

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

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

Rulemaking 12-10-012  
(Filed October 25<sup>th</sup>, 2012)

**REPLY COMMENTS OF NORTH BAY/NORTH COAST BROADBAND  
CONSORTIUM ON THE PROPOSED DECISION IMPLEMENTING THE  
CALIFORNIA ADVANCED SERVICES FUND INFRASTRUCTURE  
REVISED RULES INSTITUTING RULEMAKING 12-10-012**

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**I. Introduction**

In accordance with Rule 6.2 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), the North Bay/North Coast Broadband Consortium (NBNCBC) submits reply comments to the Order Instituting Rulemaking 12-10-012 (“Rulemaking”) in response to opening comments on the Assigned Commissioner’s Proposed Decision Implementing the California Advanced Services Fund Infrastructure Account Revised Rules, dated 9 November 2018 (PD).

**II. Reply Comments to Central Coast Broadband Consortium**

The NBNCBC commends and agrees with the opening comments submitted by Central Coast Broadband Consortium (CCBC). As stated, “The Proposed Decision is a well-balanced and proposes a workable program”. While the PD contains some flaws identified by CCBC, NBNCBC finds the PD to be fair and we urge the Commission to adopt the PD, including the

additional modifications addressed in sections III, IV, V, and VI of CCBC’s opening comments on 29 November 2018.

### **III. Reply Comments to Race Communications**

#### **Definition of Low-Income**

NBNCBC agrees with Race Communications that applicants should be able to receive higher funding amounts should the project serve a low income community. NBNCBC also commends Race’s comment, “Income levels vary greatly depending on the part of the state.” Following that statement, we question why a single level of low income determines whether or not an area qualifies as low income when California counties have varying low income thresholds for each County? For example, as identified by data provided by the Office of Policy Development and Research (PD&R), when taking into account the average number of individuals per household in the NBNCBC region [(3) three/household]<sup>1</sup>, Marin County’s FY 2018 Low (80%) Income Limit (\$) is \$105,700 (within San Francisco, CA HUD Metro FMR Area).<sup>2</sup> Meanwhile, Mendocino County’s low-income limit is \$43,650, Sonoma County’s is \$70,700, and Napa County’s is \$66,150.

It is evident that using the energy CARE program’s single low-income level of \$50,200 may not justify fairness among all California counties and could result in many broadband infrastructure projects not being implemented due to high costs and lack of necessary additional funding amounts. As the low income limit in three of the four NBNCBC member counties is substantially higher than the low income limit proposed by the energy CARE program, communities that are considered low income due to higher costs of living, may not be eligible for additional funding. NBNCBC supports finding an alternative solution, such as analyzing the low-income limit on a per County basis as infrastructure account grant applications are submitted.

#### **Right of First Refusal**

NBNCBC agrees with Race that the Commission should regulate ROFR more effectively by penalizing CAF providers “should a CAF provider block out other providers from building in

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<sup>1</sup> <https://www.census.gov/en.html>

<sup>2</sup> <https://www.huduser.gov/portal/datasets/il/il2018/2018summary.odn>. Marin County is part of the San Francisco, CA HUD Metro FMR Area which includes Marin County, CA; San Francisco County, CA; and San Mateo County, CA; so all information presented here applies to all of the San Francisco, CA HUD Metro FMR Area.

CAF areas with ROFRs and extensions, then not build the CAF eligible areas with no acceptable explanation.” NBNCBC agrees with Race, by adding regulation to the ROFR section, it will “minimize the possibility of anticompetitive action by incumbent providers as to ROFRs and extensions of the ROFR.”

### **Minimum Performance Standards**

NBNCBC agrees with Race that “this Commission should be equally bold to provide incentives to provide more comparable speeds between urban and rural areas while remaining faithful to the minimum speed mandated by AB1665. Race thus recommends that a plus factor be the speed of broadband service to the consumers when comparing applications for the same area.” While Race did not clarify what type of incentives should be provided, NBNCBC agrees that when the Commission receives multiple applications for the same area, those applications offering speeds better than the 10/1 speed contained in AB1665 should be prioritized over the others.

## **IV. Conclusion**

NBNCBC appreciates the time and dedication of CPUC staff to effectively modify the CASF program. Overall, the PD showed fair modifications that should be adopted. NBNCBC respectfully requests that the adopted modifications be approved in conjunction with suggested comments proposed by NBNCBC, CCBC, and Race Communications at the 13 December 2018 Commission Meeting.

Respectfully submitted,

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