BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Revisions to the California Advanced Services Fund.	FILED PUBLIC UTILITIES COMMISSION AUGUST 27, 2020 SAN FRANCISCO, CALIFORNIA RULEMAKING 20-08-021

OPENING COMMENTS OF THE NATIONAL DIVERSITY COALITION ON STAFF PROPOSAL ON STATE-FEDERAL BROADBAND INFRASTRUCTURE FUNDS LEVERAGING

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Table of Contents

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I. INTRODUCTION

Pursuant to the October 1, 2010 *Email Ruling Requesting Comment on Staff Proposal* of ALJ Gubman directing parties to R.20-08-021 to file and serve comments on the Staff Proposal, the National Diversity Coalition[1] ("NDC") respectfully submits the following opening comments on the California Public Utilities Commission ("CPUC" or "Commission") Communication Division ("CD") Staff Proposal on state-federal broadband funds leveraging[2] ("SP"). NDC is a coalition of non-profit organizations, churches, minority business chambers, and other community-based organizations that serve minority communities, which are predominantly low-income, and disproportionately reside in areas that are unserved and underserved by broadband service providers. NDC greatly supports programs such as the California Advanced Services

[1] National Diversity Coalition members include the National Asian American Coalition (NAAC), Advancing the Seed, Inc., African American Chamber of Commerce, African American Fire Fighter Museum, Asian Business Association, Asian Journal, Boys of Color of Santa Ana, Community Connections LLC, COR Community Development Corporation, El Mundo, Impact Southern California, Instituto de Avance Latino, Island Pacific Supermarkets, The Jesse Miranda Center for Hispanic Leadership, Korean American Coalition LA, Latino Coalition for Community Leadership, Los Angeles Latino Chamber of Commerce, Macedonia Community Development Corporation, Network of Myanmar American Association, Santa Maria Group, OASIS Center International, Templo Calvario CDC, and Youth Business USA. In numerous prior proceedings before this Commission, NDC members have appeared under the name "Joint Minority Parties" or represented by NAAC.
[2] R.20-08-021, *Staff Proposal on State-Federal Broadband Infrastructure Funds Leveraging*, (10/01/2020) ("SP").

Fund ("CASF") and the federal Rural Digital Opportunity Fund ("RDOF") that seek to help bridge the "digital divide" by increasing access to high-speed, affordable internet service. NDC provides the following comments on some aspects of the SP to better direct limited funds toward projects that will best support the communities that need it the most. These comments are organized according to the same order and main headings used in the SP for the topic we discuss. We reserve the right to address additional topics in reply comments as appropriate.

II. DISCUSSION

1. Background

(a) Should the Commission consider additional aspects, rationale, or interpretation of Public Utilities Code section 281 to facilitate CASF-RDOF leveraging?
(b) Does the proposal accurately capture that state infrastructure awards before RDOF would likely disqualify or remove the state-funded locations from the federal auction?
(c) Should the proposal be modified to better conform with Public Utilities 281(f)(13), which states "This paragraph does not authorize the commission to reject a grant application on the basis that an applicant failed to seek project funding from the Connect America Fund program or another similar federal public program."?

The Communications Division ("CD") Staff Proposal ("SP") recommends waiting until RDOF winners have been determined before evaluating May 4 CASF applications, in order to leverage available funding and maximize broadband deployment toward California's 98 percent goal.[3] Any CASF applications that are awarded RDOF funds can necessarily be completed with less CASF funding, thus allowing limited CASF funds to go further and support more projects. Applicants are also able to submit more competitive, lower cost bids to the RDOF program in anticipation of receiving CASF fund, leveraging both funding sources toward both project goals.

Public Utilities Code section 281(f)(13) states that it "does not authorize" the commission to reject CASF grant applications on the sole basis that an applicant did not seek CAF or other similar federal program funding, such as RDOF. As the code section does not actually *prohibit*

[3] SP at 11-12.

the commission from rejecting CASF grants based on failure to seek federal funds, and instead uses the language “does not authorize”, it is likely that the legislature wanted to avoid any misinterpretation that the code intended to require such a prohibition. Therefore, the Staff Proposal’s recommendation to simply wait until RDOF winners have been determined and to prioritize projects that leverage RDOF funds does not appear to violate PUC 281(f)(13) in any way.

2. Rationale for State-Federal Leveraging

(a) Do additional or other rationales for State-Federal leveraging apply?

The SP creates an opportunity to leverage RDOF funding to increase the impact of CASF funds and more efficiently and effectively achieve CASF program goals. The proposal is a prudent use of finite state resources, and should be used to leverage both Federal funding as well as private funding.

The State-Federal leveraging is justified in that it also helps the RDOF program to more efficiently and effectively meet their program goals. With available CASF funding, applicants can develop RDOF bids that request less federal funding, in anticipation of receiving CASF funds. This allows the Federal RDOF program to support more broadband deployment with their finite funds, improving the overall effectiveness of the RDOF program.

Prudent leveraging of state and federal funds not only results in public benefits associated with greater consumer access to the internet and related services, but also supports government interests as well. As demonstrated by the $35 million provided by the Pennsylvania Department of Transportation (“PennDOT”) in the Pennsylvania Broadband Investment Incentive Program (Pennsylvania’s CASF-equivalent program), better broadband infrastructure can support State and Federal strategic goals, including intelligent transportation systems, connected vehicle infrastructure, and improved access,[4] as well as disaster and emergency relief, safety information dissemination, and law enforcement and national security efforts. These services can support State and Federal interest, and justify leveraging State and Federal funds to deploy broadband.

3. Proposed Criteria for State Kicker Funds

(b) Should different criteria for CASF-RDOF leveraging be considered?
(c) Should the criteria be modified to better support faster deployment?
(f) Do additional arguments support the provision of Indefeasible Rights of Use for California Tribes? If not, what alternative criteria or program conditions would be appropriate and why?

i. Limit total government funding to 100% of project costs

The SP recommends a Level 1 award of 10 percent of project funding, and an incremental Level 2 award of an additional 10 percent referred to as "kicker" funds, which Applicants can qualify for based on meeting specific criteria.[5] The kicker award process recommended in the SP is designed to stand on its own, "independent from the CASF Infrastructure Account rules in Decision 18-012-018."[6] D.18-012-018 authorizes up to 100% funding for CASF applications, starting with a base level of 60% for eligible projects, and awarding additional funding for meeting additional criteria.[7] For example, D.18-012-018 awards up to an additional 40% funding for projects targeting areas where either only dial-up internet connections are available, or low-income areas.[8]

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[4] https://www.penndot.gov/pages/all-news-details.aspx?newsid=534.
[5] SP at 14.
[6] *Id*. at 15.
[7] D.18-12-018 at 22, Table 1.
[8] *Id*.

Table 1. Summary of Funding Level Determinations

Maximum Funding Level: 100%
Baseline for Eligible Project: 60% of total construction costs
Presence of Dial-up Only: Up to + 40%[39]
Low Income: Up to + 40% • Median Household Income for community is less than \$50,200 (30%).[40] • Applicant serves low-income customers for no more than \$15/month (10%).
Pub. Util. Code § 281(f)(13) Criteria: + 10% per criterion, up to + 20% • Inaccessible Location • Uses Existing Infrastructure • Makes a Significant Contribution to the Program Goal

Source: D.18-12-018 at 22

Because the Level 1 and 2 kicker requirements do not conflict with D.18-012-018 project requirements, it appears that together, projects could potentially receive up to 120% funding from the D.18-012-018 and SP processes. This would also not take into account additional funding received from RDOF. If it is accurate that awards through the D.18-012-018 process, SP kicker process, and RDOF can total over 100% of project costs, NDC recommends including an explicit eligibility limitation that proposals which have already received 100% funding from government sources are not eligible for the SP's kicker program.

Infrastructure deployed with CASF support is intended to provide broadband service to unserved and underserved areas of the State. Service providers profit by owning the infrastructure and being able to charge more customers for broadband service. While the costs of building the infrastructure to provide remote customers with access may be prohibitively high, it would be unreasonable and unnecessary for the CASF program to pay additional amounts above full project costs to incentivize deployments. Not only would this unreasonably enrich service providers who will already own the infrastructure and make money providing service, but it would also reduce the amount of funds available to support greater buildout from additional projects.

ii. Require extended affordable plan offerings

The D.18-12-018 process requires that all projects provide an affordable broadband plan[9], and provides a 10% funding incentive for projects that offer a low-income plan of no more than $15/mo.[10] CASF applicants are required to offer the affordable plan pricing for two years after project completion.[11]

While it is reasonable to balance the need for affordable broadband service with the need for service providers to earn a rate of return, the Commission stated that with up to 100% funding available for CASF projects, requiring affordable plans is "particularly reasonable" and "there is less concern on how to entice providers to [invest] and more concern about maximizing the return to the public."[12] It is imperative that the kicker process recognize that building broadband infrastructure to reach 98% of Californians will not actually benefit consumers if the plans are not affordable, or if plans are only temporarily affordable for a short period.

Therefore, applications for kicker funding should be required to offer an affordable $15/mo broadband plan for more than two years after project completion. Applications that met the two-year affordable plan criteria process but did not meet other criteria to receive 100% funding under D.18-012-018 should receive kicker funds to further incentivize longer-term affordable plans. The New NY Broadband Program ("NYBP"), New York's CASF-equivalent program, required applicants to maintain their affordable plan offerings for five years.[13] Five

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[9] D.18-12-018, Appendix 1 at 12.
[10] *Id.*, Appendix 1 at 5.
[11] *Id.*, Appendix 1 at 12.
[12] *Id.* at 64.
[13] https://nysbroadband.ny.gov/sites/default/files/rfp_guidelines_phase_3.pdf at 26.

years is a long enough period where technology costs can fall and capital costs can be recouped, so that service providers can then competitively continue to offer affordable plans.

Kicker Level 1 criteria already contains a requirement to deploy gigabit-capable infrastructure.[14] With projects supporting this level of buildout, higher speed/higher priced plans can cover most of the incurred costs and target profits, while continuing to offer lower speed/lower priced affordable plans will have less impact on the vast network resources. Level 1 kicker awards should go to service providers who agree to extend their affordable plans to three years after project completion, and Level 2 awards for those extending plans to five years.

Additionally, the extended affordable plan offering criteria should state that low-income plans must be offered to all households in low-income areas, regardless of individual household income. This is appropriate because households in low-income areas are likely to be low-income, even if they do not meet the technical administrative definition, and higher income households are more likely to be able and willing to pay for higher-speed plans anyway. The definition of "low-income areas" where affordable plans are offered should continue to adjust annually based on the median household income aligning with household of four eligible level for CARE[15], which through May 2021 is $54,400.[16]

However, if instead the Commission decides to make the low-income plans only eligible to individual households that have qualifying income levels, there should be a "sliding scale" rate for households based upon how much they exceed the cut-off income level by. For instance, service providers should offer the same $15/mo affordable plan for $20/mo to households that exceeds the income limit by up to 25%, and for $30/mo to households that exceed the income

[14] SP at 15.
[15] *Id*. at 20, footnote 37.
[16] http://www.cpuc.ca.gov/General.aspx?id=976.

limit by up to 50%. This type of structure will more rationally balance between providing affordable plans and allowing a return on investment than simply disqualifying households above a set income level.

3.3 Support Criteria Definitions

(a) Should the definitions be modified for accuracy or clarity?

The Level 2 kicker criteria includes offering Indefeasible Rights of Use ("IRUs") for California Tribes within 40 miles of project infrastructure.[17] The SP defines IRUs as long-term leases (for example 30 years) for unrestricted access to at least two fiber strands, with a convenient and possible point of interconnect for Tribal interconnect.[18] There is no requirement that any service provider actually connect infrastructure beyond the point of interconnect to serve any Tribe.[19]

NDC supports providing broadband access to unserved and underserved communities, and believes that many Tribes qualify as such. However, it is not clear what the reason is for specifically incentivizing IRUs to all Tribes, even if they are never used to provide broadband service. Instead, NDC suggest that any such access to fiber strands should be made available upon some showing that it will be utilized and will therefore support CASF goals.

NDC would also appreciate clarification on why this access is being offered solely on the basis of Tribal status. It would be much more reasonable to target limited kicker funding to support particular areas that are low-income or have dial-up only access, as are prioritized by statute and in D.18-12-018[20], and which would also include many Tribal areas. However, *all* Tribal lands would include areas which operate lucrative casinos, which should be excluded from

[17] SP at 16.
[18] *Id*. at 17.
[19] *Id*.
[20] D.18-12-018 at 4-5, 19-20.

special access to fiber strands, even if they happen to be within range of infrastructure. Those same Tribes operating casinos would seem to have the revenue to deploy broadband infrastructure on other lands they own as well, and should not need government funds to do so. Excluding Tribes with casinos would preserve more funds for Tribes that really need the limited CASF funds. Thus, the Level 2 kicker criterion appears to be both too narrow – excluding non-Tribal unserved areas, and too broad – including all Tribal lands for additional funding.

Further definition and clarification on the terms of the IRUs is also necessary. For example, how long is considered "long-term"? Since IRUs are "leases", how much can service providers charge Tribes or other eligible areas for the right of unrestricted access? If the IRUs are given free of charge, terms should be included to ensure that those cost savings are passed along to end-use consumers, and not retained by an intermediate service provider or administering agency. It should also be clarified whether Tribes or other communities granted IRUs can resell or sub-lease their right, especially if they cannot find a service provider who will provide the intended residential broadband access.

NDC recommends clarification on the IRUs criteria so that they will better serve the intended purpose of providing affordable broadband access to unserved and underserved areas. We applaud the Commission and CD Staff's concern for Tribal, low-income, and dial-up only areas throughout the state, and support well-defined provisions designed to incentivize deployment in those areas.

5. Proposed Kicker Budget and Status of May 4, 2020 Applications

(a) Should other prioritization or prioritization factors be considered?

The SP proposes the following prioritization factors that the Commission could consider if requests for kicker funding exceed available funding:

• Whether a project makes a significant contribution to the program goal;

- May 4 CASF applications with RDOF kicker fund requests;
- Kicker fund requests;
- Other May 4 CASF Applications;
- Tribal sovereignty;
- Service to low-income communities; and
- Contribution of non-CASF, outside, or RDOF funding.[21]

i. Prioritize cost-effective projects as well as remote deployment projects, as they make significant contributions to the program goal

On the "significant contribution to the program goal" prioritization factor, the SP includes a footnote referencing California Public Utilities Code section 281(b)(1)(A), which states the "98 percent broadband access" goal of the program.[22] The referenced code section does not define or clarify what the term "significant contribution" means. It is Pub. Util. Code §281(f)(12) that requires the Commission to consider certain factors in determining CASF project funding levels, including "whether the project makes a significant contribution to achieving the program goal." However, section 281(f)(12) also does not define or clarify what a project must include to make a "significant contribution".

In D.18-12018, the Commission discusses the "significant contribution" factor, and defines the term as "any application where the proposed project area is within a Broadband Consortium region that has not yet reached the goal of deploying broadband Internet service at speeds of at least 6 mbps download and 1 mbps upload to 98 percent of households."[23] While the Commission adopts this definition for the CASF Infrastructure Account program, it would be reasonable and appropriate to apply more robust requirements when awarding additional funds through the kicker program, in order to further incentivize the highest priority deployments.

[21] SP at 19-20.
[22] *Id*. at 19, footnote 35.
[23] D.18-12-018 at 21.

The kicker program should prioritize the most cost-effective projects as making a "significant contribution to the program goal", as they will provide broadband service to the most number of unserved households for the least cost. The goal of the kicker program is to support California service providers who are pursuing RDOF dollars, in order to incentivize service providers to build broadband infrastructure faster.[24] The SP also states that "Staff put forward this proposal to maximize CASF funding through leveraging federal RDOF dollars in the context of finite CASF funds"[25]. Cost-effective programs can potentially do more with the additional kicker funds than other projects, and can also provide best-practices for service providers to model in future projects. This will further support more efficient deployments, adding to their significant contribution.

Additionally, the kicker program should clarify that projects targeting the most remote areas, those furthest from currently existing infrastructure, are making a "significant contribution to project goals". In support of the CASF goal to provide broadband access 98 percent of households, infrastructure will need to extend to many hard-to-reach areas. Building to remote areas will normally be very expensive and provide less opportunities for service providers to earn returns on their investment. Therefore, it makes sense that additional kicker funds should be offered to prioritize and incentivize such projects.

ii. Focus tribal support to areas that really need help

As discussed previously, NDC supports special consideration and prioritization for areas that are underserved, especially due to remoteness or low household incomes that make them less viable markets for service providers to target. It is very likely that many tribal lands fit these criteria exactly. However, it is less clear whether *all* tribal land should be automatically targeted

[24] SP at 8.
[25] *Id*. at 11.

for priority deployment and funding, without some showing that the targeted areas are actually unserved or less viable. Tribal lands with casinos are able to generate substantial profits to pay for infrastructure deployment, and the tribes that operate such casinos can use casino revenue to build infrastructure on other lands they own, even where no casinos operate. Therefore, it may be appropriate to exclude tribes that run casinos from priority consideration. This would focus and prioritize deployment toward tribal lands that have less resources.

iii. Prioritize projects that will provide extended affordable plans to low-income communities

Broadband service providers may view low-income communities as less lucrative markets than higher-income communities, and may be less motivated to deploy infrastructure to serve such areas. Therefore, it seems reasonable to prioritize projects that target low-income communities for additional kicker funds. However, this factor should require not only that a project target low-income communities, but commit to providing a low-cost service plan for three years (Level 1) to five years (Level 2) after project completion. Greater priority should be given for projects that commit to extending the affordable plan offering longer than 5 years. Afterall, it will be of little public benefit to build broadband infrastructure to a low-income community if residents cannot afford the service plans offered. Instead, the availability of high-speed internet access may accelerate gentrification by attracting individuals with well-paying jobs that can work remotely to the area, ultimately displacing low-income residents. Affordable plan offerings must be an integral component of the CASF goal if the support funding is to actually benefit the consumers who need it.

iv. Prioritize projects according to levels of non-CASF, outside, or RDOF funding to maximize leveraged funds and incentivize prudent expenditures

The kicker process should prioritize applicants who leverage private funding for their proposal. (This recommendation complements NDC recommendations to limit funding to 100% of project costs, and to prioritize cost-effective proposals.) Applicants who contribute their own private funding toward project costs will be more likely to use all funds more wisely and cost-effectively, since efficiency will directly impact their monetary commitment.

In D.18-12-018, the Commission considered arguments that applicants should be required to have "skin in the game" by providing some private funds, but the decision declined to impose any general requirement, based on a statutory requirement that the Commission consider funding up to 100 percent of projects.[26] However, now that such a requirement is satisfied in the D.18-12-018 process (and is properly reserved only for proposals that target the highest need areas), the kicker process does not also need to consider providing 100% funding. In fact, the kicker program only contemplates providing up to 20% of project costs, so as an independent process it *cannot* provide up to 100% funding. Therefore, the kicker process *can* require projects to utilize some private funding for the remaining 80% of their project costs. At the very least, the kicker program should prioritize projects based on the degree to which they utilize private funding.

The successful New NY Broadband Program ("NYBP"), New York's CASF-equivalent program, required all applicants to commit private funds to their proposed projects.[27] The NYBP had an overall goal to solicit private sector funds for 50% of capital costs, but allowed requests for up to 70% to 80% of project costs.[28] Further, the NYBP required that at least 10% of the total project costs come from the applicants' own funds, and not loans secured by project assets or

[26] R.18-12-018 at 20.
[27] https://nysbroadband.ny.gov/sites/default/files/rfp_guidelines_phase_3.pdf at 22.
[28] *Id*. at 22-23.

money from government grants.[29] Equity requirements that utilize applicants' own money leverage more funds to achieve project goals, and incentivize applicants to use funds more prudently, estimate costs more accurately, and complete projects more quickly.

NDC recommends that the kicker process prioritize projects that have up to 20% private funding to receive Level 1 kicker funding, and projects with more than 20% private funding to receive Level 2 kicker funding. Similarly, projects with RDOF or other government funding should receive some priority consideration, as these will also leverage funding to increase total broadband deployment. RDOF-funded projects further program goals more cost-effectively than projects without RDOF, but do not provide as much incentive to manage spending prudently as using private funds, warranting lower prioritization. Projects with up to 25% RDOF funding should be prioritized to receive Level 1 kicker funds, and projects with more than 25% RDOF funding should be prioritize for Level 2 kicker funds.

5.2. <u>Requests for Payment</u>

(a) Should other approaches be considered for payment of kicker funds?
(b) The proposal contemplates penalties in the event a grantee fails to notify the Commission of any delays and the project fails to meet the approved completion date. What criteria should be considered with respect to the imposition of penalties in this section?

The SP requires only that grantees *notify* the CD Director as soon as they become aware that they may not meet their specified timeline, and provides for penalties that may be incurred if a grantee fails to *notify* the CD of delays.[30]

While it is certainly reasonable to require grantees to notify CD of delays and provide a new timeline, grantees should not be able to avoid penalties simply by providing notice. Instead,

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[29] https://nysbroadband.ny.gov/sites/default/files/rfp_guidelines_phase_3.pdf at 23.
[30] SP at 21.

penalties should be assessed based on the severity and nature of delays. When grantees first give notice of a delay and provide a new timeline, the CD should have the authority to approve, modify, or reject the new timeline to ensure that it is reasonable. If it is reasonable and accepted by CD, the grantee can proceed with the new timeline and no penalties will be imposed. If the new timeline is unreasonable or the grantee fails to keep to the new timeline, then at the time of the project deadline, the CD should review the issues, the causes and duration of the delays, the service provider's attempts to address the issues, and the resulting infrastructure and broadband service deployed. The Commission can then adopt Resolutions imposing penalties up to 1.75x the amount of kicker funds received, as the SP recommends.[31] Without an assessment of delays by CD, providers could knowingly develop inaccurate and unrealistic timelines, yet avoid any penalties simply by giving notice of the inevitable resulting delays.

6. Timing

(a) Is the timing outlined in Section 6 appropriate? Why or why not? If not, please suggest an alternative schedule and explain why it is preferable.

i. Preliminary determinations of kicker eligibility may allow for faster deployment

The SP proposes to wait until the FCC announces RDOF winners before awarding kicker support.[32] This is necessary so as to prevent disqualifying any applicants from RDOF funding by virtue of having received CASF funding. However, as applications have already been submitted and timing issues or delays with federal agency action are beyond the control of the Commission, it may be reasonable to assess May 4 applications for kicker eligibility now. CD can issue preliminary award letters contingent upon RDOF approval, so that service providers can have

[31] SP at 21.
[32] *Id*. at 22.

more confidence to start moving forward now with planning, contracting, and allocating resources. As the CASF goal is to provide broadband service to 98% of California by the end of 2022, faster deployment is preferable. Initiating review now and providing preliminary contingent award letters before RDOF decisions can help speed up the process.

ii. Providing a small portion of kicker funds up front may support faster deployment

Given that CASF funds will be collected by December 31, 2022, the SP anticipates that kicker funds will be awarded in 2021-2023 and "recognizes that kicker funds awarded sooner are more helpful to RDOF winners."[33] Generally, it is most reasonable and prudent that the Commission pay out kicker funds in line with progress that service providers can affirmatively demonstrate. Mirroring the D.18-12-018 reimbursement stages at 10, 35, 60, 85, and 100 percent of project completion is appropriate[34], although less frequent and larger payments may be justified, given that kicker funds will only consist of 10-20% of total project costs. Incremental payout helps ensure that funds are not misused and that steady funding is available to continuously support build out. The D.18-12-018 process also wisely withholds the final 15 percent of funds until after a completion report and site review by Commission staff, because the final review involves different concerns than the intermediate stages.

Similarly, the first stage of deployment involves different concerns, primarily more efforts to plan, contract for and allocate resources. NDC believes that it may help accelerate progress to provide a portion of the kicker award upfront, to help providers meet these initial needs. Again, given that kicker funds will only make up 10-20% of project costs, providing half or a quarter of the kicker award amounts upfront would be reasonable.

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[33] SP at 22.

[34] D.18-12-018 at 75.

7. Proposed Process

7.1. Kicker Process for May 4 Applications and Other RDOF Winners

(a) Should a different or modified process be considered? If so, how and why?

7.2. Process for May 4 Application Areas Without Kicker Requests

(b) Should a different or modified process be considered? If so, how and why?

7.3. Application Window for Nearby CASF-Only Eligible Blocks

(d) Should the proposed process and opportunity to apply for CASF-only census blocks be adopted?

(e) Should information, items, or criteria be added to the staff review process?

The SP proposes that CD Staff review applications from RDOF winners and confirm by mail whether they meet kicker fund requirements.[35] If Staff review is insufficient for RDOF winner applications, Staff will put a Resolution before the Commission to award or deny kicker funds.[36] For other applications, the D.18-12-018 process will be used.[37]

NDC recommends that in any review processes, communities be given the opportunity to provide public comments on the individual applications targeting their neighborhoods, and that such comments be thoughtfully received and carefully reviewed. Community feedback on how proposed projects can impact residents will give the Commission and staff valuable insight on the need and urgency of these programs. Public comments can also help identify programs that are not well-designed to address actual needs and can provide suggestions to improve program plans. Given that the nature and quality of public comments can vary widely, it is difficult to determine how much weight to give such feedback. But to the degree that multiple similar projects meet kicker criteria, those with community support expressed through comments should receive priority over those that lack such support or face community opposition.

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[35] SP at 23.

[36] *Id*.

[37] *Id*.

III. CONCLUSION

NDC supports the intention and thoughtful design of the SP kicker process to incentivize and leverage additional broadband deployment in unserved areas. We look forward to continuing to work with the Commission, CD Staff, and other stakeholders to further develop provisions that will increase internet access in underserved communities.

October 15, 2020

Respectfully Submitted,

/s/______________________________
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