

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

Order Instituting Rulemaking to Consider)
Modifications to the California Advanced)
Services Fund)
_____)

Investigation R.12-10-012
(filed October 25, 2012)

**REPLY COMMENTS OF CITIZENS TELECOMMUNICATIONS COMPANY OF
CALIFORNIA INC. (U-1024-C), FRONTIER COMMUNICATIONS OF THE
SOUTHWEST INC. (U-1026-C), AND FRONTIER CALIFORNIA INC. (U-1002-C)
ON PHASE II STAFF PROPOSAL APPENDIX C OF THE RULEMAKING TO
CONSIDER MODIFICATIONS TO CALIFORNIA ADVANCED SERVICES FUND**

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Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California (U-1024-C), Frontier Communications of the Southwest Inc. (U-1026-C), and Frontier California Inc. (U-1002-C) (collectively “Frontier”), pursuant to Rule 6.2 of the Commission’s Rules of Practice and Procedure, hereby submits to the California Public Utilities Commission (“CPUC”) Reply Comments on the Phase II Staff Proposal (“Proposal”) for California Advanced Services Fund (“CASF”) infrastructure grants in Appendix C to the “Amended Scoping Memo and Ruling” dated February 14, 2018.

I. Parties Support a Proactive Approach with Urgency and Simplicity to Make Immediate Progress Toward Achieving the 98% Goal.

The Opening Comments reflect the following major themes that together make a strong case for the CPUC to take immediate action to incentivize an initial round of broadband infrastructure applications in 2018:

- Urgency to not miss the limited window of opportunity to leverage federal Connect America Fund investment and make some immediate real progress toward achieving the 98% goal.

- Simplicity in application requirements and review process rather than new complex and untested processes that are not fully developed and will create delay to implement.

- Certainty in eligibility status of a potential project area in order to avoid expense and delay of challenges, speed tests, and ambiguity, especially regarding whether mobile wireless service will be counted in determining if a project area is already “served.”
- Cost-effectiveness as an essential feature of projects that warrant preferential or expeditious review, with emphasis on low-cost projects rather a bright-line cost-per-household standard from the past that is not technology-neutral and has other flaws.

Parties point out many reasons why the Proposal does not adequately address these key concerns or otherwise hold real potential for improving the program’s effectiveness. The proposed ministerial and RFP options will not be implemented until well into 2019, too late to align with CAF II deployment;¹ are both complex and will create delay to implement;² are unduly narrow in excluding worthy projects in unserved areas that are not low-income;³ raise unlawful delegation and due process issues;⁴ and rely on flawed cost-per-household numbers that favor one technology over others,⁵ among other problems. Moreover, as TURN points out, the Proposal overall has a lack of clarity and other flaws with regard to award of preferences, ranking and scoring of applications.⁶

Alternative proposals include TURN’s idea to introduce a new “community-centric model” and cost-per-household models developed in workshops.⁷ CETF proposes more stakeholder meetings and an inventory of assets by the Consortia.⁸ Respectfully, Frontier asserts that these are mostly “more of the same” approaches – more workshops, more meetings, more models -- with great likelihood of delay and little potential to break the logjam and incentivize more providers to step up to apply for grants to deploy infrastructure in the most high-cost remaining

¹ CETF Comments at pages 11 and 12; Race Comments at page 8.

² ORA Comments at pages 11 and 12; CETF Comments at page 8.

³ TURN Comments at page 8; North Bay North Coast Broadband Consortium (“NBNCBC”) Comments at page 12.

⁴ California Cable and Telecommunications Association (“CCTA”) CTA Comments at page 9.

⁵ ORA Comments at page 11; CCTA Comments at 10; Geolinks Comments at pages 4 to 9; CETF Comments at page 12.

⁶ TURN Comments at pages 9 and 10.

⁷ TURN Comments at page 5.

⁸ CETF Comments at pages 7, 8, and 11.

unserved areas. On the other hand, several parties correctly point out that what is really needed is more funding as authorized under the full funding provision of AB 1665.⁹

ATT makes a concrete proposal to address uncertainty of served status by proposing that the CPUC create a single definitive list of eligible census blocks in advance of an application window, thereby removing the expense and delay from California Interactive Broadband Availability Map (“Broadband Availability Map”) errors, challenges, speed tests and related matters.¹⁰ Frontier supports further discussion of this approach and the rationale for it, but it will take time to implement for future application windows.

Frontier also supports proposals that urge the CPUC to focus its review of grant applications on whether a project is cost-effective, low-cost, and contributes to the 98% by region goal,¹¹ which are factors referenced in AB 1665 and Public Utilities Code Section 281.

II. An Immediate Full Funding Opportunity Would Be a Significant Step to Implement AB 1665 and Make Progress toward Achieving the 98% Goal.

The objections in Opening Comments to the Proposal, and the themes summarized above, all lend support for the proposal in Frontier’s Opening Comments that the CPUC act immediately to implement the full funding provision of AB 1665. It would be ideal if the CPUC could first identify a list of potential project areas, as proposed by AT&T, that the staff has deemed eligible and therefore remove the challenge process. However, the process AT&T proposes also would take time.

Thus, given the urgency to incentivize applications, and incorporating additional focus from Opening Comments on low-cost, cost-effective projects that contribute to the 98% by region goal, Frontier suggests that the CPUC issue an interim ruling, or put out a public notice as soon as possible to announce the following:

- The CPUC is taking an interim step to implement AB 1665 by providing an immediate opportunity for full funding of broadband infrastructure projects.
- Starting July 1 through September 1, 2018 (or longer if extended by further notice), the CPUC will accept CASF broadband infrastructure applications that include a justification for full funding under Public Utilities Code Section 281(f)(13).

⁹ CCTA Comments at page 10; Race Comments at page 3; AT&T Comments at pages 25 and 26.

¹⁰ AT&T Comments at pages 4 and 9 to 11.

¹¹ CETF Comments at page 13; TURN Comments at pages 1 and 2; Geolinks Comments at page 4.

- The CPUC will prioritize project applications with any or all of the following attributes:
 - The proposed project is in a Consortia region currently below 98% deployment.
 - The proposed project is cost-effective and low-cost (perhaps a maximum full funding cost of \$5 million).
 - The proposed project area currently has no broadband service or only dial-up service (unserved households with no service, as defined on page 6 of Proposal).

For all the reasons stated in Frontier’s Opening Comments, this approach (or some reasonable variation) is strongly suggested in order to comply with legislative direction, take action that will immediately incentivize applications, and ensure that the adoption of new infrastructure grant rules will be informed by real applications and real projects rather than speculation and more lists, meetings and workshops.

III. Providers That Participate in the CASF Program Have a Lot of “Skin in the Game” Even Before Any Application is Filed or Grant Awarded.

ORA states that “awarding grants equal to 100% of project costs is unreasonable because the applicant will no longer provide its own good-faith contribution” and that requiring applicants to have a “financial stake in a project” is necessary to ensure that the expenditures of ratepayer funds are prudent, necessary, and cost effective.”¹²

Providers like Frontier that have obtained CASF grants since the inception of the program know firsthand the financial commitment it takes to participate in the CASF program. Very significant time and resources are expended even before an infrastructure grant application is filed. For every application filed, several more are reviewed, vetted, and discontinued because of discovery of errors in the Broadband Availability Map (especially considering the mobile wireless layer), shifting budget priorities, uncertainty with program rules or inconsistent application, or other variables that may make a project unviable.

Moreover, the service areas that remain eligible for CASF projects are mostly so remote, rural and sparsely populated that, even if a CASF grant includes full funding, the risk of ongoing

¹² ORA Comments at page 4.

high operating costs makes profitability uncertain. The sheer fact that remaining unserved areas have not generated CASF applications for the entire history of the program demonstrates the lack of a business case for even partial private investment. The CPUC has plenty of information in the record indicating that lack of full funding is a significant deterrent to participation in the program.

Further, ORA's proposal that a full funding grant should require the recipient to offer a low-cost broadband plan with specified terms should be rejected. Such a requirement would undermine the legislative intent of the full funding provision to make adequate funds available for infrastructure costs, not offset the extra funds with additional obligations. The LifeLine program and providers' affordable products for low-income customers, along with CASF Broadband Adoption grants, are available to address needs of low-income customers. Layering on more requirements to infrastructure grants will merely deter participation and prevent low-income project areas from getting infrastructure in the first place.

Finally, Frontier notes that other parties support the point Frontier made in opening comments that full funding should not be limited to only low-income census blocks. AB 1665 does not require or authorize that, and it would deter applicants from seeking grants for other high-cost projects. As stated by one Consortium, "There are many communities within the NBNCBC region that are not low income and yet in need of adequate broadband services."¹³

IV. CAF Providers' Ability to "Release" CAF II Census Blocks Prior to Statutory Deadline Will be Enhanced by Expedient CPUC Action on Pending Applications.

Several parties ask the CPUC to impose requirements on CAF II providers contrary to the plain language and legislative history of AB 1665. For example, parties ask the CPUC to require CAF II providers to immediately or very soon disclose the precise locations where broadband will be deployed to meet the December 31, 2020, CAF II deadline under FCC program requirements. However, AB 1665 specifically sets July 1, 2020, as the date by which any eligible unserved area of CAF II census blocks will be open to CASF applications from any provider, unless the CAF II provider notifies the CPUC prior to that date that it has completed CAF II deployment, or will not deploy, in any census block. Thus, the CPUC does not have authority to impose requirements inconsistent with this provision. Moreover, the FCC program gave CAF II

¹³ NBNCBC Comments at page 12.

providers a multi-year period to deploy because of the many variables that can impact deployment on a year-to-year basis.

Frontier does not at this time have every CAF II deployment location identified through 2020 but is working diligently to meet FCC requirements and follow the Legislature's and CPUC's direction to also seek opportunities to leverage federal and CASF funds. To this end, Frontier has already "released" some CAF II census blocks in Desert Shores after determining that it more aligned with legislative intent to apply for a CASF grant to deploy to an entire community.¹⁴ Frontier respectfully requests that the parties asking for faster release of CAF II census blocks join Frontier in urging the CPUC to act expeditiously on this Desert Shores application. This will help Frontier make decisions prior to July 1, 2020, on other CAF II census blocks with enough certainty to avoid jeopardizing compliance with FCC requirements and loss of federal broadband dollars for California.

Frontier also observes that the much repeated request to force CAF providers to disclose deployment plans prior to July 1, 2020, seems to assume a big line of other providers waiting eagerly to apply for CASF grants in unserved CAF II census blocks if only the big bad CAF II providers would stop blocking them out. Such an assumption simply does not hold up given the lack of providers filing applications for these areas in the many years of the CASF program. In fact, the CPUC ordered Frontier to participate in CAF II precisely because Verizon and other providers did not seek available federal and state funds to deploy broadband in unserved areas, while Frontier had a history of doing so. Thus, the assertions against CAF providers are just not credible. On the other hand, if any provider is eager to deploy infrastructure to an unserved portion of a CAF II census block, then by all means it should immediately contact the CAF provider and/or CASF staff to indicate that desire, which could well inform the deployment decisions for those census blocks.

V. Released CAF II Census Blocks Should Be Open to Applications under Rules that Balance Legislative Direction to Leverage Federal Funds.

As a CAF provider and long-time active participant in the CASF program, Frontier is working diligently and expending very significant time and resources to develop CASF applications that follow the Legislature's and CPUC's direction to leverage federal and state

¹⁴ Frontier Comments at pages 8 and 9.

funds. This has included hiring contractors to review opportunities under the Broadband Availability Map, doing ground testing to verify if the map correctly portrays an area as served, and coordinating with many stakeholders to generate cost-effective projects that serve the public interest. This activity is undertaken with good intent but – unfortunately -- without any certainty on how the CPUC will implement key provisions of AB 1665. At the same time, Frontier faces a narrow window of opportunity to align engineering and planning of potential CASF projects with CAF II builds.

These circumstances are what led Frontier to submit a notice of release of CAF II census blocks containing only 79 CAF II locations in Desert Shores the same day as submitting a CASF application to serve nearly 800 households in Desert Shores. This definitely was not “gamesmanship” as some assert, but a good faith attempt to get CPUC action on a key provision of AB 1665 that can help speed up release of other CAF II census blocks prior to July 1, 2020.¹⁵ In fact, for the record, when Frontier contacted CASF staff about this, Frontier proactively stated that a process for some public notice was needed but not in place, which Frontier also acknowledged in its Opening Comments.

Regarding what public notice should be provided, Frontier recommends that the CPUC balance the need to give everyone a chance to apply, but not cause undue delay contrary to the goal of leveraging CAF II and CASF funds. A 90-day window before accepting any application, as suggested by CETF and Race, seems way too long, especially for an area like Desert Shores where *no* application has *ever* been filed in the history of the CASF program. Rather, a tiered approach seems reasonable – (1) allow any application to be filed as soon as the public notice releasing the CAF II census block is posted; (2) allow any party 21 days after the public notice to file an intent to submit an application; and (3) for any party that filed an intent to apply within the 21 days, allow another 30 days to file a full application.¹⁶

VI. CAF Providers Already Report on Deployment in Compliance with FCC and CPUC Rules, Which Is Available to the Public.

¹⁵ While Frontier strongly disagrees with the assertion of “gamesmanship” by CETF, Race and Geolinks, Frontier appreciates CETF acknowledging that Frontier did not violate any rule and joining in Frontier’s effort urging the CPUC to act expeditiously to establish a rule (CETF Comments at page 10).

¹⁶ Even more extreme, Geolinks proposes a more extended mandatory waiting period – and even penalties – in connection with a CAF provider releasing CAF II census blocks in 2019 and 2020 (Geolinks Comments at page 7). This proposal is contrary to AB 1665 and the FCC rules applicable to CAF providers and should be rejected.

Several parties propose new requirements for CAF II providers to report on infrastructure already deployed with federal funds, claiming a lack of transparency. However, that information already is reported under FCC rules and is made public, as pointed out by Comments of AT&T and NBNCBC.¹⁷ Moreover, CAF II providers, like other providers, report Form 477 data and related information to the CPUC, which is integrated into the Broadband Availability Map. Frontier joins in the comments of many pointing out problems with the Broadband Availability Map and ambiguity of whether the CPUC considers wireless service when determining if an area is “served.” But that should not be a rationale for requiring new additional duplicative reporting of deployment information that is already reported in compliance with FCC and CPUC rules.

VII. Additional Issues

Two-year price commitment — Frontier agrees that the two-year price freeze can be a deterrent to participating in the program,¹⁸ but not nearly as big a deterrent as lack of full funding for eligible projects. In fact, CCTA’s proposal for allowing prices consistent with rates, terms, and conditions for comparable services necessarily invites CPUC review of broadband service way beyond CASF-funded projects and would introduce even more complexity and diversion of staff resources. Frontier urges the CPUC to instead focus on how the full funding provision can be implemented quickly to incentivize new applications.

Challenge Period – Frontier agrees with parties supporting 21 days for the challenge period, not the longer period proposed by some. Frontier urges the CPUC to also clarify what date after a project summary is posted is the cut-off date for filing competing applications.

Installation Fee – Frontier agrees with parties that oppose the new requirement that CASF-funded providers must waive installation charges.¹⁹ This would impose another cost that would deter participation in the program.

Scoring Criteria – Many parties propose specific (and perhaps arbitrary) reordering of the scoring criteria CASF staff uses for evaluating applications. Frontier notes that staff has acknowledged how little utility the scoring criteria are given the near total lack of competing applications. Frontier proposes that CASF applications be evaluated instead under preferences

¹⁷ AT&T Comments at page 19; NBNCBC Comments at page 11.

¹⁸ CCTA Comments at page 8.

¹⁹ AT&T Comments at page 16.

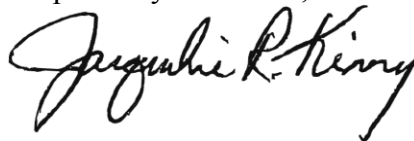
and provisions specified in AB 1665 and Section 281. As the full funding provision makes clear in requiring a case-by-case determination for each application, the remaining unserved areas have so many variables that a standard set of scoring criteria not based in statute would be arbitrary, unfair, and unworkable – especially when applied to a single application rather than comparing competing applications.

Line Extension Program – Frontier notes many objections and requests for clarification of the Line Extension Program and therefore reiterates its request to address this entirely new and complex program in a new Phase III of this proceeding. Frontier strongly objects to the proposal that a single owner could submit a line extension application on behalf of multiple unserved household or property owners.²⁰ This is contrary to the plain language and legislative intent of AB 1665 and would completely undermine the regular infrastructure grant program requirements and accountability problems noted in the recent State Controller audit.

VIII. Conclusion

Frontier urges the CPUC to act now to implement AB 1665, especially the full funding provision, in order to immediately incentivize infrastructure applications that will achieve the 98% program goal.

Respectfully submitted,



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²⁰ NBNCBC Comments at page 16.