



COM/DH7/fzs 6/21/2023

**FILED**

06/21/23

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

IN AM

R2008021

Order Instituting Rulemaking  
Regarding Revisions to the California  
Advanced Services Fund.

Rulemaking 20-08-021

**ASSIGNED COMMISSIONER'S RULING INVITING COMMENTS  
ON STAFF PROPOSAL FOR BROADBAND  
LOAN LOSS RESERVE FUND**

This ruling provides notice and opportunity to comment on a staff proposal, included with this ruling as Attachment 1, for establishing a Broadband Loan Loss Reserve Fund. Parties may file comments responsive to Attachment 1 and the following questions no later than July 10, 2023, and reply comments no later than July 20, 2023.

**1. Background**

As described in the Second Amended Scoping Memo, issued March 1, 2022, Senate Bill (SB) 156 (Stats. 2021, Ch. 84 and 112) and Assembly Bill (AB) 164 (Budget Act of 2021) created and allocated continuous funding for the implementation of a Broadband Loan Loss Reserve Fund within the California Advanced Services Fund (CASF). The Second Amended Scoping Memo invited party comments on initial questions regarding eligibility requirements, financing terms and conditions, and allocation criteria for infrastructure projects deployed using financing supported in whole or in part by the Broadband Loan Loss Reserve Fund. The Commission received timely responses from National Diversity Coalition, Inland Empire Regional Broadband Consortium, California Emerging Technology Fund, California Broadband & Video Association (at the

time of filing, California Cable & Telecommunications Association),<sup>1</sup> the Public Advocate's Office of the Public Utilities Commission (Cal Advocates), and Rural County Representatives of California; and timely reply comments from Center for Accessible Technology, Cal Advocates, California Broadband & Video Association, and National Diversity Coalition.

Commission staff (Staff) reviewed parties' comments and conducted further research and analysis to develop a proposal to fulfill the statutory requirement to "fund costs related to the financing of the deployment of broadband infrastructure by a local government agency or nonprofit organization, including, but not limited to, payment of costs of debt issuance, obtaining credit enhancement, and establishment of funding of reserves for the payment of principal and interest on the debt."<sup>2</sup> Attachment 1 includes Staff's proposed revised rules and guidelines for the Broadband Loan Loss Reserve Fund.

## **2. Questions for Party Comment**

1. The Staff Proposal identifies two different options for offering support from the Loan Loss Program (LLP). Which approach is preferable, and why? Are there any alternatives the Commission should consider?
2. Are there any modifications the Commission should make to either proposed approach to distributing LLP support?
3. The required application materials include an estimate of the bond's interest rate with and without the LLP's guarantee. This is to ensure that the LLP funds are reserved for projects that will benefit from its support. Is this reasonable? Should the Commission set a standard for

---

<sup>1</sup> On March 13, 2023, the California Cable & Telecommunications Association ("CCTA") provided notice of party name (and email address) change, from California Cable & Telecommunications Association to California Broadband & Video Association.

<sup>2</sup> See Cal. Pub. Util. Code section 281.2(a)(1).

- the minimum financial benefit that applicants must demonstrate? If so, is 50 basis points (i.e., 0.5 percent) a reasonable minimum standard?
4. Are the proposed designs of the General Market and Equity tracks reasonable? Should there be any additional or modified restrictions on Equity track eligibility?
  5. In the event that a step or application cycle is oversubscribed, are there any prioritization criteria the Commission should consider in addition to those listed in section 7.4 of the Staff Proposal?
  6. In the event that LLP funds are extinguished/fully reserved within a step or application cycle, should the LLP use any remaining funds to offer partial coverage for an otherwise-eligible application?
  7. Should the LLP limit how much funding may be allocated to support a single project, and/or a single applicant within each step or application cycle?
  8. Should the Commission allow one bond issuance to support multiple projects?
  9. What is a reasonable date to open the LLP for applications?
  10. Do applicants need or wish for the Commission to adopt the LLP rules and guidelines within a certain timeframe? If so, what is that timeframe?
  11. Do applicants need or wish for the Commission to review and dispose of an application within a certain timeframe? If so, what is that timeframe (beginning with submission of an application)?
  12. Under the “tranche” model, there may be a situation where there are applications for more funding than is available in the track. Should the LLP allow Equity track applicants to reserve General Market funds, if those General Market funds are not reserved by General Market applicants?
  13. Are there any additional application requirements or supporting documentation that the Commission should consider requesting from applicants in order to ensure a

- successful bond offering? If so, please provide details regarding the specific items or documentation that would be beneficial.
14. Are there any application or reporting requirements identified in the Staff Proposal that should *not* be required? If so, why?
15. Safeguarding the Loan Loss Funds:
- a. What mechanisms or safeguards should the Commission explore to safeguard the integrity of the Loan Loss Fund?
  - b. Section 6.10 of the Staff Proposal proposes a requirement that the bond issuer hire an external consultant and, potentially, act on that consultant's recommendations under certain conditions. Is this reasonable? What modifications should be made, if any?
  - c. If a significant amount of funds is drawn upon, would provisions requiring other interventions, such as a requirement for a Commission-appointed administrator with explicit authority (e.g., a receivership) to improve network standing, be appropriate and preferable to monetary penalties?
  - d. It is common for debt service reserve guarantees to apply an interest rate, also known as a draw rate, to any draws on the debt service reserve that are not promptly repaid. This enhances the long-term financial health of the reserve fund. Is it reasonable to apply a fixed or market-determined draw rate in this program? Is a one (1) percent interest rate reasonable?
16. To increase speed and flexibility prior to a bond's closing, the Staff Proposal proposes a ministerial approval for an increase in capitalized interest of up to twenty (20) percent above the amount identified in the project application. Is this reasonable? Does the applicable law permit such a provision for ministerial approval regarding the increase in

- capitalized interest, as proposed in the Staff Proposal? Are there any legal constraints or considerations that should be taken into account in this context? If a party believes the proposed ministerial approval should not be adopted, the party should propose any reasonable and lawful option that would meet substantially the same goal, i.e., increasing speed and flexibility before the bond closes.
17. In section 11.2 (Completion Reporting), should speed test data reporting include both peak and off-peak timing testing requirements?
18. Section 6.8 of the Staff Proposal outlines eligible project costs. Are there any costs that should be added to or removed from this section? Are there any other guidelines that should be included in this section?
19. Are there any other modifications the Commission should consider?

Parties are encouraged to include redlines to the Staff Proposal that effectuate their recommendations as an attachment to their comments.

**IT IS SO RULED.**

Dated June 21, 2023, at Sacramento, California.

/s/ DARCIE L. HOUCK

Darcie L. Houck  
Assigned Commissioner

# Attachment 1