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

**Communications Division** **RESOLUTION T- 17575**
**Broadband, Video and Market Branch** **August 24, 2017**

**R E S O L U T I O N**

**Resolution T-17575 Implementation of changes in the California Advanced Services Fund program enacted by Senate Bill 745**

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## I. SUMMARY

This Resolution adopts modified rules for the California Advanced Services Fund (CASF) pursuant to Senate Bill (SB) 745, now codified as Public Utilities Code § 281, *et seq*. SB 745 modified the eligibility requirements for Broadband Public Housing Account (BPHA) grants to only publicly supported communities (PSCs) that are "unserved".[1] SB 745 also extended the date by which remaining funds from the BPHA shall be transferred back to other CASF Accounts from December 31, 2016 to December 31, 2020. In addition, SB 745 changed eligibility requirements for the CASF Rural and Urban Regional Broadband Consortia Account (Consortia Account) and makes modifications to the CASF program reporting requirements.

## II. BACKGROUND

In Decision (D.) 14-12-039, the Commission adopted the application requirements and guidelines for the CASF BPHA Program (hereafter, BPHA Application Requirements and Guidelines).[2] In Decision (D.) 11-06-038, the Commission adopted rules pertaining to the CASF Consortia Account (hereafter, Consortia Eligibility and Guidelines).[3] For

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[1] As defined in SB 745, an "unserved" housing development is a housing development where at least one housing unit within a housing development is not offered broadband Internet service (Pub. Util. Code, § 281, subds. (h)(3)(A) & (h)(3)(B), as modified by SB 745).
[2] *Decision adopting the California Advanced Services Fund Broadband Public Housing Account Application Requirement and Guidelines* [D.14-12-039] (2014) at pp. 1-3.
[3] *Decision Implementing Broadband Consortia Grant Account* [D.11-06-038] (2011) at pp. 1-3.

the purposes of this Resolution these rules will be collectively referred to as the "CASF Rules."[4]

On August 30, 2016, the Legislature passed SB 745, which amended Public Utilities Code sections 281 and 914.7, the statutes governing the CASF Program.[5] The Governor signed SB 745 into law on September 27, 2016 and it became effective on January 1, 2017.[6] With the passage of SB 745, the Commission's existing CASF Rules for Applications submitted after January 1, 2017, must be modified.[9]

On March 9, 2017, the Commission issued Decision (D.) 17-03-002[7], which reopened R.12-10-012 to provide parties to the proceeding notice and opportunity to be heard on the implementation of SB 745, now codified as Public Utilities Code § 281, *et seq.,* and the changes to the CASF BPHA Program set forth in SB 745.

As indicated in D.17-03-002, opening comments were to be filed in R.12-10-012 and served on service lists for R.12-10-012 and R.10-12-008 within the specified 30 day period following the issuance of D.17-03-002, with reply comments due 15 days thereafter.[8]

The modified CASF Program rules are reflected in Appendices A and B.

## III. NOTICE/PROTESTS

In compliance with Pub. Util. Code section 311(g), a copy of this proposed Resolution was either mailed or e-mailed to all parties of record in R.12-10-012, R.10-12-008 and the CASF distribution list on 07/25/2017.

## IV. DISCUSSION

Among the changes made by SB 745 to the CASF program are the following:

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[4] Statutorily, the CASF Program can be found in Pub. Util. Code, §§ 281 and 914.7. The Rules governing the CASF Infrastructure Account were adopted in Decision (D). 12-02-015. (See *Decision Implementing Broadband Grant and Revolving Loan Program* [D.12-02-015] (2012) at pp. 1-5.) SB 745 does not affect these rules.

[5] All statutory references are to the Public Utilities Code, unless otherwise noted.

[6] SB 745 (Hueso), Stats. 2016, ch. 710 amending Pub. Util. Code, §§ 281 and 914.7

[7] *Order Instituting Rulemaking to Consider Modifications to the California Advanced Services Fund* R.12-10-012, [D.17-03-002], (Issued March 9, 2017) at p. 1.

[8] D.17-03-002, p. 4.

1. Requires the Commission, in its review of applications for funds from the BHPA to award grants only to unserved housing developments.
    a. An "unserved" housing development is a housing development where at least one housing unit within the housing development is not offered broadband Internet service.[9]

2. Extends the date by which remaining funds from the BPHA shall be transferred back to other CASF Accounts from December 31, 2016 to December 31, 2020.

3. Extends the due date from January 1 of each year to April 1 of each year for the CASF annual report to the legislature.

4. Requires the Commission to provide additional information, including county information and specific details on the status of each CASF funded project, in the CASF annual report to the legislature.

5. Authorizes representatives of workforce organizations and air control or air quality management districts to be included as eligible consortium for funds in the Consortia Account.

The modifications made to the BPHA Application Requirements and Guidelines in D.14-12-039 in response to SB 745 can be found in Appendix A. The modifications to the Consortia Account Eligibility and Guidelines in D.11-06-038 in response to SB 745 can be found in Appendix B.

Opening comments were served to parties on the service lists for R.12-10-012 and R.10-12-008 and filed in R.12-10-012 by AT&T and affiliates (AT&T), Frontier Communications (Frontier) and the California Cable & Telecommunications Association (CCTA). AT&T served reply comments to parties on the service lists for R.12-10-012 and R.10-12-008 and filed these comments in R.12-10-012.

These comments and reply comments are discussed below.

*Opening Comments filed in R.12-10-012*

ATT stated that the changes made to the BPHA Application Requirements and Guidelines and the Consortia Eligibility and Guidelines accurately reflect the changes required by SB 745.

[9] Pub. Util. Code, § 281, subds. (h)(3)(A) & (h)(3)(B), as modified by SB 745.

Frontier's comments were specific to the new requirement for the annual report to include "additional details on efforts to leverage non-CASF funds."[10] Frontier considered this new requirement significant.[11]

Frontier proposed that the CPUC "collect details on leveraging non-CASF funds for inclusion in the annual report," details that may lead "the CPUC to modify the program or recommend statutory changes to more effectively achieve the program goals."[12] For each submitted CASF infrastructure grant application, Frontier recommended that the commission should ask: 1) Whether or not the proposed project is for an area where the FCC's Connect America Fund (CAF II) has been expended or will be expended for broadband, 2) If the applicant has taken steps to obtain funding from non-CASF funds, 3) If the proposed project can be deployed in conjunction with a CAF II project proximate to the project, and 4) If the applicant is seeking funds for a project that has previously received state or federal grant money, and, if so, how were such funds used.[13]

CCTA's comments focused on SB 745's requirement to award grants from the BPHA to only "unserved" housing developments, and proposed BPHA rule changes reflected in Appendix A. CCTA expressed its support for the principle that BPHA funds would be allocated to areas where service is not offered (only "unserved" housing developments were to be eligible for BPHA funds, as specified by SB 745). CCTA objected, however, to Staff's definition of "offer" as ambiguous and beyond the accepted definition of the term.[14]

The BPHA Application Requirements and Guidelines (Appendix A) was modified to state that "A housing unit is 'not offered broadband Internet service' if the occupant of the unit cannot access a commercially available broadband Internet service, such as Digital Subscriber Line (DSL), a cable modem, or another protocol, utilizing the facilities at the premises." CCTA stated that this definition is outside of the language of the statue and "potentially inserts unlawful considerations in awarding grants to served public housing communities."[15] CCTA asserted that this language "shift(s) consideration to residents and to whether or not they took the necessary action to access

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[10] Pub. Util. Code, § 914.7, subd. (a)(8), as modified by SB 745.
[11] Opening Comments of the Citizens Telecommunications Company of California Inc., Frontier Communications of the Southwest Inc., and Frontier California Inc., p. 2.
[12] *Id*. at p. 7.
[13] *Id*. at p. 7.
[14] Opening Comments of California Cable & Telecommunications Association, pp. 1-2.
[15] *Id*. at p. 2.

broadband service that is offered."[16] Additionally, CCTA stated that the Commission needs only to consider what service that the providers offer, otherwise the Commission would consider whether or not the building is served based on what actions that a resident may or may not take.

*Reply Comments*

In its reply comments, AT&T responded to the comments provided by Frontier concerning the leveraging of non-CASF funds to deploy broadband service in California. AT&T strongly agreed with Frontier's premise that CASF monies should not be used where CAF II money has been spent to deploy broadband. However, AT&T disagreed with Frontier's recommendation that applicants for CASF funds should provide information on whether CAF II funded broadband projects will be deployed in the application's project area. AT&T stated that it could be misleading to speculate about future broadband projects.

A. Staff Responses on Comments and Reply Comments filed in R.12-10-012

Frontier's comments and AT&T's reply comments focused on the amendments made to Pub. Util. Code, § 914.7 regarding the Commission's annual reporting requirements to the Legislature and are not pertinent to the proposed modifications as set forth in Appendix A and Appendix B. Amendments to Section 914.7 do not require the Commission to impose or create any new rule on how the Commission reports to the Legislature.

CCTA submitted comments pertinent to the modifications made to the BPHA Application Requirements and Guidelines. Specifically, CCTA's comments focused on SB 745's requirement to award grants from the BPHA to "unserved" housing developments, and proposed BPHA rule changes reflected in Appendix A.

In response to CCTA's comments regarding the definition of "unserved," we find that the addition of the term "occupant" is unnecessary to implement the statute. If Staff determines that a unit has access to broadband Internet using existing facilities, then that unit would not be considered "unserved." Staff has accordingly modified the rule.

[16] Opening Comments of the California Cable & Telecommunications Association, p. 3.

## V. COMMENTS ON THE DRAFT RESOLUTION

In compliance with Pub. Util Code, § 311(g), on July 25, 2017 the CD emailed a notice letter to all parties of record in R. 12-10-012, R. 10-12-008 and the CASF distribution list of the availability of the draft of this Resolution for public comments at the Commission's web site http://www.cpuc.ca.gov/PUC/documents. This letter also informed parties that the final resolution adopted by the Commission will be posted and available at the same web site.

The Non-Profit Housing Association of Northern California (NPH), the California Emerging Technology Fund (CETF) and the Central Sierra Connect Broadband Consortium or Central Sierra Connect (CSC) submitted timely comments on August 14, 2017. California Cable & Telecommunications Association (CCTA) submitted timely reply comments on August 21, 2017.

The comments and reply comments are discussed below.

*Opening Comments*

NPH and CETF both stated that they appreciate the work of the Commission in its implementation of the BPHA and would prefer that any future changes to the program be based on the previous approach.[17] Both parties stated that the changes made by SB 745 will block most PSCs from applying for BPHA funds. In comments, NPH and CETF further stated that SB 745 "is silent on the most important policy issue, which is that residents in publicly-subsidized housing benefit greatly from being online" and "there should be a quality conversation about how best to get their residents online." [18]

NPH, CETF and CSC all identified affordability as an impediment preventing PSC residents from obtaining broadband access. In its comments, CETF stated that the original authorizing legislation recognized affordability as a barrier to broadband access, and suggested that once an available, accessible, and affordable network is built, adoption rates would increase dramatically.[19]

CSC argued that "the definitions of 'offering' service should include financial feasibility" and that if the available service is priced beyond the financial capacity of

[17] CETF's Comments on Resolution T-17575, p. 1; see also NPH's Comments on Resolution T-17575, p. 1
[18] CETF's Comments on Resolution T-17575, p. 1; see also NPH's Comments on Resolution T-17575, p. 1
[19] CETF's Comments on Resolution T-17575, p. 2

PSC residents, then it should be considered unserved.[20] CETF stated that common usage of the word "offer" implies an effort by the provider of the commercial service to communicate to the perspective customer. CETF suggested that the Commission should require evidence that the provider did reach out to residents regarding the offered service. CETF further asserted that a take rate in the PSC substantially lower than in the surrounding area is evidence that the offered broadband service is not viable for the residents and, therefore, not really being "offered" in the first place.[21]

NPH asserted that "to date, no company has indicated they are willing to do any specific activity to assist getting residents in publicly-subsidized housing online."[22] CETF argued that residents are "apprehensive about entering into a standard agreement" with an ISP.[23]

CSC also commented on specific issues not relevant to the BPHA. CSC supported the awarding of CASF funds to areas subject to CAF II funding, arguing that CAF II does not guarantee homogenous service throughout an area. Further, CSC recommended that the following organizations be acceptable consortia members: childcare centers, community action agencies, food banks, homeless shelters, and veteran's organizations.[24] [25]

*Reply Comments*

CCTA noted that neither the NPH nor CETF filed comments in R.12-10-012 specific to the proposed rule changes and that "CETF now seeks to rewrite the rules at the eleventh hour."[26] CCTA stated that NPH and CETF's assertion that resident status (income and digital literacy) "must be reviewed to provide prima facie evidence of the existence of broadband infrastructure to public housing facilities and whether service is offered to these residents," does not comport with the statutory language.[27]

CCTA further disputed NPH's statement that "no company has indicated they are willing to do any specific activity to assist getting residents in publicly-subsidized housing online."[28] In its reply comments, CCTA argued that Cox Communications,

[20] CSC's Comments on Resolution T-17575, p. 1
[21] CETF's Comments on Resolution T-17575, p. 2
[22] NPH's Comments on Resolution T-17575, p. 1
[23] CETF's Comments on Resolution T-17575, p. 2
[24] CSC's Comments on Resolution T-17575, p. 1
[25] [25] CSC seems to advocate for a change in the statutory language regarding eligible consortia members, which requires legislative action.
[26] CCTA's Reply Comments on Resolution T-17575, p. 1
[27] CCTA's Reply Comments on Resolution T-17575, p. 1
[28] NPH's Comments on Resolution T-17575, p. 1

Charter Communications, and Comcast Corporation that CCTA all have such programs, provided detail about them, and asserted those corporate programs will increase broadband adoption in PSCs.[29]

A. Staff Responses on Comments and Reply Comments to the Resolution

Staff is tasked with implementing SB 745, now codified as Public Utilities Code § 281, *et seq*. The changed statutory language introduced a new definition for the term "unserved" in reference to housing developments. We interpret the phrase "not offered broadband Internet service" in reference to the unit to mean that the unit has no access to a commercial broadband Internet service, such as Digital Subscriber Line (DSL), a cable modem, or another protocol. Section 281 does not address whether such a service is affordable and, therefore, we cannot consider here changes to program rules based on affordability of service. Furthermore, as indicated in the Commissioner's Scoping Memo and Ruling, this Resolution seeks comment regarding implementation of the changes to the CASF BPHA Program set forth in § 281. Addressing the digital divide in public housing based on economic considerations is outside the scope of this resolution.

## VI. FINDINGS

1. The Governor signed SB 745 into law on September 27, 2016 which amended Public Utilities Code sections 281 and 914.7, the statutes governing the CASF Program. Modifications are effective January 1, 2017. With the passage of SB 745, the Commission's existing CASF Rules for Applications submitted after January 1, 2017, will need to be modified.

2. On March 9, 2017 the Commission issued D.17-03-002. D.17-03-002 reopened R.12-10-012 to provide parties to the proceeding notice and opportunity to be heard regarding the implementation of the changes to the CASF BPHA Program set forth in SB 745.

3. Attached to this Resolution are proposals for modifying D.14-12-039 and D.11-06-038 prepared by CD staff in response to the CASF Program rules changes set forth in SB 745 (Appendices A and B).

[29] CCTA's Reply Comments on Resolution T-17575, p. 2

4. In response to D.17-03-002, opening comments were served to parties on the service lists and filed in R.12-10-012 by AT&T, Frontier and the CCTA. AT&T served reply comments to parties on the service lists, and filed in R.12-10-012.

5. In response to comments filed in R.12-10-012, Staff determined that the modifications to the BPHA Application Requirements and Guidelines as appended to this Resolution accurately reflect the changes required by SB 745.

6. A notice letter was e-mailed on 07/25/2017 informing all parties of record in R.12-10-012, R.10-12-008 and the CASF distribution list on of the availability of the draft of this Resolution for public comments at the Commission's website http://www.cpuc.ca.gov/PUC/documents/. This letter also informed parties that the final confirmed Resolution adopted by the Commission will be posted and available at this same website. CD received three timely comments and one reply comment which are addressed in Section V of this Resolution.

**THEREFORE, IT IS ORDERED** that**:**

1. The BPHA Application Requirements and Guidelines as modified are adopted, as set forth in Appendix A.

2. The Consortia Eligibility and Guidelines as modified are adopted, as set forth in Appendix B.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on August 24, 2017. The following Commissioners approved it:

/s/ Timothy J. Sullivan

TIMOTHY J. SULLIVAN
Executive Director

MICHAEL PICKER
President
CARLA J. PETERMAN
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
Commissioners

# Appendix A

## Proposed Modifications of the BPHA Application Requirements and Guidelines in D. 14-12-039[1] Initiated by SB 745

[1] Resolutions T-17515 and T-17518 modified D.14-12-039, Appendix B. The Proposed BPHA Guidelines herein incorporate all prior modifications.

**Proposed Modifications of the BPHA Application Requirements and Guidelines in D.14-12-039 Initiated by SB 745**

## I. Background

Assemblymember Steven Bradford introduced AB 1299 on February 22, 2013. Governor Jerry Brown signed it into law on October 03, 2013. AB 1299 expands the CASF Program by adding a fourth account, the Broadband Public Housing Account (~~The Account~~BPHA), dedicated to broadband access and adoption in publicly supported communities (PSCs). The Legislature passed SB 745 during the 2015-2016 legislative session. Specific to the BPHA, SB 745 extends the date remaining funds from the BPHA are transferred back to other CASF Accounts from December 31, 2016 to December 31, 2020 and requires the Commission, in its review of applications for funds from the BHPA, to award grants only to unserved housing developments.

## II. Amount Available for Grants

The ~~Account~~ BPHA provides $20 million for grants and loans to finance projects connecting PSCs with broadband Internet, and $5 million for adoption projects for residents in PSCs. The Commission reserves 15 percent of funds for projects in rural areas. If the Commission has not awarded all of the funds reserved for projects in rural areas by December 31, 2015, these funds will be available for all eligible entities located in both rural and urban areas.

The Commission will award grants and loans to finance up to 100 percent of the costs to install inside wiring and equipment, but will not finance maintenance or operation costs. Grantees must maintain and operate the network for a minimum five years after receiving Commission funding. The Commission will reimburse for the following expenses:

- All networking equipment, both hardware and software, including wireless access points;
- Low voltage contracting (including the installation of conduit, panels and cabling required to provide power for the equipment funded as part of the project) , provided it does not include major rehabilitation, demolition or construction;
- Modems or routers, but not computers or human interface devices;
- Engineering & design;
- Hardware warranty;

- Installation labor from the Minimum Point of Entry (MPOE) to the individual unit; and
- Taxes, shipping and insurance costs directly related to broadband equipment deployed under the ~~CASF Public Housing Account~~ BPHA.

The Commission will fund up to 85 percent of the costs for adoption projects for residents in PSCs and will reimburse the following expenses:

- Education and outreach efforts and materials;
- Desks and chairs to furnish a designated space for digital literacy;
- Acceptable computers and devices (excluding smartphones) and software intended for use either in a computer lab or their household;
- Digital literacy instructors;
- Printers for a computer lab or other designated space for digital literacy;
- Routers; and
- Provision of residential (not network) technical support.

## III. Definitions

"Project" is a publicly subsidized multifamily housing development which is requesting funds under one application from the ~~CASF Public Housing Account~~ BPHA.

"Publicly subsidized" means either that the housing development receives financial assistance from the United States Department of Housing and Urban Development (HUD) pursuant to an annual contribution contract or is financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants and the rents of the occupants, who are lower income households, do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

"Publicly supported community" (PSC) is a publicly subsidized multifamily housing development that is wholly owned by either of the following:

(i) A public housing agency that has been chartered by the state, or by any city or county in the state, and has been determined an eligible public housing agency by the United States Department of Housing and Urban Development.

(ii) An incorporated nonprofit organization as described in Section 501 (c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)) that is exempt from taxation under Section 501 (a) of that code (16 U.S.C. Sec. 501(a)), and that has received public funding to subsidize the construction or maintenance of housing occupied by residents whose annual income qualifies as "low-" or "very low" income according to federal poverty guidelines.

A "minimum point of entry" (MPOE) is either the closest practicable point to where the wiring crosses a property line or the closest practicable point to where the wiring enters a multiunit building or buildings.[1]

~~For purposes of this Account, a project is located in a "rural area" if it meets one of the following criteria: 1) it is in area that is eligible for federal program under the United States Department of Agriculture (USDA) Section 515 program; 2) it is in a city with a population of 40,000 or less or in a non-urbanized area; and 3) it is in an unincorporated area of a county and is not in an urbanized area.[2]~~

~~A unit is "wired" for broadband Internet if it is possible to subscribe to a commercially available broadband Internet service, such as via Digital Subscriber Line (DSL), cable modem or another protocol, utilizing the existing "wired" facilities. A unit having such wiring is considered as having broadband service "available." An "unwired property" has at least one unit that is not "wired."~~

An "unserved" housing development is a housing development where at least one housing unit within the housing development is not offered broadband Internet service.[3] A housing unit is "not offered broadband Internet service" if the unit does not have access to a commercially available broadband Internet service, such as Digital Subscriber Line (DSL), a cable modem, or another protocol, available at the unit.

**IV. Eligible Applicants**

California Public Utilities Code § 281(h)(1) and § 281(h)(2) limits ~~CASF Broadband Public Housing Account~~ BPHA funding to a publicly subsidized multifamily housing developments owned by either of the following two entities:

1) A public housing agency that has been chartered by the state, or by any city or county in the state, and has been determined an eligible public housing agency by the United States Department of Housing and Urban Development.
2) An incorporated nonprofit organization as described in Section 501 (c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)) that is exempt from taxation under Section 501 (a) of that code (16 U.S.C. Sec. 501(a)), and that has received public funding to subsidize the construction or maintenance of housing occupied

[1] 47 CFR 68.105(b)
[2] Cal. Health and Safety Code, § § 50199.20 and 50199.21
[3] Pub. Util. Code, §§ 281(h)(3)(A) and 281(h)(3)(B) as modified by SB 745.

by residents whose annual income qualifies as "low"-or "very low" income according to federal poverty guidelines.[4]

Non-profit housing developers involved in limited partnerships with for-profit entities participating may also be eligible, since the IRS considers an exempt organization's participation as a general partner in a limited partnership with for-profit limited partners as consistent with the organization's exempt status under Internal Revenue Code Section 501(c)(3).[5]

For PSCs applying for infrastructure funds, a PSC may be eligible for funding only if the PSC can verify to the Commission that the PSC has not denied a right of access to any broadband provider that is willing to connect to a broadband network to the facility for which the grant or loan is sought and the publicly supported community is unserved as defined in Section III.[6]

For PSCs applying for adoption funds, a PSC may be eligible for funding only if the residential units in the facility to be served have access to broadband services or will have access to broadband services at the time the funding for adoption is implemented.

## V. Information Required From Applicants

Applicants must submit the following information to the Commission for each proposed project. Applications and supporting material must be submitted online with a hard copy mailed to the CASF Housing Account Coordinator and one sent to the Office of Ratepayer Advocates.

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[4]Pub. Util. Code, § 281 (h)(1)(B)(ii)

[5] See *Plumstead Theater Society v. Commissioner*, 74 T.C. 1324 (1980), aff'd, 675 F.2d 244 (9th Cir. 1982), as discussed in Exempt Organizations-Technical Instruction Program for FY 2003, available at http://www.irs.gov/pub/irs-tege/eotopicg03.pdf The IRS acknowledges that "a partnership arrangement could be structured so as to preclude a conflict between an exempt organization's exempt purpose and the fiduciary obligations of a general partner to its limited or co-general partners." The IRS uses a two-part analysis to determine whether participation adversely affects exemption: 1) inquiring if the partnership serves its exempt purposes and 2) inquiring if the partnership arrangement permits the organization to act exclusively in furtherance of exempt purposes rather than for the benefit of for-profit partners. Limited partnership organizations meeting the two-pronged criteria receive and maintain their 501(c)(3) status.

[6] Pub. Util. Code, § 281(h)(3)(A)

## 1. Infrastructure Project Application

Applicants must complete and submit a project application form, which will be available on the Commission's website. CD will post all applications submitted by the quarterly deadline on the CASF webpage, allowing ISPs two weeks to challenge the applications. Additional supporting documentation will not be posted online.

A housing authority applying for ~~CASF Broadband Public Housing Account~~ BPHA funds must include in its submission its Annual HUD Contributions Contract and HA Code, allowing CD staff to verify its certification, along with its most recent HUD Public Housing Assessment System (PHAS) score.

Non-profit applicants must submit an IRS letter approving the applicant's status as a 501(c)(3) entity incorporated for the purposes of providing affordable housing, which must include the applicant's Tax Identification Number, along with an award letter from a public agency such as the California Tax Credit Allocation Committee (TCAC), proving its receipt of public funding for affordable housing purposes.

Applications must contain the following information.

### 1.1. Funds Requested

The applicant must indicate the amount of funding requested, i.e., whether it is applying for a grant only or a combination of a grant and a loan.

### 1.2. Project Location

The applicant must include each address it intends to serve along with an image of the location on the map. The Commission will accept a screen shot image from Google maps or similar image.

### 1.3. Key Contact Information

- First name
- Last name
- Mailing Address
- Email
- Phone

### 1.4 Key PSC Management

- Position title

- First name
- Last name
- Email
- Phone

**1.5 Key vendor contact information** (if applicant already has identified its vendor)

- First name
- Last name
- Company name
- Mailing address
- Email
- Phone

**1.6 Assertion of ~~wired or unwired~~ Unserved**

The applicant must attest to whether or not the property it proposes to serve under its grant request is ~~wired for broadband Internet service,~~ unserved, as defined in Section III~~, and provide the percentage of units that have broadband service available~~. The applicant also must verify that it has not denied an ISP access to its property in order to provision broadband service to any unit ~~within twelve months~~ ~~prior to its application~~. An applicant's previous denial of access for cause (e.g., the ISP's costs to residents or the applicant were unreasonably high) does not constitute a denial of a right of access.

CD will post all application forms (but not the supporting materials that accompany the application) on its website after the dates listed in section VI~~.~~ to allow ISPs two weeks to challenge the applications.

~~**1.7 Rural Designation**~~
~~The applicant must specify whether its property is located in a rural area as defined in Section III of these guidelines.~~

**1.~~8~~7 Proposed project description**

An applicant must provide a detailed description of its proposed project, including the elements discussed below.

- Description of proposed broadband project plan which the Commission will fund using the ~~CASF Public Housing Account~~ BPHA, including:
    - The type of technology to be used (attach engineering documents/schematics)

  - Project size (number of units and residents to be connected)
  - Entities that will provision service. (e.g.,: Wi-Fi provided by property management or named subcontractor, and/or, Internet service offered by a named ISP, etc.)
  - Download speed capabilities for an average user during the peak hours of 7p.m. and 11p.m.
  - Upload speed capabilities for an average user during the peak hours of 7p.m. and 11p.m.
- Project budget outlining a detailed breakdown of cost elements and the availability of matching funds to be supplied by applicant (including bandwidth, maintenance and operation costs).
  - Breakdown of projected cost of items funded by grant:
    - All networking equipment, both hardware and software, including wireless access points;
    - Low voltage contracting, provided it does not include major rehabilitation, demolition or construction;
    - Modems or routers, but not computers or human interface devices;
    - Engineering & design;
    - Hardware warranty;
    - Installation labor from the MPOE to the individual unit; and
    - Taxes, shipping, insurance costs directly related to broadband equipment deployed under the ~~CASF Public Housing Account~~ BPHA.
  - Matching funds provided by applicant
    - Bandwidth costs on a monthly basis for the five year project period
    - Maintenance and operations costs to ensure network is operational for at least five years

- Project schedule
  - A delineated deployment schedule with commitment to complete project within 12 month of Commission approval of the application. The schedule should identify major prerequisite(s), construction, and any other milestones that can be verified by Commission staff. Milestones will be listed using the following format:
    - Milestone Description
    - Milestone Start and End Date
    - Milestone Risks
  - Included in its proposed schedule, the applicant must submit its plan to encourage adoption of the broadband Internet service it proposes, in

particular what activities it will employ to encourage residents to sign up for the service.

- In developing the schedule, applicant must include the timeline required for California Environmental Quality Act (CEQA) or other relevant government agency permit review, if needed.
- If the applicant is unable to complete the proposed project within the required
  12-month timeframe, it must notify the Commission as soon as it is aware of this prospect. The Commission reserves the right to reduce payment for failure to satisfy this requirement.

**1.~~9~~8 Organizational Chart and Background**

The applicant must submit an organizational chart showing the parent organization, subsidiaries and affiliates.

**1.~~10~~9 Economic Useful Life of Assets to be Funded**

The applicant must identify the expected economic useful life of the assets funded by the CASF grant.

**1.~~11~~10 Current Condition of Property**

An applicant must attest that (1) it expects its property to be in residential use for at least the next 10 years and (2) the buildings included in the application meet standards for acceptable basic living conditions as determined under HUD's Uniform Physical Condition Standards or similar guidelines provided by other housing funding agencies in the States.~~, and (3) that existing property infrastructure requires no significant upgrades to install wiring, equipment and other electronics funded under this grant, or if such condition exists the applicant will fund those activities.~~

**1.~~12~~11 Proposed Pricing**

An applicant must commit to charging residents no more than $20 per month for broadband Internet service.

**1.~~13~~14 Financials**

Applicants must submit the most recently prepared annual reports and audits that it submitted to the HUD, in the case of chartered public housing authorities, or another

government entity, in the case of non-profits (for example, the California Tax Credit Allocation Committee).

**1.~~14~~15 Permitting Compliance**

An application should state whether the project is statutorily or categorically exempt from CEQA requirements and cite the relevant authority, as applicable. Additionally, applicants must include any permit review timeline in its construction schedule, with a reference to the government agencies that will issue the permits. Grantees must provide Commission staff with proof of permit approvals before seeking reimbursement. Further, if a project requires review under CEQA, the grantee must provide the Proponent's Environmental Assessment (PEA) prior to the first 25 percent payment. The PEA submission should include information on any land crossing sites requiring discretionary or mandatory permits or environmental review pursuant to CEQA (include the type of permit required, the name of the permitting agency/agencies and the Lead Agency if an environmental review is required).

**1.~~15~~16 Affidavit**

An applicant must submit an affidavit, under penalty of perjury, that to the best of their knowledge all the statements and representations made in the application information submitted is true and correct (Attachment A). Additionally, an applicant must also agree to abide by the Commission Rules of Practice and Procedure, be subject to Public Utilities Code Sections 2108 and 2111 and to submit quarterly reports and annual recertification or audit documents.

**2. Adoption Project Application**

Applicants must complete and submit a project application form, which will be available on the Commission's website. CD will post the all applications submitted by the quarterly deadline on the CASF webpage.

A housing authority applying for ~~CASF Broadband Public Housing Account~~ BPHA funds must include in its submission its Annual HUD Contributions Contract and HA Code, allowing CD staff to verify its certification, along with its most recent HUD Public Housing Assessment System (PHAS) score.

Non-profit applicants must submit an IRS letter approving the applicant's status as a 501(c)(3) entity incorporated for the purposes of providing affordable housing, which must include the applicant's Tax Identification Number, along with an award letter

from a public agency such as the California Tax Credit Allocation Committee (TCAC), proving its receipt of public funding for affordable housing purposes.

Attestation that all units have or will have access to broadband Internet service at the time for the funding for adoption is implemented.

Applications must contain the following information.

**2.1. Funds Requested**

The applicant must indicate the amount of funding requested, i.e., whether it is applying for a grant only or a combination of a grant and a loan. As stated in Section II, the Commission will fund up to 85 percent of the costs for adoption projects for residents in PSCs, including reimbursement of the following adoption activities/items:

- Education and outreach efforts and materials;
- Desks and chairs to furnish a designated space for digital literacy;
- Acceptable computers and devices (excluding smartphones) and software intended for use either in a computer lab or their household;
- Digital literacy instructors;
- Printers for a computer lab or other designated space for digital literacy;
- Routers; and
- Provision of residential (not network) technical support.

In order to obtain reimbursement, grantees must also provide sufficient documentation, such as a receipt for the goods or documentation of hours worked.

**2.2. Project Location**

The applicant must provide the location it intends to serve along with an image of the location on the map (the Commission will accept a screen shot image from Google maps or similar image).

**2.3. Key Contact Information**

- First name
- Last name
- Mailing Address
- Email
- Phone

**2.4 Key PSC Management**

- Position title
- First name
- Last name
- Email
- Phone

**2.5 Key vendor contact information** (if applicant already has identified its vendor)

- First name
- Last name
- Company name
- Mailing address
- Email
- Phone

**2.6 Proposed Project Descriptio**n

An applicant must provide a detailed description of its proposed project, including the elements discussed below.

- Description of proposed activities the Commission will fund using the ~~CASF Public Housing Account~~ BPHA, such as education and outreach efforts.
- Project budget outlining a detailed breakdown of cost elements funded by the grant (85 percent) and provided as match by the Applicant (15 percent). The grant will reimburse for the activities and items listed in section 2.1.
- The Applicant may provide the 15 percent match using the following (1) donations from residents in exchange for devices; (2) donations of devices or software from third parties; and (3) Volunteer personnel hours worked to train residents. Applicants must identify the goods and/ or hours worked and its monetary value.
- Project schedule -- A delineated deployment schedule with a commitment to begin the project within nine months of Commission approval of the application and to complete project within 12 months thereafter.
    - Milestone Description
    - Milestone Start and End Date
    - Milestone Risks

If the applicant is unable to complete the proposed project within the required 12-month timeframe, it must notify the Commission as soon as it becomes aware of this prospect. The Commission reserves the right to reduce payment for failure to satisfy this requirement.

**2.7 Assertion of Property ~~Being Wired~~ Having Access to Broadband Services**

The applicant must attest that ~~broadband Internet service is available to~~ all PSC units on the project property ~~seeking the grant or that it will be when it begins its proposed adoption project~~ have access to broadband Internet service, or that all PSC units will have access at the time the funding for adoption is implemented.

~~**2.8 Rural Designation**~~

~~The applicant must specify whether its property is located in a rural area, as defined in Section III of these guidelines.~~

**2.~~9~~10 Organizational Chart and Background**

The applicant must submit an organizational chart showing its parent organization, subsidiaries and affiliates.

**2.~~10~~11 Economic Useful Life of Assets to be Funded**

The applicant must identify the expected economic useful life of the assets funded by the CASF grant.

**2.~~11~~12 Financials**

Applicants must submit the most recently prepared annual reports and audits that it submitted to HUD, in the case of chartered public housing authorities, or another government entity, in the case of non-profits (for example, the California Tax Credit Allocation Committee).

**2.~~12~~13 Affidavit of Application's Accuracy**

Applicants must submit an affidavit, under penalty of perjury, that to the best of their knowledge all the statements and representations made in the application information submitted is true and correct (Attachment B). Additionally, an applicant must also agree to abide by the Commission rules of practice and procedure, be subject to Public Utilities Code sections 2108 and 2111 and to submit quarterly reports and annual recertification or audit documents.

## VI. Submission and Timelines

Applicants should electronically file their completed applications using the Commission's FTP file server available at http://www.cpuc.ca.gov/puc/and mail a separate hard copy to the Communications Division, Attn: California Advanced Services Fund, Housing Coordinator, and mail another hard copy to the Office of Ratepayers Advocates. Since applications are not filed with the Commission's Docket Office, they will not be assigned proceeding number(s). Applications may be submitted at any time. However, CD will consider applications submitted on or before each deadline listed below as a batch. Additionally, after each deadline, CD will post all applications on its website to give ISPs two weeks from the date of posting to challenge applications.

Deadlines:

- ~~January 15, 2015~~
- ~~April 1, 2015~~
- ~~July 1, 2015~~
- October 1, 201~~5~~7
- January 1, 2018~~6 (unawarded Rural set aside released to all applicants, regardless of location)~~
- April 1, 201~~6~~8
- July 1, 201~~6~~8
- October 1, 201~~6~~8
- January 1, 2019
- April 1, 2019
- July 1, 2019
- October 1, 2019
- January 1, 2020
- April 1, 2020
- July 1, 2020
- October 1, 2020

Any deadline falling on a holiday or a weekend will be extended to the following business day.

## VII. Expedited Review

The Commission authorizes ~~delegates to~~ CD staff the authority to approve applications that meet all of the following criteria:
Infrastructure Projects

- Applicant meets the eligibility requirements under Pub. Util. Code, § 281~~(f)(2~~ (h)(1), § 281 (h)(2) and (h)(3).
- ~~Property the application proposes to serve is wired as defined in Section III or unwired.~~
- Applicant attests that the housing development is "unserved" as defined in Section III, which is a housing development where at least one housing unit within the housing development is not offered broadband Internet service.[7]
- Applicant declares that it has not denied an ISP access to its property to provide broadband Internet service and no ISP challenged this statement; if an ISP challenged an application alleging it was denied access to a PSC, CD staff determined the denial was reasonable.
- Applicant requests a grant of less than $75,000 in ~~CASF Housing Account~~ BPHA infrastructure grant funds per project.
- For projects connecting 51-100 PSC units, proposed project costs $450 per unit or less.
- For projects connecting 101 PSC units and more proposed project costs $300 per unit or less.
- The buildings included in the application meet standards for acceptable basic living conditions as determined under HUD's Uniform Physical Condition Standards or similar guidelines provided by other housing funding agencies in the State.
- ~~Existing property infrastructure requires no significant upgrades to install wiring, equipment and other electronics funded under this grant.~~
- Applicant expects property to be in residential use for at least the next 10 years.
- Property qualifies for an exemption pursuant to CEQA Guidelines § 15300.2.
- For wireless networking projects, equipment will at least meet the 802.11n standard.
- Applicant attests it will operate and maintain project equipment and technology for at least five years after completion and that it has sufficient funds and warranty to do so, including replacing equipment as needed, and a maintenance agreement and budget have been submitted.
- Proposed project network is capable of offering residents Internet service speeds of at least 6mbps downstream/1.5mbps upstream which is supported with appropriate documentation.
- Applicant commits to provide residents with minimum download speeds of 1.5 mbps per unit, during average peak utilization periods, subject to reasonable network management practices.

[7] Pub. Util. Code, § 281(h)(3)(A) and (h)(3)(B) as modified by SB 745.

- Residents will be charged no more than $20 per month for Internet service.
- Applicant has signed an affidavit agreeing to abide by Commission rules of practice and procedure; Pub. Util. Code, §§ 2111 and 2108; and to quarterly reports and submission of annual recertification/audit documents.
- Applicant agrees to complete project within 12 months.
- Applicant has identified its bandwidth source, either at the MPOE or its wireless equivalent.
- Applicant agrees to secure project funded hardware to prevent theft and vandalism.

Adoption Projects

- Applicant meets the eligibility requirements under Pub. Util. Code, § 281 ~~(f)(2)~~ (h)(1), (h)(2) and (h)(4).
- Applicant requests a grant of $50,000 or less
- Applicant agrees to perform education and outreach to educate residents of best practice use of available broadband Internet services.
- Applicant or partner organization possesses at least one year experience in digital literacy training or has previously carried out at least one digital literacy project.
- Applicant must provide at least eight hours of digital literacy training to participating residents.
- Applicant or partner organization will use existing curriculum.
- Applicant has identified onsite designated space for digital literacy training.
- If the applicant or partner organization provides residents computers or other devices to be use as part of its digital literacy training, the devices cost no more than $250 per device. New or refurbished computers or devices may be used; if the computer or device is refurbished, it must not be more than five years old. Additionally, a Smartphone is not an eligible device.[8]
- Technical support, either by phone or in person, must be able to respond within 48 hours. A refurbished device supplier should provide a warranty of at least six months and seller of new products should provide a warranty of at least 30 days.
- Applicants must be ready to provide classes within nine months of being selected for a CASF grant and must submit a work plan with major milestones showing how they propose to meet this deadline.

[8] Resolution T-17518 modified D.14-12-039, Appendix B, changing the maximum age for an acceptable refurbished computer from two years to five years.

- Applicants must sustain the adoption project for 12 months or until 75 percent of residents are trained. The applicant must submit a work plan with major milestones showing how they propose to meet this deadline.

## VIII. Resolution Review

Where an application does not meet the above expedited review criteria, it may still be considered for a grant for eligible applicants, as defined in Section IV, but it must go through the normal Commission Resolution approval process.[9]

## IX. Reporting

Grantees must submit quarterly progress reports on the status of the project irrespective of whether grantees request reimbursement or payment. Progress reports shall include both the schedule for deployment; major milestones and costs submitted in the proposals and indicate the completion date of each task/milestone as well as problems/issues encountered, and the actions taken to resolve these issues/problems during project implementation and construction. Grantees must also identify foreseeable risks that might prevent it from meeting future milestones. The grantee shall also include speed test results in its completion report. Recipients must certify that each progress report is true and correct under penalty of perjury.

Infrastructure project grantees must submit a project completion report describing the total project costs, including engineering, planning, material costs, and an assessment of the average speed the network is delivering to a resident during the peak hours of 7 p.m. to 11 p.m.

Adoption project grantees must submit a project completion report once 75% of all residents have been trained or after the project has been training residents for 12 months. The report must specify how many residents have been trained, how many of those trained subscribe to broadband Internet and how many are using devices in their home.

An infrastructure project grantee is required to maintain the broadband network for five years after it has been installed. After installation, for a five year period, grantees must also submit quarterly reports showing the percentage of up time, the number of unique log-ons (either by individuals or by units) and the amount of data used. These can be automated reports which can be emailed to CPUC_Housing@cpuc.ca.gov.

[9] Pub. Util. Code, § 281(h)(3)(A).

## X. Payment

Payment to the CASF grantee will be on a progress billing basis with the first 25 percent to be made upon the proponent's submission to the Commission staff of a progress report showing that 25 percent of the total project has been completed. Subsequent payments shall be made on 25 percent increments showing completion at 50 percent, 75 percent, and 100 percent. The CASF recipient must submit a project completion report before full payment.

For adoption projects, the first 25 percent increment represents the ramp up time before any training begins which must be nine months or less. The next 25 percent increment will be when the applicant is able to train 25 percent of residents, then when 50 percent of residents are trained and the last when 75 percent of residents are trained.

Payment will be based upon receipt and approval of invoices/other supporting documents showing the expenditures incurred for the project in accordance with the CASF funding submitted by the CASF recipient in their application.

Grantees must notify the Commission as soon as they become aware that they may not be able to meet project deadlines.

Grantees shall submit final requests for payment 90 days after completion of the project. Payment will be made in accordance with, and within the time specified in California Government Code § 927 *et seq*.

The Commission has the right to conduct any necessary audit, verification, and discovery during project implementation/construction to ensure that CASF funds are spent in accordance with Commission approval.

The recipient's invoices will be subject to a financial audit by the Commission at any time within three years of completion of the project.

## XI. Execution and Performance

CD staff and the CASF grant recipient shall determine a project start date after the CASF grant recipient has obtained all approvals. Should the recipient or Contractor fail to commence work at the agreed upon time, the Commission, upon five (5) days written notice to the CASF recipient, reserves the right to terminate the award.

In the event that the CASF recipient fails to complete the project, in accordance with the terms of approval granted by the Commission, the CASF recipient must reimburse some or all of the CASF funds that it has received.

The CASF grant recipient must complete all performance under the award on or before the termination date of the award.

Material changes in the entries for this application, such as discontinuing operation or bankruptcy, or change of name (DBA), change of address, telephone, fax number or E-mail address should be reported by a letter to the CPUC, Director of the Communications Division, 505 Van Ness Avenue, San Francisco, CA 94102.

(End of Appendix A)

# Appendix B

**Proposed Modifications of the Consortia Eligibility and Guidelines in D. 11-06-038 Initiated by SB 745**

**Proposed Modifications of the Consortia Eligibility and Guidelines in D. 11-06-038 Initiated by SB 745**
**(Excerpt from D.11-06-038 pages 10 and 22)**

**4. Adopted Goals, Objectives, and Role of Regional Consortia**

As a basis for establishing the procedures and protocols for administering the Consortia grant program, we must first identify what are the relevant goals, objectives and roles of the program and its participants. We shall adopt appropriate goals, objectives, and membership of the Consortia grant program consistent with the statutory mandate specified in Pub. Util. Code, § 281 which states:

> Moneys in the Rural and Urban Regional Broadband Consortia Grant Account ~~(Consortia program)~~ shall be available for grants to eligible Consortia to fund the cost of broadband deployment activities other than the capital cost of facilities, as specified by the Commission. An eligible Consortium may include, as specified by the commission, representatives of organizations, including, but not limited to, local and regional government, public safety, ~~K-12~~ elementary and secondary education, health care, libraries, ~~higher~~ postsecondary education, community-based organizations, tourism, parks and recreation, agricultural, ~~and~~ business, workforce organizations, and air pollution or air quality management districts, and is not required to have as its lead fiscal agent an entity with a certificate of public convenience and necessity.

Consistent with this statutory language, the membership of Consortia can be quite broad, encompassing the range of community interests that share the common purpose of promoting greater deployment and adoption of broadband. SB 1040 specifies eligibility criteria for a Consortium, but authorizes the Commission to provide further guidance in regards to administration of funds, delegation of authorities, and objectives of the Consortia. The procedures we adopt herein provide the requisite guidance. We are further guided by the broad purposes for which the CASF program has been administered to date.

**6.4.1 Information Requirements**

At a minimum, each Consortium application shall provide the following required information:

A. Identification (i.e., name, contact information, etc.) of each Consortium member, including which, if any members are telecommunications carriers that are certificated by or registered with the Commission, identifying their Utility Identification number in such instances.

B. Background, description, and role each member[40] of the Consortium will play in the proposed Consortium project.

C. Governing board structure in place that provides for direct representation from affected cities, counties, and tribes; the application must describe the governing board structure.

D. Identification and description of the geographical regions/population groups/community interests to be covered by the proposed Consortium project to include a map, list of CBGs and ZIP Codes.

E. Description of existing and past projects including: (1) budget, timelines, and funding source; (2) demonstration that there will be no overlap and/or duplication of such projects (i.e., provide description of geographic region served and geographic region that will be served, etc.); and (3) best practices learned from said projects.

(End of Appendix B)

[40] As prescribed in Public Utilities Code section 281, eligible consortium members may include, as specified by the Commission, representatives of organizations, including, but not limited to those listed below. The Commission will give consideration to all consortia, both new and pre-existing, that are committed to pursuing projects consistent with the objectives stated in Public Utilities Code Section 281(a). Consortium members should include and be supported by a significant cross-section of stakeholders/representatives of community anchor institutions such as ~~city and county~~ local and regional government, community service districts, health care, primary and higher education, public safety, elementary and secondary education, health care, libraries, postsecondary education, community-based organizations, tourism, parks and recreation, ~~agriculture, and other business groups,~~ agricultural business, workforce organizations, and air pollution control or air quality management districts, and is not required to have as its lead fiscal agent an entity with a certificate of public convenience and necessity.