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03/16/20
04:03 PM

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

Order Instituting Rulemaking Into the Review of
the California High Cost Fund-A Program.

Rulemaking 11-11-007
(filed November 10, 2011)

**REPLY COMMENTS OF AT&T AND FRONTIER ON THE FIFTH AMENDED
ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING REGARDING THE
REVIEW OF THE CALIFORNIA HIGH COST FUND-A PROGRAM**

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March 16, 2020

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AT&T California and Frontier¹ (collectively, “Joint Respondents”), in accordance with Rule 6.2 of the Commission’s Rules of Practice and Procedure, submit these Reply Comments on the Fifth Amended Assigned Commissioner’s Scoping Memo and Ruling (“Ruling”).

By this Ruling, the Assigned Commissioner expands the scope of this proceeding to consider using the CHCF-B fund as an additional source of funds for several purposes, including, but not limited to, the following:

1. To build capacity for communications services (voice and broadband services) in tribal, rural, low-income and underserved areas. We will explore various options, including pilots, issuing grants, and conducting technical and feasibility studies, to determine and meet the capacity need; and
2. To build communications network redundancy and resiliency for public safety purposes.

The Ruling requests comments on the following questions:

1. Use of the CHCF-A and CHCF-B funds for the purposes identified in the Scoping Memo;
2. Specific priorities and recommendations for preferred strategies that the Commission should consider to implement the purposes identified above; and
3. Procedural mechanisms that the Commission should consider to implement the purposes identified above. For example, are there factual or legal questions that require evidentiary hearings or briefs? If yes, please identify them in your comments.

The Joint Respondents reviewed the opening comments filed by other parties on February 28, 2020 and disagree with the assumptions and statements made by both TURN and

¹ Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C); and Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California (U 1024 C), Frontier Communications of the Southwest Inc. (U 1026 C), and Frontier California Inc. (U 1002 C) (collectively, “Frontier”).

the Independent Small LECS regarding the availability of CHCF-B funds for broadband purposes. According to statute, the CHCF-B is *only* to support local rate structures for local exchange service and not for broadband or other data services.

For instance, in its opening comments, TURN stated:

“By allowing B-Fund money to be targeted to specific projects in areas of the state that most lack telecom and data infrastructure and services that are reliable and high-quality, the Commission can analyze and report on these experiences before considering broader, fundamental changes to these programs.”²

“Combined, these statutory directives indicate that when administering programs that promote universal service, such as CHCF-A and CHCF-B, the Commission should assess both availability and affordability of voice and broadband, thereby promoting the adoption of advanced telecommunications services.”³

In comments filed by the Independent Small LECs, they stated:

“Unlike the CHCF-A, the statute governing the CHCF-B specifically states that it ‘does not limit the way the commission collects and disburses funds and does not limit the manner in which it may include or exclude the revenue of contributing entities in structuring the program.’”⁴

This is false. Pub. Util. Code § 276 (a) describes the intended use of the CHCF-B to providing support to telephone corporations providing local exchange services in high-cost areas:

Pub. Util. Code § 276 (a) There is hereby created the California High-Cost Fund-B Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to provide for transfer payments to telephone corporations providing local exchange services in high-cost areas in the state to create fair and equitable local rate structures, as provided for in Section 276.5, and to carry out the program pursuant to the commission’s direction, control, and approval.

² *Response Of The Utility Reform Network To The Fifth Amended Assigned Commissioner’s Scoping Memo And Ruling* (“TURN Opening Comments”), filed February 28, 2020, Rulemaking 11-11-007, *mimeo*, at 4.

³ TURN Opening Comments, *mimeo*, at 5.

⁴ *Opening Comments Of Independent Small LECS On The Fifth Amended Assigned Commissioner’s Scoping Memo And Ruling Seeking Comment On Funding Low-Income And Tribal Communities* (“Independent Small LECs Opening Comments”), filed February 28, 2020, Rulemaking 11-11-007, *mimeo*, at 6-7.

The emphasis on telephone corporations providing “*local exchange*” services and “local rate structures” clearly does not include broadband services. The statute expressly precludes the use of CHCF-B for anything other than supporting the local rate structures of local exchange service:

Pub. Util. Code § 276 (c) Moneys appropriated from the California High Cost Fund-B Administrative Committee Fund to the Commission shall be utilized exclusively by the Commission for the program in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

As mentioned in the Joint Respondents’ comments, there are other more viable means to support broadband initiatives in California. To reiterate, CHCF-B helps ensure that customers in high cost areas receive affordable basic telephone service. To change the program and divert funds for other purposes affects the fundamental purpose of universal telephone service, potentially requiring basic telephone rates to be de-averaged and increased dramatically in high cost areas.

In summary, diverting CHCF-B funds for purposes contrary to the statutory purpose cannot be done without statutory changes.

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Respectfully submitted,

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