

**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)

**REPLY 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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I. INTRODUCTION

Pursuant to the February 14, 2018 *Amended Scoping Memo and Ruling of Assigned Commissioner* (“Scoping Memo”) in Rulemaking 12-10-012 setting forth implementation of program changes to the California Advanced Services Fund (“CASF”), the Office of Ratepayer Advocates (“ORA”) submits the following reply comments in response to parties’ opening comments submitted on March 16, 2018.

II. DISCUSSION

A. **Broadband Adoption Account Grantees Should Serve Low Access and Low Adoption Communities.**

In opening comments, parties recommend several different priorities for the California Public Utilities Commission (“Commission”) to consider in administering the Broadband Adoption Account. Of particular interest are the types of areas and communities the Broadband Adoption Account grantees should serve. In determining the areas and communities to be served, the Commission must adhere to Public Utilities Code § 281(j)(5), which requires the Commission to give preference to programs in communities with demonstrated low broadband access.¹

California State University (“CSU”) Chico Geographical Information Center (“GIC”) recommends the Commission prioritize rural areas by guaranteeing a certain amount or percentage of funding go to these communities,² and the City and County of San Francisco recommends the Commission prioritize (for expedited review) areas with low rates of broadband adoption.³ In contrast, The North Bay North Coast Broadband Consortium recommends the Broadband Adoption Account prioritize “low broadband access communities.”⁴ It is appropriate for the Commission to prioritize applications for the Broadband Adoption Account which target rural areas, communities with low

¹ The term “access” refers to the availability of broadband services.

² California State University (“CSU”) Chico Geographical Information Center (“GIC”) Opening Comments at p. 4.

³ City and County of San Francisco Opening Comments at p. 3.

⁴ North Bay North Coast Broadband Consortium Opening Comments at p. 2.

adoption rates, low-income communities, people with disabilities, and other disadvantaged communities, so long as this prioritization is within the context of Public Utilities Code § 281(j)(5).

In addition, Citizens Telecommunications and Frontier Communications urge the Commission to prioritize adoption projects that “align with a CASF infrastructure project.”⁵ Grants from the CASF Broadband Infrastructure Grant Account facilitate the deployment of broadband services to areas that lack sufficient connectivity,⁶ i.e., communities with low broadband access. Therefore, prioritizing adoption projects in areas where the Commission has approved a CASF infrastructure project is one possible method for the Commission to give preference to adoption programs in communities with demonstrated low broadband access.

B. Evaluation Criteria for the Broadband Adoption Account Should Consider the Sustainability of Projects.

The Tech Exchange recommends the Commission consider rules to encourage the sustainability of adoption programs.⁷ The Commission should adopt the Tech Exchange’s recommendation and carefully consider the sustainability of projects, including both Digital Literacy Projects and Broadband Access Projects, when evaluating applications to the Broadband Adoption Account. This is already part of the criteria used to grant funds under the CASF Broadband Infrastructure Grant Account where the Commission considers the sustainability of broadband deployment projects by evaluating their “financial viability”.⁸ In order to maximize benefits from the Broadband Adoption Account and to ensure the prudent use of ratepayer funds, the Commission should similarly consider the sustainability of proposed adoption projects.

⁵ Citizens Telecommunications and Frontier Communications Opening Comments at p. 4.

⁶ Public Utilities Code § 281(f)(5).

⁷ Tech Exchange Opening Comments at p. 3.

⁸ For grants awarded from the CASF Broadband Infrastructure Grant Account, the Commission’s evaluation criteria includes the “Financial Viability” of projects. For example, refer to Resolution T-17525 at p. 6, Resolution T-17545 at p. 6, and Resolution T-17563 at p. 4.

In opening comments, the California Emerging Technologies Fund (“CETF”) expresses strong concerns about the Phase 1 Staff Proposal which would allow the Commission to reimburse costs related to equipment and furniture.² These concerns underscore the need for the Commission to consider the sustainability of adoption programs in order to maximize benefits to the public and ensure prudent use of ratepayer funds. If the Commission decides to make costs related to equipment and furniture eligible for reimbursement, it should prefer projects that demonstrate an ability to maintain operations for a length of time commensurate with the useful life of the furniture and/or equipment. Conversely, if the Commission decides to consider only a limited timeframe for adoption projects,¹⁰ it should consider limiting support of a project’s capital expenses.

C. The Broadband Adoption Account Should Require Grantees to Inform Constituents of the Broadband Services Available from Every Service Provider in the Area.

The Utility Reform Network (“TURN”) suggests the Commission prohibit Broadband Adoption Account grantees from exclusively promoting the services of a single broadband provider.¹¹ TURN’s recommendation is especially pertinent considering the recommendations from several parties for the Commission to leverage existing programs and/or service offerings from broadband service providers.¹² A prohibition on exclusivity is a common sense rule to help ensure the Broadband Adoption

² CETF Opening Comments at p. 10.

¹⁰ The Phase 1 Staff Proposal gives adoptions projects a total of 18 months to complete the delivery of the program.

¹¹ TURN Opening Comments at p. 5 to 6.

¹² For example, the California Cable & Telecommunications Association (“CCTA”) suggests Broadband Adoption Account grantees should leverage existing programs from broadband providers. *See*, CCTA Opening Comments at p. 2. In addition, the Tenderloin Neighborhood Development Corp recommends that broadband providers work with grantees to market affordable offers. *See*, Tenderloin Neighborhood Development Corp Opening Comments at p. 5. Finally, the City and County of San Francisco seeks guidance from Commission on ways for potential applicants to partner with ISPs to offer free service to community residents who participate in education and outreach programs. *See*, City and County of San Francisco Opening Comments at p. 5.

Account benefits the intended recipients and does not merely augment the advertising campaigns of private companies.

The Commission should require Broadband Adoption Account grantees to inform their constituents of *all* available broadband service offerings in the area, without favoring any one provider. The Commission should also require grant recipients to periodically acquire up-to-date information on *all* service options available to the communities it serves and to submit this information to the Commission.

D. Requirements for Broadband Adoption Grantees to Meet Minimum Broadband Speeds Will Disadvantage the Communities with Low Access.

The Central Coast Broadband Consortium recommends the Commission require Broadband Adoption Account grantees to provide broadband speeds of at least 10 megabits per second (“Mbps”) download and one Mbps upload (10/1 Mbps).¹³ In addition, the Central Coast Broadband Consortium also suggests the Commission give priority to projects that provide speeds of at least 25 Mbps download and three Mbps upload (25/3 Mbps), and possibly increase the percentage of eligible program costs to 100% for projects that provide these speeds.¹⁴ Requiring Broadband Adoption Account grant recipients to offer minimum speeds is likely to have the unintended consequence of diverting support from the communities that need it most, i.e., areas with inadequate broadband access/availability that may not have access to broadband speeds of 10/1 Mbps or 25/3 Mbps.

Households should have access to high quality broadband services with adequate data transfer speeds and the Commission should encourage projects which provide access to high quality broadband services when possible. However, some communities do not have access to high quality broadband services due to the lack of adequate infrastructure. Adoption projects that serve these communities may be unable to acquire broadband

¹³ Central Coast Broadband Consortium Opening Comments at p. 4.

¹⁴ *Ibid.*

services with download speeds of 10 or 25 Mbps. The Commission must give preference to programs in communities with demonstrated low broadband access¹⁵ and therefore should not require minimum broadband speeds for the adoption projects that serve those communities.

The Commission should implement minimum speed requirements for adoption projects only in areas where broadband access is not limited.

E. Scoring Adoption Projects Based on the Total Number of People Reached Will Disadvantage Sparsely Populated Communities.

The Central Coast Broadband Consortium suggests the Commission prioritize Broadband Adoption Account projects that “maximize the total number of people reached.”¹⁶ This recommendation could have the unintended consequence of placing programs that serve sparsely populated communities at a disadvantage compared to urban communities. Similar to the issue of minimum broadband speeds discussed above, evaluating projects based on the total number of people reached will divert funding from the intended recipients (communities with low broadband access), especially in rural communities. Rural communities are more likely to demonstrate low broadband access compared to urban communities and the Commission must give preference to programs in communities with demonstrated low broadband access.¹⁷ Therefore, in order to ensure the Broadband Adoption Account benefits the intended recipients, the Commission should not prioritize projects based on the total number of people reached.

III. CONCLUSION

Broadband Adoption Account grantees should serve communities with demonstrated low broadband access, as required by Public Utilities Code § 281(j)(5). The Commission should consider the sustainability of projects when evaluating Broadband Adoption Account applications. The Commission should also avoid rules that

¹⁵ Public Utilities Code § 281(j)(5).

¹⁶ Central Coast Broadband Consortium Opening Comments at p. 3.

¹⁷ Public Utilities Code § 281(j)(5).

will disadvantage rural communities, including minimum speed requirements and giving preference to projects based on the total number of people served, because rural areas tend to have lower levels of broadband access than urban areas.

Respectfully submitted,

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