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

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

R.20-08-021  
(Filed August 27, 2020)

**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 STAFF PROPOSAL**

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October 15, 2020

Attorneys for the Small LECs

1 Pursuant to the October 1, 2020 email Ruling of Administrative Law Judge Gubman  
2 ("Ruling") seeking comments on the Staff Proposal on State-Federal Broadband Infrastructure  
3 Funds Leveraging ("Staff Proposal"), Calaveras Telephone Company (U 1004 C), Cal-Ore  
4 Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone Co.  
5 (U 1009 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011  
6 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C), The Ponderosa  
7 Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone  
8 Company (U 1017 C), Volcano Telephone Company (U 1019 C), and Winterhaven Telephone  
9 Company (U 1021 C) (the "Small LECs") offer these opening comments. The purpose of the Staff  
10 Proposal is to develop a process for leveraging California Advanced Services Fund ("CASF")  
11 support to capitalize on potential synergies with the federal Rural Digital Opportunity Fund  
12 ("RDOF") auction, which is ongoing. The Small LECs support the overall goal of coordinating  
13 federal and state programs to multiply the value of funding for California, and the Small LECs offer  
14 these comments to provide constructive feedback on the Staff Proposal so that it will better  
15 complement the RDOF process. The Small LECs also agree that some process for "kicker" funds  
16 from CASF would be appropriate to enhance the value of RDOF projects. Whether the specific  
17 terms of the Staff Proposal are the optimal way to structure "kicker" funds is less clear.

18 The Staff Proposal presents various intricate programmatic details, and full ramifications of  
19 these nuances will depend on how the program is implemented, how much interest is generated in  
20 RDOF, and who the winning bidders turn out to be. Nevertheless, the Small LECs offer the  
21 following observations regarding the Staff Report, focused on some of the specific questions in  
22 the "Background," "Proposed Criteria for State Kicker Funds," "Support Criteria Definitions," and  
23 "Application Window for Nearby CASF-Only Eligible Blocks." *See Staff Proposal* at 1-3, 5. The  
24 Staff Proposal poses numerous questions, but the Small LECs only have input on certain items. As  
25 requested in the Ruling, the Small LECs have organized their comments according to the specific  
26 questions or groups of questions in the Staff Proposal upon which they offer comment, as follows:

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1           **Issue 1(b) (Background): Does the proposal accurately capture that state**  
2           **infrastructure awards before RDOF would likely disqualify or remove the state-funded**  
3           **locations from the federal auction?**

4           Yes. The Small LECs understand that that the RDOF process will "exclude those census  
5 blocks which have been identified as having been awarded funding . . . through . . . state  
6 broadband subsidy programs to provide 25/3 Mbps or better service." <sup>1</sup> Based on the Federal  
7 Communications Commission's ("FCC") direction, there is a significant risk that areas designated  
8 to receive CASF support would be ineligible for RDOF. However, given the imminent timing of  
9 the RDOF auction and the Commission's typical administrative process for addressing CASF  
10 grants, it does not appear likely that CASF funding could be secured in time to meaningfully  
11 influence the RDOF auction.

12           **Issues 3(a)-(d) (Proposed Criteria for State Kicker Funds): (a) Will this proposal**  
13           **work to incentivize additional RDOF bids or deployment than would otherwise occur**  
14           **in the California? (b) Should different criteria for CASF-RDOF leveraging be**  
15           **considered? (c) Should the criteria be modified to better support faster deployment?**  
16           **(d) In light of the proposal to add California requirements on top of RDOF**  
17           **requirements, should fewer or other criteria be considered to simplify complying with**  
18           **state and federal requirements?**<sup>2</sup>

19           The Staff Report proposes to offer additional "kicker" funds from the CASF program to  
20 augment potential RDOF support in qualifying areas. The "kicker" support would be available at  
21 two potential "levels," "Level 1" and "Level 2," subject to a series of additional eligibility  
22 requirements beyond the RDOF specifications. Given that these additional funding opportunities  
23 would come with further regulatory obligations, it is unclear how much interest would materialize  
24 for utilizing these funds, and equally unclear as to whether an RDOF bidder would consider these  
25 potential funds in framing a bid. To make "kicker" funds more effective in attracting RDOF-  
26 funded projects in California, the Commission should work to reduce the differences between the  
27 two programs' requirements to the greatest extent possible.

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<sup>1</sup> *In the Matter of Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 10-90, 19-126, *Report and Order*, FCC 20-5 (rel. Feb 7, 2020) at ¶ 13.

<sup>2</sup> This section also addresses the "Definitions" issues in Question 3.3(a) to the extent that definitions are relevant to the "Kicker" requirements.

1 In addition to these overall observations, the Small LECs have three specific comments  
2 regarding the "kicker" criteria:

3 *First*, requiring "gigabit-capable network infrastructure" is reasonable given the forward-  
4 looking scalability and long-term cost efficiencies from fiber infrastructure. *Staff Proposal* at 15.  
5 However, the Staff Proposal should clarify that the infrastructure would only need to be "capable"  
6 of "gigabit" speeds; companies should not necessarily have to offer symmetrical "gigabit" service  
7 packages if the communities would be better served by other service packages at lower speeds and  
8 lower prices. The focus of this requirement should be on the nature of the infrastructure, not  
9 specific speed packages.

10 *Second*, the reference in the Staff Proposal to an "open access" requirement continues to be  
11 problematic and is likely to disincentivize applicants from proposing projects. *Staff Proposal* at  
12 17. The definition of "open access" refers to "non-discriminatory" access to facilities, but then it  
13 describes the concept as a "wholesale model," which seems to far exceed a commitment to treat  
14 potential requests for access "on equal terms." *Id.* CASF applicants should not have to agree to  
15 become wholesale providers or provide unfettered access to their networks in order to pursue  
16 needed infrastructure projects. The Commission appears to be interested in facilitating a more  
17 "public" model of telecommunications networks, but pursuit of this concept could come at the cost  
18 of discouraging applicants.

19 *Third*, the "Level 2 Kicker" requirements include becoming a Carrier of Last Resort  
20 ("COLR") in the designated area.<sup>3</sup> *Staff Proposal* at 16. This proposal is underdeveloped, and the  
21 lack of clarity could make it difficult or impracticable for carriers to agree to this requirement. On  
22 its face, this requirement would mean that a "Level 2 Kicker" participant would have to commit  
23 indefinitely to meet all reasonable requests for service in the area, long after a project has been  
24 completed. The physical boundaries of the potential COLR designation could also be difficult to  
25 define, leading to confusion about where the company is a COLR and where it is not. This  
26 proposal also raises significant timing issues, as a COLR designation would require approval from

27 <sup>3</sup> In Tribal areas, the Staff Proposal offers an alternative to the COLR requirement whereby "Indefeasible  
28 Rights of Use" would be offered to California Tribes along last mile or middle mile routes.

1 the Commission through an application or resolution process, a process that could take several  
2 months and which would not necessarily align with the timing for awarding "Kicker" funds.  
3 Without more explicit coordination, these disconnects could create a situation where carriers could  
4 be designated as COLRs, but still not be approved to receive "Kicker" funds. Likewise, it could  
5 be possible that Kicker funds would be awarded in anticipation of a COLR designation, and then  
6 the funding could fall through if the company were not granted COLR status. This could  
7 jeopardize projects as a whole and create inefficiencies in broadband deployment.

8 **Issue 7.3 (Application Window for Nearby CASF-Only Eligible Blocks): (d) Should**  
9 **the proposed process and opportunity to apply for CASF-only census blocks be**  
10 **adopted? (e) Should information, items, or criteria be added to the staff review**  
11 **process? (f) The proposal contemplates a limited set-aside for CASF Applications**  
12 **from RDOF winners for areas near the CASF applicants' RDOF winning bid census**  
13 **blocks. If an amount should be set-aside, what amount should be set-aside for this**  
14 **section of the proposal and why?**

15 The Small LECs are concerned about the possibility of funding for "nearby" census blocks  
16 in connection with the RDOF bids and the contemplated "Kicker" process. It is unclear how a  
17 "nearby" block would be defined, and unclear how potential disputes would be resolved if  
18 multiple bids are "nearby" a given census block. The Commission should not attempt to resolve  
19 this potentially more complicated and contentious use of CASF funding through this Staff  
20 Proposal. Instead, it should consider any "adjacent" projects on a separate basis for their  
21 individual merits. This would allow for all relevant factors to be considered without inadvertently  
22 favoring a project because of its physical proximity to an RDOF area.  
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