

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

SONJA HARRIS  
DIRECTOR OF COMPANY DEVELOPMENT  
CONIFER COMMUNICATIONS  
SONORA, CA 95370  
SONJA@CONIFERCOM.NET

August 7, 2018

## **TABLE OF CONTENTS**

INTRODUCTION	3
ELIGIBILITY AND CHALLENGE PROCESS	3
PRIORITING PROJECTS AND AREAS TO SUPPORT	5
PROVIDING ACCESS TO BROADBAND SERVICE TO AREAS ADJACENT TO CAF II AREAS	6
REIMBURSEMENT PROCESS	7
MIDDLE-MILE INFRASTRUCTURE	7
LINE EXTENSION ITEMS	8
CONCLUSION	9
APPENDIX A	10

Pursuant to the schedule set forth in Rulemaking 12-10-012, issued July 11, 2018, Conifer Communications hereby provides its Comments on the Order Instituting Rulemaking to Consider Modifications to the California Advanced Service Fund, pursuant to Assembly Bill (AB) 1665. 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. As a rural Wireless Service Provider, Conifer Communications offers a distinct boots-on-the-ground perspective in the following main topics of rulemaking considerations by the commission.

## **ELIGIBILITY AND CHALLENGE PROCESS**

Currently, ineligible census blocks are largely determined by a service provider’s claim of serving households within such census blocks and subscription data from providers within these census blocks. It is understood by all stakeholders that if one household in a census block is covered it does not mean that all of the homes within that block are also covered, though the block is ineligible for CASF funds. Ideally, the CPUC would be able to record covered households on an address level basis but with the variety of technologies used to provide broadband to homes, especially considering the ever advancing coverage of wireless broadband,

this solution is cost prohibitive to providers and not inclusive in the ruling by the state legislators. Thus, the CPUC staff has proposed that subscription rates within a census block be used to determine coverage within that census block. While we understand the inclination to use readily available data to set these standards, this process draws an unverified conclusion as the basis of the new proposed rule: that if broadband is available everyone will subscribe to it, and thus if people are not subscribing, it is due to a lack of coverage. This is too reductive of a conclusion. Many customers in rural areas are under contract for old or outdated internet services such as dialup. In this case a customer may not be subscribing to internet coverage in that area at the necessary stated speeds because they still have a year or more on their current contract. Others choose not to own a computer or have no desire for internet service at their home. This is not to state that the majority of the rural area is in such a position, but using subscription data as a key element in the evaluation of available broadband coverage is a poor substitute for proper data or for an true investigation into the causes for a lack of broadband subscription in a specific area. Conifer Communications asks that subscription data not be used to determine available internet coverage of census blocks. Conifer Communications also asks that a proper Adoption Survey be done so that this necessary information is gathered for the knowledge of the CPUC and additional funds within its care.

If, against our recommendations, subscription data is used to determine the eligibility of a census block, we ask the CPUC to consider the follow conditions:

- That subscription data be used for all technology types collectively, including homes historically served.

- If adequate service level is available, but the subscriber has chosen a slower speed package than 6x1, their household should still be counted as covered.
- That providers who have increased their coverage to a new census block be allowed one (1) year to gain the necessary subscription coverage.
- That the First Right of Refusal ruling be applicable to covered but not fully subscribed census blocks for a provider, thus allowing an additional six (6) months to notify households to the available services.

In challenges, the incumbent is currently being asked to prove coverage of the census blocks. This should only change in accordance with the eligibility of census block requirements.

Given the goal of the CASF to be technology neutral, but the understanding that fixed wireless requires a line-of-sight for service, we suggest a variation on the challenge process.

- If both the incumbent and the application use fixed wireless to serve a census block:
  - Tower propagation maps should be considered as evidence of coverage.
  - As there are only so many high points, tower locations, and available spectrum, this will prevent the unnecessary duplication of services at the same geographic points, and will not create unbalanced competition through public funds.

### **PRIORITING PROJECTS AND AREAS TO SUPPORT**

If the CPUC, CASF Consortiums, and stakeholders have taken the time and expense of identifying priority areas, then these actions should serve a purpose.

This purpose should be declared as valued in one of the following ways:

- Information and identification for service providers to increase coverage.
- A “fast track” of consideration for CASF funds if the budget is diminishing.
- High-cost census blocks, that will receive increased matched funds from the CASF.

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 x number 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.

Conifer Communications believes that middle-mile infrastructure should be included in the prioritized areas of support, as middle-mile infrastructure is often a critical element to increasing the opportunity to serve hard to reach, rural communities that have been deemed priority areas in the past. The CPUC is in the best position to have updated information about the available middle-mile facilities, and thus has the best information to identify this lacking infrastructure within the state.

### **PROVIDING ACCESS TO BROADBAND SERVICE TO AREAS ADJACENT TO CAF II AREAS**

Conifer Communications believes that no CASF supplemental grants are needed to expand CAF-II, round 1 related projects. The FCC has allowed CAF-II, round 1 providers a great amount of control to determine what areas of their selected CAF-II, round 1 they will choose to build in. It

only behooves the CAF-II, round 1 providers to inform the CPUC on areas in which they are build. However, once a provider declares that they will not be building in a region, the unserved census blocks within it should be reclassified as eligible for CASF.

### **REIMBURSEMENT PROCESS**

Conifer Communications suggests no alternation to the reimbursement process in order to be in compliance with the State Administrative Manual.

### **MIDDLE-MILE INFRASTRUCTURE**

Middle-Mile infrastructure is critical to the development of any last mile project. It is in the interest of the applicate to exhaust all options that may be available to connect to a middle-mile already in place before resorting to the inclusion of a middle-mile element within their proposal. A middle-mile build is highly costly and labor intensive. There is no benefit to an applicant to build its own middle-mile infrastructure if a partner can be found. Thus, staff should acknowledge that middle-mile infrastructure included within a proposal is indispensable to the project.

Staff should also rely on the middle-mile location information providers submitted as ordered in D.16-12-025 to compare against proposed projects. If a middle-mile infrastructure already exists near the proposed project area, it should be the duty of the applicate to prove that they have done everything within their power to work with the owners of the existing middle-mile infrastructure. Alternatively, a challenge to the project application is not sufficient to prove that the proposed middle-mile project is not indispensable. With a challenge, it should be up to the

challenger, to prove that their communication with the applicant, the applicant did not try to use the available infrastructure or work with the challenger.

### **LINE EXTENSION ITEMS**

Line extension items should be technology neutral. Thus, Conifer Communications proposes a maximum price limit per household for both wireline and wireless extensions. We propose a \$500 limit per household, independent upon an aerial line extension, underground drop, wireless bounce, or solar wireless bounce. This will allow for a diversity of solutions given the topography of the households in need of the line extension. If multiple households are being served from the line extension, this setup will allow for greater funds to be available to the collective, including any county or city permitting costs.

A homeowner should be able to apply for a line extension connection cost remuneration in multiple ways. This includes:

- Directly through the CPUC.
- Through the service provider on behalf of the home owner.
- Through an organization, such as a homeowners association, where by one individual may work with the CPUC on behalf of multiple homeowners.
- Through their local CASF consortium.

Once line extensions are approved, the California Broadband Map should reflect them directly.



## CONCLUSION

With the rulemaking provided by AB 1665, 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. By acknowledging the critical elements of the infrastructure, the appropriate application of technology, and challenges of the local topography, ecology, and demographics, providers are working hard to serve as many customers as possible. Those of us who have dedicated ourselves to serving high speed broadband to our family and friends in the remote rural areas of our wonderful state want to work with the CPUC to connect all homes in our area to the internet. We know it is critical for the health and vitality of our community. We ask that as incumbent providers, we are given the benefit of the doubt that we are working to meet the needs of our customers. We ask as applicates, that we are given the ability to prove that we can reach the hard to serve, high-cost priority communities. As taxpayers, we ask that the CPUC be good stewards of our funds and see that it serves the needs of those that require the most assistance and as serves and many unserved Californians many as possible.

Date: August 7, 2018

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Sonja Harris  
Director of Company Development  
Conifer Communications  
Sonora, CA 95370  
866-378-8393, ext 301  
Sonja@ConiferCom.net

## APPENDIX A

### Questions for Comment from the Commission on the Order Instituting Rulemaking to Consider Modifications to the California Advanced Service Fund, pursuant to Assembly Bill (AB) 1665

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

#### (1) Eligibility and Challenge Process

- Currently, ineligible census blocks are largely determined by a service provider's claim(s) of serving households within such census blocks and information indicating subscriptions within these census blocks. However, not all households within such census blocks may have broadband internet access service (broadband service) available to them. 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? We propose that a census block is considered served, if a majority of households in that block subscribe to wireline or fixed wireless Internet service. 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? 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).
- What should the challenger have to prove (household subscription rate and broadband service speed) during the challenge process? 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? 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?

#### (2) Prioritizing Projects and Areas to Support

- 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.<sup>5</sup> Should the Commission use methods similar to this going forward?

- Do parties have additional communities to suggest as priorities? If so, please follow instructions for submitting those priorities in Appendix A.
  - In order to ensure that priority projects get developed and funded, how should the Commission treat these areas identified as priorities?
  - Should these priority areas be eligible for expedited review?
  - 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?
- (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:

- Provide an expedited review process to approve supplemental grants to expand CAF II-related projects?
- Should there be a separate process or set-aside of funding for these supplemental builds?
- 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?
- How should the interests of the CAF II providers to choose which CAF II areas they build out to with federal funding while also requiring them to complete other projects in the state) be balanced with competitor interest in bidding to build out in those same communities?

(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.

- Is it possible to use a new process and still be in compliance with the State Administrative Manual?
- Are there other state programs the Commission could use as an example? Additionally, given current Staff resources, would payments every two months be acceptable?

(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?

(6) Line Extension Items

- What are the components of a wireline technology line extension connection that should be remunerated by the program? About how much on average do line extensions cost per foot?
- Is the \$1,000 limit per aerial line extension and the \$3,000 limit per underground drop proposed by Race Telecommunications Inc., sufficient to address properties far away from distribution facilities? (See Comments of Race Telecommunications on Phase II Issues, filed April 16, 2018, at 10.) Alternatively, should the Commission allow remuneration for line extensions costs incurred to serve properties several thousand feet away from distribution facilities? What should be the limit? Should there simply be a maximum length of line extension, for example the 750 feet maximum proposed by North Bay North Coast Broadband Consortium? (See Comments of the North Bay North Coast Broadband Consortium on Commissioner's Amended Scoping Memo and Ruling Phase II, filed April 16, 2018, at 16-19.)
- What are the components of a fixed-wireless line extension connection that should be remunerated by the program? And how much on average do fixed wireless extensions cost? Is the \$300 limit per wireless extension connection proposed by Race Telecommunications Inc., sufficient?
- 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?