Decision **PROPOSED DECISION OF COMMISSIONER HOUCK**
(Mailed 9/30/2022)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Revisions to the California Advanced Services Fund.	Rulemaking 20-08-021

DECISION ADOPTING MODIFICATIONS TO CALIFORNIA ADVANCED SERVICES FUND BROADBAND INFRASTRUCTURE GRANT ACCOUNT

TABLE OF CONTENTS

Title **Page**

DECISION ADOPTING MODIFICATIONS TO CALIFORNIA ADVANCED SERVICES FUND BROADBAND INFRASTRUCTURE GRANT ACCOUNT 1
Summary 2
1. Procedural Background 2
2. Jurisdiction 4
3. Changes to the CASF Infrastructure Account 5
   3.1. Amount Available for Grants 5
   3.2. Definitions 14
   3.3. Eligible Applicants Who May Apply 18
   3.4. Eligible Projects 18
   3.5. Performance Criteria 23
   3.6. Reimbursable Expenses 27
   3.7. Information Required from Applicants 28
   3.8. Submission and Timelines 32
   3.9. Project Challenges 33
   3.10. Ministerial Review 36
   3.11. Semi-Annual and Completion Reporting Requirements 39
   3.12. California Environmental Quality Act (CEQA) Payment 41
   3.13. Execution and Performance 42
   3.14. Clarifying Modifications to the Infrastructure Account Rules 45
   3.15. General Questions and Cross-Program Coordination 45
4. Authorization for Staff to Propose Changes to Infrastructure Account Rules via Resolution and to Update Application Attachments 48
5. Comments on Proposed Decision 48
6. Assignment of Proceeding 53
Findings of Fact 53
Conclusions of Law 54
ORDER 56

Attachment 1 – Infrastructure Account Rules

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DECISION ADOPTING MODIFICATIONS TO CALIFORNIA ADVANCED SERVICES FUND BROADBAND INFRASTRUCTURE GRANT ACCOUNT

Summary

This decision modifies the program rules for the California Advanced Services Fund Broadband Infrastructure Grant Account to implement recent legislation regarding project eligibility and other proposed modifications, including performance criteria and project challenges.

This proceeding remains open.

1. Procedural Background

In 2021, Governor Gavin Newsom signed into law Senate Bill (SB) 156, SB 4, Assembly Bill (AB) 164, and AB 14, each of which affected program administration of the California Advanced Services Fund (CASF), either through creation of new CASF subaccounts, adoption of individual program modifications, or through increase or extension of total program funding. The instant decision follows two earlier decisions in this proceeding, implementing the above-referenced legislation. Decision (D.) 22-02-026 established and adopted rules for a Local Agency Technical Assistance program, and D.22-05-029 adopted modifications to the CASF Broadband Public Housing Account, Broadband Adoption Account, and Urban Regional Broadband Consortia Account program rules.

On June 7, 2022, the assigned Commissioner issued a ruling inviting comments on proposed changes and issues related to the CASF Broadband Infrastructure Grant Account (Infrastructure Account). The main purpose of the proposed changes is to implement the aforementioned legislation enacted in 2021. As a direct result of new federal funding through the Broadband Equity, Access, and Deployment Program, the California Public Utilities Commission

(Commission) anticipates, the potential need, to revise program rules for a number of CASF accounts, including the Infrastructure Account, in the near future.

The Commission received timely comments in response to the June 7, 2022 ruling from the California Cable and Telecommunications Association (CCTA); Cal-Ore Telephone Co., The Siskiyou Telephone Company, Sierra Telephone Company, Inc., Winterhaven Telephone Company, The Ponderosa Telephone Co., Volcano Telephone Company, Foresthill Telephone Co., Calaveras Telephone Company, Ducor Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Co., Pinnacles Telephone Co. (jointly, the Small Local Exchange Carriers, or LECs); Frontier California Inc., Citizens Telecommunications Company of California Inc., Frontier Communications of the Southwest Inc. (jointly, Frontier); The Utility Reform Network (TURN); National Diversity Coalition (NDC); the Public Advocates Office of the Public Utilities Commission (Cal Advocates); Rural County Representatives of California (RCRC); Pacific Bell Telephone Company on behalf of AT&T California (AT&T); County of Los Angeles; LCB Communications LLC, South Valley Internet Inc. (jointly, LCB/SVI); Center for Accessible Technology, Electronic Frontier Foundation (jointly, CforAT/EFF); California Internet, L.P. doing business as GeoLinks (GeoLinks);[1] and Cellco Partnership, MCIMetro Access Transmission Services LLC (jointly, Verizon).[2] Comments were also served on the service list by California Emerging

[1] By ruling dated July 1, 2022, GeoLinks's June 30, 2022 request for leave to late-file comments on the June 7, 2022 ruling was granted.

[2] By ruling dated September 1, 2022, Verizon's August 29, 2022 motion to late-file comments on the June 7, 2022 ruling was granted.

Technology Fund (CETF) and Plumas-Sierra Telecommunications (Plumas-Sierra). On July 5, 2022, the Commission received reply comments from CCTA, CforAT, LCB/SVI, Frontier, Small LECs, Los Angeles County Economic Development Corporation (LAEDC), Cal Advocates, County of Santa Clara, AT&T, GeoLinks, CETF, and TURN.

2. Jurisdiction

The Commission's authority under California Public Utilities Code (Pub. Util. Code) Section 281 *et seq.*, as amended by SB 156, includes administration of an Infrastructure Account.[3] Specifically, Pub. Util. Code Section 281(b)(1)(A) requires the Commission to "approve funding for infrastructure projects that will provide broadband access to no less than 98 percent of California households in each consortia region." Pub. Util. Code Section 281(f)(5) requires the Commission to make funding available for projects that "deploy infrastructure capable of providing broadband access at speeds of a minimum of 100 megabits per second, (mbps) downstream and 20 mbps upstream, or the most current broadband definition speed standard set by the Federal Communications Commission," whichever is greater, "to "unserved areas or unserved households." Pub. Util. Code Section 281(f)(11) further provides that the Commission "shall consider factors that include, but are not limited to, the location and accessibility of the area, the existence of communication facilities that may be upgraded to deploy broadband, and whether the project makes a significant contribution to achievement of the program goal." Importantly, the Commission is not limited to the above considerations in determining whether and to what extent to award a project grant.

[3] Pub. Util. Code, § 281 (b), (c)(1) and (f).

3. Changes to the CASF Infrastructure Account

The assigned Commissioner's June 7, 2022 ruling provided a staff proposal, included as Attachment 1 to the ruling, which proposed changes to the Infrastructure Account and sought comments on related issues, as described below. We address parties' comments within the context of discussing the changes adopted by this decision.

3.1. Amount Available for Grants

Infrastructure Account rules currently give preference to projects in areas where internet connectivity is only available through dial-up service and that are not served by any form of wireline or wireless facility-based broadband service. SB 156 amended Pub. Util. Code Section 281(b)(2)(B)(i) to require the Commission to prioritize "projects in unserved areas where internet connectivity is available only at speeds at or below 10 mbps download and 1 mbps upload or areas with no internet connectivity." The staff proposal awards a baseline of 100 percent funding for areas without internet connectivity and 60 percent funding for areas with speeds at or below 10 mbps download and 1 mbps upload. The staff proposal also makes an additional 20 percent of funding available to projects meeting at least three criteria, as specified, and adds funding criteria relating to whether a project is located in an extreme or elevated fire threat area as defined by the CPUC Fire-Threat Map.[4] The staff proposal makes an additional 40 percent of funding available to applicants in low-income areas (as defined) that agree to participate in California LifeLine and/or federal LifeLine programs and/or offer fixed broadband service at a low income rate to eligible

[4] *See* https://files.cpuc.ca.gov/safety/fire-threat_map/2021/CPUC%20Fire%20Threat%20Map_v.3_08.19.2021.Letter%20Size.pdf

residents in the project area for a minimum of five years, and to approved projects that propose to interconnect with the state middle mile project. Finally, the staff proposal specifies that, in cases when application volume exceeds staff's review capacity, staff would first review applications in areas where service currently offered is at or below 10 mbps downstream and 1 mbps upstream, and then applications to serve areas in order of lowest income to highest income. The June 7, 2022 ruling posed a number of questions to which parties responded with comments related to prioritizing projects and funding criteria.

1. *Are the proposed program rules in Attachment 1 a reasonable means to prioritize projects in unserved areas?*

Most parties are generally supportive of the staff proposal, though many offer specific modifications to the funding criteria. GeoLinks and LCB/SVI recommend a baseline of 60 percent funding for all projects, as opposed to the 40 percent offered for projects not located in priority areas (*i.e.*, areas with speeds at or below 10 mbps download and 1 mbps upload, or no internet connectivity).[5] AT&T suggests areas with at least 50 percent of locations with speeds at or below 10 mbps download and 1 mbps upload should receive 100 percent of funding.[6]

LCB/SVI objects to the additional incentive for existence of communications facilities that may be upgraded to deploy broadband, asserting this incentive clearly favors incumbent local exchange carriers, and suggests

[5] *Opening Comments of California Internet, L.P. (U7326C) DBA GeoLinks Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed July 1, 2022 (GeoLinks comments), at 2; and *Opening Comments of LCB Communications LLC (U7234C) and South Valley Internet Inc. on Assigned Commissioner Ruling on Modifications to Infrastructure Account*, filed June 27, 2022 (LCB/SVI comments), at 3.

[6] *Opening Comments of AT&T California (U1001C) on Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed June 27, 2022 (AT&T comments), at 4.

instead to provide an additional 10 percent of funding for connection to the statewide middle mile network; related to this, RCRC suggests revising the funding criteria for "existing infrastructure" to include projects that connect to the statewide middle mile network.[7] In reply comments, TURN warns against removing this incentive, as doing so could exclude areas/communities with existing communications facilities, and thereby run counter to statute.[8]

CETF suggests providing an additional subsidy if a project contains 15 to 20 percent unserved households, including all high fire-threat zones in the area of deployment. CforAT/EFF suggest providing additional incentives to deploy infrastructure in historically redlined communities; in reply comments, TURN generally agrees but warns against using historical redlining maps as a basis for incentives since some of these communities have more recently been gentrified, and not all existing communities were subject to redlining maps.[9]

County of Los Angeles urges the Commission to consider a more expansive prioritization that would include areas with a median income below the low-income threshold and where fewer than 80 percent of households have an internet subscription, emphasizing that affordability rather than infrastructure is the primary cause of its residents' lack of internet access.[10] Cal Advocates

[7] LCBV/SVI comments, at 3; and *Opening Comments of the Rural County Representatives of California on the Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed June 27, 2022 (RCRC comments), at 3.

[8] *Reply Comments of The Utility Reform Network on the Potential Modifications to Infrastructure Account*, filed July 5, 2022 (TURN reply comments), at 6.

[9] *Comments of Center for Accessible Technology and Electronic Frontier Foundation on Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed June 27, 2022 (CforAT/EFF comments), at 3; and TURN reply comments, at 6-7.

[10] *Comments of the County of Los Angeles on Commissioner's Ruling Inviting Comments on Staff's Proposed Modifications to the California Advanced Services Fund (CASF) Broadband Infrastructure Grant Account (Infrastructure Account) Program Rules and Guidelines*, filed June 27, 2022 (County of Los Angeles comments), at 4.

suggests replacing the proposed low-income criteria with the criteria specified in the Commission's Environmental and Social Justice Action Plan.[11] TURN recommends providing additional funding for projects with mixed priority designations based on income, which TURN asserts is also in line with the Environmental and Social Justice Action Plan.[12]

CCTA does not support the staff proposal and suggests providing 100 percent of funding for all projects proposing to serve an area with speeds at or below 25 mbps download and 3 mbps upload, with no special consideration for areas with speeds at or below 10 mbps upload and 1 mbps download.[13] Arguing against providing 100 percent of funding for any project, Small LECs assert grant recipients should commit at least 5 percent of funding to a project.[14]

The Commission finds it reasonable to modify the proposed funding criteria to clarify that all eligible projects will be eligible for baseline funding of 60 percent of construction costs, and project areas without internet connectivity will be eligible for 100 percent of construction costs. We acknowledge, as many

[11] *Opening Comments of the Public Advocates Office on Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed June 27, 2022 (Cal Advocates comments), at 3-5.

[12] *Opening Comments of The Utility Reform Network on the Potential Modifications to Infrastructure Account*, filed June 27, 2022 (TURN comments), at 8-9.

[13] *Comments of the California Cable & Telecommunications Association on the Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed June 27, 2022 (CCTA comments), at 5-6.

[14] *Opening Comments Of Calaveras Telephone Company (U1004C), Cal-Ore Telephone Co. (U1006C), Ducor Telephone Company (U1007C), Foresthill Telephone Co. (U1009C), Happy Valley Telephone Company (U1010C), Hornitos Telephone Company (U1011C), Kerman Telephone Co. (U1012C), Pinnacles Telephone Co. (U1013C), The Ponderosa Telephone Co. (U1014C), Sierra Telephone Company, Inc. (U1016C), The Siskiyou Telephone Company (U1017C), Volcano Telephone Company (U1019C), and Winterhaven Telephone Company (U1021C) ("Small LECs") on the Assigned Commissioner's Ruling Addressing Proposed Modifications to the California Advanced Services Fund Broadband Infrastructure Grant Account Program Rules And Guidelines*, filed June 27, 2022 (Small LECs comments), at 3.

parties assert, that the remaining unserved areas in the state are likely the most costly to deploy broadband service to.

Regarding LCB/SVI's objection to the incentive for existence of communications facilities that may be upgraded, we note that this is a current criterion and is in accordance with Pub. Util. Code Section 281(f)(11), which specifies that the Commission "shall consider… the existence of communication facilities that may be upgraded to deploy broadband." Further, Section 5.2.1 of the staff proposal already makes clear that eligible projects shall connect to the state middle mile network, where feasible and reasonable.

In response to Cal Advocates' comments, we modify the low-income criterion, which currently relies on the statewide standard set by California Alternates Rates for Energy (CARE), to instead refer to the Department of Housing and Community Development's benchmark for defining what constitutes "low income," to better account for geographic differences in the cost of living within the state. This metric is also consistent with how the Commission's Environmental and Social Justice Action Plan defines low-income communities, as noted by Cal Advocates.[15] Further, the Commission has an ongoing concern for affordability of essential communications services, including broadband; acknowledging the development and adoption of affordability metrics in Rulemaking (R.) 18-07-006, Commission staff may in the future propose modifications to the funding criteria to account for differences in the affordability of communications services.

[15] Environmental & Social Justice Action Plan Version 2.0, California Public Utilities Commission, accessible at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf

We decline, at this time, to consider suggestions for alternative approaches or for providing additional incentives, preferring instead to keep the funding criteria relatively simple, both for applicants and for Commission staff. In response to TURN's recommendation to provide additional funding in proportion to the percentage of a project area that is low-income, we clarify that staff's current approach is to award the full amount of additional funding (*i.e.*, 30 percent) for projects in which at least 50 percent of households meet the specified income criterion. This is a reasonable approach in terms of balancing administrative simplicity with incentivizing applicants to select project areas with at least 50 percent low-income locations.

2. *Is it reasonable to make an additional 10 percent of funding available to projects that offer California LifeLine and/or federal LifeLine for five years following project completion? Does this change to program rules confer a similar benefit to program participants as the current rules, which provide a 10 percent funding adder for projects that offer a $15 per month low-income plan?*

Frontier, GeoLinks, LCB/SVI, Small LECs and Verizon generally support the proposed change related to incentivizing service to low-income residents, *i.e.*, from a $15 per month plan to offering LifeLine.[16] Plumas-Sierra, on the other hand, recommends retaining the current rule because, they reason, not all internet service providers (ISP) provide phone service, and a $15 (or less) per

[16] *Opening Comments of Frontier California Inc. (U1002C), Citizens Telecommunications Company of California Inc. DBA Frontier Communications of California (U1024C), Frontier Communications of the Southwest Inc. (U1026C) ("Frontier") on the Assigned Commissioner's Ruling Addressing Proposed Modifications to the California Advanced Services Fund Broadband Infrastructure Grant Account Program Rules and Guidelines*, filed June 27, 2022 (Frontier comments), at 2; GeoLinks comments, at 3; LCB/SVI comments, at 3; Small LECs comments, at 3-4; and *Opening Comments of Cellco Partnership (U3001C) and MCIMetro Access Transmission Services LLC (U5253C) on the Assigned*

month plan is a greater benefit than a LifeLine discount.[17] TURN, while agreeing with the new LifeLine incentive, also recommends retaining an option to offer a low-income broadband plan with a subscriber co-pay no greater than $15 per month, noting that LifeLine and low-income broadband plans are not direct substitutes for each other. TURN points out, for instance, that California LifeLine and federal LifeLine are tied to Federal Poverty Guidelines, which do not account for the high cost of living in many California counties; the LifeLine programs also currently require subscribers to provide a social security number, which is a barrier for some qualified residents.[18] Cal Advocates recommends the additional funding for offering LifeLine be limited to offerings for fixed broadband service, and further requests the Commission clarify that the LifeLine incentive does not eliminate a grantee's obligation to offer a low-income broadband plan.[19]

CETF asserts providers should be required to offer LifeLine or another low-income plan in the range of $15 to $20 per month.[20] In reply comments, TURN recommends against requiring grant recipients to offer California

Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account, served June 27, 2022 (Verizon comments), at 5.

[17] *Opening Comments of Plumas-Sierra Telecommunications on Rulemaking 20-08-021 in Response to the Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, served June 27, 2022; and June 29, 2022 public comment submitted by Corby Erwin to the Rulemaking 20-08-021 docket (Plumas-Sierra comments), at 3.

[18] TURN comments, at 9-11.

[19] Cal Advocates comments, at 3-5.

[20] *Opening Comments by California Emerging Technology Fund on Proposed Modifications to the CA Advanced Services Fund, Rulemaking 20-08-021*, served June 27, 2022 (CETF comments), at 5.

LifeLine, because doing so would narrow the applicant pool to voice service providers with an Eligible Telecommunications Carrier (ETC) status.[21]

The Commission agrees with parties that recommend retaining the 10 percent funding adder for projects that will offer a low-income plan of $15 or less per month. Retaining this rule, and adding the proposed alternative option to offer California LifeLine and/or federal Lifeline, affords flexibility to best meet the needs of low-income residents. We further modify the proposed rule in agreement with TURN's suggestion to specify that the $15 limit applies to subscribers' co-pay, or out-of-pocket expense. Further, we add a third option, for applicants to participate in the Affordable Connectivity Plan (or a broadband program that provides commensurate benefits), as articulated in Section 6 (Performance Criteria) of the staff proposal. As we discuss more comprehensively in Section 3.5 (Performance Criteria), we find it reasonable to retain the current requirement for all projects to provide an affordable broadband plan for low-income customers (with modifications to align with the adopted definition of "low-income broadband plan"), as recommended by Cal Advocates.

3. *In cases when application volume exceeds staff's review capacity, is it reasonable for staff to sequence its review of applications as proposed in Attachment 1? What alternative approach, if any, should the Commission consider?*

CETF and GeoLinks support the proposal for sequencing of staff's application review in cases when application volume exceeds staff's review capacity.[22] AT&T recommends prioritizing review of applications for areas with

[21] TURN reply comments, at 2-7.

[22] CETF comments, at 5 and GeoLinks comments, at 3.

50 percent or more of locations have service at or below 10 mbps download and 1 mbps upload.[23] CforAT/EFF raise a concern that some applicants may abuse the proposed rule by submitting multiple applications to intentionally slow down the review process.[24] LCB/SVI is supportive of the staff proposal but urges the Commission to ensure adequate personnel to timely process all applications.[25] TURN recommends the Commission use the proposed prioritization parameters regardless of staff capacity.[26]

Cal Advocates recommends prioritizing funding projects that align with the goals outlined the Environmental and Social Justice (ESJ) Action Plan.[27] RCRC recommends prioritizing review of applications for areas with zero internet and no cell phone service, followed by areas only lacking internet access.[28] Small LECs are not in favor of prioritizing review but suggest if Commission staff is to do so, to first review projects proposing to serve the greatest number of serviceable locations, then by income level, and then by distance from major population centers and services.[29]

The Commission acknowledges both the statutory goal to connect 98 percent of Californians to broadband internet services and to advance its ESJ Action Plan, and therefore determines that staff should prioritize review of Infrastructure Account applications, regardless of staff's review capacity,

[23] AT&T comments, at 4.

[24] CforAT/EFF comments, at 5.

[25] LCB/SVI comments, at 3.

[26] TURN comments, at 11-12.

[27] Cal Advocates comments, at 5.

[28] RCRC comments, at 3-4.

[29] Small LECs comments, at 4.

according to the proposed parameters in Section 2.3 of the staff proposal. The modified review process is adopted as shown in Attachment 1 of this decision.

3.2. Definitions

The staff proposal includes modified definitions for "eligible project," "low-income areas," "low-income customers" and "unserved," and specifies a definition for "low-income [broadband] plan," "serviceable location," "local agency" and "sovereign tribal government." The staff proposal removes definitions for "Baseline data," "Consortium Map" and "Household" as no longer relevant to administering the Infrastructure Account. The June 7, 2022 ruling posed the following question for party comment:

> 4. *Are the Infrastructure Account definitions proposed in Attachment 1 reasonable? What modifications or additional definitions are needed and why?*

AT&T recommends modifying "eligible project" to specify "a project *that includes* an unserved area that is capable of providing broadband service…"[30]

County of Los Angeles suggests defining "location" to include individual units in a multi-unit dwelling that may share the same street address.[31]

For "unserved," RCRC recommends the Commission consider clarifying what is meant by "entire community."[32] NDC agrees, and further argues "unserved" and "underserved" should not be used interchangeably.[33] GeoLinks suggests explicitly excluding areas with existing federal funding awards for

[30] AT&T comments, at 4.

[31] County of Los Angeles comments, at 7.

[32] RCRC comments, at 4.

[33] *Opening Comments of the National Diversity Coalition on the Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed June 27, 2022 (NDC comments), at 2-6.

broadband deployment, so that CASF funds are not used to "overbuild" in these areas, and either defining "reliably" or omitting this term, asserting its meaning is vague and may bias application review in favor of certain technologies.[34] Frontier also asserts the use of "reliably" results in an overly broad definition of "unserved."[35] CCTA asserts the proposed definition, as well as those for "serviceable location" and "broadband map," are inconsistent with Pub. Util. Code Section 281, and proposes specific revisions to "unserved" and "serviceable location."[36]

For "serviceable location," LCB/SVI recommends specifying that "type of structure" includes community anchor institutions, such as schools, libraries and health providers.[37] Small LECs suggest either removing the "type of structure" criterion, or limiting this definition to identifying the location of a structure without having to determine its precise character. Small LECs also suggest modifying "[p]otential subscriber type and speed" to "broadband speed capabilities."[38] GeoLinks suggests modifying location verification to allow "visual validation location services," which it states the Federal Communications Commission and Universal Service Administrative Company accept.[39]

LCB/SVI disagree with removing the $15 per month limit on subscription costs in the definition of a "low-income plan" and urge the Commission to add

[34] GeoLinks comments, at 4-5.

[35] Frontier comments, at 2.

[36] CCTA comments, at 7-8 and 10.

[37] LCB/SVI comments, at 4.

[38] Small LECs comments, at 4-5.

[39] GeoLinks comments, at 4.

the Federal Funding Account definitions.[40] Cal Advocates also suggests modifying the phrase of "low-income plan" by specifying "broadband," *i.e.*, "Low-Income Broadband Plan."

Cal Advocates further suggests revising the definitions for "low-income areas," and "low-income customers," to better align those definitions with the definitions of "low-income communities" and "low-income households," respectively, used in the Commission's Environmental and Social Justice Action Plan.[41] In reply comments, the County of Santa Clara supports the suggestion to be consistent with the Department of Housing and Community Development, to allow a more detailed analysis of income by region.[42]

The Commission agrees with a number of parties' proposed modifications to definitions, in line with the modifications made to the funding criteria as discussed in Section 3.1, specifically:

- Modify "low-income area" and "low-income customers" to align with how the Commission's Environmental and Social Justice Action Plan defines low-income communities and low-income households.
- Retain the current $15 per month limit on low-income broadband plans (as an option to be eligible to receive 10 percent additional funding).

The Commission also agrees to specify that "location" may include the individual units of a multi-unit dwelling, if applicable, as recommended by County of Los Angeles.

[40] LCB/SVI comments, at 4.

[41] Cal Advocates comments, at 7-8.

[42] *Reply Comments of the County of Santa Clara on Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed July 5, 2022 (County of Santa Clara reply comments), at 3.

In response to comments on the proposed definition for "unserved," the Commission agrees to modify the definition to omit the term "reliably" and to change "community" to "service area." These modifications better align the proposed definition with Pub. Util. Code Section 281(b). In response to NDC's comment, we note that the staff proposal removes all references to "underserved" from the program rules, obviating the need to define or distinguish that term for purposes of the Infrastructure Account program. With respect to GeoLinks's suggestion to explicitly exclude areas with existing federal funding awards for broadband deployment, we note Small LECs' recommendation to continue to permit carriers to propose projects that are also eligible for federal funding.[43] As TURN notes, there may be discrete instances when funds from the Federal Funding Account for the project's county are inadequate to fund the project.[44] The Commission finds it reasonable to continue allowing applications that are eligible for federal funding to be submitted for consideration to receive Infrastructure Account funding.

In response to comments on the proposed definition for "serviceable location," the Commission agrees to specify that "type of structure" may include schools, libraries, and health service providers, which often serve as community anchor institutions. Further, we make clear that "generally available geographic information system software" includes services/applications such as Google Earth. We decline to make other recommended changes, as we generally do not find the proposed items of information overly burdensome to identify. We do

[43] Small LECs comments, at 12-13.

[44] TURN comments, at 16.

not find any of the proposed definitions to be inconsistent with Pub. Util. Code Section 281, as suggested by CCTA.

3.3. Eligible Applicants Who May Apply

The staff proposal specifies that local agencies, defined pursuant to Government Code Section 53167(e), are eligible to apply for Infrastructure Account funds. The June 7, 2022 ruling posed the following question for party comment:

> 5. *Are the Infrastructure Account applicant eligibility criteria proposed in Attachment 1 reasonable? What modifications or additions are needed and why?*

Parties addressing this question generally agree with the changes regarding applicant eligibility. LVB/SVI suggests language to specify that satellite service providers must be able to meet minimum performance criteria "in a reliable and consistent manner," noting that satellite service is subject to interference from severe weather events, fog and heavy rain.[45]

The Commission agrees with the intent of LCB/SVI's suggestion and therefore adds language specifying that satellite service providers meet the minimum performance criteria "in terms of average speed and round-trip ping time, as laid out in Section 5, to the entire project area." As discussed in Section 3.5 of this decision, we modify the latency standard to instead refer to round-trip ping time, which is the time it takes for data to travel from Point A to Point B and then back to Point A.

3.4. Eligible Projects

The staff proposal requires that eligible projects include serviceable locations that are capable of being provided with broadband access at minimum

[45] LCB/SVI comments, at 4.

speeds of 100 mbps downstream and 20 mbps upstream, with corresponding proposed modifications to Section 8 – Information Required from Applicants, Section 11 – Project Challenges, and Section 13 – Reporting Requirements, to maintain consistency with this criterion.

The staff proposal removes current guidance relating to treatment of Connect America Fund (CAF II) and Right of First Refusal provisions, which were removed from statute by SB 156, with corresponding proposed changes to Section 11 – Project Challenges. The staff proposal also removes guidance regarding the Rural Digital Opportunity Fund (RDOF), which is governed comprehensively by D.21-01-003.

The staff proposal modifies the Infrastructure Account rules to permit applications for middle-mile infrastructure necessary to serve proposed last-mile infrastructure, provided that such applications include a justification why existing middle-mile facilities cannot support proposed last-mile infrastructure, and a notice that the applicant has consulted with and obtained approval from the California Department of Technology.

The staff proposal specifies that projects will interconnect with the statewide open access middle-mile network, where reasonable and feasible.

The June 7, 2022 ruling posed the following questions for party comment:

> 6. *Are the eligibility criteria, application requirements and challenge requirements regarding serviceable locations and minimum speeds, as proposed in Attachment 1, reasonable? What modifications or additions are needed and why?*

Parties addressing this question are generally supportive of the proposed criteria and requirements in the staff proposal but suggest specific revisions. CforAT/EFF state the minimum broadband speeds are reasonable and note that they match the newly established National Telecommunications Information

Administration (NTIA) Notice of Funding Opportunity.[46] LCB/SVI recommend setting a minimum speed of one gigabit per second, both download and upload, with 100 mbps download and 20 mbps upload as a default only if 1 gigabit per second is infeasible. LCB/SVI further makes clear it does not favor mandating specific technology, and that the Commission should grant up to ten years of operating and maintenance costs for "uneconomic CASF infrastructure builds" via either the Infrastructure Account or an update to the California High Cost-B fund program.[47] In reply comments, TURN does not agree with the suggestion that CASF funds be used for operating expenses, noting the program is designed for infrastructure development and not maintenance; TURN does, however, support the concept of the Commission assisting grantees to access California High Cost funding for operating expenses.[48]

The Commission finds the proposed eligibility requirements are reasonable. We decline at this time to adopt parties' proposed modifications, but may consider their merits in the future.

7. *Are the requirements for applications for middle-mile infrastructure proposed in Attachment 1 reasonable? What modifications or additions are needed and why?*

CforAT/EFF agree with the proposed rule, particularly to enable more last mile funding availability. CforAT/EFF also recommend allowing staff to adjust the requirement to consult with the California Department of Technology (CDT), noting that CDT may not have sufficient capacity to consult with every applicant

[46] CforAT/EFF comments, at 6 and 14.

[47] LCB/SVI comments, at 5-7.

[48] TURN reply comments, at 11.

in a timely manner;[49] LCB/SVI raises this same concern, and asks the Commission to make clear that a default will not occur if the lack of consultation was not due to the applicant's failure to seek CDT consultation. LCB/SVI also suggest including nondiscriminatory and reasonably priced interconnection requirements in addition to open access, which CforAT supports.[50] In reply comments, TURN notes there may be instances in which the state middle-mile network is not located near a last-mile project, and such a project may need to build middle-mile infrastructure.[51] Plumas-Sierra recommends a modification to distinguish between middle-mile and last-mile infrastructure.[52]

AT&T, LCB/SVI and GeoLinks advocate against a requirement for applications to connect to the state middle-mile network, noting the state middle-mile network has not yet been built and it may not be the most economical option;[53] Small LECs suggest that applicants should attest to having sought connection with the state middle-mile network first.[54] Verizon notes that build-out of the state middle-mile network will take several years, and therefore the open access requirement should only apply to already-built routes.[55] Frontier

[49] CforAT/EFF comments, at 7.

[50] LCB/SVI comments, at 7; and *Reply Comments of Center for Accessible Technology on Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed July 5, 2022 (CforAT reply comments), at 6.

[51] TURN reply comments, at 12.

[52] Plumas-Sierra comments, at 3.

[53] AT&T comments, at 4-5; LCB/SVI comments, at 7; and *Reply Comments of California Internet, L.P. (U-7326-C) DBA GeoLinks on the Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed July 5, 2022 (GeoLinks reply comments), at 6.

[54] Small LECs comments, at 5.

[55] Verizon comments, at 7.

expresses concern that such a requirement suggests to potential builders that infrastructure will ultimately get deeded to the state.[56]

The Commission appreciates that applicants may not be able to secure consultation with CDT within the specified timeframe for reasons outside of their control. We also acknowledge that such consultation is more appropriately required for projects that may be approved, therefore we modify the proposed requirement to specify that consultation should occur within three months of the resolution deadline (instead of the application deadline); approval of a project's middle-mile component will be conditioned on whether the Director of CDT finds that the middle-mile component complements the statewide middle-mile initiative.

In response to party comments against the proposed rule to interconnect with the state middle-mile network, we confirm this is not an absolute requirement but rather, as the staff proposal states, where reasonable and feasible; we modify the staff proposal to make clear that a commitment to interconnect to the state middle-mile network is not a project eligibility requirement, but applicants will still be required to confirm whether they will interconnect to the state middle-mile network as part of the required application information. The Commission intends to optimize use of the state middle-mile network, including feasible and cost-effective interconnection with Infrastructure Account projects. Where such interconnection is not feasible or reasonable, applicants will instead be required to provide a verifiable statement explaining why interconnection is not feasible or reasonable.

[56] Frontier comments, at 2.

3.5. Performance Criteria

The staff proposal modifies performance criteria to require all applicants to commit to providing services in the project area for the same or a lower price than proposed in the project application, for a minimum of five years, with the option to adjust rates in accordance with changes in the Consumer Price Index; to revise minimum speeds to 100 mbps downstream and 20 mbps upstream; to revise maximum latency to 50 milliseconds (ms); and to require all projects to participate in the Affordable Connectivity Program (ACP) or otherwise provide access to a low-income plan that provides benefits equivalent to those provided by the ACP, for low-income customers in the project area. The staff proposal also discourages data caps and requires applications that include a data cap to propose a cap of no less than 1,000 gigabytes per month, and further requires such applications to include a justification of how the cap does not limit reliability of the connection to users. The June 7, 2022 ruling posed the following question for party comment:

> 8. *Are the Infrastructure Account performance criteria proposed in Attachment 1 reasonable? What modifications or additions are needed and why?*

CforAT/EFF state the pricing requirements are reasonable and necessary; CforAT urges the Commission to ensure download and upload latency are analyzed as separate measurements, and further that any data cap should include automatic scaling to reflect the average annual growth in data consumption.[57]

Cal Advocates and TURN also support the proposed five-year price commitment. Cal Advocates recommends requiring grantees to submit a Tier 3

[57] CforAT/EFF comments, at 7-8.

Advice Letter to raise rates during the five-year commitment period.[58] TURN argues against letting grant recipients use the Consumer Price Index (CPI), if they are allowed to raise prices at all, and recommends use of the Gross Domestic Product Price Index (GDP-PI) and a productivity offset if the Commission retains the option for grant recipients to raise prices. Significantly, TURN recommends modifications to implement the Commission's affordability metrics developed in R.18-07-006, including to clarify that all projects shall provide access to a generally available affordable plan (*i.e.*, regardless of income) throughout the proposed service area.[59] Verizon states a five-year price commitment is consistent with the legislature's guidance, and further expresses agreement with specifying that applicants must participate in the ACP program.[60]

AT&T urges the Commission to retain the current rules, asserting a five-year price commitment is a challenge in ordinary circumstances.[61] Small LECs similarly suggest such a price commitment could be limiting.[62] CCTA does not agree with the proposed price commitment or data cap requirements.[63] In response to Question 21, GeoLinks urges the Commission to use the FCC's Urban Rate Survey as pricing guidance for the required low-income broadband

[58] Cal Advocates comments, at 8-9.

[59] TURN comments, at 13-15.

[60] Verizon comments, at 5-6.

[61] AT&T comments, at 5-6.

[62] Small LECs comments, at 6.

[63] CCTA comments, at 11-13.

plan, instead of specifying that the plan be offered at no more than $15 per month.[64]

For minimum speed requirements, LCB/SVI suggests requiring 1 gigabit per second, both download and upload,[65] while County of Los Angeles and LAEDC recommend aligning with the American Rescue Plan Act (ARPA), which is 100 mbps download and upload.[66] In response to Question 21, Cal Advocates recommends that the Commission require grant recipients to offer a low-income broadband plan that provides a minimum of 100 mbps download and 20 mbps upload and 50 ms latency, for no more than $15 per month.[67]

The Commission finds staff's proposed modifications to the price commitment reasonable, given that grant recipients will be afforded the opportunity to request to raise prices for reasons outside of their control. Regarding TURN's comments against use of the CPI, we agree and modify Section 8.11 to specify that grantees may request to adjust plans in accordance with the Gross Domestic Product Price Index (GDP-PI).

The Commission also agrees with Cal Advocates' recommendation to retain the requirement for all projects to offer a low-income broadband plan (as defined). Acknowledging some parties' comments that oppose setting a limit to the price of such plans, we instead modify the staff proposal to provide that projects offering a low-income broadband plan of $15 (or less) per month will be eligible for ministerial review (in addition to being eligible for an additional 10

[64] GeoLinks comments, at 12-13.

[65] LCB/SVI comments, at 8.

[66] County of Los Angeles comments, at 7.

[67] Cal Advocates comments, at 3-5.

percent of funding), whereas eligible projects offering a low-income broadband plan for a higher price must be approved via resolution.

We decline to consider other proposed modifications to the staff proposal. In response to CforAT's recommendation regarding minimum latency, the Commission clarifies that the relevant measurement is round-trip ping time, *i.e.*, the time it takes to send data from Point A to Point B and then from Point B to Point A, as opposed to the time it takes to send a packet from Point A to Point B (latency). We modify the staff proposal to correctly refer to round-trip ping time; further, recognizing there may be some instances in which achieving a round-trip ping time of 50 ms is not technically feasible, we modify this requirement to specify that the minimum round-trip ping time is 100 ms in cases where 50 ms is not technically feasible.

Regarding TURN's recommendation to require all projects to offer a generally available affordable plan, we confirm the Commission's ongoing interest in affordability of broadband services, including specifically the extent to which the Commission's programs are having a positive impact on affordability of broadband services. Commission staff is in the process of exploring the most effective use of the affordability metrics to monitor and evaluate CASF programs, for instance including in its annual CASF report the affordability metrics for areas in which any Infrastructure Account grants were awarded. Although Commission staff may also consider the extent to which the FCC's Urban Rate Survey data supplements understanding of affordability concerns, this dataset does not account for broadband or telecommunications expenses as they relate to household income and non-discretionary expenses.

3.6. Reimbursable Expenses

The staff proposal caps administrative expenses directly related to the project at two percent of the grant amount, for consistency with the Federal Funding Account and federal requirements for that program from the National Telecommunications and Information Administration. The staff proposal adds language to emphasize that enhanced Geographical Information System (GIS) resources are now essential to ensure applications are based on "serviceable locations" and should be identified as a separate line item within Item 8 (Proposed Project Expenditures) of the application. The June 7, 2022 ruling posed the following question for party comment:

> 9. *Is it reasonable to cap administrative expenses directly related to the project at two percent of the grant amount? What other considerations, if any, should the Commission account for to control administrative expenses?*

Most parties addressing this question do not support the proposed reduction, from 15 to 2 percent, for reimbursable administrative expenses, noting this reduction will have a disproportionate impact on small project applicants, who are generally much less able to absorb administrative expenses.[68]

The Commission has an interest in minimizing administrative expenses, but not to the extent of barring smaller eligible applicants from participating. We find it reasonable to moderate the staff proposal, such that the maximum amount of reimbursable administrative expenses will be ten (10) percent, and we will monitor the extent to which this new limit impacts smaller applicants'

[68] CforAT/EFF comments, at 8-9; Frontier comments, at 3; LCB/SVI comments, at 8; NDC comments, at 6-7; and TURN reply comments, at 13.

participation. This requirement is adopted as shown in Attachment 1 of this decision.

3.7. Information Required from Applicants

In addition to proposed modifications to conform with proposed new requirements for project eligibility, reimbursable expenses and performance criteria, the staff proposal requires completion of a questionnaire for applications that require California Environmental Quality Act (CEQA) review, and extends the minimum required deployment schedule for projects that are categorically exempt from CEQA requirements, from 12 to 18 months.

The staff proposal exempts local and tribal governments from the requirement for a letter of credit, subject to Commission approval (*i.e.*, via resolution) that they demonstrate administrative, financial and other capabilities and resources necessary to support the proposed project.

The staff proposal requires applicants who propose to combine Infrastructure Account grant funds with funds from a separate broadband grant program to itemize project costs and explain the incremental broadband investment that would not be met by the other federal or state funding commitments.

For financial qualifications, the staff proposal specifies that newly formed organizations should submit financial statements from the parent or sponsoring organization and describe that organization's relationship with the applicant. The June 7, 2022 ruling posed the following questions for party comment:

> 10. *Is it reasonable to extend the minimum required deployment schedule for projects that are categorically exempt from CEQA requirements from 12 to 18 months?*

AT&T, GeoLinks, LCB/SVI and Small LECs agree with extending the minimum required schedule for CEQA-exempt projects, citing unforeseen delays including supply shortages.[69] CETF does not support extending this schedule, asserting CEQA-exempt projects should be able to deploy immediately.[70]

While the Commission certainly intends for projects to deploy as expeditiously as possible, it is reasonable to extend the minimum required schedule for CEQA-exempt projects to account for delays that are both unforeseen and beyond the grant recipient's control. The Commission adopts this extended timeline as shown in Attachment 1 of this decision.

11. *Is it reasonable to exempt local and tribal governments from the requirement for a letter of credit, and further to require Commission approval of such applications based (in part) on finding they demonstrate necessary administrative, financial and other capabilities and resources? Given that the Infrastructure Account reimburses program expenses, is a letter of credit necessary for any applicant?*

LCB/SVI, Santa Clara County and TURN agree with the proposed exemption of local and tribal governments from the letter of credit requirement, noting that city and county public agencies have taxing authority and are therefore at a lower risk for non-compliance. LCB/SVI suggests networks built by local and tribal governments should be required to offer open access to middle-mile segments, and non-discriminatory interconnection and competitive

[69] AT&T comments, at 7; GeoLinks comments, at 5; *Reply Comments of LCB Communications LLC (U7243C) and South Valley Internet Inc. on Assigned Commissioner Ruling on Modifications to Infrastructure Account*, filed July 5, 2022 (LCB/SVI reply comments), at 8; and Small LECs comments, at 6.

[70] CETF comments, at 6.

pricing for last-mile competitors.[71] RCRC supports allowing local governments to demonstrate competency using quantitative metrics that indicate their performance.[72]

While CETF agrees with providing additional consideration for tribal governments, it asserts that all local governments should be required to perform on a level playing field with internet service providers (ISPs) that invest private capital.[73] Similarly, Frontier and Small LECs assert the requirement for a letter of credit, if removed for local and tribal governments, should also be removed for all applicants.[74] CforAT/EFF advocate for removing this requirement for small non-profit and small local private ISPs.[75] In reply comments, LCB/SVI urge the Commission to consider removing the letter of credit requirement for all applicants, other than those without a history of building a successful broadband project,[76] while TURN does not support exempting entities other than local and tribal governments from the requirement to provide a letter of credit, asserting this requirement minimizes the risk of waste, fraud and abuse of public funds.[77]

The Commission finds reason to exempt local and tribal governments from the requirement to provide a letter of credit. We agree these entities pose a lower risk of non-compliance than other entities that are eligible to apply for Infrastructure Account funds; further, this exemption is balanced by a

[71] LCB/SVI comments, at 9; County of Santa Clara reply comments, at 5; and TURN reply comments, at 14.

[72] RCRC comments, at 6.

[73] CETF comments, at 6.

[74] Frontier comments, at 3; and Small LECs comments, at 7.

[75] CforAT/EFF comments, at 9.

[76] LCB/SVI reply comments, at 9.

[77] TURN reply comments, at 14.

requirement to demonstrate administrative and financial capacity, subject to review and approval via resolution. Regarding LCB/SVI's suggestion to require open access to middle-mile segments, we note that the Infrastructure Account rules currently require middle-mile infrastructure receiving CASF funds to provide open access, pursuant to D.21-03-006, and Section 5.5.2 of the current program rules require reasonable, equal and nondiscriminatory pricing and terms and conditions for interconnection. The modified requirement is adopted as shown in Attachment 1 of this decision.

12. *Is it reasonable to require applicants who propose to combine multiple broadband grant funds to itemize project costs and explain the incremental broadband investment that would not be met by the other federal or state funding commitments?*

CforAT/EFF state the proposed requirement is reasonable and appropriate.[78] LCB/SVI is supportive of cost itemization to prevent double funding of project expenses or costs.[79]

AT&T, GeoLinks and Small LECs do not support the requirement to itemize costs.[80] AT&T asserts applicants generally buy materials in bulk and do not have project-specific details at the beginning of a project.[81] GeoLinks asserts applicants will be dissuaded from using CASF funds if required to explain why other funding sources are not sufficient.[82] CETF asserts more broadly that the

[78] CforAT/EFF comments, at 10.

[79] LCB/SVI comments, at 9.

[80] Small LECs comments, at 7.

[81] AT&T comments, at 7.

[82] GeoLinks comments, at 5-6.

current funding and reimbursement process needs reforming.[83] In reply comments, LCB/SVI expresses agreement with Small LECs' suggestion, in cases of multiple grants funding one project, for applicants to explain why one grant is inadequate and the second grant provides the needed funding to meet the total cost of the project.[84]

The Commission finds it reasonable to require itemized project costs that identify last-mile estimated construction expenses, and estimated construction costs that will be reimbursed by other federal or state funding sources, to minimize duplication of funding. Estimating construction costs and allocating budgets and labor needs upfront is a routine business practice, such that this requirement should not be an unduly burdensome incremental amount of work. This requirement is adopted as shown in Attachment 1 of this decision.

3.8. Submission and Timelines

The staff proposal delegates to staff the option of opening a second, shortened application round in a calendar year if, in the first round, the Commission receives applications requesting, in total, less than the remaining CASF Infrastructure Account fund balance. Applications in this shortened round would be required to meet Ministerial Review criteria. The June 7, 2022 ruling asks the following question regarding submission and timelines:

> 13. *Is it reasonable to delegate to staff the option of opening a second application round in a calendar year, as specified above? What modifications or additional conditions or criteria are needed or reasonable for a shortened application round and why?*

[83] CETF comments, at 7.

[84] LCB/SVI reply comments, at 9.

AT&T, CETF, Frontier, LCB/SVI, RCRC and Small LECs support a second round of applications in order to increase the historical number and amounts of reimbursements approved in a given year, and to facilitate ISP projects that may be in a pre-planning stage at the time of the April 1 deadline.[85]

RCRC notes that local agency and tribal government applications without a letter of credit would effectively be excluded from the second application round, which the staff proposal specifies would be available only to applications eligible for ministerial review. RCRC and TURN advocate that this second application round be open to all applicants.[86]

The Commission finds reason to delegate to staff the option to open a second application round in a calendar year, to expedite broadband deployment to unserved locations. We acknowledge RCRC and TURN's concern related to local agencies, and modify the proposed rule to provide that staff may review all applications, including those not eligible for ministerial review, but staff will prioritize review of applications that are eligible for ministerial review. The provision for a second application round is adopted as shown in Attachment 1 of this decision.

3.9. Project Challenges

The staff proposal allows applicants to submit a modified application in cases where staff determines a challenged serviceable location is "served." Staff also proposes modifications to the requirements for project challenges to be upheld. The June 7, 2022 ruling posed the following question related to project challenges:

[85] AT&T comments, at 8; CETF comments, at 7; Frontier comments, at 3; LCB/SVI comments, at 9; RCRC comments, at 9; and Small LECs comments, at 8.

[86] RCRC comments, at 9; and TURN reply comments, at 15.

14. Are the Infrastructure Account program rules for project challenges as proposed in Attachment 1 reasonable? What modifications or additions are needed and why?

CforAT/EFF and LCB/SVI support the proposed requirements for project challenges, in particular the requirement to timely provide staff with the data specified in the staff proposal.[87] CforAT/EFF recommend adding a requirement for applicants to include in any challenge a list of previous challenges and whether Commission staff upheld or denied each of those challenges. Cal Advocates, while not explicitly supporting the proposed requirements, recommends shortening the timeframe within which to submit a challenge, from 21 to 14 days, which LAEDC supports.[88]

CCTA, Frontier, GeoLinks and Small LECs disagree with the proposed requirements for project challenges.[89] CCTA raises a number of arguments against the proposed requirements, most significantly suggesting they create an incentive to overbuild, which CCTA asserts is contrary to statute. CCTA also asserts the requirement for customer billing statements violates customer privacy. Regarding the requirement to provide updated information to the broadband map at the address level, Frontier asserts remote testing is not feasible for many locations, where customers do not have optical network terminals, and further that customer billing statements do not necessarily demonstrate the available level of broadband service at a given location. GeoLinks asserts the

[87] CforAT/EFF comments, at 11; LCB/SVI comments, at 9.

[88] Cal Advocates comments, at 10; and *Reply Comments of the Los Angeles County Economic Development Corporation on Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed July 5, 2022 (LAEDC reply comments), at 6.

[89] CCTA comments, at 14-20; Frontier comments, at 3-4; GeoLinks comments, at 7-8; and Small LECs comments, at 1-2 and 8-10.

additional required information for fixed wireless and non-wired entities is discriminatory, and further that delays in updating the broadband map could result in overbuilding.

With respect to the requirement to participate in the annual CPUC Broadband Data Collection process, the Commission finds reason to adopt this requirement for entities that challenge a project. Comprehensive and accurate information on current levels of broadband availability is critical not only to facilitate an efficient application process, but more broadly to enable accurate identification of unserved areas,[90] which is crucial for achieving the state's broadband goals.

The Commission also finds reason to require geographic location information of all serviceable locations in the challenged area(s), to enable staff's review of projects and their challenge(s). Regarding Frontier's comment that remote testing is not feasible in all locations, we clarify here that remote testing is not necessary to fulfill this requirement. Credible Geographic Information System (GIS) software is readily available, often at no cost, and is widely used in the telecommunications industry such that this requirement should not pose an obstacle for any potential challenger.

The proposed requirement for customer billing statements is also reasonable, both to enable staff to verify the challenger provides service, and for the stated reason, *i.e.*, to compare the service(s) currently provided to residents in the challenged area with those proposed by the project applicant. Importantly, such comparison will enable staff to compare the prices of comparable services

[90] Pub. Util. Code Section 281(f)(3): The commission shall identify unserved and underserved rural and urban areas and delineate the areas in the annual report prepared pursuant to Section 914.7.

between the challenger and the applicant. In response to CCTA's allegation of violation of customer privacy, we note that challengers submit customer bills, including address and customer contact information, to Commission staff as part of the current challenge process. All Commission staff are prohibited from disclosing any information submitted by a public utility or its affiliates, except those matters specifically required to be open to public inspection.[91] We do not agree with CCTA's concerns regarding customer privacy; however, we modify the staff proposal to allow the required bills to be redacted by the applicants, removing customer names, phone numbers, and email addresses, as we determine this information is not necessary at the time a challenge is submitted.

In response to GeoLinks's comments, we modify the proposed requirement to clarify that any challenger must demonstrate the ability to connect to all serviceable locations, while specifying the type of demonstration or documentation needed based on a technology's capabilities. In the case of non-wired service, it is reasonable to require documentation that addresses the need for line of sight, such as propagation maps.

In response to CCTA, Frontier and Small LECs' comments, we do not find the proposed requirements so onerous as to effectively preclude entities from submitting a project challenge. Acknowledging that the challenge process will now require more information from potential challengers, we decline to consider Cal Advocates' recommendation to shorten the timeframe within which to submit a challenge, but the current timeframe remains adequate.

[91] Pub. Util. Code Section 583.

3.10. Ministerial Review

The staff proposal modifies Ministerial Review criteria such that applications requesting a total grant amount of up to $25 million (currently $10 million) would be eligible for approval via Ministerial Review. The staff proposal also enables applications that are challenged, and for which the challenge is not upheld, to also be eligible for approval via Ministerial Review. The following questions were posed for comment in the June 7, 2022 ruling:

> 15. *Are the Infrastructure Account program rules for Ministerial Review as proposed in Attachment 1 reasonable? What modifications or additions are needed and why?*
>
> 16. *If the Commission were to increase the overall grant request cap for projects reviewed under Ministerial Review as proposed, is the current per-location cap for projects reviewed under Ministerial Review still reasonable? Why or why not?*

Several parties advocate for higher thresholds, per location and/or for total project cost. AT&T recommends authorizing ministerial review for projects with a total cost up to $75 million, and asserts the cost of deploying broadband to unserved areas is likely greater than $9,300 per location; AT&T argues more generally for the Commission to relieve applicants of specific application and reporting requirements as long as they commit to providing service at a per location amount at or below the specified threshold, and they provide general project timeline and material estimates.[92] GeoLinks generally supports the Ministerial Review process but asserts the process is not technology-neutral, suggesting a flat cost per location threshold regardless of technology type and supporting removal of the per location threshold "on a technology neutral

[92] AT&T comments, at 8-9.

basis."[93] LCB/SVI states it would support a total project cost threshold of $50 million, and doubling or even tripling the per location threshold, citing the difficulty of serving rural and remote areas.[94] RCRC asserts the proposed per-location cost is too low and creates a disadvantage for projects in more costly, harder to reach areas. RCRC suggests using a holistic, "worst first" approach to prioritizing review of applications.[95]

CCTA and Small LECs do not support allowing ministerial review for challenged applications, suggesting staff disposition of such applications is not appropriate.[96] In reply comments, LCB/SVI disagrees with this assertion, noting that challenged projects, for which staff does not sustain the challenge, should not automatically be subject to review via resolution.[97]

Cal Advocates recommends specifying that any application requesting exemption from any requirement must undergo review via resolution.[98]

The Commission acknowledges comments that the proposed total amount and per-location threshold amounts likely do not reflect actual costs to deploy in harder-to-reach areas. To facilitate a more streamlined review of applications, we increase the total project threshold from $10 million to $25 million, and the per-location threshold amounts from $9,300 to $24,500 for wireline and from $1,500 to $4,500 for wireless. Regarding GeoLinks's assertion that the process is not technology-neutral as a result of these differing threshold amounts, we note

[93] GeoLinks comments, at 9.

[94] LCB/SVI comments, at 10.

[95] RCRC comments, at 7.

[96] CCTA comments, at 21; and Small LECs comments, at 10.

[97] LCB/SVI reply comments, at 11.

[98] Cal Advocates comments, at 10.

these amounts are based generally on actual past project costs for each technology. Relating to Cal Advocates' recommendation, as we noted in D.22-02-026 regarding the Local Agency Technical Assistance Program, the Commission reserves discretion to address any application through the resolution process.[99]

Finally, though not proposed by staff, we find it reasonable to adopt additional criteria regarding circumstances under which staff may ministerially reject applications, including when an applicant submits an incomplete application and has not followed up with staff requests for additional information, when an applicant has previously had a Commission grant rescinded for violation of Commission or program rules, or when an applicant has made false statements to the Commission or to the Federal Communications Commission. These criteria, as shown in Attachment 1, are similar to those adopted for other CASF accounts in D.22-05-029, and will preserve staff resources and can help ensure project funds are awarded to organized and reliable candidates.

3.11. Semi-Annual and Completion Reporting Requirements

The staff proposal adds an annual reporting requirement pursuant to Pub. Util. Code Section 914.7, and a requirement for contractor reporting pursuant to Pub. Util. Code Section 281(l). The June 7, 2022 ruling posed the following questions related to reporting requirements:

> 17. *Are the Infrastructure Account program rules for reporting requirements as proposed in Attachment 1 reasonable? What modifications or additions are needed and why?*

[99] *See* D.22-02-026, at 9.

GeoLinks requests removal of the proposed requirements to report on low-income customers because, they assert, it is not possible to know whether low-income customers are subscribing strictly to low-income plans. GeoLinks also requests clarification regarding broadband availability for customers in the project versus serviceable locations in the project, and urges changing the contractor reporting requirement from monthly to a less frequent interval.[100] In reply comments, TURN disagrees with GeoLinks's suggestion to eliminate the reporting requirements related to low-income customers, as this is the best way for the Commission to measure its success.[101] Verizon asserts the subcontractor reporting requirements are overly complicated and should not be adopted.[102] Small LECs recommend removing "subscriber type" from the map data requirement because, they assert, many smaller carriers do not collect this information.[103] RCRC suggests the Commission consider more incremental award milestones, asserting it is difficult for local governments to manage large capital outlay projects on a reimbursement basis.[104]

The Commission finds the proposed reporting requirements are reasonable and indeed necessary to enable assessment of the effectiveness of Infrastructure Account grants in both achieving the CASF goal and facilitating progress toward the Commission's ESJ Action Plan. In response to GeoLinks's request for clarification regarding serviceable locations and broadband availability, we modify the definition of "serviceable location" to mean a location

[100] GeoLinks comments, at 10.

[101] TURN reply comments, at 16.

[102] Verizon comments, at 7-8.

[103] Small LECs comments, at 11.

[104] RCRC comments, at 7.

where broadband is or may be installed; broadband availability refers to whether a serviceable location is either served or in an area where service is currently available. We acknowledge RCRC's suggestion to consider more incremental milestones, which could be helpful to local governments, but must also be mindful of the incremental burden this would impose on Commission staff. At this time, it is unclear whether such incremental burden is reasonable. The Commission adopts the reporting requirements as shown in Attachment 1 of this decision.

18. *To facilitate consistency of reporting among grant recipients, should the Commission require the use of templates to be developed by Commission staff?*

Most parties addressing this question support the use of templates developed by Commission staff, provided that parties and other stakeholders are afforded an opportunity to provide input prior to implementation of any such templates.[105]

The Commission finds it reasonable to require Infrastructure Account grant recipients to use reporting templates to be developed by Commission staff. Commission staff will serve draft templates to the service list of this proceeding, and invite feedback and input via written comments and/or a staff workshop, prior to finalizing the reporting templates.

3.12. California Environmental Quality Act (CEQA) Payment

The staff proposal does not modify the process for engaging and reimbursing CEQA consultants, but adds a CEQA questionnaire to the list of

[105] CforAT/EFF comments, at 12; Frontier comments, at 5; GeoLinks comments, at 11; RCRC comments, at 7; Small LECs comments, at 11; LAEDC reply comments, at 6; and TURN reply comments, at 17.

documents required from each applicant. The June 7, 2022 ruling posed the following question for party comment:

> 19. *Are the current Infrastructure Account program rules regarding the processes for engaging and reimbursing CEQA consultants effective and reasonable?*

Few parties explicitly address this question, with Small LECs expressing agreement with the current rules.[106] CCTA does not agree with requiring the CEQA questionnaire to be submitted concurrently with an application, asserting it is not needed either for notice or challenge of an application.[107]

The Commission finds it reasonable to require Infrastructure Account applicants to complete the proposed CEQA questionnaire, as doing so will provide indication of both the type of CEQA review that is anticipated and applicants' preparedness to commence work. This element of the staff proposal is adopted as shown in Attachment 1 of this decision.

3.13. Execution and Performance

The staff proposal modifies the minimum time from written termination notice to Commission termination of an award from five to ten days and specifies remedies for failure to comply with a Commission order or grant agreement, including award cancellation and refund of grant payments. The staff proposal further requires grant recipients who plan to sell or transfer their assets to submit a Tier 2 Advice Letter detailing the transaction and including a binding agreement from the purchaser or lessee to fulfill the terms and conditions relating to the project. The June 7, 2022 ruling posed the following question for comment:

[106] Small LECs comments, at 11.

[107] CCTA comments, at 22.

20. *Are the Infrastructure Account program rules for execution and performance proposed in Attachment 1 reasonable? What modifications or additions are needed and why?*

CforAT/EFF state the criteria for determining a project's cancellation are reasonable and important to ensure expeditious repurposing of grant funds.[108] Regarding grant recipients who intend to sell or transfer their assets, Cal Advocates recommends the Commission apply gain-on-sale rules, and further require such grant recipients to submit a Tier 3 Advice Letter.[109] In reply comments, CCTA, Frontier and Small LECs oppose Cal Advocates' recommendation, with CCTA noting that not all grant recipients are necessarily public utilities, and Frontier asserting such provisions are not relevant to CASF because CASF-funded infrastructure cannot be in rate base.[110]

[108] CforAT/EFF comments, at 13.

[109] Cal Advocates comments, at 10-11.

[110] *Reply Comments of the California Cable & Telecommunications Association on the Assigned Commissioner's Ruling Inviting Comments on Potential Modifications to Infrastructure Account*, filed July 5, 2022 (CCTA reply comments), at 14; *Reply Comments of Frontier California Inc. (U1002C), Citizens Telecommunications Company of California Inc. DBA Frontier Communications of California (U1024C), Frontier Communications of the Southwest Inc. (U1026C) ("Frontier") on the Assigned Commissioner's Ruling Addressing Proposed Modifications to the California Advanced Services Fund Broadband Infrastructure Grant Account Program Rules and Guidelines*, filed July 5, 2022 (Frontier reply comments), at 2-5; and *Reply Comments of Calaveras Telephone Company (U1004C), Cal-Ore Telephone Co. (U1006C), Ducor Telephone Company (U1007C), Foresthill Telephone Co. (U1009C), Happy Valley Telephone Company (U1010C), Hornitos Telephone Company (U1011C), Kerman Telephone Co. (U1012C), Pinnacles Telephone Co. (U1013C), The Ponderosa Telephone Co. (U1014C), Sierra Telephone Company, Inc. (U1016C), The Siskiyou Telephone Company (U1017C), Volcano Telephone Company (U1019C) and Winterhaven Telephone Company (U1021C) ("Small Lecs") on the Assigned Commissioner's Ruling Addressing Proposed Modifications to the California Advanced Services Fund Broadband Infrastructure Grant Account Program Rules and Guidelines*, filed July 5, 2022 (Small LECs reply comments), at 2.

Frontier and Small LECs assert the proposed grounds for terminating an award are insufficiently clear, and the Commission should instead follow the process articulated in Resolution T-17756.[111]

GeoLinks urges the Commission to provide more flexibility regarding consideration of when a project commences, asserting there may be unforeseen circumstances beyond the control of grant recipients. Further, GeoLinks urges the Commission to make clear that projects terminated by the Commission, for reasons other than the grant recipient's failure to comply with Commission actions or the CASF agreement, will still be reimbursed (for costs incurred up to project termination). Relatedly, GeoLinks requests the Commission either reinstate the possibility of partial project completion or permit grant recipients to partially terminate a project.[112] In reply comments, TURN urges that if the Commission allows such partial funding, the Commission first review the reason(s) for termination and to consider the impact of this termination on achieving the Commission's Environmental and Social Justice Action Plan, with a preference for working with grant recipients to mitigate negative impacts rather than approving their request for partial termination.[113]

Regarding the proposed provisions for the Commission to terminate a grant award, the Commission agrees with recommendations to follow the process established in Resolution T-17756.

Regarding situations in which a grant recipient intends to sell or transfer its assets, the Commission finds the proposed requirement for a Tier 2 Advice Letter is appropriate and reasonable for ensuring a purchaser honors the grant

[111] Frontier comments, at 6; and Small LECs comments, at 12.

[112] GeoLinks comments, at 11.

[113] TURN reply comments, at 5-6.

recipient's obligations. The Commission finds it is not necessary to impose the gain-on-sale requirements for such sales or transfers.

Regarding GeoLinks's comments regarding partial termination or partial completion, the Commission confirms that grant recipients currently have an option to request early termination of a project. Commission staff reviews such requests, which to date have generally been attributed to obstacles outside of the grant recipient's control, such as a property owner's refusal to permit access. Payment is based on progress made, which in cases of early termination/partial completion are based on Commission staff's review of the grant recipient's completed work. As a matter of practice, Commission staff consider the potential impact of a proposed project termination to residents of the originally proposed service area; where applicable and feasible, Commission staff will endeavor to mitigate any negative impacts to achievement of the Commission's ESJ Action Plan, including working with the grant recipient to identify alternatives that would enable project completion.

3.14. Clarifying Modifications to the Infrastructure Account Rules

The staff proposal included minor and non-substantive modifications to Sections 10 (Posting of Applications), 14 (Payment), 18 (Penalties) of the current Infrastructure Account rules. No party raised a concern with these proposed changes. The modified provisions are adopted as shown in Attachment 1 of this decision.

3.15. General Questions and Cross-Program Coordination

The June 7, 2022 ruling included a more general question, inviting parties to recommend other changes to the Infrastructure Account rules:

21. *Should the Commission consider changes to the rules and requirements, in light of changes and advances in other Commission and federal programs, such as:*
    a. *Matching and/or leveraging funding across programs.*
    b. *Offering a variety of affordable and/or low-income plans across programs.*
    c. *Identifying communities in need of broadband using a variety of demographic information.*
    d. *Other factors as may be relevant.*

RCRC urges the Commission to explore how applicants can leverage funding from other sources established by SB 156, which LAEDC supports.[114] RCRC further suggests that the Commission consider providing additional funding for projects that deploy open access last-mile infrastructure. Similarly, GeoLinks urges the Commission to leverage funds across programs, for example by making funds available from the Adoption Account for an Infrastructure Account application that has an adoption component. CforAT/EFF suggest the Commission set aside a portion of CASF funds to use as a matching grant for federal funding, using the same criteria as NTIA's NOFO, for unserved and underserved areas. CforAT/EFF also recommends the Commission emphasize fiber to match the emphasis of the new federal program.[115] TURN encourages the Commission to consider how to leverage the California High-Cost Fund programs to support services provided by infrastructure deployed using CASF funds.[116]

[114] RCRC comments, at 8; and LAEDC reply comments, at 7.

[115] CforAT comments, at 14.

[116] TURN comments, at 16-17.

TURN also reemphasizes its recommendation, from comments on the Local Agency Technical Assistance grant program staff proposal, to integrate equity into our consideration of potential changes to the Infrastructure Account program rules. Specifically, TURN recommends requiring applicants to provide a plan for reaching and marketing to Environmental and Social Justice (ESJ) communities in the project area to encourage subscription of the broadband service, and to periodically report on progress made in reach residents and generating adoption of broadband services.[117]

The Commission acknowledges the value of leveraging multiple funding sources to maximize the impact of Infrastructure Account funds, and to conduct targeted outreach to communities with the greatest need for broadband. As noted in D.22-02-026, Commission staff is endeavoring to engage and facilitate participation by communities with the greatest proportion of unserved locations in all Commission programs aimed at eliminating California's digital divide. As mentioned in Section 1 of this decision, we anticipate the need to review and potentially revise program rules for a number of CASF accounts; the Commission may consider more formal means of leveraging multiple funding sources at that time. We will modify application and reporting requirements, as TURN recommends, to require applicants to include a plan for engaging and marketing to ESJ communities, and to periodically report on progress made toward that plan. Applicants will be required to include a plan for engaging and marketing to ESJ communities in the project area; as part of this plan, applicants will be required to estimate the percentage of residents in the project area that are included in an ESJ community. For purposes of the Infrastructure Account,

[117] TURN comments, at 18-19.

ESJ communities include persons with Access and Functional Needs, California Native American Tribes, Low Income Households and Low Income Communities, as these terms are defined in the Commission's ESJ Action Plan Version 2.0.

4. Authorization for Staff to Propose Changes to Infrastructure Account Rules via Resolution and to Update Application Attachments

As with the CASF Public Housing Account, Adoption Account, and Consortia Account program rules, most recently modified in D.22-05-029, the Commission finds it reasonable to authorize Communications Division staff to prepare resolutions for administrative changes to the Infrastructure Account program rules, for the Commission's consideration. The Commission also authorizes Communications Division staff to update the application attachments as needed, consistent with this decision; Communications Division staff must provide notice of such updates via an email to the CASF Distribution List, and may specify a time period after which applicants must use an updated attachment.

5. Comments on Proposed Decision

The proposed decision of Commissioner Darcie L. Houck 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. TURN, CforAT, NDC, Cal Advocates, Small LECs, Frontier, CCTA and AT&T each filed comments and reply comments on October 20, 2022 and October 25, 2022, respectively. We address comments to the proposed decision here.

Cal Advocates recommends, and NDC supports, modifications to require rather than encourage ACP participation, citing an alleged inconsistency between

Section 8.11 (Pricing Commitment) and Section 2.2 (Funding Criteria) of the program guidelines. However there is no inconsistency, as the Funding Criteria offer additional funds for ACP participation and the Pricing Commitment guidelines state "all projects shall participate in the Affordable Connectivity Program (ACP) *or* otherwise provide access to a broad-based low-income broadband plan to all qualifying customers in the proposed service area"(emphasis added). This decision declines to require grant recipients to participate in ACP~~. Importantly, providers must have eligible telecommunications carrier (ETC) status in order to participate in ACP; requiring grant recipients to participate in ACP would effectively prevent smaller providers and non-profit organizations from applying and receiving funds through the Infrastructure Account. The Commission elects to maintain eligibility for entities beyond those with ETC status~~, allowing flexibility for applicants to determine which low income plan best suits the needs and constraints of their proposed projects.

TURN recommends, and NDC supports, modifications to require that grant recipients offer a plan that is at least as affordable as current plans in the project area. In reply comments, Small LECs, Frontier, AT&T and CCTA oppose TURN's recommendation. The Commission does not disagree in concept with TURN's recommendation, but further consideration of how best to apply the affordability ratio (AR20) or associated metrics is needed to provide adequate guidance to staff~~, for instance how to account for non-aligned boundaries between Public Use Microdata Area boundaries (*i.e.*, the geographic unit used for affordability ratio data) and applicants' proposed project areas~~.

NDC advocates to limit the price of low-income broadband plans to $15 per month; in reply comments, several parties oppose such a limit in favor of the

proposed decision's providing an incentive rather than requiring all applications to provide such a plan. This decision maintains the option and opportunity for additional funding for projects that propose a low-income broadband plan for $15 or less per month, as reflected in the proposed decision. All eligible projects that offer a low-income broadband plan for more than $15 per month will require Commission review and approval.

NDC also recommends modifying the definition of "low-income areas" to include publicly supported housing developments, and other housing developments or mobile home parks or farmworker housing, to more closely align with the definition of "low-income community" in Public Utilities Code Section 281(i)(1), applicable to the Broadband Public Housing Account, and recommends associated modifications to the definitions of "low-income customers" and "unserved area" to include the above-referenced housing types. No party opposes these recommendations. The Commission agrees with more closely aligning Infrastructure Account eligibility and prioritization with the Broadband Public Housing Account guidelines, particularly since funding under the Broadband Public Housing Account is limited to inside wiring.[118] This decision makes associated revisions to the program rules to implement these revised definitions, along the lines of those suggested by NDC.[~~118~~119]

[118] Public Utilities Code Section 281(i)(3) specifies: "Moneys deposited into the Broadband Public Housing Account shall be available for grants and loans to low-income communities to finance projects to connect broadband networks that offer free broadband service that meets or exceeds state standards, as determined by the commission, for residents of the low-income communities." As indicated in D.22-05-029, the Broadband Public Housing Account provides funding to finance projects to connect broadband networks that offer free broadband service for residents of low-income communities to their Minimum Point of Entry (MPOE).

[~~118~~119] As indicated in D.22-05-029, we anticipate the need to revisit the definition of "low-income community" for the Broadband Public Housing Account to further implement Public Utilities Code section 281(i)(1).

Related to the proposed definition of "unserved area," both NDC and CCTA assert reference to the phrase "entire service area" is vague; CCTA recommends removing this phrase, which several parties support in their reply comments. The Commission agrees that reference to "entire service area" is unnecessary and adds more potential confusion, and therefore deletes this phrase from the definition of "unserved."

AT&T recommends retaining the current two-year minimum pricing commitment or, if the Commission adopts the proposed five-year requirement, that the Commission permit entities that use a national pricing model to request and secure a waiver from this requirement; AT&T asserts such models require a company to set its national price at a level that is competitive in its most competitive markets across the country. This decision declines to adopt AT&T's recommendations. Grant recipients will receive funds to finance up to 100 percent of construction costs; it is reasonable to require provision of service at a set price for at least five years, and a process is available to request to increase prices based on inflation. This decision does not find that AT&T's assertions about national pricing models provide the same assurance as a five-year minimum pricing commitment.

CforAT states it still has concerns with the proposed 10 percent reimbursement cap on administrative costs, and recommends the Commission reserve authority to waive this limit, particularly for very small broadband infrastructure projects. Relatedly, NDC urges the Commission to evaluate the impact of this reimbursement cap on smaller applicants. This decision confirms the Commission may approve an application, via resolution, that proposes administrative costs that exceed the limit specified in program guidelines.

CforAT also expresses concern with not requiring the use of fiber optic infrastructure in CASF grant projects. Public Utilities Code Section 281(f) specifies that the Commission must award Infrastructure Account grants on a technology-neutral basis, thus barring the Commission from entertaining CforAT's recommendation to require fiber optic infrastructure.

Frontier, Small LECs and CCTA raise a number of objections to the proposed challenge process, asserting generally it is unreasonably onerous and the information required from project challengers goes beyond what is needed to determine whether an area is served. This decision acknowledges that Public Utilities Code Section 281(b)(ii)(1) specifies that an unserved area is one in "which there is no facility-based broadband provider offering at least one tier of broadband service at speeds of at least 25 mbps downstream, 3 mbps upstream, and a latency that is sufficiently low to allow realtime interactive applications," therefore this decision removes the requirement for an attestation that a challenger will offer service at equivalent bandwidth at the same (or lower) price as the application they are challenging. Challengers are only required to demonstrate that customers in the challenged area are served at a minimum speed of 25 mbps download and 3 mbps upload. This decision maintains the requirement for customer billing statements, as specified in the proposed decision, acknowledging our continuing concern for actual served speeds and amounts paid for those services.

Public Utilities Code Section 281(b)(4) requires the Commission to "transition California Advanced Services Fund program methodologies to provide service to serviceable locations. . ." Thus, the Commission must determine project eligibility at the granularity of serviceable locations. Staff needs the information in challenges to verify the "actual levels of broadband

service" in challenged areas. The Commission has already considered a CASF challenger's objections to providing customer bills, including street addresses and broadband speeds, with the customer name redacted. The Commission found that since it keeps customer information confidential, the privacy concerns are not valid.[~~119~~120] Moreover, the Commission found that the CASF program must have procedural requirements for project challenges for it to function; if a challenger is unable to meet these requirements, it cannot successfully challenge a CASF project.[~~120~~121]

This decision also makes the following clarifying revisions in response to party comments:

- In Sections 5.1 and 8 of the program guidelines, modify the timeframe for notice of CDT consultation to be three months after Commission approval. The proposed decision erroneously indicates that such consultation and notice should occur before the Commission approves an application, which was not the intent of the program rules.
- In Section 6 of the program guidelines, specify that minimum timeframes for construction start after Commission approval for CEQA-exempt projects (18 months), and after CEQA resolution approval for projects that require CEQA review (24 months).
- In Section 8.11 of the program guidelines, require applicants to specify any proposed data caps.
- In Section 11 of the program guidelines, modify the geographic information requirement for project challenges to align with the geographic information requirement for applications, and modify the requirement to agree to serve all locations for which a challenger is challenging, from "in perpetuity" to "a minimum of five years."

[~~119~~120] D.20-04-035, at 9-10.

[~~120~~121] D.20-04-035, at 10.

6. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Valerie U. Kao is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. SB 156, SB 4, AB 164 and AB 14 enacted changes that impact program administration of the CASF through creation of new CASF subaccounts, adoption of individual program modifications, or through increase or extension of total program funding.

2. Parties are generally supportive of the staff proposal contained in Attachment 1.

3. The assigned Commissioner provided notice and opportunity to comment on proposed changes to program rules of the Infrastructure Account.

Conclusions of Law

1. It is reasonable to modify program funding rules of the Infrastructure Account as discussed in Section 3.1 and detailed in Attachment 1 of this decision.

2. It is reasonable to modify Infrastructure Account program definitions as discussed in Section 3.2 and detailed in Attachment 1 of this decision.

3. It is reasonable to modify Infrastructure Account program applicant eligibility rules as discussed in Section 3.3 and detailed in Attachment 1 of this decision.

4. It is reasonable to modify Infrastructure Account project eligibility rules as discussed in Section 3.4 and detailed in Attachment 1 of this decision.

5. It is reasonable to modify performance criteria of the Infrastructure Account as discussed in Section 3.5 and detailed in Attachment 1 of this decision.

6. It is reasonable to modify Infrastructure Account program reimbursable expenses as discussed in Section 3.6 and detailed in Attachment 1 of this decision.

7. It is reasonable to modify Infrastructure Account program required application information as discussed in Section 3.7 and detailed in Attachment 1 of this decision.

8. It is reasonable to modify Infrastructure Account program timelines as discussed in Section 3.8 and detailed in Attachment 1 of this decision.

9. It is reasonable to modify Infrastructure Account project challenge requirements as discussed in Section 3.9 and detailed in Attachment 1 of this decision.

10. It is reasonable to modify Infrastructure Account program ministerial review criteria as discussed in Section 3.10 and detailed in Attachment 1 of this decision.

11. It is reasonable to modify Infrastructure Account program reporting requirements as discussed in Section 3.11 and detailed in Attachment 1 of this decision.

12. It is reasonable to modify Infrastructure Account program CEQA requirements as discussed in Section 3.12 and detailed in Attachment 1 of this decision.

13. It is reasonable to modify Infrastructure Account program execution and performance requirements as discussed in Section 3.13 and detailed in Attachment 1 of this decision.

14. It is reasonable to modify Infrastructure Account program rules as discussed in Sections 3.14 and 3.15 and detailed in Attachment 1 of this decision.

15. It is reasonable to modify Infrastructure Account program reimbursable expenses as discussed in Section 3.15 and detailed in Attachment 1 of this decision.

16. It is reasonable to modify Infrastructure Account rules consistent with the additional modifications discussed in Section 5 and detailed in Attachment 1 of this decision.

17. The Commission's Communications Division staff should have the authority to prepare resolutions for administrative changes to the Infrastructure Account program rules, and present these resolutions to the full Commission for a vote; and to update application attachments as needed, with notice to the CASF Distribution List.

O R D E R

IT IS ORDERED that:

1. The Broadband Infrastructure Grant Account program rules, adopted as shown in Attachment 1 of this decision, are effective as of the date of issuance of this decision.

2. California Public Utilities Commission Communications Division staff is assigned the task of proposing administrative changes to the Broadband Infrastructure Grant Account program rules via resolution for full Commission review and approval of those changes; and to update application attachments as specified in Section 4 of this decision.

3. Rulemaking 20-08-021 remains open.

This order is effective today.

Dated _____, at ~~Chico~~San Francisco, California.

ATTACHMENT 1

Infrastructure Account Rules

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