

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking to Conduct a
Comprehensive Examination of the
California Teleconnect Fund.

R.13-01-010
(Filed January 24, 2013)

**REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
IN RESPONSE TO THE MAY 2, 2013 JOINT ASSIGNED COMMISSIONER AND
ADMINISTRATIVE LAW JUDGE RULING SETTING PREHEARING CONFERENCE,
REQUESTING COMMENTS, AND SETTING OTHER PROCEDURES**

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I. INTRODUCTION

Pursuant to the California Public Utilities Commission's (CPUC) Joint Assigned Commissioner and Administrative Law Judge Ruling Setting Prehearing Conference, Requesting Comments, and Setting Other Procedures (Ruling) in R.13-01-010, issued May 2, 2013, the Division of Ratepayer Advocates (DRA) respectfully submits these reply comments concerning the proposed "Restatement of California Teleconnect Fund Goals".¹

II. DISCUSSION

DRA is supportive of the goals of the CTF program and seeks to ensure prudent administration of the program consistent with the public benefit it confers. In the opening comments, there was broad agreement among the commenting parties that several of the proposed revised goals should not include public universities, public safety, or businesses. Additionally, several parties agree that the term "anchor institutions" is vague and not defined. DRA further addresses these points and other proposed revisions to the program goals below.

A. Other Parties Agree With DRA That The Term "Public Universities" Should Not Be Included In The Proposed Goals

As DRA stated in its opening comments, the addition of "public universities" raises concerns because "public universities" are not mentioned in the Public Utilities Code sections governing the CTF.² Cox, Sprint, and Comcast also recommend deleting the term "public universities" from the proposed goals since the term is currently not identified in Section 874.³ In addition, AT&T correctly states that the statutory mandate for the CTF does not provide for funding to public universities and this should be eliminated.⁴ The Utility Reform Network (TURN) also questions the appropriateness of the Commission providing funding to these organizations.⁵ DRA is in agreement with these parties that the term "public universities" should be removed from the proposed CTF goals by the Commission.

¹ See, Ruling, Appendix A.

² See, e.g., Pub. Util. Code § 280, 709, 884, 884.5.

³ Cox, Sprint, and Comcast Opening Comments, at 5. DRA presumes these comments intended to refer to Pub. Util. Code § 280, as § 874 refers to the LifeLine program.

⁴ AT&T Opening Comments, at 3.

⁵ TURN Opening Comments, at 4.

B. The Term “Anchor Institutions” Is Unclear And Not Appropriate In The Context Of The CTF

Numerous parties point out the confusion that would be created by the proposed inclusion of “anchor institutions” in the CTF goals. AT&T points out that the Ruling fails to properly define the term “anchor institution” making it difficult for parties to understand to whom the Commission intends to deploy telecommunication services to support internet access.⁶ Cox, Sprint and Comcast state in their comments that the CTF is not designed to utilize the concept of “anchor institutions.” DRA agrees with these assessments. As DRA stated in its comments, the intent of adding “anchor institutions” into the CTF goals is unclear and, at a minimum, the Commission should revise the language of this proposed goal to instead reflect that the CTF should be responsive to changing social needs.⁷

C. The Term “Public Safety” Should Be Removed From The Proposed Goals

As DRA noted in its opening comments, public safety services have not been a formal part of the CTF program and since this goal has already been codified in other Commission public purpose programs, there is no need for it to be added to the CTF. AT&T points out that the Ruling incorrectly assumes that the CTF was designed to achieve equitable access to “public safety.”⁸ AT&T further points out in comments that public safety access is already governed by other state and federal regulations.⁹ DRA agrees with TURN’s assessment that the inclusion of public safety in the CTF is a stretch since the CTF program is currently not configured for its addition.¹⁰ DRA recommends that the Commission delete the reference to public safety since the CTF is primarily a program focused on data services that are not suitable for contacting emergency responders.¹¹

⁶ AT&T Comments, at 2.

⁷ DRA Comments, at 6.

⁸ AT&T Comments, at 1.

⁹ *Ibid.*

¹⁰ TURN Comments, at 3.

¹¹ DRA Comments, at 5.

D. DRA Agrees That The CTF Discount Should Not Go Directly To End Users Or Businesses

CofAT correctly points out that the CTF proposed goals appear to add private businesses to the list of possible CTF program recipients.¹² AT&T further states in its comments that allowing CTF funding to go directly to businesses or end-users would violate the statutory terms of the program.¹³ TURN argues that the inclusion of businesses suggest a change in policy for the CTF by the Commission which would entail an expansion in the program in both scope and funding and will possibly place ratepayer monies at risk.¹⁴ DRA agrees with these points and submits that there is no justification for expanding the CTF program in this manner at this time. As DRA previously stated, the inclusion of “businesses” into the CTF is out of the scope of the program and we recommend its removal as it is potentially too costly and unjustified.¹⁵

E. DRA Agrees With Parties That The Term “Economically” Should Be Replaced With The Term “Affordable” In The CTF Goals

TURN suggests that CTF Goal 4 should omit the term “economically” since the goal appears to discuss the concept of affordability and not economics.¹⁶ TURN correctly points out that even if a service is “economical” it might not be “affordable.”¹⁷ CforAT also raises this issue when it states in its comments that none of the proposed CTF goals properly recognized or identified affordable access to technology.¹⁸ Therefore, CforAT recommends that the Commission omit the term “economically” and replace it with the term “affordable.”¹⁹ DRA agrees that affordability is a key component of the CTF goals. DRA accordingly agrees with TURN and CofAT’s recommendations that the Commission modify CTF Goal 4 by replacing the term “economically” with “affordable.”

¹² CofAT Comments, at 4.

¹³ AT&T Comments, at 3.

¹⁴ TURN Comments, at 3.

¹⁵ DRA Comments, at 6.

¹⁶ TURN Comments, at 4.

¹⁷ *Ibid.*

¹⁸ CforAT Comments at 2.

¹⁹ *Ibid.*

F. CTF Coordination With The Federal E-Rate Program

The Small LECs recommend that the CTF program consider coordination with the federal programs to help the CTF operate more efficiently.²⁰ DRA can see logic in having the CTF coordinate with the federal programs, such as the E-Rate program, but DRA recommends that this topic be further discussed in workshops due to the possible complicated nature of coordinating CTF with the federal program.

G. DRA Agrees That The Commission Should Protect The Fund From Waste and Abuse

The Small LECs state that the Commission must commit to preventing waste and fraud in administering the CTF program, and should confirm its authority over the distribution of funds and the entities that participate in the program.²¹ DRA agrees with the Small LECs that the Commission needs to commit to protecting the CTF from fraud and abuse. As the program appears to be increasing, it is imperative that the Commission protect the ratepayer funds. However, DRA questions the need and appropriateness of their proposed goal #7 to “Ensure that the Commission retains sufficient oversight over providers of CTF discounts.” The Commission has jurisdiction and oversight over providers of the CTF discounts and distribution of the funds. While this may not be appropriate as a “goal” of the program itself, the Commission should remain vigilant in protecting ratepayer monies.

H. The Commission Should Replace The Term “State of the Art” in Proposed Goal 3# with “Advanced Telecommunications”

In their proposed revisions to Goals #1 and 3, Cox, Sprint, and Comcast appear to support the inclusion of “state-of-the-art” technologies and recommend the addition of “deployment of new technologies” in Goal #1.²² However, as DRA stated in its comments, the Commission should omit the term “state-of-the-art” and replace it with “advanced telecommunications.” The term “state-of-the-art” is too broad and vague and alludes to the program introducing technologies that are not appropriate for the CTF and will lead to an unnecessary expansion of the program.²³ CforAT similarly proposes that the reference to “state-of-the-art” technology in

²⁰ Small LECs Comments, at 2.

²¹ Small LECs Comments, at 2.

²² Cox, Sprint, and Comcast Comments, at 2.

²³ DRA Comments, at 6.

the CTF restated goals be changed to the term “advanced” telecommunications to insure that the CTF does not attempt to include every new technology before it has been properly vetted.²⁴ For the same reasons, DRA urges the Commission to reject Cox, Sprint, and Comcast’s recommendation that CTF Proposed Goal #1 be modified to allow for the “deployment of new technologies.”²⁵ Such a change would be a departure from the original CTF Proposed Goal #1 that allows the CTF to stay focused on its core goals as outlined in the statute.²⁶

III. CONCLUSION

DRA recommends that certain proposed goals of the CTF be modified as discussed above and in our opening comments on this matter.

Respectfully submitted,

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²⁴ CforAT Comments, at 3.

²⁵ Cox, Sprint, and Comcast Comments, at 2.

²⁶ See, e.g., DRA Comments, at 5.