

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)

**OPENING COMMENTS
OF THE OFFICE OF RATEPAYER ADVOCATES
ON PROPOSED DECISION RESOLVING PHASE 1 AND 2 ISSUES
REGARDING THE
CALIFORNIA TELECONNECT FUND**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's (CPUC or Commission) Rules of Practice and Procedure, the Office of Ratepayer Advocates (ORA) provides these comments on the Proposed Decision of Commissioner Peterman Resolving Phases 1 and 2 Issues Regarding the California Teleconnect Fund (Proposed Decision) issued on April 20, 2015.

The Commission created the California Teleconnect Fund (CTF) in Decision (D.)96-10-066, reaffirming its commitment to universal service and reducing the digital divide in accordance with state and federal directives. On January 24, 2013, the Commission issued Rulemaking (R.)13-01-010, "to determine whether the CTF is fulfilling its purpose, and whether the CTF's current structure and administrative processes are adequate to further the program's goals."¹ Phase I of R.13-01-010 addressed whether the initial goals of the CTF program have been met, whether the goals should change, and how the program should be evaluated and measured. Phase II considered proposals and recommendations for revising and reforming the CTF program elements, including eligibility criteria, participant categories, program discounts, service eligibility, and program metrics.

ORA applauds Commissioner Peterman's Proposed Decision in adopting CTF rules consistent with the Commission's commitment to advancing universal access including advanced services such as broadband. These comments follow the sequential order of the Proposed Decision's "California Teleconnect Fund Goals and Program Rules" presented in Appendix A. These comments recommend language to the proposed CTF Goals and Program Rules that will assist in clarifying the intent of the program and well thought out rules consistent with the prudent use of ratepayer monies.

¹ Order Instituting Rulemaking to Conduct a Comprehensive Examination of the California Teleconnect Fund (OIR), January 31, 2013, at pp. 1-2.

II. DISCUSSION

A. PHASE I: PROGRAM GOALS

The Proposed Decision's CTF Program Goals² clearly articulate the priorities of the program that include the types of eligible recipient organizations, the objective to provide direct access to advanced communications, reasonable rates, and targeting of the CTF program to bring such services to underserved communities. The Goals help focus the CTF program and provide guidance to applicants, Commission staff, carriers, and the overall public in understanding the purpose of the program. One minor edit is recommended. The word "Insure" should be replaced by "Ensure" in the third bullet Goal. The Goal should be to "ensure," to make certain, that high-speed Internet connectivity is provided at reasonable rates; "insure" is typically used as an insurance industry term.

B. PHASE II: CALIFORNIA TELECONNECT FUND PROGRAM ELEMENTS AND RULES

1. General Organization of Appendix A

After the CTF Program Goals are presented on page one of the Proposed Decision's Appendix A, the heading states "California Teleconnect Program Rules." The following sections of the Appendix do not contain a comprehensive list of all of the rules governing the CTF program, but only list changes to the existing rules. Any CTF rules that are unchanged are not found in the Appendix. Thus, in order to be accurate, the section should read "California Teleconnect Program Rule Changes." Similarly, the Appendix A document title should read "California Teleconnect Fund Goals and Program Rule Changes."

Moreover, some of the "rules" listed are not rules or rule changes at all, but rather descriptions of issues that will be resolved in Phase 3 of the proceeding.³ These notations

² See Proposed Decision, Appendix A, at p. 1.

³ See, e.g., Appendix A, at p. 3, Rule 8; and at p. 7, Rule 20. ORA further notes that some language used in the Rules reads like a proposed staff report and should be modified. For example, in the first bullet point under "Community Base Organization Participant Eligibility Criteria Rules" (Appendix A, p. 2), there is a sentence that begins "We should exclude religious organizations...." This raises the question of whether they are in fact excluded under the Rules. ORA recommends revising this sentence and

should not be included in any final, comprehensive list of “California Teleconnect Program Rules.”

The rule changes listed by themselves, without the underlying comprehensive California Teleconnect Program Rules, are fairly clear. However, at some point, a final version of the comprehensive California Teleconnect Program Rules, with the changes approved by this phase of the proceeding, should be compiled. The Communications Division should issue a final, comprehensive version of the rules within a reasonable time period.

The rule changes listed in the Appendix are sometimes numbered and sometimes only bullet-pointed. As some rules lack any numbering, it would be difficult to reference them clearly. The rule changes in Appendix A should be numbered throughout, either cumulatively, or for each subsection. Each subsection may also be numbered.

2. Categorically Eligible Participant Rules: Rule 4

Rule four (4) governing Hospitals and Health Clinics states that “Critical Access Hospitals should be categorically eligible participants as a subgroup under the ‘Hospitals and Health Clinics’ category.”⁴ The Proposed Decision discusses eligibility of Hospitals and Health Clinics, and accepts Communications Division (CD) staff’s recommendation that Critical Access Hospitals (CAHs) should be added to the subgroup of “Hospitals and Health Clinics” that are eligible for CTF funds. Hospitals and Health Clinics must be municipal and/or county government owned and operated to be categorically eligible for CTF funds.⁵ The Proposed Decision also states that it agrees with ORA’s recommendation that the CAHs must also meet the government-run or non-profit criteria that are required of all other recipients.⁶

replacing other instances of the word “should” throughout the Rules with more definitive terms such as “must”, “shall”, or “are”.

⁴ Appendix A, at p. 1.

⁵ See Proposed Decision, at p. 20.

⁶ Proposed Decision, at p. 21.

However, the requirement that CAHs must also meet the government-run or non-profit criteria is not included in Rule four (4) found in Appendix A. Moreover, the phrase “categorically eligible” is often understood to mean that eligibility is established without the need to meet any other requirements. Rule four (4) should clearly specify that CAHs must meet the government owned and operated requirement or the non-profit requirement to be considered categorically eligible under the “Hospitals and Health Clinics” subgroup. All CTF eligible institutions should meet the same or parallel eligibility requirements, so that there is parity in the program. The rule change four (4) found in the Appendix omits an important component regarding the addition of CAHs that the Proposed Decision recognizes.

**3. Community Based Organization Participant
Eligibility Criteria: Bullet No. 3**

The third bullet point under Community Based Organization (CBO) eligibility states that “(q)ualifying services must be 50% or more of a CBO’s *mission*.” (Emphasis added.)⁷ For a CBO, the use of the term “mission” generally refers to the organization’s mission statement. However, the elements in a mission statement seldom provide quantifiable information about how the organization’s resources are deployed. The Commission should instead require more concrete metrics, such as documentation quantifying 50% of the CBO’s tasks or work-plan, budgetary resources, or personnel hours providing the qualifying services. The word “mission” should be replaced by “tasks or work-plan” or “budget expenditures or staff person hours.” This would provide more clarity and guidance in administering the CTF program.

**4. Community Based Organization Participant
Eligibility Criteria: Bullet No. 9**

The ninth bullet point for CBOs defines “indirect assistance” provided by a CBO as “providing assistance on site to those unable to do so because of disability or limited

⁷ Appendix A, at p. 2.

English proficiency.”⁸ Two edits are recommended to this bullet adding the underlined wording to make the definition’s meaning clearer and more comprehensive:

Services are provided directly or through some closely related indirect assistance. “Indirect assistance” means providing Internet-enabled assistance on site to those unable to use the services directly ~~do so~~ because of disability or limited English proficiency or lack of proficiency in computer or Internet use.

Adding “Internet-enabled” more specifically describes the type of assistance to be given to clients. The modified wording recognizes assistance to a significant number of seniors and others who may not fit the disability or limited English proficiency criteria, but who still may have difficulty using the services directly.

5. New eligible subcategory of CBO called “Health Care/Health Services CBO”: Rule 5

Rule 5⁹ should include an effective date for the creation of the new “Health Care/Health Services CBO” sub-category, such as 90 days after the issuance of the Decision to be adopted in Phase 3 of this proceeding. That will allow CD staff adequate time to prepare application forms and other necessary materials for Health Care/Health Services CBOs.

The initial budget caps for Health Care/Health Services CBOs and for qualifying California Telehealth Network members¹⁰ should also have a specified opportunity for parties’ input once the staff makes a recommendation for the cap levels.

III. CONCLUSION

ORA appreciates the Commission’s efforts in examining the CTF to further the Commission’s universal service goals and to ensure that ratepayer funds are prudently spent.

⁸ Appendix A, at p. 3.

⁹ *Id.*

¹⁰ *Id.*

ORA's recommendations are intended to improve clarity and guidance in the CTF program, and are consistent with California statute and the Commission's 1996 adopted Universal Service Principles and Objectives.

Respectfully submitted,

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APPENDIX A

ORA's Proposed Changes to Conclusions of Law and Ordering Paragraphs

Conclusions of Law

5. Critical Access Hospitals should be included as ~~categorically~~ eligible participants as a subgroup under the "Hospitals and Health Clinics" category. Critical Access Hospitals must meet the CTF requirements of either being government owned and operated or being non-profit.

Ordering Paragraphs

2. The California Teleconnect Fund Rules Changes set forth in Appendix A are adopted.