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Decision 19-04-022 April 25, 2019

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Consider Modifications to the California
Advanced Services Fund.

Rulemaking 12-10-012

**DECISION IMPLEMENTING THE CALIFORNIA ADVANCED SERVICES FUND
LINE EXTENSION PROGRAM PROVISIONS**

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Appendix 1 - CASF LEP Guidelines

DECISION IMPLEMENTING THE CALIFORNIA ADVANCED SERVICES FUND LINE EXTENSION PROGRAM PROVISIONS

Summary

In this decision, we implement changes to the California Advanced Services Fund to introduce a program totaling no more than \$5 million, to promote grants to offset the costs associated with connecting households to facilities-based providers, as required by Assembly Bill (AB) 1665. The program will be known as the “Line Extension Program” (LEP) pilot and is consistent with recommendations made in the Communications Division’s Staff report attached to Commissioner Guzman Aceves’s Amended Scoping Memo and Ruling on February 14, 2018.

The rules for the LEP pilot address, among other items, the following subjects: project eligibility, application challenges, determining funding levels, reimbursement, a ministerial review process whereby staff may approve certain projects and establishing additional minimum performance.

1. Factual Background

AB 1665 created the Line Extension Program as a pilot project within the California Advanced Services Fund (CASF) Broadband Infrastructure Grant Account. Under the LEP, an individual household and/or property owner can apply for an infrastructure grant to offset the costs of connecting a household or property to an existing or proposed facility-based broadband provider.¹ Any infrastructure built with funds provided by the LEP shall become the property of, and part of, the network of

¹ Pub. Util. Code, § 281(f)(6)(A).

the facility-based broadband provider to which it is connected.² AB 1665 directs the Commission to consider limiting funds to households based on income so that funds are provided only to households that would not otherwise be able to afford a line extension to the property, to limit grants on a per-household basis and to require a percentage of the project to be paid by the household or owner of the property and specifies that the aggregate amount available for awards is \$5 million dollars.³

1.1. Procedural Background

On October 15, 2017, the Governor signed AB 1665 (Garcia)⁴ into law. This urgency legislation amended the statutes governing the CASF program.⁵ On February 14, 2018, assigned Commissioner Martha Guzman Aceves issued an Amended Scoping Memo and Ruling (Amended Scoping Ruling) which set forth the amended procedural schedule and scope of this proceeding. Due to the requirement that the CASF's Broadband Adoption Account begin accepting applications by

July 1, 2018, the Amended Scoping Ruling bifurcated the proceeding into two phases. The Amended Scoping Ruling also contained draft Staff Proposals, prepared by the Commission's Communications Division (CD) in order to implement Phase I and Phase II of the program. In addition to the Adoption Account, Phase I of the instant proceeding also addressed the implementation issues related to the CASF program's Public Housing and Loan Accounts. Phase

² *Id.*

³ Pub. Util. Code, § 281(f)(6)(B)(i) and (ii).

⁴ Ch. 851, Stats. 2017.

⁵ Pub. Util. Code §§ 281, 912.2, and 914.7.

II seeks to resolve the Broadband Infrastructure, Line Extension, and Rural and Urban Regional Broadband Consortia Grant Account issues. The Commission issued a decision containing the revised Consortia Account rules on October 25, 2018.

Comments on the draft Staff Proposal (Phase II) were due no later than April 16, 2018 and reply comments were due no later than May 1, 2018. Assigned Commissioner Guzman Aceves issued a Ruling on July 11, 2018, setting a date for a workshop in Sacramento and seeking comment on eligibility for and prioritization of broadband infrastructure funds. Comments on that Ruling were required to be filed no later than August 8, 2018. The then assigned Administrative Law Judge Colbert (ALJ Colbert) subsequently issued a Ruling on September 5, 2018, requesting comments on the eligibility for and prioritization of broadband infrastructure funds. Opening comments were due by September 21, 2018, and reply comments were due by September 28. Finally, because there was not a period for reply comments on the Assigned Commissioner's Ruling (ACR) in July/August, some parties included replies to the ACR in their comments on ALJ Colbert's ruling in September.

Parties filing comments and reply comments included telephone corporations, a cable industry group, consumer groups, government entities, Consortia, the California Emerging Technology Fund (CETF), and other regional and community groups focused on broadband deployment.⁶

⁶ The following parties filed comments/reply comments: AT&T, California Cable & Telecommunication Association (CCTA), California Internet, L.P. DBA GeoLinks (GeoLinks), Frontier Citizens Telecommunications Company of California (Frontier), CETF, Center for Rural Policy (CCRP), Central Coast Broadband Consortium (CCBC), Conifer Communications (Conifer), Corporation for Education Network Initiatives in California (CENIC), Gold Country Broadband Consortium (GCBC), Joint Consumers (The Utility Reform Network and The

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2. Issues Before the Commission

In this decision, we create rules, application requirements and guidelines for the Infrastructure Grant Account, Line Extension Program, as summarized below.

3. Definitions for the LEP Pilot

The following program definitions were proposed in the Staff Proposal attached to the February 14, 2018 Amended Scoping Memo.⁷

Facilities-based broadband provider: An entity is a facilities-based provider if any of the following conditions are met: (1) it owns the portion of the physical facility that terminates at the end-user premises or obtains the right to use dark fiber or satellite transponder capacity as part of its own network to complete such terminations; (2) it obtains unbundled network element (UNE) loops, special access lines, or other leased facilities that terminate at the end-user premises and provisions/equips them as broadband; or (3) it provisions/equips a broadband wireless channel to the end-user premises over licensed or unlicensed spectrum; or (4) it provides terrestrial mobile wireless service using its own network facilities and spectrum for which it holds a license, manages, or has obtained the right to use via a spectrum leasing arrangement.⁸

Greenlining Institute), Joy Sterling, North Bay North Coast Broadband Consortium (NBNCBC), Northeastern California Connect Consortium (NCCC), Race Telecommunications Inc. (Race), Rural County Representatives of California (RCRC), Small Local Exchange Carriers (Small LECs), The Public Advocates Office at the California Public Utilities Commission (formerly Office of Ratepayer Advocates (ORA) now Cal Advocates), Upstate California Connect Consortium (UCCC).

⁷ Appendix C – Staff Proposal for Broadband Infrastructure Account. Amended Scoping Memo, February 14, 2018.

⁸ Federal Communications Commission, <https://transition.fcc.gov/form477/WhoMustFileForm477.pdf> (downloaded

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Line Extensions: Line extensions consist of over-head, underground or wireless extensions of plant from existing distribution facilities to the customer premises network interface device at the demarcation point and exclude additions to plant along existing distribution facilities.

Service Connection: Wire or cable or wireless transmission equipment, and associated supporting structure, from the point of connection from the provider's distribution facilities to the customer premises network interface device. A service connection serves only the property on which it is located.

Telecommunications transmission media (specific to LEP): Twisted-pair (copper); coaxial cable (copper); fiber optics; wireless solutions such as millimeter wave spectrum may be included.

Unserved household: An unserved household is a household for which no facility-based broadband provider offers broadband service at speeds of at least six megabits per second (mbps) downstream and one mbps upstream.⁹

Non-profit housing organization (NPHO): 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.¹⁰

November 7, 2017).

⁹ Pub. Util. Code, § 281(b)(1)(B).

¹⁰ Pub. Util. Code § 281 (i)(1)(B)(ii).

3.1. Party Comments on Definitions for the LEP Pilot

In its opening comments, the Public Advocate's Office at the California Public Utilities Commission (Cal Advocates, also formerly known as the Office of Ratepayer Advocates)¹¹ propose changes to the definition of "facilities-based broadband provider" to require "that all facilities eligible for the LEP are capable of providing broadband service that is comparable to services delivered over wireline facilities."¹² Additionally, the California Center for Rural Policy (CCRP) is concerned that the definition of "facilities-based broadband provider" includes satellite transponder capacity and recommends that "funding should not be provided for services with data caps or metered services."¹³

3.2. Discussion

We agree with the concerns of CCRP and Cal Advocates and therefore update the definition of the facilities-based broadband provider to exclude satellite transponder capacity as well as terrestrial mobile wireless services. For the target population, mobile wireless and satellite are not comparable to wireline or fixed wireless broadband service options. The Commission adopts and revises the definition below of a facilities-based broadband provider:

Facilities-based broadband provider: An entity is a facilities-based provider if any of the following conditions are met:
(1) it owns the portion of the physical facility that terminates at the end-user premises or obtains the right

¹¹ As of August 31, 2018, the Office of Ratepayer Advocates (ORA) changed their name to the Public Advocates Office at the California Public Utilities Commission (Cal Advocates).

¹² Cal Advocates Phase II Opening Comments April 16, 2018 at 14.

¹³ CCRP Phase II Opening Comments April 16, 2018 at 10.

to use dark fiber as part of its own network to complete such terminations;

(2) it obtains unbundled network element (UNE) loops, special access lines, or other leased facilities that terminate at the end-user premises and provisions/equips them as broadband; or (3) it provisions/equips a broadband wireless channel to the end-user premises over licensed or unlicensed spectrum.

Additionally, we remove the definition of Non-profit housing organization from LEP rules. NPHOs would need to meet other LEP grant criteria to qualify.

In order to create an effective LEP pilot, we find that an additional definition is required. Instead of using “Unserved Household” as a requirement for a LEP grant, we will be using a “Non-connected Household” definition that is tailored to this program. A “Non-connected Household” is defined as a household that does not have a service connection to any broadband service.

4. Eligible Applicants

As described in the February 14, 2018 Staff Proposal, an eligible applicant is an individual household that resides at the location to be served or the property owner of the location to be served and that either meets the income-based requirements or qualifies for an exemption to the income requirements.

4.1. Party Comments on Eligible applicants

Cal Advocates agrees with the Staff Proposal and comments that “applicants who qualify for the California LifeLine or California Alternative Rates for Energy could automatically meet the qualifying income threshold and

be considered low-income.”¹⁴ Central Coast Broadband Consortium (CCBC) supports using household income levels to determine eligibility.¹⁵ On the other hand, North Bay North Coast Broadband Consortium (NBNCBC) believes the LEP should also be made available to non-low-income applicants and suggests a 70 percent funding subsidy level for non-low-income applicants.¹⁶ CCRP also notes that “limiting the subsidized project only to those individual households that are low income is neither feasible nor cost effective, and disserves the stated goals of AB 1665...”¹⁷

California Emerging Technology Fund (CETF) comments that “line extension programs allow wealthy customers to demand the cable company to serve their properties, while low-income consumers lack assets to do the same.” Furthermore, CETF asserts that “the funds allocated to the line extension program pot is so modest that the utility of the program is questionable.”¹⁸ NBNCBC also believes that the \$5 million allocated to the LEP is inadequate to effectively help close the digital divide and recommends that the Commission request an increase in funding from the Legislature.¹⁹

Both California Cable and Telecommunications Association (CCTA) and NBNCBC²⁰ support allowing for multiple unserved households to apply for the

¹⁴ Cal Advocates Phase II Opening Comments April 16, 2018 at 15.

¹⁵ CCBC Phase II Opening Comments April 16, 2018 at 9.

¹⁶ NBNCBC Phase II Opening Comments April 16, 2018 at 15.

¹⁷ CCRP Phase II Opening Comments April 16, 2018 at 11.

¹⁸ CETF Phase II Reply Comments May 1, 2018 at 17-18.

¹⁹ NBNCBC Phase II Opening Comments April 16, 2018 at 14.

²⁰ NBNCBC Phase II Opening Comments April 16, 2018 at 16.

line extension program “to reduce the overall costs of a project and improve efficiency.”²¹ Additionally, CCRP contends that projects should serve an “entire tract rather than a single individual applicant on a block” regardless of whether the households are low-income or not.²² CETF believes that “other property owners along the route to the [LEP applicant] property owner should have an opportunity to opt-in.”²³ Conifer Communications (Conifer) comments that if multiple households are served by a line extension, “this set up will allow for greater funds to be available to the collective, including any county or city permitting costs.”²⁴

Furthermore, multiple parties including Conifer, AT&T, CCRP, CETF, NBNCBC and Race Telecommunications Inc. (Race) support authorizing providers to apply on behalf of households.²⁵ CCRP notes that “[p]roviders are well positioned to help property owners navigate through the application process.”²⁶ However, CCBC contends that providers should not be allowed to apply on behalf of the property owner and states the program could be gamed by providers.”²⁷

²¹ CCTA Phase II Opening Comments April 16, 2018 at 11 and Phase II Reply Comments May 1, 2018 at 11

²² CCRP Phase II Opening Comments April 16, 2018 at 10-11.

²³ CETF ACR Comments August 8, 2018 at 15.

²⁴ Conifer ACR Comments August 8, 2018 at 18.

²⁵ Conifer ACR Comments August 8, 2018 at 8, AT&T at 18, CCRP at 11, CETF at 16, NBNCBC at 9, and Race at 12.

²⁶ CCRP ACR Comments August 8, 2018 at 10.

²⁷ CCBC ACR Comments August 8, 2018 at 9.

4.2. Discussion

Given the \$5 million amount available for grants, we consider the Line Extension Program to be a pilot. We also wish to focus funds on low-income households. Applicants who qualify for the California LifeLine²⁸ or California Alternative Rates for Energy (CARE)²⁹ programs automatically meet the qualifying income threshold. Likewise, those applicants who are not enrolled in the CARE or LifeLine programs but have a household income equivalent to the CARE program's income guidelines³⁰ meet the qualifying income threshold.

Parties identified efficiencies that occur when multiple households are served by a large line extension project and we agree that this could be a cost-effective way of distributing funds and efficiently helping to close the digital divide. Additionally, we agree with CCRP's statement that facilities-based providers are well equipped to help applicants navigate through the application process³¹ and therefore we will allow for facilities-based providers to apply on behalf of an individual household and/or a group of households.

We define an "Eligible Applicant" as the customer residing at the location to be served. A representative, including a service provider, may apply for service on behalf of an eligible applicant or a group of eligible applicants. While facilities-based broadband providers are free to pursue and build larger line extension projects that include both eligible and non-eligible applicants, only the

²⁸ www.cpuc.ca.gov/ultra/

²⁹ www.cpuc.ca.gov/General.aspx?id=976

³⁰ *Id.*

³¹ CCRP ACR Comments August 8, 2018 at 10.

costs directly related to providing line extensions to eligible applicants shall be reimbursed through the LEP program.

5. Subsidy Level

The February 14, 2018 Staff Proposal recommended that if approved by ministerial review (see below), the LEP will subsidize 95 percent of the cost of the proposed project for those applicants who meet the California LifeLine or CARE Program income thresholds or applicants who are NPHOs. Otherwise the percentage to be subsidized will be determined at the time the project is under review.

Likewise, the Staff Proposal stated that the Commission may want to consider a requirement for the facilities-based broadband provider to pay for some minimal amount of the proposed line extension, given that the provider will own the constructed infrastructure.³²

5.1. Party Comments on Subsidy Level

Gold Country Broadband Consortium (GCBC) supports the staff recommendation of 95 percent subsidy for low-income applicants that meet CARE or LifeLine requirements. Cal Advocates recommends a subsidy level of up to 99 percent for qualified low-income households.³³

The CCBC, GCBC, and CETF³⁴ support the staff recommendation that the facilities-based broadband provider pay for some minimal amount of the proposed line extension. CETF proposes that the providers bear half the cost of

³² Pub. Util. Code, § 281(f)(6)(A).

³³ Cal Advocates Phase II Opening Comments April 16, 2018 at 15.

³⁴ CCBC Phase II Opening Comments April 16, 2018 at 9, GCBC Phase II Opening Comments April 16, 2018 at 3, CETF Phase II Reply Comments May 1, 2018 at 18.

the line extension given that the infrastructure will become the property of the providers.³⁵ In contrast, the CCTA and AT&T assert that providers should not be required to pay for any portion of the line extension costs.³⁶

With regards to the subsidy level, Cal Advocates recommends capping the maximum cost of line extensions rather than a cap on the length of the line extensions. In doing so, this “ensures cost effective distribution of available funds.”³⁷ A cost of \$5,277.18 per household was used as an example of an aerial fiber line extension from Comcast by the NBNCBC.³⁸ Conifer proposes a \$500 limit per household regardless of technology.³⁹ Race proposes a \$300 cap for wireless drops, a \$1,000 cap for aerial drop, and a \$3,000 cap for underground drop.⁴⁰ CCTA does not oppose a price cap but contends that Race’s proposed caps for aerial and underground drops are “entirely insufficient – not only to address properties far away but even for short distances in many cases,” however, CCTA did not suggest a price cap amount.⁴¹

5.2. Discussion

The Commission, in response to comments on the Proposed Decision (PD), and to encourage line extensions to low income applicants, adopts a 100 percent subsidy for low income applicants.

³⁵ CETF ACR Comments August 8, 2018 at 15.

³⁶ CCTA Phase II Opening Comments April 16, 2018 at 12 and AT&T Phase II Reply comments at 38.

³⁷ Cal Advocates Phase II Opening Comments April 16, 2018 at 16.

³⁸ NBNCBC ACR Comments August 8, 2018 at 8.

³⁹ Conifer ACR Comments August 8, 2018 at 8.

⁴⁰ Race Phase II Opening Comments April 16, 2018 at 10.

⁴¹ CCTA ACR Comments August 8, 2018 at 9.

The Commission agrees with limiting the maximum cost of the line extensions as recommended by Cal Advocates, since costs can vary greatly for line extensions due to a variety of factors. Additionally, we agree with Cal Advocates that this will make certain that available funds are distributed in a cost-effective manner.

The PD proposed adopting the cost estimate provided by NBNCBC for its wireline maximum cap and Conifer's recommendation for the maximum cap for fixed wireless. Conifer's proposed \$500 cap appears to be a reasonable estimate based upon its experience providing fixed wireless broadband access as a business model. NBNCBC's cost estimate for deployment of wireline facilities for a line extension is based on an actual quote provided by Comcast in 2012 and adjusted for inflation to 2018 price levels. CCTA, in comments to the PD, and NBNCBC in reply comments, disagree with the Commission using the \$5,300 threshold. CCTA notes that the CASF Infrastructure Grant Account rules (D.18-12-018) adopted a \$9,300 maximum cap for ministerial review.

The maximum subsidy amount of the total line extension project/per household, in context of the transmission media/technology used will be:

- A maximum of \$500 for Fixed Wireless installations
- A maximum of \$9,300 for Wireline installations

6. Eligible Projects

From the February 14, 2018 Staff Proposal, an eligible project is a project at the property to be served, which meets the following criteria:

- The project is to help fund the construction of a line extension or an upgrade to an existing line extension to and on a property, which is the residence of the applicant household or which is owned by the applicant property owner.

- This project is for a household that has not received a grant from the LEP.
- The project is for an unserved household.
- The project is for a new service connection or for a service connection to a household that is considered unserved.
- The maximum length of the total line extension and the included service connection length (both maximum and minimum) that could be funded will be limited.
- The project will be constructed on existing rights of way and on the project property.
- The network that the proposed line extension will connect to will provide served speeds, as defined.

6.1. Party Comments on Eligible Projects

In general, parties did not offer comments on what constitutes an “eligible project” as outlined in the Staff Proposal. There were however some comments that peripherally address this section.

Cal Advocates requests that the CPUC “should revise the definition of ‘facilities-based broadband provider’ to make certain that all facilities eligible for the LEP are capable of providing broadband service that is comparable to services delivered over wireline facilities.”⁴²

NBNCBC supports the Staff Proposal regarding eligible projects, but also supports allowing a representative to apply on behalf of multiple unserved households. CCTA also supports allowing one eligible applicant to represent multiple households, but Frontier opposes multi-household applications.⁴³

⁴² Cal Advocates Phase II Opening Comments April 16, 2018 at 14.

⁴³ CCTA Reply Comments May 1, 2018 at 11 and Frontier Reply Comments May 1, 2018 at 9.

CCBC comments that the “CPUC should require such providers to abide by the all of the same requirements, including but not limited to service and price commitments, eligibility and performance requirements and standards of conduct, that CASF infrastructure grant recipients must meet. The LEP should not be structured in such a way as to allow non-compliant providers to evade the CPUC’s well established standards of corporate behavior by laundering CASF funds through individuals.”⁴⁴ CCTA disagrees and states that “CCBC is wrongly conflating the LEP, which funds a small fraction of a broadband service provider’s network, with Broadband Infrastructure Grants, which fund the construction of entire networks and for which service providers affirmatively seek CASF grants.”⁴⁵

6.2. Discussion

The Commission has considered additional factors in determining what constitutes “eligible projects.” These factors include if the project is categorically exempt from California Environmental Quality Act (CEQA) requirements and if the project provides speeds consistent with Pub. Util. Code § 281(f)(5)(A).

It is reasonable to adopt the following LEP requirements:

- The line extension must be to an Eligible Applicant.
- The property must not have previously received an LEP grant.
- The project will provide a service connection to a Non-connected Household.

⁴⁴ CCBC Opening Comments April 16, 2018 at 10.

⁴⁵ CCTA Reply Comments May 1, 2018 at 12.

- The completed project will allow the broadband Internet provider to offer service at speeds of at least 10 Mbps download and 1 Mbps upload.
- The project must be statutorily or categorically exempt from CEQA requirements.

7. Information Required from Applicants

The February 14, 2018 Staff Proposal includes a list of the information required for eligible applications. The following application information is required:

- The applicant must provide a proposed contract (“the contract”) from the facilities-based broadband provider or its approved contractor for the purpose of the construction of the line extension. This contract must state details of this construction, such as the type of connection, statement of work, cost estimate and the justification for the cost.
- If the applicant qualifies for the LEP based on his/her enrollment in a qualifying public assistance program,⁴⁶ the applicant must provide proof of this enrollment.
- If the applicant qualifies for the LEP based on income, the applicant must provide proof-of-income.
 - The applicant needs to provide a copy of one or more of the documents below and any other relevant federal tax documents showing income (the applicant or applicant household needs to be listed as filer):
 - Federal Income Tax Form 1040, 1040NR, 1040A, 1040EZ, 1040PC, 1040X (for amended returns) w/original 1040 from previous year, 1040 with Schedule E. If self-employed, Federal Income Tax form 1040 w/ Schedule C or Schedule

⁴⁶ For a list of qualifying programs, please refer to the California LifeLine webpage on the CPUC website (<http://www.cpuc.ca.gov/ulst/>).

C-EZ, 1040X (amended returns) with original 1040 & Schedule C.

- Pay stub:
 - Name of person must be on stub or other identifying information to link to the person (*i.e.*, SSN).
 - Pay stub must be issued within the last 45 days showing the gross amount (include tips, overtime, commission and bonus).
 - A pay stub or check indicating only net amount is not acceptable.
- If the applicant is not the property owner, the applicant must provide a letter from the property owner stating the property owner's consent for work to be done, as stated in the contract.
- If the applicant is a NPHO, the applicant must provide 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.
- If the applicant is any other entity that has been granted an exemption from income requirements, that applicant must provide documents that support that exemption.

7.1. Party Comments on Information Required from Applicants

Cal Advocates suggests that the "proposed contract should include information on expected service speeds (to meet or exceed served speeds) and

low-income rate plans available to the applicant.”⁴⁷ No other parties submitted comments directly addressing this section.

7.2. Discussion

As stated in Section 4 above, the primary factor used to define eligible applicants will be income. This is the primary factor to promote broadband availability to households that may not otherwise be able to afford service. We also agree with Cal Advocates’ suggestion and have incorporated the expected service speeds as a requirement to be included in the proposed contract. Furthermore, as discussed in Section 3.2 and 4.2, we have removed reference to the NPHOs as well as exemptions to the income requirement. Below are the requirements for applicants:

- The applicant must provide a proposed contract (“the contract”) or written estimate from the facilities-based broadband provider or its approved contractor for the purpose of the construction of the line extension. This contract or estimate must state details of this construction, such as the type of connection, expected service speeds, statement of work, and detailed cost estimate.
- If the applicant is qualifying for the LEP based on his/her enrollment in a qualifying public assistance program,⁴⁸ the applicant must provide proof of this enrollment.
- If the applicant is qualifying for the LEP based on income, the applicant must provide proof-of-income.
 - The applicant needs to provide a copy of one or more of the documents below and any other relevant federal tax

⁴⁷ Cal Advocates Phase II Opening Comments April 16, 2018 at 16.

⁴⁸ For a list of qualifying programs, please refer to the California LifeLine webpage on the CPUC website (<http://www.cpuc.ca.gov/ultra/>).

documents showing income (the applicant or applicant household needs to be listed as filer):

- Federal Income Tax Form 1040, 1040NR, 1040A, 1040EZ, 1040PC, 1040X (for amended returns) w/original 1040 from previous year, 1040 with Schedule E. If self-employed, Federal Income Tax form 1040 w/ Schedule C or Schedule C-EZ, 1040X (amended returns) with original 1040 & Schedule C.
- Pay stub:
 - Name of person must be on stub or other identifying information to link to the person (*i.e.*, SSN).
 - Pay stub must be issued within the last 45 days showing the gross amount (including tips, overtime, commission and bonus).
 - A pay stub or check indicating only net amount is not acceptable.
- If the applicant is not the property owner, the applicant must provide a written statement from the property owner stating the property owner's consent for work to be done, as described in the contract.
- If a representative is filing the application on behalf of the Eligible Applicant, such authorization must be clear and may be included as a term within the contract.

In addition to the requirements stated above the applicant must provide a signed consent form that no facilities-based broadband provider, as defined in Section 3 above, offers service.

8. Submission and Timelines

The February 14, 2018 Staff Proposal suggested an application schedule based on quarterly submissions using application forms to be provided by the CPUC. Applicants would electronically file their completed application, along with required documentation, using the Commission's FTP file server available

at <https://kwftp.cpuc.ca.gov> and mail a separate hard copy to the Communications Division, Attn: California Advanced Services Fund, Line Extension Program.

8.1. Party Comments on Submission and Timelines

Cal Advocate's opening comments provide support for the quarterly schedule as listed in the Staff Proposal.⁴⁹

8.2. Discussion

The following changes are made to the schedule to allow for the expeditious review of applications. Additionally, to be consistent with the CASF Infrastructure Grant Account rules in D.18-12-018, we are clarifying how applications will be publicly noticed and how any challenges to the LEP applications will be processed.

Applicants would electronically file their completed application, along with required documentation, using the Commission's email address at CASFLineExtensionProgram@cpuc.ca.gov and mail a separate hard copy to the Communications Division, Attn: California Advanced Services Fund, Line Extension Program.

Applications may be submitted at any time. However, the Communications Division will consider applications submitted on or before each deadline listed below as a batch, until the funding is exhausted:

- July 1, 2019
- September 1, 2019
- December 1, 2019
- March 1, 2020

⁴⁹ Cal Advocates Phase II Opening Comments April 16, 2018 at 16.

- June 1, 2020
- September 1, 2020
- December 1, 2020
- March 1, 2021
- June 1, 2021
- September 1, 2021
- December 1, 2021
- March 1, 2022
- June 1, 2022
- September 1, 2022
- December 1, 2022

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

Public notice of applications received will be published on the Commission's website. Pursuant to PU Code § 281(f)(8), parties may challenge project applications. Challenges must be submitted to CD and the CASF Distribution List within 14 days after the public notice posting on the Commission's website

Challenges must be based solely on demonstrating actual levels of broadband service in the project area. Challengers have 10 business days to provide service to the households, otherwise, the challenge will be denied.

9. Ministerial Review

The February 14, 2018 Staff Proposal, recommends assigning to Communications Division Staff the task of approving applications that meet all of the following criteria:

- The proposed project is an eligible project, as described in "Eligible Projects."
- The proposed project is for an applicant whose income is at or under the income thresholds, as described in "Income Threshold."

- The proposed project per-foot costs meet the benchmark costs specific to the proposed transmission media.
- Only project proposals whose total cost is at or below a designated amount could be approved by expedited review.
- The project is exempt from any environmental review.

9.1. Party Comments on Ministerial Review

Cal Advocates expressed support for the Staff Proposal for expedited review of the LEP applications and stated that the requirements “are substantial enough to provide sufficient assurances that Communications Division only approves projects that meet all required criteria.”⁵⁰ Race requests that the LEP “paperwork and reimbursement process be kept simple.”⁵¹ Likewise, CETF also agreed that the “rules be simple and easy to administrate.”⁵²

9.2. Discussion

To keep the process as simple as possible and to aid homeowners in obtaining a line extension as soon as possible, we are implementing a ministerial review of LEP applications (formerly titled “Expedited Review”). This is in response to comments received that indicate the need for simplicity and expeditiousness with this program. Given the clear criteria of an eligible project and an eligible applicant, we believe that the ministerial review is aligned with the goal of AB 1665 to provide broadband access to 98 percent of California households in each consortia region.

⁵⁰ Cal Advocates Phase II Opening Comments April 16, 2018 at 16.

⁵¹ Race Phase II Opening Comments April 16, 2018 at 10.

⁵² CETF Phase II Reply Comments May 1, 2018 at 18.

Communications Division Staff shall approve applications under Ministerial Review that meet the following criteria:

- The proposed project is an Eligible Project.
- The proposed project connects an Eligible Applicant.
- The proposed project cost does not exceed \$500 for Fixed Wireless installations, and a maximum of \$9,300 for Wireline installations per household.
- The application is not challenged or Communications Division Staff denies the challenge.
- There are no competing applications for the same project area in the same application period.
- The project meets all the requirements stated in the Execution and Performance Section.

10. Resolution Review

When an eligible project does not meet the ministerial review criteria, the project may still be considered for a grant, but it must be approved by the Commission using the Resolution approval process.

10.1. Party Comments on Resolution Review

No comments were received on this issue.

10.2. Discussion

We adopt this proposal.

11. Reporting

The February 14, 2018 Staff Proposal suggested that upon completion of the project and before payment, both the applicant and the facilities-based broadband provider or its approved contractor must provide signed completion form stating that the work has been completed. The applicant must submit a signed completion form stating the line extension has been installed and that they are receiving internet service. The facilities-based broadband provider or its

approved contractor must submit a signed completion form stating that the work has been completed as stated in the contract and that the service has been turned on.

11.1. Party Comments on Reporting

No comments were received on this issue.

11.2 Discussion

We adopt this proposal.

12. Payment

The February 14, 2018 Staff Proposal proposed that payment will be made directly to the facilities-based broadband provider or the approved contractor who installed the line extension. Payment will be based upon receipt and approval of the invoice submitted by the provider showing the expenditures incurred for the project along with the forms detailed in the Reporting Section 11. The invoice must be supported by documentation of equipment and supplies purchased, cost of labor and any other expense that will be recovered by the subsidy. Payment from the Commission will not exceed the provided subsidy.

12.1. Party Comments on Payment

No comments were received on this issue.

12.2. Discussion

We adopt the Staff Proposal regarding Payments but have added clarifying language regarding payments:

The facilities-based broadband provider is responsible for keeping costs within the budget estimated in the contract.

Payment from the Commission will not exceed the approved subsidy amount. Any additional costs above the estimate

provided in the contract will be the responsibility of the facilities-based broadband provider.

13. Execution and Performance

Except for the proposal that facilities-based broadband providers have up to one year to complete the LEP project, the February 14, 2018 Staff Proposal did not fully address requirements for providers.

13.1. Party Comments on Execution and Performance

CCBC comments that the “CPUC should require such providers to abide by all of the same requirements, including but not limited to service and price commitments, eligibility and performance requirements and standards of conduct, that CASF infrastructure grant recipients must meet.”⁵³ NBNCBC believes that broadband speeds should be a minimum of 25 Mbps downstream and three Mbps upstream.⁵⁴

13.2. Discussion

The Commission agrees with CCBC’s assertion that the providers should be required to abide by, in general, all the same requirements of the CASF infrastructure grant recipients. The LEP pilot program is a part of the larger CASF Infrastructure Grant program and the performance criteria affords a consistency in standards for the program. As a result, the facilities-based broadband provider must meet the minimum criteria below:

⁵³ CCBC Phase II Opening Comments April 16, 2018 at 9.

⁵⁴ NBNCBC Phase II Opening Comments April 16, 2018 at 14.

- Project Completion: All projects must be completed within 12 months.
- Speeds: All households must be offered a broadband Internet service plan with speeds of at least 10 Mbps download and 1 Mbps upload.
- Affordability: The facilities-based broadband provider shall inform the applicant of the availability of low-income plans.
- The facilities-based broadband provider, or its approved contractor must provide in writing a determination that the project is statutorily or categorically exempt from CEQA requirements⁵⁵ and cite the relevant authority, as applicable.

Facilities-based broadband providers will be responsible for all costs related to the line extension beyond the 100 percent that the Commission will fund. Additionally, the minimum performance criteria stated above can be revised to be consistent with changes to the minimum performance criteria defined in the CASF Infrastructure Grant rules in D.18-12-018.

The facilities-based broadband provider or its approved contractor has up to one year to complete the proposed line extension in accordance with the terms of its contract and the requirement of the LEP. If the proposed line extension has not been completed within the one-year period, the grant will be rescinded.

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

⁵⁵ CEQA Guidelines §15300.2.

Invoices from the facilities-based broadband provider or its approved contractor will be subject to financial audit by the Commission at any time within three years of completion of the work.

If the facilities-based broadband provider fails to complete the work in accordance with the approval granted by the Commission, and as stated in the contract, the facilities-based broadband provider must reimburse some or all of the CASF funds that it has received.

14. Comments on Proposed Decision

The proposed decision of Commissioner Guzman-Aceves in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on April 15, 2019 by Frontier, AT&T, and CCTA. Reply comments were filed on April 22, 2019 by CETF, CCTA, and NBNCBC. Minor modifications were made to the Proposed Decision to clarify the intent of the Decision, including updating the application date from June 1, 2019 to July 1, 2019. Substantive revisions in response to comments include increasing the subsidy from 95% to 100% and updating the maximum wireline price cap from \$5,300 to \$9,300.

15. Assignment of Proceeding

Martha Guzman-Aceves is the assigned Commissioner and Brian Stevens is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. On October 15, 2017, the Governor signed AB 1665 into law, which amended Pub. Util. Code §§ 281, 912.2, and 914.7, the statutes governing the CASF program.

2. The February 14, 2018 Amended Scoping Memo bifurcated the proceeding, into Phase I and Phase II. This Decision addresses Phase II of the proceeding, specifically the Broadband Infrastructure Grant Account Line Extension Program pilot.

3. The Amended Scoping Memo includes the Phase II Staff Proposal in Appendix C, prepared by the Commission's CD, in order to implement Phase II of the program.

4. Public forums and workshops regarding the CASF program were held in Oroville, California on March 14, 2018 and in Madera, California on March 16, 2018.

Conclusions of Law

1. The rules, application requirements and guidelines set forth in Appendix 1 for the Broadband Infrastructure Grant Account Line Extension Program pilot are consistent with the intent and objectives of Pub. Util. Code §§ 281(f)(6) and should be adopted.

2. The Commission has the authority to delegate to Staff the ministerial review of CASF Infrastructure Grant Account's Line Extension Program pilot applications meeting the criteria specified in the Ministerial Review Section of this Decision and it is reasonable that it do so in this proceeding.

3. Pub. Util. Code § 281(f)(6)(B)(i) requires the Commission to consider income in awarding grants and to consider limiting grants on a per-household basis.

4. Pub. Util. Code § 281(f)(6)(A) requires that any infrastructure built with funds from this account will become the property of the facilities-based broadband provider to which it is connected.
5. The proceeding remains open.

O R D E R

IT IS ORDERED that:

1. The programmatic changes to the California Advanced Services Fund program as set forth in Appendix 1 (Broadband Infrastructure Account Line Extension Program Pilot Requirements, Guidelines and Application Materials), attached hereto, are hereby adopted.
2. The deadline to file applications for the next round of the California Advanced Services Fund Infrastructure Grant Account Line Extension Pilot Program is July 1, 2019.
3. Rulemaking 12-10-012 remains open.

This order is effective today.

Dated April 25, 2019, at San Francisco, California.

MICHAEL PICKER
President
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners

APPENDIX 1

CASF Broadband Infrastructure Grant Account

Line Extension Program Pilot

Application Requirements and Guidelines

*CASF - The Broadband Infrastructure Grant Account
Line Extension Program Pilot
--- Application Requirements and Guidelines---*

Date: April 2019

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1. Background

AB 1665 introduced the Line Extension Program (LEP) as part of the CASF Broadband Infrastructure Grant Account. Under the LEP, an individual household and/or property owner can apply for an infrastructure grant to offset the costs of connecting a household or property to an existing or proposed facility-based broadband provider. Any infrastructure built with funds provided by the LEP shall become the property of, and part of, the network of the facility-based broadband provider to which it is connected. AB 1665 directs the Commission to consider limiting funds to households based on income so that funds are provided only to households that would not otherwise be able to afford a line extension to the property, to limit grants on a per-household basis and to require a percentage of the project to be paid by the household or owner of the property.

1.1. Amount Available for Grants

Pursuant to AB 1665, the aggregate amount available for awards is \$5 million dollars.

2. Definitions for the LEP

Facilities-based broadband provider: An entity is a facilities-based provider if any of the following conditions are met: (1) it owns the portion of the physical facility that terminates at the end-user premises or obtains the right to use dark fiber as part of its own network to complete such terminations; (2) it obtains unbundled network element (UNE) loops, special access lines, or other leased facilities that terminate at the end-user premises and provisions/equips them as broadband; or (3) it provisions/equips a broadband wireless channel to the end-user premises over licensed or unlicensed spectrum. This definition excludes satellite transponder capacity as well as terrestrial mobile wireless services.

Line Extensions: Line extensions consist of over-head, underground or wireless extensions of plant from existing distribution facilities to the customer premises network interface device at the demarcation point and exclude additions to plant along existing distribution facilities.

Service Connection: Wire or cable or wireless transmission equipment, and associated supporting structure, from the point of connection from the provider's distribution facilities to the customer premises network interface device. A service connection serves only the property on which it is located.

Telecommunications transmission media (specific to LEP): Twisted-pair (copper); coaxial cable (copper); fiber optics; wireless solutions such as millimeter wave spectrum may be included.

Non-connected Household: A household that does not have a service connection to any broadband service.

3. Eligible Applicants

An “Eligible Applicant” is the customer residing at the location to be served. All recipients of the LEP grant must meet the income-based requirements. Applicants who qualify for the California LifeLine or CARE Programs automatically meet the qualifying income threshold. Applicants who are not enrolled in the CARE or LifeLine programs but have a household income equivalent to the CARE program’s income guidelines automatically meet the qualifying income threshold.

A representative, including a facilities-based broadband provider, may apply for service on behalf of an eligible applicant or a group of eligible applicants.

Additional instructions and application materials are provided on the CPUC website on the CASF Infrastructure webpages.

4. Subsidy Level

The LEP will subsidize 100% percent of the cost of the proposed project for those applicants who meet the California LifeLine or CARE program income thresholds.

The maximum subsidy amount of the total line extension project/per household, in context of the transmission media/technology used will be:

- A maximum of \$500 for Fixed Wireless installations
- A maximum of \$9,300 for Wireline installations

In the event that a provider is building line extensions to non-eligible applicants, while also building an eligible project to eligible applicants, the subsidy will be calculated as a percentage of eligible applicants over total applicants with the subsidy amount not exceeding the maximum amounts listed above.

5. Eligible Projects

An eligible project is a project at the property to be served, which meets the following:

- The line extension is to an Eligible Applicant.

- The property must not have previously received an LEP grant.
- The project will provide a service connection to a Non-connected Household.
- The completed project will allow the broadband Internet provider to offer service speeds of at least 10 Mbps download and 1 Mbps upload.
- The project is statutorily or categorically exempt from CEQA requirements.

6. Information Required from Applicants

- The applicant must provide a proposed contract (“the contract”) or written estimate from the facilities-based broadband provider or its approved contractor for the purpose of the construction of the line extension. This contract or estimate must state details of this construction, such as the type of connection, expected service speeds, statement of work, and detailed cost estimate.
- If the applicant is qualifying for the LEP based on his/her enrollment in a qualifying public assistance program, the applicant must provide proof of this enrollment.
- If the applicant is qualifying for the LEP based on income, the applicant must provide proof-of-income.
 - The applicant needs to provide a copy of one or more of the documents below and any other relevant federal tax documents showing income (the applicant or applicant household needs to be listed as filer):
 - Federal Income Tax Form 1040, 1040NR, 1040A, 1040EZ, 1040PC, 1040X (for amended returns) w/original 1040 from previous year, 1040 with Schedule E. If self-employed, Federal Income Tax form 1040 w/ Schedule C or Schedule C-EZ, 1040X (amended returns) with original 1040 & Schedule C.
 - Pay stub:
 - Name of person must be on stub or other identifying information to link to the person (i.e., SSN).
 - Pay stub must be issued within the last 45 days showing the gross amount (including tips, overtime, commission and bonus).
 - A pay stub or check indicating only net amount is not acceptable.
- If the applicant is not the property owner, the applicant must provide a written statement from the property owner stating the property owner’s consent for work to be done, as described in the contract.

- If a representative is filing the application on behalf of the Eligible Applicant, such authorization must be clear and may be included as a term within the contract.

In addition to the requirements stated above the applicant must provide a signed consent form that no facilities-based broadband provider, as defined in Section 2 above, offers service at this address.

Additional instructions and application materials are provided on the CPUC website on the CASF Infrastructure webpages.

7. Submission and Timelines

Applicants are required to use the Commission provided application form to apply. Applicants shall electronically file their completed application, along with required documentation, using the Commission's email address at CASFLineExtensionProgram@cpuc.ca.gov and mail a separate hard copy to:

Communications Division
Attn: California Advanced Services Fund, Line Extension Program
505 Van Ness Avenue
San Francisco, CA 94102

Applications may be submitted at any time. However, Communications Division will consider applications submitted on or before each deadline listed below as a batch, until the funding is exhausted.

- July 1, 2019
- September 1, 2019
- December 1, 2019
- March 1, 2020
- June 1, 2020
- September 1, 2020
- December 1, 2020
- March 1, 2021
- June 1, 2021
- September 1, 2021
- December 1, 2021
- March 1, 2022
- June 1, 2022
- September 1, 2022
- December 1, 2022

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

Public notice of applications received will be published on the Commission's website. Pursuant to PU Code § 281(f)(8), parties may challenge project applications. Challenges must be submitted to the Communications Division email: CASFLineExtensionProgram@cpuc.ca.gov and the CASF Distribution List within 14 days after the public notice posting on the Commission's website.

Challenges must be based solely on demonstrating actual levels of broadband service in the project area. Challengers have 10 business days to provide service to the households, otherwise, the challenge will be denied.

8. Ministerial Review

The Commission delegates to Communications Division Staff the task of approving applications that meet all of the following criteria:

- The proposed project is an Eligible Project.
- The proposed project connects an Eligible Applicant.
- The proposed project cost does not exceed \$500 for Fixed Wireless installations, and a maximum of \$9,300 for Wireline installations per household.
- The application is not challenged or Communications Division Staff denies the challenge.
- There are no competing applications for the same project area in the same application period.
- All projects must be completed within 12 months.
- The facilities-based broadband provider shall inform the application of the availability of low-income plans.

9. Resolution Review

When an application does not meet the ministerial review criteria, Staff may still recommend the Commission approve the grant, but the Commission must approve the application using the traditional Commission Resolution approval process.

10. Reporting

Upon completion of the project and before payment, both the applicant and the facilities-based broadband provider or its approved contractor must provide a signed completion form stating that the work has been completed. The applicant must submit a signed completion form stating the line extension has been installed and that they are receiving internet at served speeds. The facilities-based broadband provider or its approved

contractor must submit a signed completion form stating that the work has been completed as described in the contract and that the service has been turned on.

Additional instructions and application materials are provided on the CPUC website on the CASF Infrastructure webpages.

11. Payment

Payment will be made directly to the facilities-based broadband provider or the approved contractor who installed the line extension. Payment will be based upon receipt and approval of the invoice submitted by the provider showing the expenditures incurred for the project along with the forms detailed in the Section 10 "Reporting." The invoice must be supported by documentation of equipment and supplies purchased, cost of labor and any other expense that will be recovered by the subsidy.

The facilities-based broadband provider is responsible for keeping costs within the budget estimated in the contract. Payment from the Commission will not exceed the approved subsidy amount. Any additional costs above the estimate provided in the contract will be the responsibility of the facilities-based broadband provider.

12. Execution and Performance

The facilities-based broadband provider must meet the minimum criteria below:

- Project Completion: All projects must be completed within 12 months.
- Speeds: All households must be offered a broadband Internet service plan with speeds of at least 10 Mbps download and 1 Mbps upload.
- Affordability: The facilities-based broadband provider shall inform the application of the availability of low-income plans.
- The facilities-based broadband provider, or its approved contractor must provide in writing a determination that the project is statutorily or categorically exempt from CEQA requirements¹ and cite the relevant authority, as applicable.

Facilities-based broadband providers will be responsible for all costs related to the line extension beyond the 100 percent that the Commission will fund. Additionally, the minimum performance criteria stated in this section can be revised to be consistent with

¹ CEQA Guidelines §15300.2.

changes to the minimum performance criteria defined in the CASF Infrastructure Grant rules in D.18-12-018.

The facilities-based broadband provider or its approved contractor has up to one year to complete the proposed line extension in accordance to the terms of its contract and the requirement of the LEP. If the proposed line extension has not been completed within the one-year period, the grant will be rescinded.

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

Invoices from the facilities-based broadband provider or its approved contractor will be subject to financial audit by the Commission at any time within 3 years of completion of the work.

In the event that the facilities-based broadband provider fails to complete the work in accordance with the approval granted by the Commission, and as described in the contract the facilities based broadband provider must reimburse some or all of the CASF funds that it has received.

(END OF APPENDIX 1)