

**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

**COMMENTS OF PACIFIC BELL TELEPHONE COMPANY D/B/A AT&T
CALIFORNIA (U 1001 C); AT&T CORP. (U 5002 C); TELEPORT
COMMUNICATIONS AMERICA (U 5454 C); AND AT&T MOBILITY LLC
(NEW CINGULAR WIRELESS PCS, LLC (U 3060 C); AT&T MOBILITY WIRELESS
OPERATIONS HOLDINGS, INC. (U 3021 C); AND SANTA BARBARA CELLULAR
SYSTEMS LTD. (U 3015 C)) ON THE PROPOSED DECISION OF COMMISSIONER
GUZMAN ACEVES**

GREGORY L. CASTLE

AT&T Services, Inc.
430 Bush Street, Room 309
San Francisco, CA 94108
Tel.: (415) 268-9492
Fax: (415) 543-0418
E-Mail: gregory.castle@att.com

J. TYSON COVEY

Mayer Brown LLP
71 South Wacker Dr.
Chicago, IL 60606
Tel.: (312) 782-0600
Fax: (312) 706-9175
E-Mail: jcovey@mayerbrown.com

Attorneys for AT&T

April 15, 2019

Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, AT&T¹ respectfully provides its comments on the Proposed Decision (PD) of Commissioner Guzman Aceves, mailed March 26, 2019. The PD implements changes to the California Advanced Services Fund (CASF) to introduce a line extension program (LEP), totaling no more than \$5 million, for grants to offset the costs associated with connecting households to facilities-based providers. These comments address only one provision of the PD: the requirement that the facilities-based broadband provider pay for 5% of the proposed line extension.² This requirement is inconsistent with law and should be eliminated.

The LEP was created by the California Legislature in Assembly Bill 1665.³ That law specifies two sources for funding a line extension: (1) a grant from the LEP and (2) the household or owner of the property.⁴ The law specifically mandates that the Commission “requir[e] a percentage of the project to be paid by the household or the owner of the property.”⁵ The PD does not comply with this requirement. Instead, the PD allows 95% of the project to be paid from the LEP and requires the facilities-based broadband provider, not the household or owner of the property, to pay the remaining 5%. The Commission cannot disregard the Legislature’s clear intent, as stated in the statute. Consistent with the law, the PD should be

¹ Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C); AT&T Corp. (U 5002 C); Teleport Communications America, LLC (U 5454 C); AT&T Mobility LLC (New Cingular Wireless PCS, LLC (U 3060 C); AT&T Mobility Wireless Operations Holdings, Inc. (U 3021 C); and Santa Barbara Cellular Systems, Ltd. (U 3015 C)).

² PD, pp. 13-14. The fact that AT&T has not commented on other provisions of the PD should not be construed as agreement with those provisions.

³ Pub. Util. Code, § 281(f)(6).

⁴ Pub. Util. Code, § 281(f)(6)(B).

⁵ Id.

revised to require the household or owner of the property to pay 5% of the project costs, not the facilities-based provider.⁶

Date: April 15, 2019

Respectfully submitted,

/s/
GREGORY L. CASTLE

AT&T Services, Inc.
430 Bush Street, Room 309
San Francisco, CA 94108
Tel.: (415) 268-9492
Fax: (415) 543-0418
E-Mail: gregory.castle@att.com

J. TYSON COVEY

Mayer Brown LLP
71 South Wacker Dr.
Chicago, IL 60606
Tel.: (312) 782-0600
Fax: (312) 706-9175
E-Mail: jcovey@mayerbrown.com

Attorneys for AT&T

⁶ The fact that facilities built as part of an LEP project will become the property of the facilities-based broadband provider is irrelevant to this issue. In AB 1665, when the Legislature specified only two sources for funding—the LEP and the household or property owner— it did so with full knowledge of its concurrent requirement that the facilities become the property of the provider. Thus, it could not have intended that providers pay for part of the project because ownership of the facilities would pass to the provider.

APPENDIX 1

AT&T respectfully requests that the Commission make the following changes to the PD:

1. On page 13, delete the paragraph beginning under the heading “5.2. Discussion,” and replace it with the following:

Two parties commented on and support the original staff proposal to provide a 95 percent subsidy for low-income applicants that meet the eligibility criteria and the Commission adopts this subsidy level. The recommendation to require that the facilities-based broadband provider pay for five percent of the proposed line extension is rejected because it is inconsistent with the provisions of AB 1665 to have the facilities-based provider pay for any of the line extension project. Instead, pursuant to AB 1665, the household or the owner of the property shall pay five percent of the line extension project.

2. The first sentence of the second paragraph on page 27 should be deleted.
3. On page 2 of Appendix 1 of the PD, the second paragraph under the heading “4. Subsidy Level,” should be replaced with the following:

Pursuant to Cal. P.U.C. Code §281 (f)(6)(B)(i), five percent of the cost of the proposed project will be paid by the household or the owner of the property.

4. On page 6 of Appendix 1 of the PD, the second paragraph under the heading “11. Payment,” should be replaced with the following:

The facilities-based broadband provider is responsible for keeping costs within the budget provided in the contract. Payment from the Commission will not exceed the approved subsidy amount. Any additional costs above the total cost provided in the contract will be the responsibility of the facilities-based broadband provider.

5. On page 7 of Appendix 1 of the PD, the first sentence of the second paragraph of section “12. Execution and Performance” should be deleted.