



# Initial Proposal Volume 1 (Requirements 3, 5 – 7)

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## BROADBAND EQUITY, ACCESS, AND DEPLOYMENT (BEAD) PROGRAM

April 2024

This document is a draft of Volume 1 of the BEAD Initial Proposal. It has been released for public comment in advance of its submission by the California Public Utilities Commission to the National Telecommunications and Information Administration.



**California Public  
Utilities Commission**

CALIFORNIA PUBLIC UTILITIES COMMISSION

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# 1. Introduction

The California Public Utilities Commission (CPUC) hereby submits to the National Telecommunications and Information Administration (NTIA) for approval this first volume of the State of California’s BEAD Initial Proposal in alignment with NTIA’s BEAD challenge guidance.<sup>1</sup>

This document represents one of four separate reports that the CPUC is preparing for NTIA in compliance with the BEAD Notice of Funding Opportunity (NOFO). The other documents include California’s Five-Year Action Plan, Initial Proposal Volume 2, and the Final Proposal.

This document includes the following requirements outlined in the BEAD NOFO:<sup>2</sup>

1. The document identifies existing efforts funded by the federal government or the State of California within the jurisdiction of the State of California to deploy broadband and close the digital divide, including on Tribal Lands (Initial Proposal Requirement 3).
2. The document identifies each unserved location and underserved location within California (under the jurisdiction of California, including unserved and underserved locations on Tribal Lands), using the most recently published National Broadband Map<sup>3</sup> as of the date of submission of the Initial Proposal, and identifies the date of publication of the National Broadband Map used for such identification (Initial Proposal Requirement 5).
3. The document describes how the CPUC has applied the statutory definition of the term “community anchor institution” (CAI), identified all eligible CAIs in California, identified all eligible CAIs on Tribal Lands, and assessed the needs of eligible CAIs, including what types of CAIs it intends to serve; which institutions, if any, it considered but declined to classify as CAIs; and, if the CPUC proposes service to one or more CAIs in a category not explicitly cited as a type of CAI in Section 60102(a)(2)(E) of the Infrastructure Act, the basis on which the CPUC determined that such category of CAI facilitates greater use of broadband service by vulnerable populations (Initial Proposal Requirement 6).
4. The document includes a detailed plan as to how the CPUC will conduct a challenge process as required by NTIA and consistent with the challenge process guidance released by NTIA on September 7, 2023 (Initial Proposal Requirement 7).

The CPUC intends to run its challenge process after (1) NTIA approves this first volume of the Initial Proposal, and (2) the CPUC submits the second volume of its Initial Proposal, addressing all remaining

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<sup>1</sup> This guidance document is intended to help BEAD Eligible Entities better understand the BEAD Program requirements set forth in the Infrastructure Act, the BEAD Notice of Funding Opportunity (NOFO), and the BEAD Challenge Process Policy Notice. This document does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFO, shall prevail over any inconsistencies contained in this document.

<sup>2</sup> See BEAD NOFO at 31, Section IV.B.5.b.

<sup>3</sup> The National Broadband Map, referred to as the Broadband DATA Map in the BEAD NOFO, is the fixed broadband availability map created by the Federal Communications Commission under Section 802(c)(1) of the Communications Act of 1934 (47 U.S.C. § 642(c)(1)).

requirements of the Initial Proposal as described in NTIA's BEAD Notice of Funding Opportunity. This will enable the CPUC to maintain the timeline required by NTIA for the BEAD program.

## **2. Existing broadband funding (Requirement 3)**

This first volume of the BEAD Initial Proposal includes, consistent with NTIA requirements, descriptions of existing funding for broadband in California.

In its submission to NTIA, the CPUC will attach as Appendix 1 the file that identifies:

1. Sources of funding
2. A brief description of the broadband deployment and other broadband-related activities
3. Total funding
4. Funding amount expended
5. Remaining funding amount available

### **3. Unserved and underserved locations (Requirement 5)**

This first volume of the State of California Broadband Equity, Access, and Deployment (BEAD) Initial Proposal includes, consistent with National Telecommunications and Information Administration (NTIA) requirements, a list of all unserved and underserved locations in California.

#### **1. 3.1 Location IDs of all unserved and underserved locations**

California will attach as appendices two CSV files with the location IDs of all unserved and underserved locations, respectively, including unserved and underserved locations on Tribal Lands, in its submission to NTIA and publish an updated list upon NTIA's approval of the Challenge Process.

#### **3.2 Publication date of the National Broadband Map used to identify unserved and underserved locations**

The unserved and underserved locations identified in this document and its attachments are based on the November 28, 2023 publication date of the National Broadband Map.

## 4. Community anchor institutions (Requirement 6)

This first volume of the State of California Broadband Equity, Access, and Deployment (BEAD) Initial Proposal includes, consistent with National Telecommunications and Information Administration (NTIA) requirements, a definition of “community anchor institution,” a list of community anchor institutions, and an analysis of the connectivity needs of the institution.

### 2. 4.1 Definition of “community anchor institution”

Based on the statutory definition of “community anchor institution” as defined in 47 USC 1702 (a)(2)(E), the CPUC defined “community anchor institution” to mean a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization (including any public housing agency and U.S. Department of Housing and Urban Development-assisted housing organization), or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.

The CPUC definition of “community anchor institution” includes all facilities of the sorts described above that are owned by or provided for by Tribal entities.

Based on the statutory definition above, the following criteria were used to determine the inclusion or exclusion of community support organizations not specifically listed in 47 USC 1702(a)(2)(E): Whether the community support organization facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.

The following definitions and sources were used to identify community anchor institutions:

1. **Schools:** This category included all K-12 schools participating in the FCC E-Rate program or that have a National Center for Education Statistics (NCES) ID in the categories “public schools” or “private schools.”
2. **Libraries:** The list of libraries included all those participating in the FCC E-Rate program as well as all member libraries, and their branches, of the American Library Association (ALA).
3. **Health clinic, health center, hospital, or other medical providers:** The list of health clinics, health centers, and hospitals included all institutions that have a Centers for Medicare and Medicaid Services (CMS) identifier certification number (CCN).
4. **Public safety entity:** The list of public safety entities included fire houses, emergency medical service stations, and police stations, based on records maintained by the State of California, units of local government, and Tribal nations. Included in the list of public safety entities was also the list of public safety answering points (PSAP) in the FCC PSAP registry.
5. **Institutions of higher education:** Institutions of higher education included all institutions that have an NCES ID in the category “college,” including junior colleges, community colleges, minority serving institutions, Tribal colleges and universities, other universities, and other educational institutions.
6. **Public housing organizations:** Public housing organizations were identified by contacting the Public Housing Agencies (PHAs) for California enumerated by the U.S. Department of Housing and Urban Development, as well as by contacting nonprofit organizations Public and Affordable Housing Research



Corporation (PAHRC) and National Low-Income Housing Coalition, which maintain a database of nationwide public housing units at the National Housing Preservation Database (NHPD).

7. **Community support organizations:** The list included organizations identified by the CPUC, in the context of its multi-year broadband engagement work, that facilitate greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals. These included community support organizations, such as headstart locations, family services, and community action agencies, identified through agency related data, that support vulnerable populations. Such community support organizations facilitate broadband availability for vulnerable populations, including low-income individuals, through Wi-Fi, technology outreach, technology skills and assistance with wrap around services that include those accessed through technology portals.
8. **Other sources of data:** The CPUC also drew on State, Tribal, county, and municipal resources to identify additional eligible community anchor institutions that were not contained in the data sources listed above. In addition, the CPUC used the Initial Proposal Volume 1 public comment process to ensure that all relevant institutions meeting the CAI criteria are included.

The resulting list comprised of 8,100 CAIs. CPUC then removed locations that, according to the v3 BDC data from January 9, 2024, are in a census block that has access to gigabit symmetrical speed service. CPUC also added the HBCU as requested by the NTIA and location IDs where matching.

As noted in the CAI attachment, some of the locations that appeared in the data from the sources described above require further explanation, which appears in the Explanation column of the spreadsheet. There are the following categories of explanation: broadband service to foster children, broadband service to low-income persons and families, broadband service to those seeking career advice, broadband service to those seeking nutritional support (who may be low-income persons), broadband service to those seeking adult education, broadband service to youth centers (which may reach several covered populations), and broadband service to migrants (who may be English language learners).

### 3. 4.2 Connectivity needs of defined CAIs

To assess the network connectivity needs of the types of eligible community anchor institutions listed above, the CPUC undertook the following activities:

1. **Engaged government agencies.** The CPUC communicated with relevant California agencies to understand what records they have available regarding relevant community anchor institutions with access to 1 Gbps symmetrical broadband service. Specifically, the CPUC contacted the following agencies:
  - a. **Education:** The CPUC coordinated with the California Department of Education to determine which schools and libraries do not currently have access to 1 Gbps symmetrical broadband service. The CPUC has determined that these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO.
  - b. **Healthcare:** The CPUC communicated with the California Department of Public Health to determine which public health facilities lack 1 Gbps symmetrical broadband service. The CPUC has determined that only some of these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD Notice of Funding Opportunity (NOFO) and *preliminarily presumes as unserved* any CAI in this category that is located in a census block that does not have access to symmetrical gigabit service.

- c. **Libraries:** The CPUC coordinated with the California State Library to determine which libraries lack 1 Gbps symmetrical broadband service. The CPUC has determined that only some of these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO and *preliminarily presumes as unserved* any CAI in this category that does not have access to symmetrical gigabit service.
  - d. **Public safety.** The CPUC communicated with the California Department of Technology and the California Highway Patrol to obtain 1 Gbps broadband service availability data. The CPUC has determined that these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO.
2. **Engaged Tribal nations.** The CPUC reached out to the Tribes listed on the California Native American Heritage Commission list of California Tribes and engaged with representatives of interested individual Tribal nations to coordinate and obtain 1 Gbps broadband service availability data. The CPUC has determined that only some of the Tribal CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO and *preliminarily presumes as unserved* any CAI in this category that is located in a census block that does not have access to symmetrical gigabit service.
  3. **Engaged relevant umbrella organizations and nonprofits.** The CPUC has extensive contacts with community support organizations and maintains a geodatabase of such organizations.
  4. **List of CAIs that do not have adequate broadband service.** Using the responses received, the CPUC compiled the list of those CAIs that do not have adequate broadband service. The CPUC will attach as Appendix 4 the CSV file with the relevant list of eligible community anchor institutions that require qualifying broadband service and do not currently have access to such service, to the best of the CPUC's knowledge in its submission to NTIA. These appendices will be provided to NTIA and released as part of the Challenge Process.

The CAI attachment now shows maximum download and maximum upload speeds. If there is no data, that means either

- a. It is in a rural location with no BDCs in that block,
- b. It is a non-broadband serviceable location (BSL) census block such as a university complex that has no BSLs in it, or
- c. it is in a right-of-way with no BSLs, such as plotted directly in a road.

## 2 5.Challenge process (Requirement 7)

This first volume of the State of California BEAD Initial Proposal includes, consistent with NTIA requirements, a detailed and rigorous proposed challenge process for development of the map under which BEAD grants will be evaluated and awarded by the CPUC. The proposed challenge process, including all required elements, is described in detail below.

Adoption of NTIA Challenge Model:

☐ No

☒ Yes

The CPUC plans to adopt the NTIA BEAD Model Challenge Process with modifications as set out below to satisfy Requirement 7 and to ensure that the State has a fair process following federal guidelines. California’s process will include additional modifications. California will also adopt the BEAD Eligible Entity Planning Toolkit.<sup>4</sup>

### 4. 5.1 Modifications to reflect data not present in the National Broadband Map: Types of modifications

The CPUC proposes the following modifications to the National Broadband Map as a basis for the California BEAD Challenge Process and the CPUC’s BEAD grantmaking. Modifications other than the DSL modifications are subject to rebuttal.

#### DSL modification 1

The CPUC will treat locations that the National Broadband Map shows to have available qualifying broadband service (i.e., a location that is “served”) delivered via DSL as “underserved.” This modification will better reflect the locations eligible for BEAD funding because it will facilitate the phase-out of legacy copper facilities and ensure the delivery of “future-proof” broadband service. This designation cannot be challenged or rebutted by the provider.

#### Cellular Fixed Wireless Modification

The CPUC will treat as “underserved” locations that the National Broadband Map shows to have available qualifying broadband service (i.e., a location that is “served”) due solely to the availability of Cellular Fixed Wireless Access (CFWA) as “underserved.” The CPUC has determined that this modification, and the corresponding rebuttal opportunity, will assist the office in determining the availability of networks with sufficient capacity to meet the expected consumer demand for qualifying broadband in the relevant area. The CPUC has determined that 66,318 BSLs are affected by this modification. The affected CFWA provider will have an opportunity to rebut this modification. To successfully rebut this modification, the cellular fixed wireless provider must demonstrate that it: a) is providing 100/20 Mbps or better service at the relevant locations; and b) has sufficient network capacity to simultaneously serve (i.e., as concurrently active

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<sup>4</sup> See “Proposed BEAD Challenge Process Guidance,” NTIA, April 24, 2023, [https://www.internetforall.gov/sites/default/files/2023-04/BEAD\\_Model\\_Challenge\\_Process\\_-\\_Public\\_Comment\\_Draft\\_04.24.2023.pdf](https://www.internetforall.gov/sites/default/files/2023-04/BEAD_Model_Challenge_Process_-_Public_Comment_Draft_04.24.2023.pdf).

subscribers) at least 80 percent of claimed locations in the relevant coverage areas. A capacity of 5 Mbps for each claimed location is considered sufficient.

As one option for making such a showing, a provider may describe how many fixed locations it serves from each cell tower and the amount of per-user averaged bandwidth it uses for capacity planning.

## **5. 5.2 Deduplication of funding: Use of BEAD Planning Toolkit for identifying enforceable commitments**

☐ No

☒ Yes

The CPUC will use the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments.

## **6. 5.3 Process description**

The CPUC will enumerate locations subject to enforceable commitments by using the BEAD Eligible Entity Planning Toolkit, and consult at least the following data sets:

- The Broadband Funding Map published by the FCC pursuant to IIJA § 60105<sup>5</sup>
- Data sets from the State of California broadband deployment programs that rely on funds from the Capital Projects Fund and the State and Local Fiscal Recovery Funds administered by the U.S. Treasury
- Data sets from the State of California broadband deployment programs that rely on State of California funds, as well as other local data collections of existing enforceable commitments
- Data sets from California local governments and Tribal nations regarding any broadband deployments they have funded

The CPUC will make its best effort to develop a list of broadband serviceable locations (BSLs) subject to enforceable commitments based on federal, State, Tribal, and local grants or loans. If necessary, the CPUC will translate polygons or other geographic designations (e.g., a county or utility district) describing the area to a list of Fabric locations. The CPUC will submit this list, in the format specified by the FCC Broadband Funding Map, to NTIA.<sup>6</sup>

The CPUC will review its repository of existing federal and State grant programs to validate the upload and download speeds of existing binding agreements to deploy broadband infrastructure. In situations in which the State of California or local program did not specify broadband speeds, or when there was reason to believe a provider deployed higher broadband speeds than required, the CPUC will reach out to the provider to verify the deployment speeds of the binding commitment. The CPUC will document this process by requiring providers to sign a binding agreement certifying the actual broadband deployment speeds deployed.

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<sup>5</sup> The broadband funding map published by FCC pursuant to IIJA § 60105 is referred to as the “FCC Broadband Funding Map.”

<sup>6</sup> Guidance on the required format for the locations funded by state or territorial and local programs will be specified at a later date, in coordination with FCC.

The CPUC will draw on these provider agreements, along with its existing database on State of California broadband funding programs' binding agreements, to determine the set of State of California enforceable commitments.

The CPUC plans to be as flexible as possible in considering any funding from programs that will take effect after the challenge process begins but before the grant program is run. This may include, but is not limited to, Capital Projects Fund grants, Federal Funding Account funding, California Advanced Services Fund grants, the FCC's Rural Deployment Opportunity Fund grants, or the United States Department of Agriculture's ReConnect grants, which may be used as match to BEAD applicants. To the extent such funding is able to cover all locations within an area without BEAD funding, the CPUC would plan to deduplicate such locations. The CPUC will monitor these and other programs in the State, both before and after the challenge process begins, to ensure the deduplication of all relevant funding in accordance with the requirements of the BEAD NOFO and to ensure available funds for broadband deployment are maximally leveraged to meet the goal of serving all unserved and underserved locations. This will be done with the understanding that where possible, the CPUC will look to utilize funds as appropriate as match funding, meaning locations without enforceable commitments to fully deploy broadband will not be inappropriately deduplicated, to ensure that all funding is able to stretch as far as possible in contributing to eliminating the digital divide in California. Consideration of other broadband programs for use as matching funds will only occur if allowed by applicable laws and regulations.

## **7. 5.4 List of programs analyzed**

Attached as Appendix 5 is a file with the relevant list of the federal and State programs that will be analyzed and considered as to whether a specific award should be considered as an enforceable commitment or as match funding. If considered an enforceable commitment then removal from the set of locations eligible for BEAD funding would occur.

## **8. 5.5 Challenge process design: Process description**

This CPUC plan is largely based on the NTIA BEAD Challenge Process Policy Notice and the CPUC's understanding of the goals of the BEAD program. The full process is designed to ensure a transparent, fair, expeditious, and evidence-based challenge process.

### **Permissible challenges**

The CPUC will allow challenges on the following grounds:

- The identification of eligible community anchor institutions, as defined by the CPUC in the Initial Proposal Volume I
- Community anchor institution BEAD eligibility determinations
- BEAD eligibility determinations for existing Broadband Serviceable Locations (BSLs) included in the FCC's National Broadband Map
- Enforceable commitments
- Planned service

### **Permissible challengers**

During the BEAD Challenge Process, the CPUC will only allow challenges from nonprofit organizations, units of local governments, Tribal nations, and broadband service providers.

## Challenge process overview

The challenge process conducted by the CPUC will include four phases, potentially spanning up to 90 calendar days, per the schedule of the NTIA model challenge process:

1. **Publication of Eligible Locations:** Seven (7) calendar days prior to beginning the Challenge Phase, the CPUC will publish the set of locations eligible for BEAD funding, which consists of the locations resulting from the activities outlined in Sections 5 and 6 of the NTIA BEAD Challenge Process Policy Notice (e.g., administering the deduplication of funding process). The CPUC will also publish locations considered served, as they may be challenged. The CPUC tentatively plans to publish the locations on March 15, 2024. Consistent with NTIA guidance, California’s challenge process will use whichever version of the National Broadband Map is most current as of the time of initiation of the challenge process.
2. **Challenge Phase:** During the Challenge Phase, challengers may submit the challenge through the CPUC’s challenge portal. All challenges will be made visible to the service provider whose service availability and performance is being contested. The portal will notify the provider of the challenge through an automated email, which will include related information about timing for the provider’s response. At this time, the location will enter the “challenged” state.
  - a. **Minimum Level of Evidence Sufficient to Establish a Challenge:** The challenge portal will verify the following:
    - i. That the address provided in the challenge can be found in the Fabric and is a BSL
    - ii. That the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service
    - iii. That the email address from which the challenge was sent is verifiable and reachable by sending a confirmation message to the listed contact email
    - iv. For scanned images, the challenge portal will determine whether the quality is sufficient to enable optical character recognition (OCR)
  - b. **Availability challenges:** The CPUC will manually verify that the evidence submitted falls within the categories stated in the NTIA BEAD Challenge Process Policy Notice and the document is unredacted and dated.
  - c. **Timeline:** Challengers will have 30 calendar days to submit a challenge following the 7-day initial posting period of Eligible Locations; unserved and underserved locations, community anchor institutions, and existing enforceable commitments.
3. **Rebuttal Phase:** For challenges related to location eligibility, only the challenged service provider may rebut the reclassification of a location or area with evidence. If a provider claims gigabit symmetrical service availability for a CAI or a unit of local government disputes the CAI status of a location, the CAI may rebut. Providers must regularly check the challenge portal notification method for notifications of submitted challenges. All types of challengers may rebut planned service (P) and enforceable commitment (E) challenges.

- a. **Provider Options:** Challenged service providers will have the following options for action at this time.
    - i. **Rebut:** Rebuttals must be provided with evidence, at which time the challenged location or locations will enter the “disputed” state.
    - ii. **Leave Unrebutted:** If a challenge that meets the minimum level of evidence is not rebutted, the challenge will be considered conceded and sustained. This will result in transition of the challenged location(s) to the “sustained” state.
    - iii. **Concede the Challenge:** In the event the challenged service provider signals agreement with the challenge, the challenge will be considered conceded and sustained. This will result in transition of the challenged location(s) to the “sustained” state.
  - b. **Timeline:** Providers will be notified of challenges and have 30 calendar days (Rebuttal Phase) to provide rebuttal information to the CPUC. The 30-day challenge rebuttal period will start 14 days after the end of the Challenge Phase.
4. **Final Determination Phase:** During the Final Determination phase, the CPUC will make the final determination of the classification of the location(s) that remain in the disputed state, either declaring the challenge “sustained” or “rejected.”
- a. **Timeline:** The CPUC will make a final challenge determination within 30 calendar days following the conclusion of the Rebuttal Phase.

#### Evidence and review approach

To ensure that each challenge is reviewed and adjudicated in a way that is fair to all participants and relevant stakeholders, the CPUC will review all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge. The CPUC will:

- Document the standards of review to be applied in a Standard Operating Procedure
- Require reviewers to document their justification for each determination
- Ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted, and
- Require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations.



Table of challenge types, evidence examples, and permissible rebuttals

Code	Challenge type	Description	Specific examples of required evidence	Permissible rebuttals
<b>A</b>	Availability	The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).	<p>Screenshot of provider webpage.</p> <p>A service request was refused within the last 180 days (e.g., an email or letter from provider).</p> <p>Lack of suitable infrastructure (e.g., no fiber on pole).</p> <p>A letter or email dated within the last 365 days that a provider failed to schedule a service installation or offer an installation date within 10 business days of a request.<sup>7</sup></p> <p>A letter or email dated within the last 365 days indicating that a provider requested more than the standard installation fee to connect this location or that a provider quoted an amount in excess of the provider's standard installation charge in order to connect service at the location.</p>	<p>Provider shows that the location subscribes or has subscribed within the past 12 months, e.g., with a copy of a customer bill.</p> <p>If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability.</p> <p>The provider submits evidence that service is now available as a standard installation, e.g., via a copy of an offer sent to the location.</p>

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<sup>7</sup> A standard broadband installation is defined in the Broadband DATA Act (47 U.S.C. § 641(14)) as “[t]he initiation by a provider of fixed broadband internet access service [within 10 business days of a request] in an area in which the provider has not previously offered that service, with no charges or delays attributable to the extension of the network of the provider.”



Code	Challenge type	Description	Specific examples of required evidence	Permissible rebuttals
<b>S</b>	Speed	The actual speed of the service tier falls below the unserved or underserved thresholds. <sup>8</sup>	Speed test by subscriber, showing the insufficient speed and meeting the requirements for speed tests.	Provider has countervailing speed test evidence showing sufficient speed, e.g., from their own network management system. <sup>9</sup>
<b>L</b>	Latency	The round-trip latency of the broadband service exceeds 100 milliseconds. <sup>10</sup>	Speed test by subscriber, showing the excessive latency.	Provider has countervailing speed test evidence showing latency at or below 100 milliseconds, e.g., from their own network management system or the Connect America Fund (CAF) performance measurements. <sup>11</sup>
<b>D</b>	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer. <sup>12</sup>	Screenshot of provider webpage.  Service description provided to consumer.	Provider has terms of service showing that it does not impose an unreasonable data cap or offers another plan at the location without an unreasonable cap.
<b>T</b>	Technology	The technology indicated for this location is incorrect.	Manufacturer and model number of residential gateway (CPE) that	Provider has countervailing evidence from its network management system showing an

<sup>8</sup> The challenge portal has to gather information on the subscription tier of the household submitting the challenge. Only locations with a subscribed-to service of 100/20 Mbps or above can challenge locations as underserved. Speed challenges that do not change the status of a location do not need to be considered. For example, a challenge that shows that a location only receives 250 Mbps download speed even though the household has subscribed to gigabit service can be disregarded since it will not change the status of the location to unserved or underserved.

<sup>9</sup> As described in the NOFO, a provider’s countervailing speed test should show that 80 percent of a provider’s download and upload measurements are at or above 80 percent of the required speed. *See Performance Measures Order*, 33 FCC Rcd at 6528, para. 51. *See* BEAD NOFO at 65, n. 80, Section IV.C.2.a.

<sup>10</sup> Performance Measures Order, including provisions for providers in non-contiguous areas (§21).

<sup>11</sup> Ibid.

<sup>12</sup> An unreasonable capacity allowance is defined as a data cap that falls below the monthly capacity allowance of 600 GB listed in the FCC 2023 Urban Rate Survey (FCC Public Notice DA 22-1338, December 16, 2022). Alternative plans without unreasonable data caps cannot be business-oriented plans not commonly sold to residential locations. A successful challenge may not change the status of the location to unserved or underserved if the same provider offers a service plan without an unreasonable capacity allowance or if another provider offers reliable broadband service at that location.

Code	Challenge type	Description	Specific examples of required evidence	Permissible rebuttals
			demonstrates the service is delivered via a specific technology.	appropriate residential gateway that matches the provided service.
<b>B</b>	Business service only	The location is residential, but the service offered is marketed or available only to businesses.	Screenshot of provider webpage.	Provider has documentation that the service listed in the Broadband Data Collection (BDC) is available at the location and is marketed to consumers.
<b>E</b>	Enforceable Commitment	The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.	Enforceable commitment by service provider (e.g., authorization letter). In the case of Tribal Lands, the challenger must submit the requisite legally binding agreement between the relevant Tribal Government and the service provider for the location(s) at issue.	Documentation that the provider has defaulted on the commitment or is otherwise unable to meet the commitment (e.g., is no longer a going concern) or the commitment representing only partial funding to meet service commitment and such commitment is contingent upon receiving additional funding, such as BEAD funding in order to qualify as a commitment by the service provider.
<b>P</b>	Planned service	The challenger has knowledge that broadband will be deployed at this location by June 30, 2024, without an enforceable commitment or a provider is building out broadband offering performance beyond the requirements of an enforceable commitment.	Construction contracts or similar evidence of on-going deployment, along with evidence that all necessary permits have been applied for or obtained.  Contracts or a similar binding agreement between the State of California or CPUC and the provider committing that planned service will meet the BEAD definition and requirements of reliable and qualifying broadband even if not required by its funding source ( <i>i.e.</i> , a separate federal grant program), including the expected date deployment will be	Documentation showing that the provider is no longer able to meet the commitment (e.g., is no longer a going concern) or that the planned deployment does not meet the required technology or performance requirements or will not be able to proceed without additional funds, such as BEAD funds being awarded for the proposed project.

Code	Challenge type	Description	Specific examples of required evidence	Permissible rebuttals
			<p>completed, which must be on or before June 30, 2024.</p> <p>In order to substantiate the planned service filing, the CPUC will also require, at minimum, a letter from all Tribal, county or local governments corresponding to the project area confirming that construction has begun and/or permits are pending approval for planned service.</p>	
<b>N</b>	Not part of enforceable commitment.	This location is in an area that is subject to an enforceable commitment to less than 100% of locations and the location is not covered by that commitment. (See BEAD NOFO at 36, n. 52.)	Declaration by service provider subject to the enforceable commitment.	
<b>C</b>	Location is a CAI	The location should be classified as a CAI.	Evidence that the location falls within the definitions of CAIs set by the CPUC in section 1.3. <sup>13</sup>	Evidence that the location does not fall within the definitions of CAIs set by the CPUC in section 1.3 or is no longer in operation.
<b>R</b>	Location is not a CAI	The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation.	Evidence that the location does not fall within the definitions of CAIs set by the CPUC in section 1.3 or is no longer in operation.	Evidence that the location falls within the definitions of CAIs set by set by the CPUC in section 1.3 or is still operational.

<sup>13</sup> For example, eligibility for FCC E-rate or Rural Health Care program funding or registration with an appropriate regulatory agency may constitute such evidence, but CPUC may rely on other reliable evidence that is verifiable by a third party.

## Area and MDU challenges

The CPUC will administer area and MDU challenge types A, S, L, D, and T.<sup>14</sup> An area challenge reverses the burden of proof for availability, speed, latency, data caps, and technology if a defined number of challenges for a particular category, across all challengers, have been submitted for a provider. Thus, the provider receiving an area challenge or MDU challenge must demonstrate that they are indeed meeting the availability, speed, latency, data cap and technology requirement, respectively, for all (served) locations within the area or all units within an MDU. The provider can use any of the permissible rebuttals listed above.<sup>15</sup>

An area challenge is triggered if there are challenges to six or more broadband serviceable locations using a particular technology and a single provider within a census block group is challenged.

An MDU challenge requires challenges for one unit for MDUs having fewer than 15 units, for two units for MDUs of between 16 and 24 units, and at least three units for larger MDUs. Here, the MDU is defined as one broadband serviceable location listed in the Fabric.<sup>16</sup> An MDU challenge counts towards an area challenge (i.e., six successful MDU challenges in a census block group may trigger an area challenge).

Each type of challenge and each technology and provider will be considered separately, i.e., an availability challenge (A) does not count toward reaching the area threshold for a speed (S) challenge. If a provider offers multiple technologies, such as DSL and fiber, each will be treated separately because they are likely to have different availability and performance.

Area challenges for availability must be rebutted in whole or by location with evidence that service is available for all BSLs within the census block group, e.g., by network diagrams that show fiber or hybrid fiber-coaxial (HFC) infrastructure or subscriber information. For fixed wireless service, a representative random sample of the area in contention, including no fewer than 10 locations, must be identified where the provider has to demonstrate service availability and speed (e.g., with a mobile test unit).<sup>17</sup> For MDU challenges, the rebuttal must show that the inside wiring is reaching all units and is of sufficient quality to support the claimed level of service.

## Speed test requirements

In accordance with the NTIA Model Challenge Process, the CPUC will accept speed tests as evidence for substantiating challenges and rebuttals. Each speed test must consist of three measurements, taken on different days. Speed tests cannot predate the beginning of the challenge period by more than 60 calendar days.

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<sup>14</sup> These challenge types correspond to the codes in the above “Table of challenge types, evidence examples, and permissible rebuttals” and pages 17-19 of NTIA’s Challenge Process Policy Notice (Table 3).

<sup>15</sup> A successful MDU challenge converts the status of the location to the lowest level of service across all units. For example, the location is considered unserved if one unit is found to be unserved, even if other units within the MDU reach the underserved or served speed thresholds.

<sup>16</sup> For example, a complex of apartment buildings may be represented by multiple BSLs in the Fabric.

<sup>17</sup> A mobile test unit is a testing apparatus that can be easily moved, which simulates the equipment and installation (antenna, antenna mast, subscriber equipment, etc.) that would be used in a typical deployment of fixed wireless access service by the provider.

Speed tests can take four forms:

1. A reading of the physical line speed provided by the residential gateway, (i.e., DSL modem, cable modem (for HFC), optical network terminal (ONT) (for Fiber To The Home), or fixed wireless subscriber module)
2. A reading of the speed test available from within the residential gateway web interface
3. A reading of the speed test found on the service provider's web page
4. A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using speedtest.net or other Ookla-powered front ends, M-Lab's speed test services, Cloudflare, or Netflix

Each speed test measurement must include:

- The time and date the speed test was conducted
- The provider-assigned internet protocol (IP) address, either version 4 or version 6, identifying the residential gateway conducting the test

Each group of three speed tests must include:

- The name and street address of the customer conducting the speed test
- A certification of the speed tier to which the customer subscribes (e.g., a copy of the customer's last invoice or signed certification by the customer of the speed tier and a statement indicating the customer is subscribed to the highest service tier available)
- An agreement, using an online form provided by the CPUC, that grants access to these information elements to the CPUC, any contractors supporting the challenge process, and the service provider

The IP address and the subscriber's name and street address are considered personally identifiable information (PII) and thus are not disclosed to the public (e.g., as part of a challenge dashboard or open data portal).

Each location must conduct three speed tests on three different days; the days do not have to be adjacent. The median of the three tests (i.e., the second highest (or lowest) speed) is used to trigger a speed-based (S) challenge, for either upload or download. For example, if a location claims a broadband speed of 100 Mbps/25 Mbps and the three speed tests result in download speed measurements of 105, 102 and 98 Mbps, and three upload speed measurements of 18, 26 and 17 Mbps, the speed tests qualify the location for a challenge, since the measured upload speed marks the location as underserved.

Speed tests may be conducted by subscribers, but speed test challenges must be gathered and submitted by units of local government, nonprofit organizations, or a broadband service provider.

Subscribers submitting a speed test must indicate the speed tier they are subscribing to. Only speed tests of subscribers that subscribe to tiers advertising speeds equal to or greater than the applicable speed threshold (100/20 Mbps for underserved or 25/3 Mbps for unserved) are considered. If the household subscribes to a speed tier of 100/20 Mbps or higher and the speed test yields a speed below 100/20 Mbps, this service offering will not count towards the location being considered served. However, even if a particular service offering is not meeting the speed threshold, the eligibility status of the location may not change. For example, if a location is served by 100 Mbps licensed fixed wireless and 500 Mbps fiber, conducting a speed test on the

fixed wireless network that shows an effective speed of 70 Mbps does not change the status of the location from served to underserved.

A service provider may rebut an area speed test challenge by providing speed tests, in the manner described above, for at least 10% of the customers in the challenged area. The customers must be randomly selected. Providers must apply the 80/80 rule<sup>18</sup>, i.e., 80% of these locations must experience a speed that equals or exceeds 80% of the speed threshold. For example, 80% of these locations must have a download speed of at least 20 Mbps (that is, 80% of 25 Mbps) and an upload speed of at least 2.4 Mbps to meet the 25/3 Mbps threshold and must have a download speed of at least 80 Mbps and an upload speed of 16 Mbps to meet the 100/20 Mbps speed tier. Only speed tests conducted by the provider between the hours of 7 p.m. and 11 p.m. local time will be considered as evidence for a challenge rebuttal.

### Transparency plan

The CPUC anticipates actively engaging stakeholders and members of the public prior to the challenge process being initiated in order to facilitate broad-based participation in the process and ensure the BEAD eligibility map is as accurate as possible. The CPUC welcomes comments from parties in the proceeding on the specific types of outreach and engagement that will be most effective in encouraging participation from a broad and representative set of challengers, especially challengers representing Tribal communities, disadvantaged communities, and other areas with significant deployment needs. The CPUC also encourages local and Tribal governments and relevant community-based organizations that are not parties to the BEAD Rulemaking to provide feedback on the most effective forms of outreach and engagement, such as webinars, in-person public events, and written documentation posted to a public website. Local and Tribal governments and relevant community-based organizations may provide input in the form of letters sent via email to BEAD@cpuc.ca.gov.

To ensure that the challenge process is transparent and open to public and stakeholder scrutiny, the CPUC anticipates, upon approval from NTIA, publicly posting an overview of the challenge process phases, challenge timelines, and instructions on how to submit and rebut a challenge. This documentation will be posted publicly for at least a week prior to opening the challenge submission window. The CPUC also plans to actively engage units of local and Tribal government of its challenge process and set up regular touchpoints to address any comments, questions, or concerns from local governments, Tribal governments, nonprofit organizations, and internet service providers. Relevant local and Tribal governments, non-profit and ISP stakeholders will be able to sign up on the CPUC's website at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-implementation-for-california/bead-program> for the challenge process and related BEAD updates and emails. They can also engage with the CPUC through a designated email address: BEAD@cpuc.ca.gov to be added to the contact list for California's challenge process. Providers will be notified of challenges through email notification based on the CPUC's current list of California ISPs.

Beyond actively engaging relevant stakeholders, the CPUC will also post publicly to its website all submitted challenges and rebuttals before final challenge determinations are made, including:

- The provider, nonprofit, or unit of local or Tribal government that submitted the challenge

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<sup>18</sup> The 80/80 threshold is drawn from the requirements in the CAF-II and RDOF measurements. See BEAD NOFO at 65, n. 80, Section IV.C.2.a.

- The census block group containing the challenged broadband serviceable location
- The provider being challenged
- The type of challenge (e.g., availability or speed)
- A summary of the challenge, including whether a provider submitted a rebuttal

The CPUC will not publicly post any personally identifiable information (PII) or proprietary information, including subscriber names, street addresses, and customer IP addresses. To ensure all PII is protected, the CPUC will review the basis and summary of all challenges and rebuttals to ensure PII is removed prior to posting them on the website. Additionally, guidance will be provided to all challengers as to which information they submit may be posted publicly.

The CPUC will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal and State law. If any of these responses do contain information or data that the submitter deems to be confidential commercial information that should be exempt from disclosure under State open records laws or is protected under applicable State privacy laws, that information should be identified as privileged or confidential. Otherwise, the responses will be made publicly available.

California State law has long protected a broad category of residential subscribers' PII from public disclosure or sale without a subscriber's consent. Recently, the California Legislature extended this protection to residential subscriber information, including address-level information, collected from providers of broadband services.<sup>19</sup>

State law and CPUC regulations protect corporate confidential and proprietary information from disclosure unless that information is specifically required to be open to public inspection.<sup>20</sup> The California Public Records Act allows the CPUC to withhold submitted material from public disclosure when a service provider has properly submitted a claim of confidentiality.<sup>21</sup> Among other requirements, CPUC regulations require a provider to mark as proprietary and confidential any submitted information that it asserts is subject to protection from public disclosure. The CPUC's regulations also set forth a process for providers to object to the release of information by the CPUC in specific situations on the grounds that it is proprietary and confidential.

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<sup>19</sup> Cal. Pub. Util. Code §281.6(e) (citing §2891).

<sup>20</sup> Cal. Pub. Util. Code §583; California Public Utilities Commission General Order 66-D (Rev. 2, August 2020).

<sup>21</sup> California Public Records Act, Cal. Govt. Code §§ 6250, et seq.



## 6. Public comment process

This section describes the public comment process conducted for the Initial Proposal Volume I and provides a high-level summary of the comments received as well as how they were addressed by the CPUC.

On November 7, 2023, the CPUC made both Volume I and Volume II available for public comment for a period of 30 days to gather feedback from stakeholders and members of the public and promote transparency in the development of the Proposal.<sup>22</sup> The draft volumes were posted on the CPUC's website with a description of the BEAD program and an invitation to submit comments on the content of the Initial Proposal.

The CPUC sent a Ruling with the draft volumes attached<sup>23</sup> to the service list for the proceeding inviting parties to file and serve comments. Formal opening comments were due November 27, 2023 and reply comments were due December 7, 2023.

Interested members of the public that are not parties to the proceeding could submit letters containing specific feedback and recommendations via email by December 7. This inbox was monitored by the CPUC for the duration of the comment period.

The CPUC has also been coordinating closely with the California Department of Technology (CDT), California's administering entity for its State Digital Equity Plan, and has incorporated feedback and findings from CDT's digital equity planning and outreach efforts into the Initial Proposal. CDT is currently accepting public comment through January 25, 2024, to finalize the California State Digital Equity Plan;<sup>24</sup> therefore, summaries and analysis of those public comments are not available for inclusion into this Proposal.

To encourage broad awareness, participation, and feedback during the public comment period, the CPUC conducted outreach and engagement activities to solicit participation by a diverse range of stakeholders, with a particular focus on Tribal governments, local community organizations, unions and worker organizations, and other underrepresented groups. Upon release of the draft Initial Proposal, the CPUC issued notices to approximately 100 entities on the service list for the public proceeding and an announcement to the stakeholder list for BEAD that it has developed throughout the planning process. The CPUC also provided notice to the California Advanced Services Fund (CASF) distribution list, comprised of stakeholders in the CPUC's other broadband grant programs and developed over several years of outreach. It also posted the materials on its website. The CPUC also hosted a community engagement listening session on November 28, 2023, in Los Angeles and on January 18, 2024, in Oakland to provide an opportunity for the public to provide comments and ask questions pertaining the draft Initial Proposal.

### Public Participation Hearings

As part of its BEAD outreach, the CPUC held two virtual Public Participation Hearings on November 8, 2023, to hear directly from the public on the expectations, priorities, and implementation of the BEAD

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<sup>22</sup> CPUC, California Broadband Equity, Access, and Deployment (BEAD) Program, <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-implementation-for-california/bead-program>.

<sup>23</sup> Administrative Law Judge's Ruling Issuing Staff Proposal (R.23-02-016), November 7, 2023, <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M520/K716/520716827.PDF>.

<sup>24</sup> California Broadband For All portal, Draft State Digital Equity Plan, <https://broadbandforall.cdt.ca.gov/state-digital-equity-plan/>.



program and to provide information about how to review and comment on the Initial Proposal. The CPUC directed communications providers to assist in outreach and promotion of the Public Participation Hearings by conducting the following notifications to customers.<sup>25</sup>

The companies listed above are directed to:

- Send an e-mail message to all customers that elect to receive their bills via e-mail. The subject line of the e-mail must clearly notify the recipient that the PPHs will be held in this proceeding and include other information contained in Attachment A. The companies listed above shall provide a draft notice to the Public Advisor’s Office within 10 days of the issuance of this ruling, and the Public Advisor’s Office may modify the draft notice;
- Send a text message to all customers that elect to receive their bills via text. The text message must include the information in Attachment B. The companies listed above shall provide a draft notice to the Public Advisor’s Office within 10 days of the issuance of this ruling, and the Public Advisor’s Office may modify the draft notice;
- Publicize the PPHs on all social media platforms used by the companies listed above;
- Publicize the notice of the PPHs with one or more local newspapers of general circulation in their service areas for seven consecutive days prior to and including the date of the PPH. The companies listed above shall provide a draft notice to the Public Advisor’s Office within 10 days of the issuance of this ruling, and the Public Advisor’s Office may modify the draft notice; and
- Post notice of the PPHs on the companies’ website in a prominent location so that customers can easily access the notice.

As part of the Public Participation Hearing process, the CPUC encouraged members of the public to provide written comments on the implementation of the BEAD program and, more generally, on issues related to access to internet services that will meet the needs of their households. The CPUC received over 67 comments on the record, 22 written “letter” comments by email, and over 450 individual comments posted to its website and they are included in the Local Coordination Tracker Tool, which is attached to the Initial Proposal Volume II as Appendix A.

While most of these comments did not directly address the specific elements of the Initial Proposal, they did provide insight for the CPUC regarding the development of the rules for its BEAD Program. These comments provided direct and personal experiences from residents throughout California, including large metropolitan areas such as Los Angeles, San Francisco, Silicon Valley, and San Diego as well as more rural locations such as Coachella Valley, Big Sur, Tuolumne, and Grass Valley, among other locations scattered across the State. Despite the large quantity of comments, there were a few themes raised consistently by residents. Comments were also received from organizations that represent a wide variety of stakeholders such as local governments (County of Merced, County of Riverside), labor (Los Angeles County Federation of Labor), education advocates (EducationSuperHighway, Santa Rosa Community College), and underrepresented communities (Chinese for Affirmative Action, Fresno Coalition for Digital Inclusion, and Amealio).

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<sup>25</sup> Administrative Law Judge’s Ruling Setting Public Participation Hearings (R.23-02-016), September 27, 2023, <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M520/K484/520484433.PDF>.

While most of these comments did not directly address the specific elements of the Initial Proposal, they provide the CPUC important insight to begin to identify specific areas, from Eureka in the north to desert communities in the south that have no choice for wired broadband and instead must rely on satellite and limited cellular coverage. Commenters expressed the frustration of living in unserved communities and set the stage for local governments and nonprofits in these areas of the state to participate in the Challenge Process. Still other public comments supported the Proposals' pre-challenge modifications for DSL and fixed wireless, noting that these services are slow, unreliable, and inadequate to meet their household needs and stating their preference for fiber for a variety of reasons. However, other comments, generally from more rural areas, supported fixed wireless as a reasonable, and often the only, service option and opposed treating these areas as unserved out of concern that other services built with BEAD funds may be too expensive.

### Public comment summary

Most of the public comments expressed frustration at the service providers' service options, service quality and customer service. They requested more competition and accountability for ISPs with respect to availability, data caps, affordability, service speed, and other aspects of service quality. These comments, while often not explicitly referencing the challenge process, suggest that there is public support for many of the challenges included in the challenge process, such as availability, speed, unreasonable data cap, and latency challenges, as well as modifications such as the speed test modification. The challenge process is anticipated to address the concern of the many commenters that wrote about years of low or inconsistent speeds with no improvement, as represented by one comment: "I can document years of speed tests, I can document the infrastructure mess and [the ISP] can document our years of service complaints. This is 2023 and I would like some internet."

As a part of public comments and the public participation hearing, many commenters specified areas that urgently need better service or more service options. These areas include both urban and rural locations that the CPUC anticipates will participate in the challenge process.

Some commenters requested certain kinds of organizations be categorized as community anchor institutions including parks and community centers, transitional housing and permanent supportive housing complexes, correctional facilities, and more types of multi-dwelling units.

Multiple comments supported the MDU challenge and requested further support for Californians that live in MDU housing, including ensuring that MDUs are accurately mapped and properly categorized as unserved or underserved. The CPUC anticipates that the MDU challenge modification and the challenge process will adequately aid equitable broadband deployment to MDUs.

Some commenters expressed concerns about the transparency of the BEAD process and wanted to ensure fair anti-corruption measures were implemented. The CPUC's existing transparency plan, which follows NTIA's guidance and aligns with its model challenge process, ensures that crucial steps of the process are publicly released and open to public and stakeholder scrutiny.

The letter comments received by the CPUC via email and comments made on the record during the public hearings echo many of these themes. However, more detailed letter comments from key stakeholders in the education and nonprofit fields, Tribal governments and local governments included support and recommendations directly addressing elements of the Initial Proposal. For example, several letter comments support revisions to the MDU challenge process to lower the threshold number of units and simplify the evidentiary requirements for a successful challenge. These comments also urge direct coordination between MDU and area challenges to facilitate more efficient processes.

Several of these comments also recommended changes to the definitions of Community Anchor Institutions to broaden out the type of entities that fall under the definition, including public housing entities, farmworker housing, parks, and community centers. A Tribal government's comments urged broader inclusion of educational institutions to include those that may not be participating in E-Rate. This Tribe, as well as organizations representing rural communities, also provided the names of CAIs that they recommend should be included in the list of eligible CAIs. Parties to the CPUC rulemaking submitted comments on several elements of the Initial Proposal Volume 1. Comments on the CPUC's proposed pre-challenge modifications generally reflected the positions of key stakeholders. For example, there was general support for the proposal to reclassify fixed wireless from community and ratepayer groups. Some called for the CPUC to increase evidentiary standards to support this reclassification while others requested the CPUC reclassify these areas as unserved to support prioritization of these areas in scoring. Several wireless and fixed wireless providers, however, submitted pointed and detailed comments urging the Commission to eliminate or revise this reclassification, arguing that the CPUC has an outdated and erroneous understanding of the technology and its capabilities and has not provided sufficient evidence for the proposed changes. These parties also urged elimination of the 30/5 Mbps threshold and argued that speed tests are inappropriate evidence to challenge fixed wireless performance. There were fewer, but similar, requests to eliminate the DSL reclassification, although comments in support of this reclassification and acknowledgement that fiber projects should be prioritized outweighed those arguing for its elimination.

There were limited comments from parties regarding specific CAIs that may be missing from the CPUC's list of eligible organizations. However, some parties pointed out errors and duplication in the list and noted some listed CAIs, such as specific libraries and hospitals, that are included on the list but are already served by 1 Gbps services or serve communities that are not disadvantaged or underrepresented and recommended removing them from the list.

Parties urged the CPUC to ensure that eligible CAIs directly serve the community and create "community hubs" that would benefit from 1Gbps services. Some parties recommended expanding the definition of CAI to include public housing, parks and recreation facilities, farmworker and mobile home communities, and even recommended including all low-income communities as a type of CAI eligible for funding to reach up to 1 Gbps.

There were significant numbers of comments on the Challenge Process. Some comments, especially from service providers, requested revisions to the timelines for the Process that would provide more time for rebuttal and include a pre-challenge process that would allow carriers to preview the supporting evidence of anticipated challenges prior to the window opening. Others urged that the Challenge Process be revised to support participation by smaller and less resourced organizations including longer timeframes for the challenger and reduced or more inclusive evidentiary standards to lower the burden for challengers, including the use of individual speed testing.

There were multiple comments, including from local governments and organizations representing disadvantaged communities, to enhance the MDU challenge process by incorporating the most recent NTIA guidance to lower the threshold number of units to a single unit. Cities with high MDU count and groups representing communities proposed allowing a single MDU challenge to serve as the trigger for an area challenge. Parties also urged a loosening of the evidentiary burden to submit an MDU challenge, noting that some of the required information such as customer bills or multiple speed tests would be difficult to gather. These comments also proposed the adoption of a presumption without the challenge process that MDUs in low-income communities are underserved. There were comments from service providers that recommended eliminating MDU and area challenges noting that NTIA has made them optional and that they will further complicate the Challenge Process.

Organizations representing underrepresented groups provided comments supporting an “availability challenge” noting that participants to the Challenge Process should be able to submit evidence of the lack of affordability and limited accessibility to high-speed services to support a challenge to these locations as unserved, even if an availability map shows these areas as served. Ratepayer advocacy organizations submitted comments to support the CPUC’s process for eliminating locations with prior enforceable funding commitments noting the need to ensure BEAD funding is applied as effectively and efficiently as possible. However, these comments also suggested that the CPUC broaden the types of funding programs that would trigger an enforceable commitment that could block funding, including FCC high-cost funding, USDA ReConnect and the CPUC’s Federal Funding Account. Additionally, because these enforceable commitments could block eligibility for BEAD funding, these comments urged the Commission to create processes to monitor the progress of these projects to ensure that the project comes to a successful completion and the community is ultimately served.

### Public comment response

Changes made in response to public comments are described for each comment in the Local Coordination Tracker attachment to the Initial Proposal Volume 2. Broadly, the CPUC found several comments regarding the challenge process and on the topic of CAIs helpful and incorporated suggestions into the Proposal. Several additional comments made suggestions that are on file for consideration at future stages of the BEAD Program.

### Rulemaking comments

Parties to the CPUC rulemaking submitted comments on several elements of the Initial Proposal Volume 1. There was general support for the proposal to reclassify fixed wireless from community and ratepayer groups. Some called for the CPUC to increase evidentiary standards to support this reclassification while others requested the CPUC reclassify these areas as unserved to support prioritization of these areas in scoring.

Several wireless and fixed wireless providers, however, submitted pointed and detailed comments urging the Commission to eliminate or revise this reclassification, arguing that the CPUC has an outdated and erroneous understanding of the technology and its capabilities and has not provided sufficient evidence for the proposed changes. These parties also urged elimination of the 30/5 Mbps threshold and argued that speed tests are inappropriate evidence to challenge fixed wireless performance.

There were fewer, but similar, requests to eliminate the DSL reclassification, although comments in support of this reclassification and acknowledgement that fiber projects should be prioritized outweighed those arguing for its elimination.

There were limited comments from parties regarding specific CAIs that may be missing from the CPUC’s list of eligible organizations. However, some parties representing educational entities, pointed out errors and duplication in the list and noted some listed CAIs, such as specific libraries and hospitals, that are included on the list but are already served by 1 Gbps services or serve communities that are not disadvantaged or underrepresented and recommended removing them from the list.

Parties urged the CPUC to ensure that eligible CAIs directly serve the community and create “community hubs” that would benefit from 1 Gbps services. Parties representing underrepresented communities recommended expanding the definition of CAI to include specific types of public housing and farmworker and mobile home communities and made broader recommendations that the CPUC should include all low-income communities as a type of CAI eligible for funding to reach up to 1 Gbps. Local governments suggested adding parks and recreation facilities.

There were significant numbers of comments on the Challenge Process. Some comments, especially from service providers, requested revisions to the timelines for the Process that would provide more time for rebuttal and include a pre-challenge process that would allow carriers to preview the supporting evidence of anticipated challenges prior to the window opening. Others urged that the Challenge Process be revised to support participation by smaller and less resourced organizations including longer timeframes for the challenger and reduced or more inclusive evidentiary standards to lower the burden for challengers, including the use of individual speed testing.

There were multiple comments, including from local governments and organizations representing disadvantaged communities, to enhance the MDU challenge process by incorporating the most recent NTIA guidance to lower the threshold number of units to a single unit. Cities with high MDU count and groups representing communities proposed allowing a single MDU challenge to serve as the trigger for an area challenge. Parties also urged a loosening of the evidentiary burden to submit an MDU challenge, noting that some of the required information such as customer bills or multiple speed tests would be difficult to gather. These comments also proposed the adoption of a presumption without the challenge process that MDUs in low-income communities are underserved. There were comments from service providers that recommended eliminating MDU and area challenges noting that NTIA has made them optional and that they will further complicate the Challenge Process.

Organizations representing underrepresented groups provided comments supporting an “availability challenge” noting that participants to the Challenge Process should be able to submit evidence of the lack of affordability and limited accessibility to high-speed services to support a challenge to these locations as unserved, even if an availability map shows these areas as served. Ratepayer advocacy organizations submitted comments to support the CPUC’s process for eliminating locations with prior enforceable funding commitments noting the need to ensure BEAD funding is applied as effectively and efficiently as possible. However, these comments also suggested that the CPUC broaden the types of funding programs that would trigger an enforceable commitment that could block funding, including FCC high-cost funding, USDA ReConnect and the CPUC’s Federal Funding Account. Additionally, because these funding commitments will block eligibility for BEAD funding, these comments urged the Commission to create processes to monitor the progress of these funded and planned projects to ensure that the project comes to a successful completion and the community is ultimately served.

The CPUC carefully considered the feedback it received from a variety of stakeholders to inform this Proposal. The comments received, as well as the State’s responses to those comments, are documented in the Local Coordination Tracker Tool, which is attached to the Initial Proposal Volume II as Appendix A. The CPUC incorporated all the comments received by the NTIA throughout the development of this Proposal.

The CPUC will continue to take this input into account as it implements the Challenge Process and develops the Final Proposal and will conduct ongoing communications to inform and engage the public through this process.

### **3 Appendix 1: Descriptions of existing funding for broadband in California**

This appendix is presented as a separate file: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-implementation-for-california/bead/appendix-1---broadband-funding-sources.xlsx> .

### **4 Appendix 2: Location IDs of all unserved locations**

This appendix is presented as a separate file: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-implementation-for-california/bead/appendix-2---unserved.csv>

### **5 Appendix 3: Location IDs of all underserved locations**

This appendix is presented as a separate file: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-implementation-for-california/bead/appendix-3---underserved.csv>

### **6 Appendix 4: List of eligible CAIs that do not currently have qualifying broadband service (1/1 Gbps)**

This appendix is presented as a separate file: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-implementation-for-california/bead/appendix-4---community-anchor-institutions.xlsx>

### **7 Appendix 5: List of federal and State programs analyzed to remove enforceable commitments from the locations eligible for BEAD funding**

This appendix is presented as a separate file: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/broadband-implementation-for-california/bead/appendix-5---programs-for-de-duplication.xlsx>