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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

**FIFTH AMENDED ASSIGNED COMMISSIONER'S
SCOPING MEMO AND RULING**

This Fifth Amended Assigned Commissioner's Scoping Memo and Ruling reaffirms the category of this proceeding as quasi-legislative and modifies Issue 3 in the Fourth Amended Assigned Commissioner's Scoping Memo and Ruling¹ pursuant to Public Utilities (Pub. Util.) Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules).

Issue 3 in the Fourth Amended Scoping Memo requested comments on the following questions relating to low-income and rural tribal communities²:

- a. Whether the Commission should investigate the penetration of the California High Cost Fund-A (CHCF-A) program in rural low-income and tribal communities; and
- b. Whether the CHCF-A should fund wireline telephone and broadband services in tribal communities.

This ruling broadens Issue 3 to now consider using the California High Cost Fund-B (CHCF-B) fund, in addition to the CHCF-A fund, in order to fully

¹ Fourth Amended Assigned Commissioner's Scoping Memo and Ruling, March 22, 2019.

² "California Native American tribe" means a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004. (See Cal. Pub. Res. Code § 21073.) California Native American tribes include both federally recognized tribes and tribes that are not recognized by the federal government.

implement the universal service needs in tribal (both federally-recognized and non-federally recognized tribal communities), rural, low-income and underserved areas throughout California. Part of the purpose of Phase 2 is to allow the Commission to explore whether these communities are being adequately served by their current incumbent local exchange carriers, where they exist.

1. Background and Discussion

The Commission began a review of the CHCF-A program with Rulemaking 11-11-007. The CHCF-A program was first established in 1987. The A-Fund is available for telecommunications services provided by 13 rural telephone corporations (small local exchange carriers) that serve as carriers of last resort (COLR) in California.

The CHCF-B program was developed in accordance with Pub. Util. Code § 739.3.³ The fund provides subsidies to mid-size and large incumbent local exchange carriers that serve as COLRs for offering basic local telephone service to residential customers in high-cost areas. The subsidies facilitate basic affordable telephone service to meet the Commission's universal service goals. In Decision 96-10-066, the Commission adopted procedures for the administration of CHCF-B and guidelines for Universal Service Rules.

In addition, the Commission is guided the following telecommunications goals of the State set forth in Pub. Util. Code § 709:

- To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.
- To encourage the development and deployment of new technologies and the equitable provision of services in a way

³ Later amended to Public Utilities Code § 276.5.

that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.

- To assist in bridging the “digital divide” by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

Recently, the Commission conducted a series of workshops⁴ to gather direct input from tribal areas about the adequacy of their communication services. Many commenters made clear that there are widespread problems with both availability of service and service offerings. In short, COLR service is not adequately meeting community needs, some of which fall outside of COLR service territories. The Commission has a duty to ensure universal service and a responsibility to explore all options to ensure universal service, especially since climate change and safety issues have emerged as major concerns throughout California.

By this ruling, we expand 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.

⁴ September 16, 2019, hosted by the Tuolumne Mi-Wuk, September 30, 2019, hosted by the Blue Lake Rancheria, and October 11, 2019, hosted by the Pechanga Band of Luiseño Indians.

Given concerns about effective communications in the event of emergencies and Public Safety Power Shutoffs, the CHCF-A and CHCF-B funds may be the best sources of funding for potential urgently needed communications upgrades, including investments in redundancy and resiliency, to support safety.

The scope of this Rulemaking is therefore expanded to consider whether and how the CHCF-A and CHCF-B funds can be used to provide essential communications services for public safety purposes and to adequately meet the universal service needs in tribal, rural, low-income, and underserved areas.

2. Comments on the Fifth Amended Scoping Ruling

We request comments on the following:

1. Use of the CHCF-A and CHCF-B funds for the purposes identified above;
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.

Comments should be filed by February 28, 2020, with reply comments due March 16, 2020.

3. Schedule

The schedule established in the Fourth Amended Scope remains in place, as modified by any Commission action to date such as rulings including this one.

4. Category of Proceeding/*Ex Parte* Restrictions

This ruling confirms the Commission's preliminary determinations that this is a quasi-legislative proceeding. Accordingly, *ex parte* communications are

permitted without restriction or reporting requirement pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

5. Oral Argument

In ratesetting and quasi-legislative proceedings, parties may request oral argument before the Commission, provided that the party makes such request by motion no later than the time for filing opening briefs (if such are required) or within the time and in the manner specified in the scoping memo or later ruling in the proceeding. Rule 13.13.

6. Public Outreach

Pursuant to Pub. Util. Code § 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and businesses that subscribe to it and posted on the Commission's website.

7. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by 30 days after the revised amended scoping memo issues.

We note that in accordance with Pub. Util. Code § 1804 (a)(1), which states: "In cases ... where new issues emerge subsequent to the time set for filing, the commission may determine an appropriate procedure for accepting new ... notices of intent," this Ruling allows any parties wishing to do so to file a new Notice of Intent to Claim Intervenor Compensation no later than 30 days after the revised amended scoping memo issues.

New Notices of Intent so filed must comply with Pub. Util. Code §§ 1801-1812 and Rule 17.1.

8. Response to Public Comments

Parties may, but are not required to, respond to written comments received from the public. (*See* Public Utilities Code § 1701.1(g).) Parties may do so by posting such response using the “Add Public Comment” button on the “Public Comment” tab of the docket card for the proceeding.

9. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission’s Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TYT), or send an e-mail to public.advisor@cpuc.ca.gov.

10. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 requires only electronic service on any person on the official service list, other than the Administrative Law Judge (ALJ).

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must NOT send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

11. Assignment of Proceeding

Pursuant to Rule 13.2(c), Commissioner Martha Guzman Aceves is the Presiding Officer in this proceeding; Hazlyn C. Fortune and Mary E. McKenzie are the assigned ALJs.

IT IS RULED that:

1. The scope of this proceeding is amended as described above.

2. The schedule of this proceeding is amended to require opening comments to be filed February 28, 2020, and reply comments to be filed on March 16, 2020, on the issues identified in this amended scoping ruling.

3. A determination of whether evidentiary hearings are needed on the issues identified in this amended scoping ruling will be made following submission of reply comments.

4. The presiding officers are Administrative Law Judges Hazlyn C. Fortune and Mary E. McKenzie.

5. The category of the proceeding is quasi-legislative.

6. This ruling will be served on the service list of Rulemaking 95-01-020 and Investigation 95-01-021.

Dated December 13, 2019, at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES
Martha Guzman Aceves
Assigned Commissioner