BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider Modifications to the California Advanced Services Fund.	R. 12-10-012 (Filed October 25, 2012)

OPENING COMMENTS OF

CALAVERAS TELEPHONE COMPANY (U 1004 C)
CAL-ORE TELEPHONE CO. (U 1006 C)
DUCOR TELEPHONE COMPANY (U 1007 C)
FORESTHILL TELEPHONE CO. (U 1009 C)
HAPPY VALLEY TELEPHONE COMPANY (U 1010 C)
HORNITOS TELEPHONE COMPANY (U 1011 C)
KERMAN TELEPHONE CO. (U 1012 C)
PINNACLES TELEPHONE CO. (U 1013 C)
THE PONDEROSA TELEPHONE CO. (U 1014 C)
SIERRA TELEPHONE COMPANY, INC. (U 1016 C)
THE SISKIYOU TELEPHONE COMPANY (U 1017 C)
VOLCANO TELEPHONE COMPANY (U 1019 C)
WINTERHAVEN TELEPHONE COMPANY (U 1021 C)
(the "SMALL LECs")

ON ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON THE ELIGIBILITY FOR AND PRIORITIZATION OF BROADBAND INFRASTRUCTURE FUNDS FROM THE CALIFORNIA ADVANCED SERVICES FUND

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I. INTRODUCTION.

In response to the Administrative Law Judge Colbert's Ruling Requesting Comments on the Eligibility For and Prioritization of Broadband Infrastructure Funds from the California Advanced Services Fund (the "Ruling"), Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017 C), Volcano Telephone Company (U 1019 C), and Winterhaven Telephone Company (U 1021 C) (the "Small LECs") offer these comments on the program eligibility and interpretive issues raised in the Ruling.

The CASF program has been an important funding source for incentivizing the deployment of broadband in underserved areas. The grant funding from CASF has been particularly important in reaching some high-cost, rural areas, where customers are more likely to be dependent upon communications and information services to pursue economic and social opportunities, fulfill civic responsibilities, and access health care services. Since the inception of the program, the Small LEC companies have been awarded numerous CASF grants, and the Small LECs continue to believe that the program can fill in important gaps in deployment plans where capital might not otherwise be available for connecting underserved communities. In this proceeding, the Commission should continue to refine its eligibility criteria in a manner that will encourage participation in the program and ensure that CASF funds are directed to areas where deployment is needed to ensure that all Californians are on the right side of the "digital divide."

The Small LECs appreciate the opportunity to provide this input on the CASF eligibility and program administration. As the Commission frames the program in light of the recent statutory changes, it should ensure that the program remains flexible enough to account for specific circumstances and demonstrations of need, without imposing rigid metrics that might dissuade companies from applying for grants. In particular, the Commission should not impose

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any specific "per household" cost limitations, as many projects that have smaller numbers of customers may nevertheless have profound benefits for public safety, anchor institutions, or critical local businesses, and vulnerable populations. The Commission should also avoid any rigid pricing restrictions on the services to be provided over CASF-funded facilities, while allowing applicants to propose specific pricing commitments to support their applications. Similarly, specific limits on administrative expenses are not appropriate. Regarding the scoring criteria, the point system should be flexible enough to consider all of the factors listed in the Ruling, but it should not foreclose other factors, such as benefits to anchor institutions and public safety.

In keeping with these overall views, the Small LEC offer specific comments on some of the issues identified in the Ruling. Rather than addressing every issue, the Small LECs have focused their remarks on certain subjects that are of most concern. However, the Small LECs look forward to reviewing comments from other parties and reserve the right to offer other perspectives in reply comments.

II. COMMENTS ON QUESTIONS POSED IN RULING.

The Small LECs offer the following specific comments in response to the Ruling:

1) How should the Commission determine whether a CASF project application should be eligible for 100% funding?

In general, 100% funding should be reserved for proposals providing significant public benefits for which there would be no business case for the deployment without the grant money. Most projects should be funded in the 70% to 90% range, which would provide significant funding while ensuring that the applicant contributes a meaningful amount of its own capital.

Regarding the definition of the term "location and accessibility," the Small LECs do not have a specific proposal, but the Small LECs offer the observation that areas with accessibility issues are often those in greatest need of broadband-enabled services. California has many rural communities that are separated from large population centers by an hour or more, and these areas are likely to depend even more on communications and information services to fulfill important life functions and fulfill community responsibilities. Inaccessible areas should be a priority under

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the program for this reason.

Similarly, the Small LECs do not have a specific definition to suggest regarding the "existence of communications facilities." For wireline carriers, the proximity to existing infrastructure will usually depend on the location of fiber connectivity, whether in the form of middle mile facilities or distribution facilities within a local exchange.

Regarding the "significant contribution" concept from Public Utilities Code Section 281(f)(3), the Small LECs urge the Commission not to utilize a rigid definition based on households or cost per household. Restricting funding to a specific "per household" metric ignores the many geographic and terrain-driven variables that affect cost. More generally, a focus on this measurement of "contribution" ignores the powerful impact that broadband installations can have on public safety, anchor institutions, and other community services, even if the cost per household is high. For example, the Commission should not overlook the importance of providing connectivity to anchor institutions, tribal community centers, hydro facilities, campgrounds, and other areas where rural community members or members of the public in general may need to access the Internet. In rural areas, equipping campgrounds and general stores with broadband may have broader benefits to the community. Important opportunities to benefit rural connectivity could be missed if the Commission is overly focused on cost per household measurements.

Regarding the specific point system to create for the program, the Small LECs agree that there should be "multiple paths to 100 percent" and that there should be multiple paths to any particular percentage of grant support. It is worthwhile for the Commission to explain clearly how it values various factors, but it should allow opportunities to present projects that may be meritorious based on their specific facts.

2) Should the Commission require CASF grantees to offer affordable broadband service plans as a condition of receiving CASF funding?

It would not be reasonable for the CASF program to mandate specific pricing as a prerequisite to considering grant proposals, nor should the Commission attempt to fashion a specific definition of "affordability" in this context. Applicants should be free to make pricing

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proposals and commitments in their applications, and the Commission should consider them as presented. Pricing commitments run the risk of dissuading otherwise qualified applicants from participating.

Insofar as the Commission is interested in exploring broadband service offerings for low-income individuals, this is an issue that is appropriate for the LifeLine proceeding. Low-income discounts on broadband services is an issue that has been addressed at the federal level in the LifeLine context, and it should be considered in a parallel type of proceeding in California.[1] The federal broadband LifeLine program is growing, and the Federal Communications Commission ("FCC") has adopted a forward-looking minimum broadband speed capability threshold of 18 Mbps download and 2 Mbps upload in that context.[2]

3) Should the Commission eliminate the current scoring criteria and replace it with a different evaluation process focused on eligibility, minimum performance standards and funding level determinations?

The Small LECs do not have concerns about a commitment to fulfill all reasonable requests for service within a CASF-funded area. It is also reasonable to collect information regarding the speed, latency, and expected network functionality under a CASF-funded project. However, CASF funding should not be contingent on specific reviews of "performance."

Regarding the scoring system and eligibility metrics in the chart on page 6, the Small LECs urge the Commission to remove any pre-determined "cost per household" metric. The chart suggests that wireline projects would have to fall within $4,000 to $8,000 per household, but several of the projects that have been pursued previously under CASF have included higher "cost per household" figures and yet some of those projects provided significant benefits. The Commission should not foreclose projects that might otherwise be viable and beneficial simply because they cost over $8,000 per household.

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[1] *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 *et al., Third Report and Order, Further Report and Order, and Order on Reconsideration*, 31 FCC Rcd 3962 (2016).

[2] *See Lifeline and Linkup Reform and Modernization*, WC Docket No. 11-42, *Public Notice*, DA 18-739 (2018).

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It would also be inappropriate to provide such a heavy emphasis on low-income availability. The Small LECs do not disagree that this should be a factor, but it should not be an overriding factor to determine whether to award a project or how much funding to award. Where an area has limited cellular service and/or the presence of "dial-up" only, low-income availability should be an important factor. Consistent with the new statutory language, the Commission should also consider information about the specific location and the accessibility of the area in its evaluation.

4) Should the Commission limit a CASF grantee's Administrative Expenses to 15% of total project costs?

Arbitrary limitations on administrative expenses of this sort should not be imposed. The Small LECs do not have any reason to believe that excessive administrative expenses in connection with these projects are a concern. Additionally, it is unclear what an "administrative expense" would be in this context. Generally speaking, the overall costs of a project should be the focus, not the internal distribution of those costs in an applicant's proposal. Imposing a percentage-based limitation on administrative expenses would also disadvantage small companies, as it is likely that administrative expenses would be likely be higher for small companies as a percentage of total project costs. This effect should be concerning because smaller providers have historically represented a significant portion of potential applicants in areas that are hardest to reach.

To the extent that the Commission intends to limit engineering/network planning costs or the costs of CEQA review by this statement, such limitations would be particularly inappropriate. If the Commission does pursue such a limitation, it should carefully define what it means by "administrative expenses" to ensure that grant recipients are not surprised by the scope of any limitation.

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5) How should the Commission treat CAF providers seeking CASF funds? How should the Commission treat satellite broadband service?

The Small LECs are not recipients of CAF II funding, so they have no comments on this aspect of the Ruling at this time. However, regarding satellite providers, the Small LECs urge the Commission not to include satellite coverage as an indication that a location is "served." Satellite services still have significant latency concerns based on the unavoidable fact that the signals must travel to and from space. Moreover, for the long-term success of the program, fiber remains the best infrastructure to allow for scalability and future-proof reliability. If satellite providers are considered in defining what is served, it may foreclose a wide range of otherwise viable projects.

6) Should the Commission require additional information in project summaries?

The Small LECs observe that the application process is already very involved, and significant amounts of information are already required. The establishment of even further requirements does not seem appropriate, especially if they involve specific requirements to identify and quantify existing facilities. However, the proposal in the Ruling to include an "estimated construction timeline" is reasonable and could be added.

In general, the Small LECs' experience with CASF grants is that the Commission has a dedicated and knowledgeable staff in this space, and the Commission can rely on that staff to follow up with prospective grant applicants to gather additional information as needed and appropriate to frame a potential recommendation to approve a grant. Rather than making the application more cumbersome, follow-up conversations with staff should be the vehicle to fill in gaps to assist the Commission's review.

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III. CONCLUSION.

The Small LECs appreciate the Commission's attention to its CASF program eligibility criteria. The Small LECs will actively review other parties' comments on this Ruling to evaluate refinements and supplements to the positions presented herein. The Small LECs appreciate the Commission's consideration of these views as it frames the next steps in the program.

Dated this September 21st, 2018 at San Francisco, California.

Respectfully submitted,

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