

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

*Order Instituting Rulemaking Regarding
Revisions to the California Advanced
Services Fund*

Rulemaking 20-08-021
(Filed August 27, 2020)

**OPENING COMMENTS OF RURAL COUNTY REPRESENTATIVES OF
CALIFORNIA ON STAFF PROPOSAL ON STATE-FEDERAL
BROADBAND INFRASTRUCTURE FUNDS LEVERAGING**

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Dated: October 15, 2020

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I. Introduction

In accordance with Rule 6.2 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), the Rural County Representatives of California (RCRC) submits comments to the Order Instituting Rulemaking 20-08-021 (“Rulemaking”).

II. Comments

On behalf of the Rural County Representatives of California (RCRC), we are pleased to offer comments to the *Staff Proposal on State-Federal Broadband Infrastructure Funds Leveraging* (“Staff Proposal”), issued by Administrative Law Judge Joanna Gubman on October 1, 2020. RCRC was granted party status on September 15, 2020. RCRC is an association of thirty-seven rural California counties and its Board of Directors is comprised of elected supervisors from those member counties.

Our comments are outlined based on the questions directed by the ALJ’s ruling, below.

1. Background

a. Should the Commission consider additional aspects, rationale, or interpretation of Public Utilities Code section 281 to facilitate CASF-RDOF leveraging?

RCRC agrees with the process outlined in the Staff Proposal to postpone consideration of the May 4, 2020 CASF applications pending completion of the first round of RDOF bidding. Consistent with changes made by Assembly Bill 82 (Chapter 14, Statutes of 2020), delaying approval of these May 4th CASF applications presents an opportunity to invest federal funding into the California network, thereby decreasing reliance on state-only funding in areas that are federally eligible for support.

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?

The Staff Proposal clearly outlines the FCC RDOF Report and Order provision that precludes eligibility for those census blocks that were awarded state funding.

2. Rationale for State-Federal Leveraging

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

Creating a robust digital infrastructure for a state as large and vast as California requires a more strategic approach to leveraging funding sources. In order to meet the Commission's goal of providing broadband access to no less than 98 percent of California households within a consortia region, all available resources of funding should be considered, including federal, state, local, and private. Allowing maximum flexibility, and innovative project funding will decrease pressure on limited state dollars.

3. Proposed Criteria for State Kicker Funds

a. Will this proposal work to incentivize additional RDOF bids or deployment than would otherwise occur in California?

The timing for the initial kicker funding outlined in the Staff Proposal is challenging. Specifically, the lack of certainty on kicker funding approval, and more fundamentally, the uncertainty on the final kicker program process, criteria and conditions, makes it difficult to incorporate kicker funds into the RDOF bidding strategy. However, the kicker funding will be beneficial for the overall build-out of infrastructure.

Additionally, RCRC strongly supports incentivizing open access, gigabit-capable infrastructure. The Commission may want to consider prioritizing funding or otherwise incentivizing deployment of infrastructure that provides public benefit as well as open access, such as projects that partner with the California Department of Transportation (CalTrans) on roadway monitoring and safety or CAL FIRE early fire warning systems. Other examples of public benefit could be a local government project that will allow free wifi in public parks or other public gather places.

b. Should different criteria for CASF-RDOF leveraging be considered?

The Commission should consider incentivizing novel funding models that leverage public monies to attract private investment. For example, allow for additional funding percentages/amounts of CASF to be given to those RDOF awardees who are bringing more than 50 percent private investment into the project.

d. In light of the proposal to add California requirements on top of RDOF requirements, should fewer or other criteria be considered to simplify complying with state and federal requirements?

The kicker requirements outlined in the Staff Proposal¹ sets forth a two-tier state funding allocation system for RDOF awardees, based on meeting specified build out conditions. Distribution of state funding is proposed to be on a reimbursement basis, through the years 2021-2023². Creating a system that invests state funding into projects that emphasize long-term viability

¹ Staff Proposal, Section 3.1, pages 15-16

² Staff Proposal, Section 5.2, page 21

of the infrastructure, such as requiring gigabit-capable speeds, as well as spurring competitive pricing through open access infrastructure deployment, is a wise use of limited state resources. Additionally, including engagement with tribal governments is incredibly important as many tribal lands in rural areas have long been overlooked and lack basic, reliable telecommunication services.

RCRC agrees that all locations within a designated deployment should be served, as opposed to the current CASF Infrastructure Grant program requirement that allows service to only one household per census block to meet deployment funding requirements.³

However, RCRC has grave concerns with the expedited build provision which would require a kicker fund awardee to “build to all locations in the awarded project area in the first four years instead of the first six years.”⁴ Although we understand the desire to expedite deployment of infrastructure, especially during the current circumstances brought forth with the COVID-19 pandemic, this requirement could be gravely onerous to some RDOF awardees, disincentivizing otherwise qualified projects and thwarting the Commission’s intended goal of leveraging the federal funds to deploy this future proof network. RDOF requires 40 percent of locations in the award area to be completed by the end of year three, with an additional 20 percent build location increase per year after that, through year six. Therefore, for the purpose of RDOF award requirement fulfillment, 60 percent of locations must be built in the project area by year four. Requiring 100 percent of a project to be completed within four years may be unreasonable, especially in rural areas of the state that can present complications such as difficult terrain, federal and state permitting constraints, and challenges in material and resource procurement. Additionally, the unknown impacts of the continuing of global COVID-19 must be taken into consideration, including possible pressures on the global supply chain for needed components.

Alternatively, the Commission should consider a funding distribution schedule similar to RDOF, releasing kicker funds years one through three, equally. This would allow RDOF awardees to utilize state funding for immediate project related costs or further leverage those state funds to bring in private investments.

³ “For a census block to be served by a provider, the provider must submit deployment data indicating that it offers serves speeds to at least one household in that census block AND subscriber data indicating that it has one subscriber in that census block.” Page 7, CASF – The Broadband Infrastructure Grant Account, Revised Application Requirements and Guidelines, December 2018.

⁴ Staff Proposal Section 3.1, page 16

4. Additional Benefits for Kicker Qualifying Entities

4.1 Letter of Credit and Financial Support for Kicker Recipients

a. Should the Commission consider other financing support for kicker fund applicants?

As discussed in previous comments, the timing of the Commission proceeding process creates uncertainty in determining appropriate project area, size and resource commitments needed to successfully bid for RDOF funding. Without a reliable commitment from the state on funding eligibility and availability, California RDOF applicants lack the ability to fully leverage state funding during the bid process. Further clarifying allowable kicker funding uses and providing more flexibility may mitigate some of those impacts. For instance, payment for Letter of Credit issued by both public and private enterprises should be a permissible use of kicker funds. The Letter of Credit is required for release of RDOF funding, prior to the commencement of construction, therefore kicker funding would need to be released in advance, upon receipt of invoice from financial institution, for payment of the initial Letter of Credit. Section 4.1 of the Staff Proposal puts forth creative ideas around support for a letter of credit, however, more detail and clarity are needed to fully evaluate the efficacy of the of the proposal.

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.

It is imperative that application timelines correspond to RDOF award notifications and deadlines, such as the Long Form completion date. RCRC appreciates delegating to staff the review process to expedite the decision-making process.

It is unclear however if application for kicker funding is a one-time requirement (for three years of funding), or if an application is needed for each of the first three years.⁵

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?

⁵ Staff Proposal, Section 6, page 22

Yes, these provisions provide a good opportunity to view regional connectivity more holistically, instead of deploying a patchwork of infrastructure and possibly leaving pockets of unserved, or underserved, surrounded by fiber infrastructure.

III. Conclusion

RCRC appreciates your consideration of our comments, and respectfully requests your acceptance of RCRC's comments for filing.

Dated: October 15, 2020

Respectfully submitted,

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