

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

**THE PUBLIC ADVOCATES OFFICE REPLY COMMENTS ON THE
PROPOSED DECISION IMPLEMENTING THE CALIFORNIA ADVANCED
SERVICES FUND INFRASTRUCTURE ACCOUNT REVISED RULES**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("CPUC") Rules of Practice and Procedure, the Public Advocates Office at the California Public Utilities Commission ("Cal Advocates"), formerly the Office of Ratepayer Advocates,¹ submits the following reply comments on the November 9, 2018 *Proposed Decision Implementing The California Advanced Services Fund Infrastructure Account Revised Rules* ("PD") in Rulemaking 12-10-012 proposing changes to the California Advanced Services Fund ("CASF").

These reply comments address Frontier California Inc., et al.'s ("Frontier") argument that the Commission should not implement a low-income broadband plan since legislation does not require it,² and the Small Local Exchange Carriers' ("LECs") recommendation that the Commission make low-income broadband plans an optional commitment rather than a requirement.³ Contrary to these comments, the Commission can and should implement a low-income broadband plan⁴ pursuant to Public Utilities Code ("P.U. Code") § 281 so that low-income communities can access affordable broadband service. This is especially true since ratepayer monies can fund 100 percent of CASF projects.

II. DISCUSSION

A. The Commission Can Implement a Low-Income Broadband Plan Pursuant to P.U. Code § 281.

In opening comments on the PD, Frontier asserts that the Commission does not have statutory authority to set rates for a low-income broadband plan and that a low-

¹ The Office of Ratepayer Advocates was renamed the Public Advocates Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which was signed by the Governor on June 27, 2018 (Chapter 51, Statutes of 2018).

² Frontier Comments at p. 3.

³ Small Local Exchange Carriers "LECs" Comments at p. 6.

⁴ As recommended in Public Advocates Office's Opening Comments filed November 29, 2018, the Commission should require CASF applicants to offer a low-income broadband plan at \$15.00 a month with broadband speeds of at least 25 Megabits per second ("Mbps") download and 3 Mbps upload.

income broadband plan is not required by law.⁵ However, P.U. Code § 281 (a) gives the Commission broad authority to “develop, implement, and administer the California Advanced Services Fund program to encourage deployment of high-quality advanced communications services to all Californians.” Further, P.U. Code § 709 (d) states that the Legislature declares that telecommunications policies in California should “assist in bridging the ‘digital divide’ by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.” The CASF program is designed to bridge the digital divide by encouraging broadband access and adoption.⁶ As such, the Commission can develop and implement methods under the CASF program to ensure low-income customers and communities have access to affordable broadband service consistent with P.U. Code §§ 281 and 709.

To successfully bridge the digital divide, the Commission must consider affordability issues for low-income communities for whom the cost of broadband services is a barrier to broadband adoption. By requiring a low-income broadband plan for CASF projects, the Commission can remove cost barriers for low-income communities. This requirement is reasonable especially when CASF projects serving low-income communities will qualify for 100 percent funding of project costs, as the PD notes.⁷

Finally, in opening comments, the Small LECs recommend that offering a low-income broadband plan should not be mandatory because “[f]or small rural carriers who are subject to the NECA tariff, this requirement may pose particular concerns, as wholesale Digital Subscriber Line (“DSL”) service does not vary in price based on the income level of the end users who are ultimately served via that access.”⁸ The Small LECs’ concern is misplaced because the NECA tariff applies only to the Small LECs’ wholesale customers such as its own affiliates and other carriers. The NECA tariff does

⁵ *Id.*

⁶ P.U. Code § 281 (b) (1) (A) and P.U. Code § 281 (j) (1).

⁷ PD at p. 62.

⁸ Small LEC Comments at p. 6.

not apply to the Small LECs operations and offerings, as they own, operate, and manage the network over which voice and broadband services is provided. The Small LECs can provide a low-income broadband plan under the CASF program without having to apply the NECA tariff. For example, Pinnacles Telephone, a Small LEC, directly offers broadband services to its customers. Thus, the Small LECs' NECA tariff is not a concern that should hamper the implementation of a low-income broadband plan requirement for CASF projects.

III. CONCLUSION

The Commission should not accept Frontier and the Small LECs' arguments against the low-income broadband plan requirement for CASF projects. The Commission should implement a low-income broadband plan to ensure low-income communities have access to broadband infrastructure and can afford broadband service. This will enable the CASF program to successfully bridge the digital divide.

Respectfully submitted,

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