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| **State of California** | **Public Utilities Commission** |
|  | **San Francisco** |
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| **M E M O R A N D U M** |  |

**Date** **:** **April 16, 2021**

**To : The Commission**

 **(Meeting of April 22, 2021)**

**From : Lindsay Brown**

 **Legal Division**

**Michael Minkus, Ravneet Kaur**

**Communications Division**

**Subject: United States Department of Agriculture Final Rule to Expand Broadband Access in Rural America Under the ReConnect Program**

# **RECOMMENDATION:** The California Public Utilities Commission (CPUC) should file comments in response to the United States Department of Agriculture (USDA) request for comments on the final rule to establish the Rural eConnectivity (ReConnect) Program.[[1]](#footnote-2) The CPUC should advocate for changes to the ReConnect Program so that program funds benefit all states, including rural California. The CPUC should coordinate with the California Broadband Council (and member agencies) as both entities have overlapping interests and recommendations and share responsibilities in the California Broadband Action Plan.[[2]](#footnote-3) Comments are due on April 27, 2021.

# **BACKGROUND:** The ReConnect Program was established on March 23, 2018 in the Consolidated Appropriations Act of 2018[[3]](#footnote-4) to provide loans and grants for infrastructure and equipment for broadband service in eligible areas. Since then, the ReConnect Pilot has issued rounds of funding in several states.

On February 26, 2021, the USDA Rural Utilities Service issued a request for comments on a final rule to establish the ReConnect Program. Among others, the USDA seeks comments on eligible areas, a definition of rural areas, financial information requirements and security requirements, and a definition of sufficient access.

# **DISCUSSION AND RECOMMENDATIONS:** Staff recommends that the CPUC file comments in response to the USDA’s request for comment on the following issues, in coordination with California Broadband Council.

1. **Eligible Areas:** The USDA discusses eligible and ineligible areas for the program. It requests that applicants work with states to identify and submit areas where state funding has been provided.[[4]](#footnote-5)

**Staff Recommendation:**  The USDA should not exclude areas that have received state funding for broadband infrastructure. The CPUC, and nearly 30 states with broadband programs, have undertaken great efforts to address broadband needs and federal programs should facilitate coordination and collaboration with states. ReConnect should consider prioritizing projects with state funding.

1. **Defining “Rural Areas”:** The USDA defines “rural areas” as “any area that is not located within: (1) A city, town, or incorporated area that has a population of greater than 20,000 inhabitants; or (2) an urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants as defined in the Agency mapping tool.”[[5]](#footnote-6)

**Staff Recommendation:** The USDA should revise its definition of rural areas because it would be too restrictive in California and other similarly situated states where many rural communities currently are not eligible for the program.

1. **Evaluation of technical and financial feasibility, and financial information:** The USDA proposes to require cash flow and other operating requirements. Financial information includes evidence of any other funds required for the project.[[6]](#footnote-7)

**Staff Recommendation:**  The California Broadband Action Plan adopted support for new entities, such as cooperatives, to deploy broadband networks. These new entities would not have the long operational and lending history of others that have historically benefitted from USDA programs. The ReConnect rules should maximize flexibility and recognize state support, including financial support, in the requirements for financial feasibility and financial information**.**

1. **Defining “Sufficient Access”:** The USDA defines “sufficient access” as “a rural area in which households have broadband service at the minimum acceptable level of broadband, as set forth in the latest Federal Register notice announcing funding for the program. This definition will be used to determine the eligibility of a proposed service area and cannot be lower than 10 megabit per second (Mbps) downstream and 1 Mbps upstream. Mobile/Cellular and satellite services, which include systems that use satellite backbone facilities to connect to the internet, will not be considered in making the determination of sufficient access to broadband.”[[7]](#footnote-8)

**Staff Recommendation:** The first recommendation of the California Broadband Action Plan was to modernize broadband speed and performance standards. This meant a current (December 2020) minimum definition of 25/3 Mbps, and a goal of 100/20 Mbps. ReConnect should adopt a forward-looking definition of sufficient access such as 100/20 Mbps. To the extent there is concern about leaving behind the most underserved areas, ReConnect should prioritize areas with speeds slower than 25/3.

1. **Comment on other topics from the USDA public notice relevant to the California Broadband Action plan**.

# **CONCLUSION:**

# The CPUC should file comment in response to the USDA’s Rural Utilities Service request for comments on the ReConnect Program in coordination with the California Broadband Council.

# **ASSIGNED STAFF:**

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1. *Federal Register 11603 / Vol. 86, No. 37*, released February 26, 2021, Department of Agriculture Rural Utilities Service [Document Number: 2021-03443]. *Rural eConnectivity Program*. *See* https://www.federalregister.gov/documents/2021/02/26/2021-03443/rural-econnectivity-program [↑](#footnote-ref-2)
2. *See* California State Broadband Action Plan, https://broadbandcouncil.ca.gov/action-plan/ [↑](#footnote-ref-3)
3. Consolidated Appropriations Act of 2018, Pub L. No. 115-141. [↑](#footnote-ref-4)
4. Federal Register Notice at 11612. [↑](#footnote-ref-5)
5. *Id.* at 11611. [↑](#footnote-ref-6)
6. *Id.* at 11616. [↑](#footnote-ref-7)
7. Federal Register Notice at 11611. [↑](#footnote-ref-8)