

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, 2012)

**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES ON THE
AMENDED SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER
REQUESTING COMMENTS ON THE IMPLEMENTATION OF PROGRAM
CHANGES TO THE CALIFORNIA ADVANCED SERVICES FUND**

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ATTACHMENT A

I. INTRODUCTION

Pursuant to the February 14, 2018 *Amended Scoping Memo and Ruling of Assigned Commissioner* (“Scoping Memo”) in Rulemaking 12-10-012 proposing changes to the California Advanced Services Fund (“CASF”), the Office of Ratepayer Advocates (“ORA”) submits the following comments.

The Scoping Memo requests interested parties file comments on the scope of the proceeding and on the “Phase II Staff Proposal” presented in Appendix C. The Phase II Staff Proposal contains questions and proposals from Communications Division Staff on the application requirements, guidelines and other issues concerning the implementation of the Broadband Infrastructure Grant Account (“Infrastructure Account”) and the Rural and Urban Regional Broadband Consortia Grant Account (“Consortia Account”), as required under Assembly Bill (“AB”) 1655.

These comments include the following recommendations:

- The California Public Utilities Commission (“Commission”) should continue to require Infrastructure Account applicants to have some appreciable level of financial commitment as an incentive to ensure successful broadband deployment projects. Refer to Section II.A.
- If the Commission substantially increases funding to at or near 100 percent of a broadband infrastructure project’s capital costs in low-income areas, the Commission should also require applicants to offer a low-cost broadband service plan to low-income households in the project area. Refer to Section II.A.
- The Commission should direct Infrastructure Account grantees to coordinate with the California Department of Transportation (“Caltrans”), whenever possible, to promote efficient access to the public right of way. Refer to Section II.A.
- The Commission should require Infrastructure Account grantees to adhere to Caltrans’ best practices and facility specifications where appropriate to promote public safety and efficient use of the public right-of-way. Refer to Section II.A.
- For the Infrastructure Account, the Commission should revise the definition of “eligible projects” to require broadband service deployment to unserved households within a consortia area

where less than 98 percent of households have access to broadband, until all of the consortia areas meet the 98 percent goal. Refer to Section II.B.

- The Commission should provide additional guidance on what constitutes an extension of service within a Connect America Fund (“CAF”) II area and specify that an extension of service excludes all deployments already supported by CAF II. Refer to Section II.B.
- The Commission should clarify how it will enforce CASF requirements regarding the retail sale of broadband services (including any pricing commitments) in situations where the recipient of a grant from the Infrastructure Account is a wholesale broadband service provider and not a retail service provider. Refer to Section II.C.
- The Commission should retain the performance bond requirement. Refer to Section II.D.
- The Commission should continue to require the Resolution process to approve Infrastructure Account applications. Refer to Section II.E.
- The Commission should continue to use the process and review criteria outlined in Resolution T-17590 on completing Right of First Refusal (“ROFR”) deployments which allows carriers only one extension to complete their ROFR deployment. Refer to Section II.G.
- The Commission should request that CAF II carriers submit progress reports with the ROFR filings that contain updates on the progress of the CAF II projects. Refer to Section II.H.
- The Commission should establish an annual application cycle for the Infrastructure Account to allow the Communications Division to effectively score and rank projects. Refer to Section II.I.
- The Commission should revise the definition of “facilities based broadband provider” to make certain that all facilities eligible for the Line Extension Program (“LEP”) are capable of providing broadband service that is comparable to services delivered over wireline facilities. Refer to Section II.J.
- The Commission should limit eligibility to the LEP to low-income households. Refer to Section II.K.

- The Commission should cap the maximum grant available from the LEP, rather than establishing a maximum length of the line extension. Refer to Section II.M.

II. DISCUSSION

The Commission must ensure that the CASF achieves its statutory mandates by implementing program rules and processes to guarantee ratepayer funds support only eligible projects and benefit the intended recipients. As required by statute, Infrastructure Account funds should benefit households that are unserved¹ by an existing facility-based broadband provider, giving preference to projects in areas where Internet connectivity is available only through dial-up service or areas with no Internet connectivity whatsoever.² Likewise, the Consortia Account is available to consortia to facilitate deployment of broadband services by assisting infrastructure applicants in the project development or grant application process.³ In order to achieve these goals, the Commission should develop stringent eligibility requirements and provide the program’s administrators with the tools to ensure CASF funds benefit the communities intended by the Legislature, especially low-income households. In addition, the Commission must hold grant recipients accountable for the prudent use of ratepayer funds to safeguard against waste, fraud, and abuse.

The comments below are organized in a manner similar to the Phase II Staff Proposals. Each section of the discussion below corresponds to a section within the Phase II Staff Proposals or Appendix C. For example, section “A” below corresponds with “Section 1.2 Amount Available for Grants” of the Phase II Staff Proposal. However, the comments below do not address all of the sections in the Phase II Staff Proposals. ORA prioritized its recommendations given the schedule of the proceeding. The absence from these comments of a position or recommendation on any particular item contained within the Phase II Staff Proposals does not necessarily constitute agreement with the item.

¹ “Unserved household” means a household for which no facility-based broadband provider offers broadband service at speeds of at least 6 mbps downstream and 1 mbps upstream. *See* P.U. Code § 281(b)(1)(B).

² P.U. Code § 281(b).

³ P.U. Code § 281(g).

A. Amount Available for Grants (Section 1.2)

100 Percent Funding

The Phase II Staff Proposal includes a proposal to award Infrastructure Account grants of up to 100 percent of eligible project costs in low-income areas.⁴ While AB 1665 amends the Public Utilities Code to allow the Commission to award grants to fund all or a portion of the project, it does not require the Commission to award such a high level of funding.⁵ Awarding grants equal to 100 percent of a project's capital costs is unreasonable because the applicant will no longer provide its own good-faith contribution. 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. The Commission should continue to require applicants to have some appreciable level of financial commitment as an incentive to ensure successful broadband deployment projects.

However, if the Commission chooses to substantially increase funding to at or near 100 percent of a broadband infrastructure project's capital costs in low-income areas, the Commission should also require applicants to offer a low-cost broadband service plan to low-income households in the project area. Where ratepayers contribute to a substantial amount of project costs, the Commission must especially ensure that the project delivers benefits to the intended communities – in this case, low-income households.⁶ Therefore, the Commission should require of a low-cost broadband service plan to ensure low-income households can afford to use the service. In addition, this will assist the Commission in meeting the CASF program's broadband adoption goals. The Commission should require the service provider to offer a low-cost broadband plan with speeds of at least 10 Mbps download and 1 Mbps upload for a maximum monthly fee of

⁴ Phase II Staff Proposal at p. 5.

⁵ P.U. Code § 281(f)(13).

⁶ The Phase II Staff Proposal defines "low-income areas" as areas identified by the median income within a Census Block Group having median income less than \$49,200, which is consistent with the Commission's California Alternative Rates for Energy program. The Commission should define "low-income households" as those who qualify for the California LifeLine program or the California Alternative Rates for Energy program.

\$14.99, with no contract terms minimums, and provide a modem or any other necessary consumer premise equipment at no additional cost to the low-income customer. A maximum monthly recurring price of \$14.99 is the same price the Commission adopted for the low-income plan required of Charter Communications as a condition of approval for its merger with Time Warner Cable and Bright House Networks.⁷ The \$14.99 price is also more than the \$13.99 price the Commission adopted for the low-income plan required of Frontier Communications as a condition of approval for its merger with Verizon California, Inc.⁸ Lastly, the \$14.99 price is also \$5 more than Comcast Communication’s Internet Essentials Program.⁹

Dig Once

The Phase II Staff Proposal states:

The Commission will also require where possible that projects leverage existing networks and existing infrastructure. Special consideration will also be given to projects that optimize ‘dig once’ infrastructure projects, such as gas line digs and highway projects.¹⁰

These proposals are reasonable, and the Commission should augment them to explicitly reference the efforts and policies of the Caltrans. The Commission should promote dig once policies for Infrastructure Account grantees deploying underground facilities. Dig once policies encourage efficient access to the public right of way and the installation of underground facilities to meet current or future communication needs. The National Telecommunications and Information Administration’s Broadband Opportunity Council recognizes dig once as a best practice to enhance competition in the broadband market.¹¹ Several of the CASF Regional Broadband Consortia also recommend dig

⁷ See D.16-05-007 at p. 12.

⁸ See D.15-12-005 at Attachment A at p. 3.

⁹ More information on Comcast’s Internet Essentials Program is available at <https://internetessentials.com/apply>

¹⁰ Phase II Staff Proposals at p. 5.

¹¹ “Broadband Opportunity Council Report and Recommendations,” U.S. Department of Commerce and U.S. Department of Agriculture, August 20, 2015, https://obamawhitehouse.archives.gov/sites/default/files/broadband_opportunity_council_report_final.pdf.

once policies and currently work to incorporate the practice into construction projects in their communities.¹²

AB 1549 (Wood, Chapter 505, Statutes of 2016) requires that Caltrans coordinate with broadband construction projects to implement dig once policies. On January 1, 2018, Caltrans published guidelines to facilitate the installation of network conduit on state highway rights-of-way.¹³ During the planning phase of specified Caltrans-led highway construction projects, Caltrans notifies broadband deployment companies and organizations of transportation projects that involve construction methods suitable for the installation of broadband.¹⁴ The Commission should direct Infrastructure Account grantees to coordinate with Caltrans, whenever possible, to promote efficient access to the public right of way. The Commission should also require Infrastructure Account grantees to adhere to Caltrans' best practices and facility specifications where appropriate to promote public safety and efficient use of the public right-of-way.

B. Definitions (Section 1.3)

The Commission should change the following definitions to ensure the CASF meets the goals of the program:

Eligible Project

The Phase II Staff Proposal defines “eligible project” as:

an area containing unserved households and that is not within a CAF [Connect America Fund] II, ROFR [right of first refusal] or existing CASF project area. CAF II areas remain project eligible to the corresponding existing facilities based provider to extend service within its CAF II area. Eligible

¹² CASF 2016 Annual Report, April 2017 at pp. 61-62. *See also*, CASF 2015 Annual Report, April 2016 at pp. 50 and 55.

¹³ Caltrans' 2018 Wired Broadband Facility User Guide is available at <http://www.dot.ca.gov/wiredbroadband/docs/wired-broadband-facility-user-guide-%201st-ed-signed.pdf>. For more information on Caltrans' efforts to facilitate the installation of broadband networks, refer to <http://www.dot.ca.gov/wiredbroadband/>.

¹⁴ Caltrans notifies broadband deployment companies via a publically available posting on its website, available at <http://www.maps.arcgis.com/apps/webappviewer/index.html?id=9323116b932e4755a6acb55ba9311558>.

projects must be capable of offering broadband service at or above 10/1 Mbps, irrespective of the project’s technology.¹⁵

The Commission should revise the definition of “eligible project” to better align the Infrastructure Account with the goal of the CASF program. AB 1665 revised the overarching goal of the CASF program to achieve broadband access for 98 percent of California households in each consortia region by December 31, 2022.¹⁶ As currently written, the Phase II Staff Proposal’s definition of “eligible project” does not consider the consortia area that a project proposes to serve, which leaves open the possibility that eligible projects may not appreciably contribute to the goal of the CASF program. Instead, the Commission should revise the definition of “eligible project” to require that projects deploy broadband service to unserved households within a consortia area where less than 98 percent of households have access to broadband, until all of the consortia areas meet the 98 percent goal. This requirement will help ensure prudent use of ratepayer funds and improve the overall efficiency of the CASF program in meeting its statutory goal.

Further, the “eligible project” definition states that CAF II areas remain project eligible to the corresponding existing facilities-based provider to extend service within its CAF II area. The Commission should provide additional guidance on what constitutes an extension of service within a CAF II area. To avoid wasteful duplications or overlaps in funding, the Commission should specify that an extension of service excludes all deployments already supported by CAF II. Applications from existing facilities-based providers to the Infrastructure Account which seek to extend service within a CAF II area should demonstrate that the extension is verifiably distinct and incremental to any deployment of broadband service supported by CAF II.

Baseline Data

The Phase II Staff Proposal states that “baseline data” means the reported served status of broadband at or above 6 Mbps downstream and 1 Mbps upstream in California

¹⁵ Phase II Staff Proposal at p. 6.

¹⁶ Public Utilities Code § 281(b)(1)(A).

by Consortium as of December 31, 2016.¹⁷ However, the Phase II Staff Proposal does not reference “baseline data” anywhere else. The Commission should clarify how this data will be used in its administration of the CASF program. One option, as recommended above, is for the Commission to use this data to assess applications to the Infrastructure Account and require projects to deploy broadband to unserved households within consortia regions where less than 98 percent of all households are served. The Commission can use the “baseline data” to assess applications and award grants to projects that will contribute to the overarching goal of the CASF program. If the Commission implements this recommendation, it should update the “baseline data” on an annual basis instead of relying on static data as of December 31, 2016. The Commission should assess applications to the Infrastructure Account against up-to-date “baseline data” to ensure that ineligible projects, those serving served households, are not receiving CASF funding.

C. Eligible Applicants (Section 1.4)

The Phase II Staff Proposal includes an eligibility criterion which would require applicants to the Infrastructure Account to possess a Certificate of Public Convenience and Necessity (“CPCN”) or Wireless Registration (“WIR”), be a facilities-based broadband service provider, or be a local government agency.¹⁸ The Commission should clarify how it will enforce CASF requirements regarding the retail sale of broadband services (including any pricing commitments) in situations where the recipient of a grant from the Infrastructure Account is a wholesale broadband service provider and not a retail service provider. For example, several of the Small Local Exchange Carriers (“LEC”), which hold a CPCN, own and operate broadband-capable networks, but do not directly offer retail broadband services to households. Instead, these Small LECs provide wholesale access to their network to an affiliate company which, in turn, provides retail

¹⁷ Phase II Staff Proposal at p. 6.

¹⁸ Phase II Staff Proposal at p. 7.

broadband service to households.¹⁹ This arrangement is problematic because the Phase II Staff Proposal includes several rules and requirements that are applicable only to a retail broadband service provider, including the pricing commitment period and marketing/outreach plans.²⁰ The Commission should encourage the Small LECs to participate in the CASF program, but should also require the affiliate retail Internet service provider of the Small LEC to meet all applicable CASF requirements. This will help ensure prudent use of ratepayer funds.

D. Information Required of Applicants (Section 1.6)

The Phase II Staff Proposal seeks comments on whether the Commission should retain the performance bond requirement.²¹ The Commission should not eliminate the performance bond requirement; it is a valuable tool to help safeguard ratepayer funds against waste, fraud, and abuse. The bonds act as a guarantee so that if, at any point during construction, a company fails to complete a project, ratepayers can recover the full grant money issued in support of the project. The performance bond requirement also acts as a third-party check on the financial well-being of the company. If bond issuers are not willing to work with a company, the company's failure to secure a performance bond is a red flag that may indicate inadequate financial health or other troublesome circumstances. This information is of tremendous value for staff when reviewing a company's financial viability.

Furthermore, performance bond requirements are a standard practice of the Commission in safeguarding public interests and ratepayer money. The Commission requires performance bonds of telephone carriers as a condition of granting them a

¹⁹ For example, Sierra Telephone Company sells wholesale network access to its affiliate Sierra Tel Internet, a retail Internet service provider. Refer to Sierra Telephone Company's California Tariff Schedule Cal. PUC No.A15 at Sheet 3. Also, Ponderosa Telephone Company sells wholesale network access to its affiliate Ponderosa Cablevision, a retail Internet service provider. Refer to the Public Testimony of Matthew Boos at p.12, October 3, 2016, Application 16-10-001. Also, Ducor Telephone Company sells wholesale network access to its affiliate Varnet, Inc, a retail Internet service provider. Refer to the Opening Testimony of Eric Votaw at p. 4, October 2, 2017, Application 17-10-003.

²⁰ Phase II Staff Proposal at p. 12.

²¹ Phase II Staff Proposal at p. 11.

CPCN, WIR, or Non-Dominant Interexchange Carrier License. Performance bonds are a common and sensible consumer protection mechanism, and the Commissions should continue to require them for Infrastructure Account grantees.

If the Commission does not retain the performance bond requirement, it should define the processes it will use to ensure prudent use of ratepayer funds in the event of an unsuccessful project. The Commission should especially consider the impact of eliminating performance bonds for non-CPCN holders because the Commission may not possess the same mechanisms for oversight or enforcement over those entities as it does with CPCN-holders. The Commission should establish processes that ensure successful projects and safeguard ratepayer funds, particularly if it does not retain the performance bond requirement.

E. Low Income Communities Expedited Review (Section 1.7)

The Phase II Staff Proposal includes an expedited review process for applicants to the Infrastructure Account which propose to deploy broadband to low income communities and demonstrate a cost-per-household that is less than the CASF program average (per technology).²² The Phase II Staff Proposal for an expedited review process would allow the Communications Division to approve applications and issue grants without the Commission's Resolution process. The Commission should not implement this proposal; it should, instead, continue to require the Resolution process to approve Infrastructure Account applications. The Resolution process is an important tool to help ensure prudent use of ratepayer funds, which amounts to \$333 million for the Infrastructure Account. The Resolution process also provides transparency and an opportunity for the Commissions to hear from stakeholders and other interested parties, including ORA, during the compulsory comments period. The current proposal does not explicitly state how the comment period under the expedited review process would or whether it would differ from the Resolution process.

²² Phase II Staff Proposal at pp. 13-14.

In addition, it is unclear as to how this proposal would hasten the application review process. As the Phase II Staff Proposal notes, the Resolution process adds only a few months to the application approval process, but the majority of applications require several years to review.²³ This indicates that factors other than the Resolution processes are the primary driver of lengthy review periods. The Phase II Staff Proposal appears to support this notion, citing “additional challenges and new problems” as common occurrences.²⁴ However, the problems uncovered during review of an application and the challenges filed by concerned parties warrant the Commission’s attention and the Commission should thoroughly vet these problems and challenges.

The proposal is also problematic due to the unreasonable cost-per-household thresholds, which are determined using the CASF program average (per technology). For instance, the proposal for fiber-to-the-home (“FTTH”) projects includes a maximum threshold of \$15,650 per household, which is, purportedly, the average *total cost of the project* per household. However, the Infrastructure Account grants are not equal to the total cost of the project, and applicants frequently request a grant equal to 60 percent (or less) of the total project cost. It is therefore prudent to consider the grant per household, instead of the total project cost per household, when evaluating an application. The Commission has approved grants for eleven FTTH projects, and the average *grant* per household is \$7,430 for the last-mile component of approved FTTH projects.²⁵

F. High Priority Areas Request for Proposal (Section 1.8)

The Phase II Staff Proposal includes implementation of a Request for Proposal (“RFP”) process to direct applicants towards “high-priority” areas for which the Commission has received zero applications.²⁶ The Commission should take a proactive approach in meeting the goals of CASF; however, the RFP process is unlikely to provide the desired outcomes. First, the RFP process can be long, cumbersome, and resource

²³ Phase II Staff Proposal at p. 13.

²⁴ *Ibid.*

²⁵ Refer to Attachment A for information on approved Infrastructure Account FTTH projects.

²⁶ Phase II Staff Proposal at pp. 14-15.

intensive. The process necessitates many staff hours to prepare contract documents, coordinate with the Department of General Services (“DGS”), and manage fulfillment of the proposal. For example, staff would need to create a detailed contract with specific terms and scope of work, including language to detail project specifications/requirements, personnel/staffing, coordination, measurable results/deliverables, timelines/progress reports, and evaluation/acceptance terms.²⁷ In addition, the RFP process requires additional layers of approval (from DGS) on the proposed contracts, which prolongs the process and delays the responsiveness of CASF to proposed projects. Lastly, it is unclear as to how the RFP process would entice entities to deploy broadband services in high-priority areas.

G. Right of First Refusal (Section 1.9)

The Phase II Staff Proposal includes questions addressing various issues regarding the ROFR rules for the Infrastructure Account.²⁸ The deadlines set forth in Resolution T-17590 regarding ROFR filings, staff publication, and ROFR extensions are sufficient. Resolution T-17590 states that a carrier must complete deployment of broadband infrastructure within 180 days of the ROFR filing and can obtain an additional six months to complete deployment if a carrier encounters: a) permitting issues; b) compliance issues with the California Environmental Quality Act; or c) weather or other acts of God.²⁹ The Commission should continue to use this process and review criteria and should only allow carriers one extension to complete their ROFR deployment. If a company fails to meet its ROFR commitments, the company should lose the ability to file a ROFR for the area in the future. This will ensure carriers have an incentive to finish the projects they have proposed in their ROFR filings.

²⁷ State Contracting Manual, Volume 1 (rev.2018), California Department of General Services, at p.15. Available at <http://www.dgs.ca.gov/LinkClick.aspx?fileticket=hZlWVg9oxEQ%3d&portalid=32>.

²⁸ Phase II Staff Proposal at p. 16.

²⁹ Resolution T-17590 at p. 1.

H. Treatment of CAF II Areas (Section 1.10)

The Phase II Staff Proposal seeks comment on how the Commission can incentivize existing broadband providers to build out their CAF II obligations in a timely manner and provide sufficient notice on the extent of its buildouts.³⁰ In order to understand whether existing facilities-based broadband providers will meet their CAF II obligations in a timely manner, the Commission should request that CAF II carriers submit a progress report on their CAF II projects along with their ROFR filings. In these progress reports, the carriers should also notify the Commission of CAF II eligible areas where the carriers no longer plan on deploying broadband using CAF II funds or other investment. With the information in these progress reports, the Commission should update the California Broadband Availability Map in time for interested CASF applicants to determine whether any CAF II areas have become eligible for CASF funding. The goal of the CASF program is to ensure 98 percent of households in California consortia regions have access to broadband by December 31, 2022³¹ and understanding the carriers' plans and progress in the CAF II areas will assist the Commission in meeting this goal.

I. Submission and Selection Timelines (Section 1.11)

The Phase II Staff Proposal asks whether 90 days from the date the ROFR areas are available on the California Broadband Availability Map is enough time for potential CASF applicants to determine whether they will apply for project funds.³² The 90 day allowance is enough time to submit a CASF application and if an applicant needs more time, it should be able to request a one-time extension of 15 days. The Commission should not accept CASF applications for the Infrastructure Account more than once a year. The Commission should establish an annual application cycle for the Infrastructure Account to allow the Communications Division to effectively score and rank projects.

³⁰ Phase II Staff Proposal at p. 16.

³¹ P.U. Code § 281(b)(1)(A).

³² Phase II Staff Proposal at p. 17.

J. Line Extension Definitions (Section 2.2)

ORA provides comments only on those definitions that should be changed. The following definitions require changes to ensure the CASF meets the goals of the program:

Facilities based broadband provider

For the LEP, the Phase II Staff Proposal defines “facilities based broadband provider” as:

An entity is a facilities-based provider if any of the following conditions are met: (1) it owns the portion of the physical facility that terminates at the end-user premises or obtains the right to use dark fiber or satellite transponder capacity as part of its own network to complete such terminations; (2) it obtains unbundled network element (UNE) loops, special access lines, or other leased facilities that terminate at the end-user premises and provisions/equips them as broadband; (3) it provisions/equips a broadband wireless channel to the end-user premises over licensed or unlicensed spectrum; or (4) it provides terrestrial mobile wireless service using its own network facilities and spectrum for which it holds a license, manages, or has obtained the right to use via a spectrum leasing arrangement.^{21 33}

The Commission should revise the definition of “facilities based broadband provider” to make certain that all facilities eligible for the LEP are capable of providing broadband service that is comparable to services delivered over wireline facilities. The Commission previously argued in its comments to the Federal Communications Commission in September of 2015, that “mobile data service is not a sufficient substitute to wireline broadband service.”³⁴ The Commission must ensure that wireless providers (part 3 of the definition above) and terrestrial mobile wireless service providers (part 3 of the definition above) deliver broadband service with adequate, sustainable speeds as

³³ Phase II Staff Proposal at p. 33.

³⁴ Comments of the California Public Utilities Commission, *In the Matter of In Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 15-191, (September 15, 2015) (hereinafter, “September 2015 Comments”) at p. 3.

required by the CASF program. This broadband service must be reliable, affordable (e.g. without data caps), and accessible (i.e., provide a signal available to the customer). In addition, the Commission should clarify what constitutes a “line extension” for wireless networks, which generally consist of a stationary radio antenna or tower that connects via wireless signals to a receiver or device.

K. Line Extension Income Threshold (Section 2.3)

The Phase II Staff Proposal seeks comments on criteria to exempt a project from the qualifying income threshold for the LEP.³⁵ The Commission should limit eligibility to the LEP to low-income households. The Phase II Staff Proposal correctly determines that applicants who qualify for the California LifeLine or California Alternative Rates for Energy would automatically meet the qualifying income threshold and be considered low-income. The limited funding available for this program should target low-income households that would otherwise find the expense of a line extension prohibitive.

L. Line Extension Subsidy Level (Section 2.4)

The Phase II Staff Proposal seeks comments on the appropriate subsidy level for the LEP consumer and that of the non-LEP consumer. AB 1665 requires a percentage of the project to be paid by the household or owner of the property³⁶ and that any infrastructure built with CASF funds and funds from the applicant become the property of the facilities based broadband provider.³⁷ The LEP subsidy level for qualified low-income households should be up to 99 percent of the total project costs. To comply with AB 1665, an eligible low-income household should pay 1 percent of the total project cost.

M. Line Extension Eligible Projects (Section 2.6)

The Phase II Staff Proposal invites parties to comment on the maximum and minimum length of a proposed line extension, in the context of the transmission medium used.³⁸ The Commission should cap the maximum grant available from the LEP, rather

³⁵ Phase II Staff Proposal at p. 35.

³⁶ Pub. Util. Code, § 281(f)(6)(B)(i).

³⁷ Pub. Util. Code, § 281(f)(6)(A).

³⁸ Phase II Staff Proposal at p. 35.

than establishing a maximum length of the line extension. Costs can vary for line extension projects based on the terrain to be traversed, the type of facilities to be installed, and the type of network facilities nearest to the project. Establishing a maximum grant amount ensures cost effective distribution of available funds. The Commission can determine the maximum grant amount according to the average per-foot cost of previous CASF grants.

N. Line Extension Information Required From Applicants (Section 2.7)

The Phase II Staff Proposal includes a list of information required from applicants.³⁹ The proposed contract should include information on expected service speeds (to meet or exceed served speeds) and low-income rate plans available to the applicant.

O. Line Extension Submission and Timelines (Section 2.8)

The Phase II Staff Proposal includes a quarterly schedule that Communications Division will use to batch applications for consideration until funding is exhausted.⁴⁰ The proposed schedules for LEPs are reasonable and will allow the Communications Division to efficiently manage the review of applications.

P. Line Extension Expedited Review (Section 2.9)

The Phase II Staff Proposal includes a proposal for expedited review of projects meeting certain criteria and seeks comment on per-foot benchmark costs and the range of total project costs that Communications Division could approve by expedited review.⁴¹ While ORA is opposed to expedited review of infrastructure grant proposal projects involving multiple households, larger service areas and larger costs of the project,⁴² expedited review is appropriate in the limited instance of the LEP. The LEP requirements for expedited review are substantial enough to provide sufficient assurance that

³⁹ Phase II Staff Proposal at p. 36.

⁴⁰ Phase II Staff Proposal at p. 37.

⁴¹ Phase II Staff Proposal at pp. 37-38.

⁴² See Section II.E above.

Communications Division only approves projects that meet all required criteria. Furthermore, LEP projects likely impact one household at a time which makes it more prudent to expedite the review.

III. CONCLUSION

The Commission must ensure that the CASF achieves its statutory mandates by carefully establishing program rules and processes to guarantee ratepayer funds support only eligible projects and benefit the intended recipients. The proposed recommendations set forth above will assist the Commission in meeting the program goal.

Respectfully submitted,

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April 16, 2018

ATTACHMENT A

CASF GRANTS PER HOUSEHOLD FOR APPROVED FIBER-TO-THE-HOME BROADBAND INFRASTRUCTURE PROJECTS

	Resolution	Company	Project	CASF Grant	Households	Last-Mile Grant/Household**
1	Resolution T-17525	Race Telecommunications	Gigafy Phelan	\$27,629,599	7,606	\$3,633
2	Resolution T-17545	LCB Communications	Light Saber*	\$1,076,062 (\$679,045 for last-mile FTTH)	150	\$4,527
3	Resolution T-17548	Inyo Networks	Digital 299*	\$46,709,036 (\$1,455,215 for last-mile FTTH)	307	\$4,740
4	Resolution T-17557	Ultimate Internet Access	Helendale	\$1,814,045	2,279	\$796
5	Resolution T-17539	Siskyou Telephone	Somes Bar*	\$3,645,085 (\$50,014 for last-mile FTTH)	10	\$5,001
6	Resolution T-17541	Race Telecommunications	Gigafy Noth 395	\$3,124,490	444	\$7,037
7	Resolution T-17524	Race Telecommunications	Gigafy Occidental	\$7,687,016	458	\$16,784
8	Resolution T-17523	Inyo Networks	Nicasio Project	\$1,491,078	216	\$6,903
9	Resolution T-17477	Race Telecommunications	Gigafy Mono	\$6,580,007	399	\$13,893
10	Resolution T-17488	Race Telecommunications	Five Mining	\$2,037,721	202	\$10,088
11	Resolution T-17465	Bright Fiber Network, Inc	Bright Fiber Project	\$16,156,323	1,941	\$8,324
AVERAGE						\$7,430

* Hybrid project with middle mile and last-mile components.

** Includes only the portion of the CASF grant for deployment of the last-mile infrastructure.