America Fund accepted locations, except, as noted in 281 (f)(5) (C)(ii), when the provider receiving Connect America Fund support applies to build beyond its CAF accepted locations. Therefore the Commission should assume the CAF locations are households, and only fund the remaining households within that block.

2) The Commission should revise CASF rules to include satellite service in the definition of a served area as long as the speed requirements for service are met. As the CASF program is to be technology neutral, this correction to the evaluated served areas and mapping project will carry through that fundamental tenement. Additionally, the Commission should treat satellite providers as an "existing facility-based provider", due to the form of transmission technology and the technology neutral tenement of the CASF program.

Additional Information Requirements

In addition to current requirements, the Commission should require service providers to include more information in the Project Summary of the application.

- Identify main major infrastructure:
 - Miles of planned fiber;
 - Central Offices and nodes used;
 - Number of remote terminals/fiber huts/wireless towers to be built;
 - An infrastructure mapping plan with terrain evaluation:
 - Estimated breakdown of aerial and underground installation for fiber and if the poles or conduits are already in place;
 - Wireless propagation maps.
- Identification of equipment expenses;
- Estimated construction timeline;
- Estimated service roll out timeline.

Conclusion

With the rulemaking provided by AB 1665 and the additional comments requested by the administrative law judge, the CPUC has the ability to set the guides for the CASF to reach its goals by being aware and open to the diverse types of technology that can best suit the needs of our diverse state and acknowledge the coverage each type of technology provides. For providers to give additional information in their applications and for scoring criteria to evaluate the project according to the timeline of build out, more households can be served and the digital divide can be reduced.

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Respectfully submitted,

_____/s/_____
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APPENDIX A

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

Questions for Comment

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

1) *How should the Commission determine whether a CASF project application should be eligible for 100 percent funding?*

a. How should the CPUC implement the funding level for a CASF infrastructure application pursuant to Pub. Util. Code Sec. 281(f)(13)?

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

2) *Should the Commission require CASF grantees to offer affordable broadband service plans as a condition of receiving CASF funding?*

a. Should the CASF Program require CASF grantees to offer affordable broadband service plan(s) to receive CASF funding? If so describe the justification. For example, a provider

offering a national, affordable low- income plan would meet this requirement so long as the plan is available to customers in the CASF grant area.

2. Should the Commission incentivize applicants to provide affordable plans though the funding determination required in Pub. Util. Code Sec. 281(f)(13)?
3. What is an affordable monthly price? What other factors should the Commission consider?
4. How should applications in low-income areas be eligible for 100% funding? For example, should the “Maximum Funding Level: 100%” table below be modified.

3) *Should the Commission eliminate the current scoring criteria and replace it with a different evaluation process focused on eligibility, minimum performance standards and funding level determinations?*

a. Should the Commission eliminate the Scoring Criteria used in the program and included in the Staff Proposal and replace it with minimum performance requirements. These requirements would include:

- A commitment to serve all households in the proposed project area;
- Speeds of at least 10 mbps downstream and 1 mbps upstream;
- Latency of 100 ms or less;
- If the project receives a categorical exemption under CEQA, it would be completed in 12 months or less and projects requiring additional CEQA/NEPA review must be completed within two years of the approval of those reviews;
- Data caps, where used, exceed 190 GBs per month; and
- The applicant offers an affordably priced plan (See Question 2).

b. Staff proposes to revise its previous Ministerial Review proposal so that the process for reviewing applications, including funding level determinations, is done in the manner outlined in the table below.

Maximum Funding Level: 100%	
Baseline for Eligible Project: 60% of total construction costs	
Presence of Dial-up Only: + 40%	
Low Income: Up to + 40%	
<ul style="list-style-type: none"> • Median Household Income for community in application is less than \$49,200. • Applicant offers an affordable entry-level product to low-income customers. 	
PU Code Sec 281 (f)(13) Requirement: + 10% per criterion, up to + 20%	
<ul style="list-style-type: none"> • Inaccessible Location • Uses Existing Infrastructure • Makes a Significant Contribution to the Program 	
Ministerial Process	Resolution Process

Maximum Cost/HH <ul style="list-style-type: none"> • \$4,000 - 8,000 for wireline • \$1,500 for fixed wireless 	Does not meet all criteria under Ministerial Process
Maximum Grant Amount: \$5,000,000	Amounts, up to 100%, by commission determination
Must be CEQA-exempt, or approval letter must state that authorization to construct and release funds will be provided in a forthcoming resolution.	

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

a. The Commission limits the reimbursements of service providers' claimed administrative expenses funded by California's universal service fund programs, including the High-Cost Fund Program and the California Life Line Program. Should the CASF Program also limit the reimbursement of administrative expenses claimed by CASF grantees?

1. How should the CASF Program define an administrative expense?
2. Should the reimbursement of administrative expenses claimed by CASF grantees be limited to 15% of the CASF-funded project?

5) *How should the Commission treat CAF providers seeking CASF funds? How should the Commission treat satellite broadband service?*

a. Pub. Util. Code Sec. 281(f)(13) and 281 (f)(5)(C)(i) prohibits spending and CASF funding in census block with Connect America Fund accepted locations, except, as noted in 281 (f)(5) (C)(ii), when the provider receiving Connect America Fund support applies to build beyond its CAF accepted locations. How should the Commission require applicants submitting applications under these circumstances separate CASF and CAF financing?

1. For example, if a census bloc in an application contains ten households and three CAF accepted locations, should the Commission assume the CAF locations are households, and only fund the seven remaining households?

b. How should the Commission treat satellite providers receiving CAF support?

1. Is a satellite provider an "existing facility-based provider," as that term is used in Pub. Util. Code Sec. 281 (f)(5)(C)(ii)? (Note this is particularly important because the FCC recently awarded CAF funding to a satellite provider.)

2. If a satellite provider is an existing facility-based provider, should the Commission revise CASF rules to include satellite service in the definition of a served area? (Note that currently, an area served by satellite is considered served only if that service was provided through a CASF grant.)

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

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

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