

Docket: I.18-07-009  
Exhibit Number : \_\_\_\_\_  
Commissioner : Rechtschaffen  
Admin. Law Judge : Zhang  
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**CONSUMER PROTECTION AND  
ENFORCEMENT DIVISION  
CALIFORNIA PUBLIC UTILITIES COMMISSION**

**DIRECT TESTIMONY**

**OF**

**SELENA HUANG**

San Francisco, California  
July 7, 2020

1 **I. QUALIFICATION AND SUMMARY**

2  
3 **1. State your name.**

4 My name is Selena Huang.

5  
6 **2. What is your position?**

7 I am currently the Program Manager in the Communications Division's (CD) Broadband,  
8 Video and Market Branch. I was the Program and Project Supervisor in CD from May 2015  
9 to September 2019.

10  
11 **3. Can you explain your involvement with NIU's Consortia grant?**

12 As a Program and Project Supervisor in CD from May 2015 to September 2019, I supervised  
13 staff assigned to implement the California Advanced Services Fund (CASF) program, which  
14 included the CASF Rural and Urban Regional Broadband Consortia Account (Consortia  
15 Account).

16  
17 **4. Are you familiar with the terms of the Consortia grant issued to California's One  
18 Million New Internet Users (NIU)?**

19 Yes. All Consortia, including NIU, are required to comply with the terms and conditions of  
20 the grant as set forth in the Commission's decisions and resolutions, Decision (D.) 11-06-038  
21 and Resolution T-17355.

22  
23 **5. What is the Consortia Account?**

24 The Consortia Account has been modified a couple of times. For the purpose of this case, I  
25 will just focus on how the Consortia Account worked when NIU was a CASF consortia.

26  
27 The Consortia Account, among other CASF accounts, was created by Senate Bill (SB) 1040<sup>1</sup>  
28 on September 25, 2010. SB 1040 authorized the Consortia Account with \$10 million to  
29 "fund the cost of broadband deployment activities other than the capital cost of facilities, as  
30 specified by the Commission." Funding to regional Consortia are to promote regionally  
31 appropriate and cost-effective broadband deployment, access, and adoption within a given  
32 region.

33  
34 **6. What is the process for grantees to seek reimbursement?**

35 The Consortia Decision (D.11-06-038) and Resolution (T-17355) describe the process for  
36 grantees to seek reimbursement. Generally, in order to receive a progress payment, the  
37 consortium must first submit their Quarterly Progress Report,<sup>2</sup> together with all requests for

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<sup>1</sup> Padilla, Chapter 317, Statutes of 2010, available at [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_1001-1050/sb\\_1040\\_bill\\_20100927\\_chaptered.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_1001-1050/sb_1040_bill_20100927_chaptered.html).

<sup>2</sup> D.11-6-038 states, "Quarterly Progress Reports shall be based upon the approved Action Plan, Work Plan, Consent Form, timelines, milestones, and costs identified in the application. Further, the Quarterly

1 payment and reimbursement supported by relevant invoices, receipts, etc. to CD. The  
2 Quarterly Progress Report will be submitted and certified under penalty of perjury.<sup>3</sup>

3  
4 The grantee may request reimbursement of start-up costs equivalent to a maximum of 10% of  
5 the total award. Such payment requests should also be supported by documentation, e.g.,  
6 receipts, invoices, quotes, etc. Start-up costs include administrative expenses, e.g., rental of  
7 building, hiring of personnel, purchase of office supplies, etc. Subsequent disbursements are  
8 on a progress report-review basis and are to be made at the following intervals: 15%, 25%,  
9 25%, and 25%.<sup>4</sup>

10  
11 Consortia are also provided an Administration Manual prepared by CD that describes the  
12 requirements and process for obtaining grant payments and for CD staff's oversight of the  
13 consortia's operations applicable to grant recipients. As an example, I have attached to my  
14 testimony a copy of the Administration Manual, Version 2 dated September 2012.<sup>5</sup>

15  
16 **7. Is the Consortia subject to the Commission's authority as grantees?**

17 Yes. The Commission in D.11-06-038 requires any Consortium receiving CASF grant funds  
18 to fully recognize and acknowledge that, by receiving a CASF grant, the Consortium  
19 members agree to comply with the terms, conditions, and requirements of the grant and  
20 submit to the jurisdiction of the Commission with regard to disbursement and administration  
21 of the grant.<sup>6</sup> Consortia receiving awards also are bound by the requirements set forth in the  
22 Commission's resolution authorizing such awards.<sup>7</sup>

23  
24 **8. Are Consortia grantees required to respond to data requests?**

25 Yes.

26  
27 **9. Can you tell me more about NIU's program that was approved by the Commission as  
28 part of the CASF grant?**

29 Pursuant to Resolution T-17355, the mission of NIU is to utilize existing technology  
30 resources such as computer labs available in community common areas, schools, and local  
31 organizations (termed "empowerment hubs") to launch adult and/or parent computer

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Progress Report shall indicate the actual date of completion of each task/milestone as well as problems/issues encountered and the actions taken to resolve these problems/issues." (p. 30).

<sup>3</sup> D.11-06-038, p. 30.

<sup>4</sup> *Id.*

<sup>5</sup> Attachment 1, See *California Public Utilities Commission, California Advanced Services Fund Rural and Urban Regional Broadband Consortia Grant Program, Administrative Manual, Version 2* (September 2012).

<sup>6</sup> D.11-06-038, p. 12-13.

<sup>7</sup> *Id.* at 41, "Consortia applicants receiving awards shall be bound by the requirements and obligations set forth in the Commission's resolution authorizing such award, including Action and Work Plan, budget, the completed consent form (as shown in Attachment H), and completed affidavit, swearing or affirming to the statements as show in Attachment E to this decision." (Ordering Paragraph #18).

1 training.<sup>8</sup> By investing in a targeted curriculum and training community college students as  
2 trainers, NIU's 7-step *Parent Engagement Through Technology* curriculum was intended to  
3 maximize funding to reach over 2,000 parents through direct access and education to  
4 promote broadband adoption.<sup>2</sup>

5  
6 NIU requested CASF consortium funding of \$150,000 in Year 1 with intention to renew  
7 Years 2 and 3 for \$150,000 each. In total, NIU requested the maximum funding of \$450,000  
8 to increase access and adoption in specific communities in Los Angeles County.<sup>10</sup> Per  
9 Resolution T-17355, the Commission approved NIU's request for Year 1 funding of  
10 \$150,000 and a three-year budget allowance for \$450,000.<sup>11</sup> To receive Year 2 and Year 3 of  
11 the budget allowances authorized by Resolution T-17355, NIU was required to submit a  
12 work plan for approval by October 1 of each year.<sup>12</sup>

13  
14 **10. What were NIU's program activities 1 through 7 as described in their Action Plan**  
15 **submitted with their Application?**

16 NIU listed the following seven activities in their Action Plan:<sup>13</sup>

17 **Activity 1:** Create awareness around the tremendous broadband resources and  
18 opportunities available within the region via NIU Conferences/Community  
19 Meetings;

20 **Activity 2:** Meet with Administrators (School site, library, community based  
21 organizations, community centers, etc.) to inform them about One Million  
22 NIU and the impact that it will have with their parents and other community  
23 members;

24 **Activity 3:** Meet with Parent and Community Leader(s) to inform them about  
25 One Million NIU and how they will learn to use the Internet to access critical  
26 on-line resources;

27 **Activity 4:** Conduct Orientation Meetings with Community Colleges, and  
28 WIB (Workforce Investment Boards), link the two and begin Train the Trainer  
29 program to develop trainers, maximize resources and deliver access and  
30 training to under-served communities;

31 **Activity 5:** Trainers conduct the 40 hour Parent Engagement through  
32 Technology sessions from school site, community-based organizations, and  
33 community centers where computer labs are turned into Empowerment Hubs;

34 **Activity 6:** One Million NIU Graduation Ceremony is conducted [for] parents  
35 and other adult community members completing the NIU 40 hour course. This

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<sup>8</sup> See Resolution T-17355, p. 5.

<sup>2</sup> See Resolution T-17355, p. 5.

<sup>10</sup> See Resolution T-17355, p. 5.

<sup>11</sup> See Resolution T-17355, p. 14 (Ordering Paragraph 2).

<sup>12</sup> See e.g. Resolution T-17355, p. 14 (Ordering Paragraph 3).

<sup>13</sup> OII Attachment A, CPED's Staff Report, Exhibit 6 (NIU Action Plan), p. 4.

1 is a huge press event, which provides momentum to expand the NIU model in  
2 other schools, community-based organizations and community centers; and

3 **Activity 7:** NIU Alumni attend post-course One Million NIU Graduate  
4 workshops, where parents and community members are involved in email  
5 exercises, mobilizing on current issues, e.g. DreamAct, budget cuts, Opening  
6 the Revenue Spigot.

7 **11. Did NIU identify performance measurements for each activity?**

8 Yes. In NIU’s approved Work Plan, NIU set forth initial performance measurements for  
9 each of their seven activities.<sup>14,15</sup> In addition, in each quarterly report submitted with NIU’s  
10 payment request, NIU identified their progress in completing their annual work plans.<sup>16</sup>

11  
12 NIU submitted multiple requests to CD to revise their performance metrics. For example, for  
13 Year 2, NIU submitted revisions to their performance metrics on October 1, 2012 and then  
14 on February 28, 2013. For Year 3, NIU submitted revisions to certain performance metrics  
15 in their Year 3 Work Plan submitted on December 3, 2013.<sup>17</sup>

16  
17 **12. Did CD approve the changes to NIU’s performance metrics proposed in NIU’s Work  
18 Plans?**

19 No. CD approved changes to NIU’s performance metric for Year 2 but not NIU’s proposed  
20 performance metric changes for Year 3.

21  
22 On March 4, 2013, CD approved NIU’s Year 2 amended Work Plan submitted on February  
23 28, 2013.<sup>18</sup>

24  
25 CD did not approve NIU’s proposed Year 3 Work Plan submitted on December 3, 2013.<sup>19</sup>  
26 Instead, CD disallowed \$75,000 from NIU’s budget based on its poor performance history.  
27 Specifically, NIU met only 85% of its target for Year 1 Activity 5, and as of Year 2, Quarter  
28 3, NIU met only 49% of its target for the same activity. Additionally, CD explained,  
29 regarding NIU’s second request to change Activity 7, that it was “concerned by NIU’s  
30 proposal to fundamentally alter its performance metrics. We will not approve this proposed

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<sup>14</sup> NIU submitted an Action Plan and Work Plan as part of the application. Pursuant to D.11-06-038, the Action Plan is an outline of the Consortium’s priorities as they relate to the region’s needs for broadband deployment, access, and adoption. The Work Plan should include more detailed functions and activities related to implanting the Action Plan. The Work Plan should include a timeline identifying milestone dates for completion of key Work Plan activities proposed to be funded; the timeline shall describe each of the quarterly milestones to be accomplished.

<sup>15</sup> OII Attachment A, CPED’s Staff Report, Exhibit 9, NIU’s Year 1 Work Plan.

<sup>16</sup> See Devla Singh’s Testimony dated July 7, 2020, Attachment 3 (NIU’s Quarterly Reports).

<sup>17</sup> OII Attachment A, CPED’s Staff Report, Exhibit 10 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated January 14, 2014).

<sup>18</sup> Attachment 2, Letter from Michael Amato to Hyepin Im dated March 4, 2013.

<sup>19</sup> See OII Attachment A, CPED’s Staff Report, Exhibit 10 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated January 14, 2014).

1 change because it is not consistent with the scope of NIU’s initial submission.”<sup>20</sup> CD further  
2 explained that, “NIU has not met this performance metric despite extensively changing this  
3 particular metric in the past.”<sup>21</sup> Therefore, on January 14, 2014, CD funded up to \$49,088 in  
4 consortium expenses for Year 3, and up to \$10,000 in supplemental funding to attend the  
5 March 2014 Annual Summit.<sup>22</sup> On July 22, 2014, in response to NIU’s request to reconsider  
6 CD’s decision to reduce NIU’s budget,<sup>23</sup> CD restored NIU’s Year 3 budget to \$95,440, and  
7 up to \$10,000 in supplemental funding to attend the Annual Summit.<sup>24</sup>  
8

9 **13. What were CD’s primary concerns with NIU’s performance?**

10 CD was concerned that NIU was not meeting its proposed performance metrics.<sup>25</sup> For  
11 example, as of the end of Year 1, NIU was behind in the following areas:  
12

- 13 1. 85% completion rate for Activity 5.
- 14 2. 19% completion rate for Activity 7.<sup>26</sup>

15  
16 While CD attempted to work with NIU by offering it the opportunity to address these issues,  
17 as of the end of Year 2, Quarter 3, NIU fell even further behind in the above categories,  
18 along with Activities 2 and 3.<sup>27</sup>  
19

20 **14. Did NIU meet their performance metric the first two years of the grant period of 790**  
21 **attendees per year (Activity 5), in accordance with the terms of their Consortia grant?**

22 No.

23  
24 **15. Can you please elaborate?**

25 As explained in CD’s January 14, 2014 letter to NIU, as of the end of Year 1, NIU only met  
26 85% of its performance metric for Activity 5 (Annual target number of parents to complete  
27 the 40 hours of training was 790).<sup>28</sup>

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<sup>20</sup> OII Attachment A, CPED’s Staff Report, Exhibit 10 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated January 14, 2014).

<sup>21</sup> See OII Attachment A, CPED’s Staff Report, Exhibit 10 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated January 14, 2014).

<sup>22</sup> See OII Attachment A, CPED’s Staff Report, Exhibit 10 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated January 14, 2014).

<sup>23</sup> See OII Attachment A, CPED’s Staff Report, Exhibit 12 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated July 22, 2014).

<sup>24</sup> See OII Attachment A, CPED’s Staff Report, Exhibit 12 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated July 22, 2014).

<sup>25</sup> See OII Attachment A, CPED’s Staff Report, Exhibit 10 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated January 14, 2014).

<sup>26</sup> *Id.* p. 2.

<sup>27</sup> *Id.* p. 3.

<sup>28</sup> See OII Attachment A, CPED’s Staff Report, Exhibit 10 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated January 14, 2014).

1 In Year 2, CD agreed to increase the target number of parents graduating from 790 to 909 in  
2 Year 2 in order to make up for the shortfalls in Year 1. This change to Year 2's budget was  
3 made with the understanding that NIU would catch-up and make-up for the targets they did  
4 not meet in Year 1. However, despite these opportunities, as of Year 2 Quarter 3, rather than  
5 catch-up, NIU instead has fallen even further behind with only a 49% completion rate for  
6 Activity 5; 36% completion rate for Activity 7, 58% completion rate for Activity 2, and 58%  
7 completion rate for Activity 3.<sup>29</sup>

8  
9 Additionally, NIU did not communicate the change in class design to CD staff, and instead  
10 gave the impression that it has been offering the 40-hour-in-class training in all its quarterly  
11 reports and in its requests for Year 2 and Year 3 budgets submitted on October 1, 2020 and  
12 December 3, 2013, respectively.<sup>30</sup>

13  
14 **16. Why did NIU's failure to meet its performance metric for Activity 5 cause concern for**  
15 **CD?**

16 Resolution T-17355, authorizing NIU's grant, specifically recognized that two of the three of  
17 NIU's primary goals evolved around teaching and training parents how to use the internet.<sup>31</sup>  
18 CD communicated the importance of Activity 5 or the implementation of the 40 hour Parent  
19 Engagement through Technology curriculum in its January 14, 2014 letter to NIU. Activity 5  
20 was considered the "crux" of what NIU's funding was based on.<sup>32</sup>

21  
22 **17. What was your role during the audit?**

23 The audit was already going on when I got to CD in May 2015 (per SCO contract  
24 amendment, the term of SCO's contract was from January 15, 2015 through December 31,  
25 2015).

26  
27 My role was mostly related to the tail end of the SCO audit of NIU and ensuring that CD  
28 followed up after the audit. For example, in April 2016, based on the audit findings, CD sent  
29 a letter to NIU terminating further payments and seeking reimbursement of \$82,381 by July  
30 18, 2016.<sup>33</sup>

31  

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<sup>29</sup> OII Attachment A, CPED's Staff Report, Exhibit 10 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated January 14, 2014), p.2 and p. 3.

<sup>30</sup> See OII Attachment A, CPED's Staff Report, Exhibit 14 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated December 17, 2014 titled "Response to Letters from California's 1 Million NIU's to Request Full Restoration of Consortia Funding for Year 3."), p. 2.

<sup>31</sup> Resolution T-17355, p. 5 provides "NIU's primary goals are to...Increase subscribership through the NIU training program that teaches parents how to use the internet to access essential resources thereby creating relevancy for this underserved group of residents; and, Provide education and training to address technology literacy in targeted parent partnerships."

<sup>32</sup> See OII Attachment A, CPED's Staff Report, Exhibit 10 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated January 14, 2014), p. 3.

<sup>33</sup> See OII Attachment A, CPED's Staff Report, Exhibit 18 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated April 18, 2016), p. 3.

1 **18. What action did CD take after the audit in regards to NIU's grant?**

- 2 • **March 2016:** At the request of NIU, CD met with Larry Ortega from NIU and reiterated  
3 that for questions regarding the audit findings, NIU should contact the SCO.
- 4 • **April 2016:** Based on the audit findings, CD sent a letter to NIU terminating further  
5 payment and seeking reimbursement of \$82,381 by July 18, 2016 ("CD's Demand  
6 Letter).<sup>34</sup>
- 7 • **June 2016:** CD denies KCCD's request for an extension to respond to CD's Demand  
8 Letter and reiterates that "NIU must comply with the reimbursement directive no later  
9 than July 18, 2016."<sup>35</sup>
- 10 • **July 2016:** Reimbursement due per CD's Demand Letter, but CD received no further  
11 payments from NIU.

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<sup>34</sup> See OII Attachment A, CPED's Staff Report, Exhibit 18 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated April 18, 2016), p. 3.

<sup>35</sup> See OII Attachment A, CPED's Staff Report, Exhibit 19 (Letter from Ryan Dulin to Hyepin Im and Larry Ortega dated June 23, 2016).