

Decision 25-07-040 July 24, 2025

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking
Proceeding to Consider Rules to
Implement the Broadband Equity,
Access, and Deployment Program.

Rulemaking 23-02-016

DECISION MODIFYING DECISIONS 24-05-029 AND 24-09-050

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DECISION MODIFYING DECISIONS 24-05-029 AND 24-09-050

Summary

To conform with the Broadband Equity, Access, and Deployment (BEAD) Policy Restructuring Notice issued by the National Telecommunications and Information Administration (NTIA) on June 6, 2025, this decision modifies Decisions 24-05-029 and 24-09-050. The modifications conform the NTIA approved Initial Proposals Volume I and Volume II to the terms of the BEAD Policy Restructuring Notice as directed by NTIA. This decision also sets forth the process by which the California Public Utilities Commission (Commission) will make the final awards consistent with the modifications adopted by this decision to the previously approved Initial Proposal. Finally, pursuant to Public Utilities Code Section 311(d) and Rules 14.6(a)(7)-(8) and 14.6(c)(10) of the Commission's Rules of Practice and Procedure, a shortened comment period on the proposed decision was established, as well as for the Resolution that will implement the remainder of the NTIA's BEAD Policy Restructuring Notice within the expedited timeframe set by the NTIA.

1. Background

On February 23, 2023, the California Public Utilities Commission (Commission) initiated this Order Instituting Rulemaking (OIR) to consider rules to determine grant funding, eligibility and compliance for funds distributed to California under the federal Broadband Equity, Access, and Deployment (BEAD) Program, created by the Infrastructure Investment and Jobs Act of 2021 (IIJA).¹

¹ P.L. 117-58 §60102(b) (2021).

Among the law's numerous provisions, the IIJA establishes the \$42.45 billion BEAD Program, administered by the National Telecommunications and Information Administration (NTIA).

NTIA approved California as an eligible entity to receive BEAD funds. The Governor designated this Commission to serve as the recipient of and administering agent for the BEAD program for California.² NTIA awarded \$1.86 billion in BEAD funding to California. After receiving the NTIA's eligibility approval, states and territories may use BEAD funding to award sub-grants competitively to broadband internet service providers to deploy broadband, as well as other related activities.

On December 26, 2023, the Commission submitted its Initial Proposal to the NTIA. Between the submission of the Initial Proposal and March 8, 2024, NTIA requested several changes to Initial Proposal Volume One, as well as additional support information. On March 8, NTIA provided its final curing request for Volume One.³ On May 9, 2024, the Commission adopted Decision (D.) 24-05-029, approving Volume One of the Initial Proposal.

Between the Commission's submission of the Initial Proposal in December 2023 and August 23, 2024, the NTIA requested numerous changes to Initial Proposal Volume Two, as well as additional supporting information.

² See, Governor Gavin Newsom, Letter of Intent for the Broadband Equity, Access, and Deployment Program Grant, July 1, 2022.

³ See, Ruling of Assigned ALJ Noticing NTIA Curing Instructions and Other Items, issued April 2, 2024.

On September 26, 2024, the Commission adopted D.24-09-050, which approved Initial Proposal Volume Two.

On October 3, 2024, the NTIA approved California's BEAD Initial Proposal Volume Two.

In addition to several rounds of comments filed and served by parties, developing Initial Proposal Volumes One and Two involved two virtual public participation hearings,⁴ partnering with the California Department of Technology (CDT) and local and regional organizations and other state entities to host seventeen BEAD planning workshops throughout California, three in-person Tribal consultations, and separate meetings in Los Angeles and Oakland.

After the NTIA approved California's Initial Proposal Volume Two, by statute the Commission had until October 2, 2025, to submit its Final Proposal, which would include recommended subgrantees. Between October 2, 2024, and June 6, 2025, the Commission's Communications Division Staff (Staff) undertook numerous tasks to prepare California's Final Proposal, including finalizing the BEAD Challenge Process (which determined eligible locations),⁵ developing and

⁴ Rule 7.5(a)(3) of the Commission's Rules of Practice and Procedure requires for quasi-legislative proceedings that the Commission host "[a]t least one public engagement workshop to ensure that the issues are presented to members of the public who are not parties to the proceeding and members of the public have the opportunity to provide input into those issues."

⁵ Section 60102(a)(2)(H) of the IIJA defines the terms "location" and "broadband-serviceable location" "have the meanings given those terms by the (Federal Communications) Commission under rules and guidance that are in effect, as of the date of enactment of this Act." In the Third Broadband Data Collection Report and Order, the FCC adopted "as the fundamental definition of a 'location' for purposes of the [Broadband Serviceable Location] Fabric: a business or residential location in the United States at which fixed broadband Internet access service is, or can be, installed." *See* Establishing the Digital Opportunity Data Collection; Modernizing the

Footnote continued on next page.

publishing a final map of eligible BEAD locations, noticing the BEAD application process, accepting BEAD applications and beginning its review of BEAD applications.⁶

On April 22, 2025, the NTIA announced that the U.S. Department of Commerce was undertaking a detailed review of the BEAD Program. In anticipation of these forthcoming programmatic changes, the NTIA stated its intent to provide all States and Territories with sufficient time to implement the revisions and granted a ninety-day extension from the Final Proposal submission deadline,⁷ meaning California did not need to submit its Final Proposal until January 2, 2026.

On June 6, 2025, the NTIA issued its BEAD Restructuring Policy Notice,⁸ changing the policy requirements to which States must adhere in conducting their BEAD subgrantee selection processes. The NTIA also added new requirements, including, among others, the need to revise the file containing

FCC Form 477 Data Program, WC Docket Nos. 19-195, 11-10, Third Report and Order, 36 FCC Rcd 1126, 1175 para. 126 (2021). This decision uses “location” and broadband-serviceable location” interchangeably.

⁶ The Commission’s original BEAD program Prequalification Application window was held on March 25 – May 1, 2025, and Project Application window was held on April 2 – May 9, 2025. Beginning in March 2025, Commission Staff held seven online webinars on (1) Prequalification Application Guide, (2) Updated BEAD Program Design, (3) Project Application Guide, (4) Supplemental Applications Forms, (5) Grant Management System: Platform Basics, (6) Grant Management System: Prequalification and Revisions, (7) Grant Management System: System Navigation, Mapping, Project Area Selection. Commission Staff also held regular office hours between January 16, 2025 to May 8, 2025.

⁷ NTIA, Waiver of BEAD FP Submission Deadline- 90-day extension, issued April 22, 2025, at 1.

⁸ NTIA, BEAD Restructuring Policy Notice, issued June 6, 2025. Available at: <https://ntia.gov/sites/default/files/2025-06/bead-restructuring-policy-notice.pdf>

eligible Broadband Serviceable Locations to now account for unlicensed fixed wireless internet service,⁹ revise the scoring rubric to evaluate applications,¹⁰ open a new application round to allow unlicensed fixed wireless and satellite internet service providers to submit applications (in addition to other already eligible applicants),¹¹ and submit a Final Proposal by September 4, 2025.^{12,13}

On June 17, 2025, the assigned Administrative Law Judge (ALJ) issued a ruling providing parties with notice of the NTIA BEAD Restructuring Policy Notice and requested comments from interested parties.

On July 6, 2025, as mandated by NTIA in its BEAD Restructuring Policy Notice, the Commission submitted a letter to NTIA requesting an Initial Proposal correction. Following template language provided by the NTIA, the letter requested incorporation of the terms of the Notice into California's Initial Proposal.

1.1. Submission Date

This matter was submitted on July 1, 2025, upon the filing and serving of Reply Comments to the June 17, 2025 ruling issued by the assigned ALJ.

⁹ *Id.*, at 14.

¹⁰ *Id.*, at 11-13.

¹¹ *Id.*, at 10-11.

¹² *Id.*, at 10.

¹³ The Commission may submit an extension request to the NTIA if that appears necessary to ensure a robust subgrantee selection process while conforming with the requirements of California law.

2. NTIA BEAD Restructuring Policy Notice

The NTIA's BEAD Restructuring Policy Notice includes a number of deletions, revisions and new policies, which are discussed below.

2.1. Elimination of Labor, Employment, and Workforce Development Requirements

The NTIA's BEAD Restructuring Policy Notice eliminates labor, employment, and workforce development provisions contained in the NOFO,¹⁴ including the following sections: "Fair Labor Practices and Highly Skilled Workforce," "Advancing Equitable Workforce Development and Job Quality Objectives," "Civil Rights and Nondiscrimination Law Compliance,"¹⁵ as well as the corresponding reporting requirements.¹⁶ The NTIA's BEAD Restructuring Policy Notice also eliminates the "Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms" section.¹⁷ In place of these sections, the NTIA will require the Commission and other Eligible Entities¹⁸ to satisfy the statutory requirement to "give priority to projects based on . . . [a] demonstrated record of and plans to be in compliance

¹⁴ National Telecommunications and Information Administration, Notice of Funding Opportunity, Broadband Equity, Access, and Deployment Program ("NOFO"), Funding Opportunity Number NTIA-BEAD-2022.

¹⁵ NOFO, Section IV.C.1.e-g, pgs. 56-62.

¹⁶ NOFO, Section IV.B.5.b.11-13, pg. 32, Section IV.B.9.b.11.b-c, pg. 48, NOFO, Section VII.E.2.9,12, pgs. 90-92.

¹⁷ NOFO, Section VII.D.7, pgs. 88-89.

¹⁸ Eligible Entities refers to the direct BEAD grantees, meaning state or territory agencies and offices.

with Federal labor and employment laws” by requiring a subgrant applicant to certify compliance with such laws.^{19,20}

2.2. Elimination of Climate Change Requirements

The NTIA’s BEAD Restructuring Policy Notice eliminates the “Climate Resilience” section of the NOFO²¹ and the related Initial Proposal and Final Proposal requirements.²² Instead, the NTIA will require subgrantees to satisfy the statutory requirement to incorporate best practices defined by NTIA for ensuring reliability and resilience of broadband infrastructure by establishing risk management plans that account for technology infrastructure reliability and resilience, including from natural disasters (e.g., wildfires, flooding, tornadoes, hurricanes, etc.), as applicable, as well as cybersecurity best practices.^{23,24}

2.3. Elimination of Open Access/Net Neutrality Requirements

The NTIA’s BEAD Restructuring Policy Notice eliminates the “Consumer Protections” section of the NOFO, which required subgrantees to not impose data usage caps on any plans offered over a BEAD-funded network, nor to impose “unjust or unreasonable network management practices.” Additionally,

¹⁹ NTIA BEAD Restructuring Policy Notice at 4. Cites to 47 U.S.C. §1702(h)(1)(A)(iv)(IV).

²⁰ Eliminating these provisions for purposes of scoring and determining sub-grant awardees does not alleviate applicants from complying with California state law or regulatory requirements that are otherwise applicable.

²¹ NOFO, Section IV.C.1.h, at 62-64; Section IV.B.5.b.15, at 32; and Section IV.B.9.b.11.e, at 48.

²² NTIA BEAD Restructuring Policy Notice, at 4-5.

²³ *Id.*, at 5.

²⁴ Eliminating these provisions for purposes of scoring and determining sub-grant awardees does not alleviate applicants from complying with California state law or regulatory requirements that are otherwise applicable.

the NTIA's BEAD Restructuring Policy Notice eliminates the "Interconnection Requirements and Wholesale Access" section of the NOFO.^{25,26,27}

2.4. Elimination of Local Coordination and Stakeholder Engagement Requirements

The NTIA's BEAD Restructuring Policy Notice eliminates the "Local Coordination" and "Public Notice" sections of the NOFO and the related Initial Proposal and Final Proposal content requirements.^{28,29} NTIA instructs the Commission and other Eligible Entities to satisfy this requirement by certifying that it observed the Final Proposal public comment requirements and received plans submitted by political subdivisions up until submission of the Final Proposal to NTIA.³⁰

2.5. Removal of Preference for Non-Traditional Broadband Providers

The NTIA's BEAD Restructuring Policy Notice eliminates the "Consider All Provider Types" section of the NOFO and the related Initial Proposal and Final Proposal requirements.^{31,32}

²⁵ NOFO, Sec. IV.C.2.c.ii, at 68-69.

²⁶ NTIA BEAD Restructuring Policy Notice at 5.

²⁷ Eliminating these provisions for purposes of scoring and determining sub-grant awardees does not alleviate applicants from complying with California state law or regulatory requirements that are otherwise applicable.

²⁸ NOFO, Section IV.C.1.c, at 51-56; Section IV.C.2.c.iv, at 68-69; Section IV.B.5.b.4, at; Section IV.B.9.b.5, at 47.

²⁹ NTIA, BEAD Restructuring Policy Notice, at 6.

³⁰ *Id.*

³¹ NOFO, Section IV.C.1.a, at 50-51, Section IV.B.5.b.18, at 32, and Section IV.B.9.b.10, at 48.

³² NTIA, BEAD Restructuring Policy Notice, at 6.

2.6. Elimination of Middle-Class Affordability Plan and Updates to the Low-Cost Service Option Requirements

The NTIA's BEAD Restructuring Policy Notice eliminates the NOFO requirement for Eligible Entities to develop, implement, and provide updates on a middle-class affordability plan.³³ Additionally, NTIA eliminates the remainder of the "Affordability and Low-Cost Plans" section of the NOFO, as well as the related Initial Proposal and Final Proposal requirements.^{34,35}

Noting that the IIJA requires BEAD subgrantees to offer not less than one low-cost broadband service option for eligible subscribers,³⁶ the NTIA's BEAD Restructuring Policy Notice includes a "model" low-cost plan whereby a BEAD subgrantee would offer eligible subscribers³⁷ a service plan with speeds of at least 100 Mbps download and 20 Mbps upload, along with latency of 100 milliseconds or less; the "model" does not specify the cost and the NTIA prohibits the Commission and other Eligible Entities from specifying a cost.^{38,39}

³³ *Id.*

³⁴ NOFO, Section IV.C.2.c.i, at 66-68; Section IV.B.5.b.16, at 32; and Section IV.B.9.b.11.d, at 48.

³⁵ NTIA, BEAD Restructuring Policy Notice, at 6-7.

³⁶ 47 U.S.C. §1702(h)(4)(B).

³⁷ The term "Eligible Subscriber" means any household seeking to subscribe to broadband internet access service that is eligible for the federal Lifeline Program.

³⁸ NTIA, BEAD Restructuring Policy Notice, at 7-8.

³⁹ Eliminating these provisions for purposes of scoring and determining sub-grant awardees does not alleviate applicants from complying with California state law or regulatory requirements that are otherwise applicable.

2.7. Elimination of Fiber Preference and Allowing Applications from Unlicensed Fixed Wireless and Satellite Providers

The NTIA's BEAD Restructuring Policy Notice eliminates the "Fiber Preference" section of the NOFO^{40,41} and eliminates all other distinctions between fiber, other reliable broadband services, and alternative technologies.⁴² This means that fiber-optic technology, cable modem/hybrid fiber-coaxial technology, low-earth orbit satellite services, and terrestrial fixed wireless technology utilizing entirely licensed spectrum, entirely unlicensed spectrum, or a hybrid of licensed and unlicensed spectrum, may be used in applications for Priority Broadband Projects so long as the technologies employed meet technical performance requirements.⁴³ The NTIA is requiring the Commission and other Eligible Entities to conduct one additional application round.⁴⁴

Additionally, the NTIA revises its definition of "Priority Broadband Project" to mean "a project that provides broadband service at speeds of no less than 100 megabits per second for downloads and 20 megabits per second for uploads, has a latency less than or equal to 100 milliseconds, and can easily scale speeds over time to meet the evolving connectivity needs of households and businesses and support the deployment of 5G, successor wireless technologies,

⁴⁰ NOFO, Section IV.B.7.b.2.i-ii.

⁴¹ NTIA, BEAD Restructuring Policy Notice, at 8.

⁴² *Id.*, at 9.

⁴³ *Id.*, at 10. Appendix A contains the performance requirements for unlicensed fixed wireless service. Appendix B contains the performance requirements for low earth orbit satellite capacity subgrants.

⁴⁴ *Id.*, at 10-11.

and other advanced services.”⁴⁵ Any applicant may seek to have the Commission treat its application as a Priority Broadband Project regardless of the technology used. Eligible Entities shall give priority to proposals that meet the definition of a Priority Broadband Project. The NTIA reserves the ability to reverse an Eligible Entity’s determination whether a proposed project meets the standard for a Priority Broadband Project.⁴⁶

If the Commission or another Eligible Entity determines that no application meets the definition of a Priority Broadband Project, the NTIA’s BEAD Restructuring Policy Notice allows it to select a non-priority broadband project that meets the speed and latency requirements. Further, Eligible Entities are no longer required to establish an Extremely High Cost Per Location Threshold, but an Eligible Entity shall reject a Priority Broadband Project if the cost of the project is excessive.⁴⁷

2.8. New Scoring Rubric

The NTIA’s BEAD Restructuring Policy Notice also revises how this Commission must score applications, with Minimal BEAD Program Outlay⁴⁸

⁴⁵ *Id.*, at 9.

⁴⁶ *Id.*

⁴⁷ *Id.* See also, at 11: “NTIA declines to adopt a national cost threshold over which a project would be deemed excessive.”

⁴⁸ The Eligible Entity must select the combination of project proposals with the lowest overall cost to the Program. This may involve selecting a proposal that is not the lowest-cost option for a given set of BSLs but is part of the combination of selected projects with the lowest overall cost to the Program. When comparing competing proposals, Eligible Entities shall assess the total BEAD funding that will be required to complete the project (i.e., the total project cost minus the applicant’s proposed match) and the cost to the Program per location (i.e., the total

Footnote continued on next page.

being the primary criterion, and the following secondary criteria: speed to deployment; speed of network and other technical capabilities; and considerations for preliminary/provisional subgrantees. In deciding among competing applications covering the same general project areas, the Commission and other Eligible Entities must choose the option with the lowest cost based on minimal BEAD Program outlay.⁴⁹

3. Positions of Parties

As noted above, on June 17, 2025, the assigned ALJ issued a ruling providing parties with notice of the NTIA Restructuring Policy Notice and requested comments from interested parties. On June 24, 2025, the following parties filed Opening Comments on the NTIA's BEAD Restructuring Policy Notice:

- CTIA;
- The Utility Reform Network (TURN);
- The Small LECs;⁵⁰
- USTelecom;
- The Center for Accessible Technology (CforAT);

BEAD funding that will be required to complete the project divided by the number of BSLs the project will serve).

⁴⁹ NTIA, BEAD Restructuring Policy Notice, at 11-13.

⁵⁰ The following 13 small Local Exchange Carriers commonly are called the Small LECs: Kerman Telephone Co., Foresthill Telephone Co., Hornitos Telephone Company, Pinnacles Telephone Co., Volcano Telephone Company, Winterhaven Telephone Company, Happy Valley Telephone Company, Sierra Telephone Company, Inc., The Siskiyou Telephone Company, The Ponderosa Telephone Co., Calaveras Telephone Company, Cal-Ore Telephone Co., and Ducor Telephone Company.

- ACA Connects – America’s Communications Association (ACA Connects);
- The Public Advocates Office at the California Public Utilities Commission (Cal Advocates);
- Comcast Phone of California, LLC (Comcast); and
- Tarana Wireless, Inc.

On July 1, 2025, the following parties filed Reply Comments:

- CTIA;
- The Utility Reform Network (TURN);
- The Center for Accessible Technology (CforAT);
- Comcast;
- Tarana Wireless, Inc.; and
- Small Business Utility Advocates (SBUA).

3.1. CTIA

CTIA asserts that the Commission must eliminate its preference for fiber projects and adopt the Priority Broadband Project definition contained in the new NTIA BEAD Policy Restricting Notice. CTIA claims that 5G fixed wireless broadband readily meets and exceeds these speed and latency requirements, and also “scales in a way that fiber cannot” because it is “provisioned from cellular towers that can serve multiple locations with the same infrastructure” and readily support 5G mobile service and other advanced services.⁵¹ CTIA opines that the Commission’s revised approach must recognize that fixed wireless broadband projects using licensed spectrum meet the definition of a Priority

⁵¹ CTIA, Opening Comments, filed June 24, 2025 at 2.

Broadband Project.⁵² CTIA also states that the Commission must eliminate the middle-class affordability requirement and remove explicit pricing requirements for low costs service offerings,⁵³ revise its NTIA-approved scoring rubric and re-open the windows for both pre-qualification applications and project applications, and provide a reasonable opportunity for entities to participate.⁵⁴

3.2. TURN

TURN “strongly opposes the sweeping, unilateral changes mandated by the NTIA and the imposition of directives that undermine important programmatic guardrails, such as those that would have ensured more affordable, resilient, equitable, future-proof, and scalable networks in the state.”⁵⁵ TURN agrees with other parties asking the Commission to seek policy waivers for the now eliminated climate and labor requirements.⁵⁶ TURN asks the Commission to “seek detailed explanations and evidence from applicants for each project in forthcoming application rounds” and to “carefully review project applications in any forthcoming application rounds”⁵⁷ to determine which projects meet the NTIA’s requirements for Priority Broadband Projects.⁵⁸ TURN also recommends emphasizing speed and technical capabilities in scoring,⁵⁹ and

⁵² CTIA, Reply Comments, filed July 1, 2025, at 6.

⁵³ CTIA, Opening Comments, filed June 24, 2025, at 4.

⁵⁴ *Id.*, at 4-6.

⁵⁵ TURN, Opening Comments, filed June 24, 2025, at 1.

⁵⁶ TURN, Reply Comments, filed July 1, 2025, at 1-2.

⁵⁷ TURN, Opening Comments, filed June 24, 2025, at 3-4

⁵⁸ *Id.*, at 2.

⁵⁹ *Id.*, at 4.

“scrutinizing alternative providers to ensure they meet the narrowed requirements of the revised low-cost service option.”⁶⁰ With respect to procedure, TURN notes that, “the Commission may have good cause, given the unique federal requirements imposed on the state, to expedite comments on a cured Initial Proposal and Final Proposal.”⁶¹ TURN recommends the Commission “expedite approval of the Final Proposal, as well as the revised Initial Proposal, to the extent necessary to meet the accelerated BEAD program timeline,” and “consider simultaneously requesting an extension of time and prepare for the possibility that NTIA will not grant an extension.”⁶²

TURN disagrees with CTIA’s argument that fixed wireless projects meet the NTIA’s BEAD Policy Restructuring Notice’s definition of “Priority Broadband Projects,” and suggests the Commission “notice all ULWF [unlicensed fixed wireless] submissions and identify which locations are no longer eligible, as they would be considered ‘served’ under the new NTIA guidance.”⁶³ They recommend that, “the Commission should expedite approval of the Final Proposal, as well as the revised Initial Proposal, to the extent necessary to meet the accelerated BEAD program timeline,” and “consider simultaneously requesting an extension of time and prepare for the possibility that NTIA will not grant an extension.”⁶⁴

⁶⁰ *Id.*, at 5.

⁶¹ *Id.*

⁶² TURN, Reply Comments, filed July 1, 2025, at 5.

⁶³ *Id.*, at 2-3

⁶⁴ *Id.*, at 5.

3.3. The Small LECs

The Small LECs recommend, “the Commission should take reasonable steps to modify its approach to ensure the continued availability of BEAD funding”⁶⁵ and “should not retreat from preferences for fiber projects where they are feasible and cost-effective.”⁶⁶ The Small LECs make recommendations regarding the sections of the Initial Proposal Volume 2 that should be eliminated or scaled back, and the references to open access requirements and existing California laws that should be removed “to comply with the NTIA Policy Notice without impacting the legitimacy of these ongoing requirements.”⁶⁷ The Independent Small LECS state, “the Commission should clarify the procedural steps that will be necessary for compliance with the NTIA Notice,” and consider expediting its procedures pursuant to Commission Rule 14.6(a)(7), and delegating authority to the Commission’s Executive Director to enable the Commission to meet the deadlines in the Notice.⁶⁸

3.4. USTelecom

USTelecom recommends that the Commission “move quickly to complete necessary administrative steps,” including publishing a new list of BEAD-eligible locations, opening a short prequalification window, reopening its bidding process (and announcing that it will do so), and encouraging providers to

⁶⁵ The Small LECs, Opening Comments, filed June 24, 2025, at 1.

⁶⁶ *Id.*, at 2.

⁶⁷ *Id.*, at 3.

⁶⁸ *Id.*, at 5-6.

resubmit bids with revisions to comply with NTIA's new requirements.⁶⁹ US Telecom also suggests that the Commission "ensure that its process adheres to the definition of 'Priority Broadband Project' while scoring based on the cost of the project," including by scrutinizing whether a proposed technology is appropriate to the number of locations that it is serving.⁷⁰

3.5. CforAT

CforAT requests the Commission "seek waivers where the [NTIA's BEAD Policy Restructuring Notice] conflicts with California Law," including laws regarding "labor, employment, workforce requirements, climate change, net neutrality, local coordination and stakeholder engagement, and affordability."⁷¹ CforAT also request the Commission require that applicants "provide detailed information about network performance," emphasizes that, "the burden is on applicants to demonstrate that their chosen technology will meet the minimum service requirements."⁷² With respect to procedure, CforAT recommends that the Commission, "ensure that the revised application process provides sufficient time for drafting new applications, as well as guidance regarding the appropriate content of such new applications."⁷³ CforAT also states that, "The [NTIA BEAD Policy Restructuring Notice's] 90-day deadline to submit a revised Final Proposal meeting the revised requirements is ... unreasonable, and indicates that the

⁶⁹ USTelecom, Opening Comments, filed on June 24, 2025, at 3.

⁷⁰ *Id.*, at 4-5.

⁷¹ CforAT, Opening Comments, filed June 24, 2025, at 2-3.

⁷² *Id.*, at 4.

⁷³ *Id.*, at 5.

Department of Commerce is likely setting the BEAD program up to fail,” and that the “Commission should not be deterred from submitting a Final Proposal that best meets California’s broadband goals.”⁷⁴ CforAT agrees with other parties suggesting that satellite and fixed wireless technologies may not meet the speed and latency and scalability standards of Priority Broadband Projects over time.⁷⁵

3.6. ACA Connects

Regarding determinations over which applications meet the NTIA’s new Priority Broadband Project definition, ACA Connects offers the following suggestions:

- While the minimum speed and latency criteria do not distinguish Priority Broadband Projects from non-priority projects, ACA Connects asks the Commission to ensure that any applicant seeking Priority Broadband Project treatment to demonstrate that it can satisfy these minimum performance standards at each location it proposes to serve, taking into account reasonable oversubscription and other engineering criteria;⁷⁶
- Applicants must substantiate any claims about the present and future capabilities of their technology, consistent with generally accepted engineering principles and sound science;⁷⁷
- To meet the consumer demand requirement, applicants should demonstrate they can scale their network to

⁷⁴ *Id.*, at 7-8.

⁷⁵ CforAT, Reply Comments, filed July 1, 2025, at 1.

⁷⁶ ACA Connects, Opening Comments, filed June 24, 2025, at 4.

⁷⁷ *Id.*, at 5.

provide in 2030, 22/1.5 Mbps of bandwidth usage and gigabit speeds;⁷⁸

- Applicants should detail how their projects will meet growing business connectivity demands;⁷⁹ and
- There is ample justification based on data to determine that fiber can support 5G and other advanced services, and on a case-by-case basis, fixed wireless can as well, but it is much more difficult to make the case that low earth orbit satellite can.⁸⁰

Regarding how to determine which projects are excessive, ACA Connects suggests relying on cost models developed by CostQuest to evaluate the costs to deploy fiber, fixed wireless, and 5G networks, given that CostQuest has done previous work for the FCC and the NTIA, as well as analysis from the consulting firm Cartesian, given its work with providers.⁸¹

ACA Connects also offers the following suggestions to assist the Commission in its review of unlicensed fixed wireless applications; the Commission should prepare templates asking for the following information:

- Characteristics such as interference mitigation, capacity, and a location-specific evaluation;⁸² and
- Information such as technology type, a subscriber provisioning plan, base station information, interference

⁷⁸ *Id.*, at 6.

⁷⁹ *Id.*, at 7.

⁸⁰ *Id.*, at 7-8.

⁸¹ *Id.*, at 9-11.

⁸² *Id.*, 12-13.

strategies, signal and performance data, and backhaul details.⁸³

3.7. Cal Advocates

Cal Advocates writes that, “the NTIA’s changes create several problems and conflicts with congressional directives and California’s broadband goals,” including “Congress’s mandate to fund future-proof, fiber-based infrastructure” and “California’s ability to build competitive, affordable networks.”⁸⁴ Cal Advocates also states that, “the only transmission medium that satisfies” the statutory definition of “Priority Broadband Projects” “is fiber optic cable,”⁸⁵ and advocates for the Commission’s open access and affordability provisions. Cal Advocates ask the Commission to “reaffirm its future-focused, open-access, affordability-scored BEAD structure, even if NTIA guidance changes; notify NTIA that the restructuring’s timing and substance creates procedural disruption; and preserve California’s authority to enforce state-specific requirements consistent with the federal IIJA statute.”⁸⁶

3.8. Comcast

Comcast recommends that the Commission adjust and clarify its subgrantee selection criteria to comply with the NTIA’s BEAD Policy Restricting Notice⁸⁷ and heavily weight the “speed of network and other technical

⁸³ *Id.*, 13-14.

⁸⁴ Cal Advocates, Opening Comments, filed June 24, 2025, at 1.

⁸⁵ *Id.*, at 3.

⁸⁶ *Id.*, at 9.

⁸⁷ Comcast, Opening Comments, filed June 24, 2025, at 3.

capabilities” criterion in the scoring criteria.⁸⁸ Comcast states that the Commission “should carefully evaluate whether individual bids can meet all aspects of the Priority Broadband Project definition and BEAD program requirements,” including “network capacity constraints,” “physical limitations from geographic or environmental factors,” and “other issues like potential interference concerns.”⁸⁹ Comcast recommends that the “Commission should modify its requirements for applicants’ project areas to reflect NTIA’s new approach to high-cost locations,” including removing the requirement that 50 percent of Project Areas be composed of high cost or high need Project Area Units.⁹⁰ Comcast emphasizes that time is of the essence to meet the 14-day, 30-day, and 90-day deadlines in the Notice. Comcast suggests that, “the Commission consider scheduling an emergency meeting” and “announce next steps clearly and publicly so that prospective applicants know what to expect and can continue to work with the Commission to achieve the BEAD Program’s goals...”⁹¹ and that the Commission’s implementation should be as clear, transparent, and streamlined as possible,” including that the Commission, “act quickly to publish its revised BEAD materials and timelines and permit prior applicants to amend or resubmit their applications.”⁹²

⁸⁸ *Id.*, at 5.

⁸⁹ *Id.*, at 7-8.

⁹⁰ *Id.*, at 12-13.

⁹¹ Comcast, Opening Comments, filed June 24, 2025, at 18.

⁹² Comcast, Reply Comments, filed July 1, 2025, at 2-3.

Comcast recommends the Commission “align its subgrantee selection with the Notice,” “reject applications that could jeopardize California’s receipt of BEAD funding,” and “prioritize the Network Speed and other Technical Capabilities’ secondary selection criterion.”⁹³ Comcast echoes other parties’ comments underscoring the importance of considering individual bids’ ability to meet the definition of Priority Broadband Projects,⁹⁴ and reiterates its suggestion to remove the requirement that 50 percent of Project Area Units be high cost or high need.⁹⁵ Finally, Comcast recommends that the Commission “not further delay its BEAD implementation by seeking waivers that NTIA is unlikely to approve.”⁹⁶

3.9. Tarana Wireless

Tarana Wireless supports the NTIA’s BEAD Restructuring Policy Notice, arguing that it appropriately places renewed emphasis on ensuring that BEAD funding reaches these eligible broadband serviceable locations in the most efficient, timely and technology-neutral manner possible. Tarana Wireless also claims its equipment can meet the performance requirements in Appendix A to the NTIA’s BEAD Restructuring Policy Notice.⁹⁷ Tarana Wireless also encourages the Commission, in its evaluation of BEAD applications, to “distinguish between legacy mobile or orbit-first broadband models and purpose-built fixed wireless

⁹³ *Id.*, at 7.

⁹⁴ *Id.*, at 9.

⁹⁵ *Id.*, at 14.

⁹⁶ *Id.*, at 16.

⁹⁷ Tarana Wireless, Opening Comments, filed June 24, 2025, at 4-6.

technologies that meet and exceed the performance, scalability, and reliability expectations established in the NTIA's updated guidance."⁹⁸

3.10. SBUA

SBUA argues that the NTIA's revised policy framework risks deepening rather than closing the digital divide, urging the Commission to seek waivers from the NTIA's exclusions of affordability, labor, and climate provisions, as well as California's fiber preference.⁹⁹ SBUA also opposes the removal of high-cost areas from proposed project areas, arguing that "[h]igh-need rural, Tribal, and other marginalized communities—all home to many small businesses—should not be left behind in the name of short-term corporate profitability."¹⁰⁰

4. Discussion

The BEAD Restructuring Policy Notice requires the Commission to complete a significant number of tasks before it can submit a Final Proposal, including but not limited to: revise the map of eligible locations to incorporate Fabric Version 6, the revised definition of Community Anchor Institutions, and data requested from unlicensed fixed wireless providers; revise application materials to conform with the BEAD Restructuring Policy Notice , and issue the materials to prospective applicants; revise application intake and analysis procedures, including the Commission's Grants Management System; open and review a new prequalification window; open and review a new application window; score applications; finalize subgrantee selection; draft a final proposal;

⁹⁸ Tarana Wireless, Reply Comments, filed July 1, 2025, at 4.

⁹⁹ SBUA, Reply Comments, filed July 1, 2025, at 1-6.

¹⁰⁰ *Id.* at 4.

issue the Final Proposal for public comment. It is not possible to comply with the requirements of the BEAD Restructuring Policy Notice within the 90-day timeline provided while following the Commission's traditional processes, which include 30-day comment periods. To avoid jeopardizing \$1.86 billion in investments in broadband infrastructure, the Commission may take further actions, including requesting a waiver of the 90-day deadline, shortening comment periods, or scheduling an emergency meeting of the Commission.

The Commission modifies Decisions 24-05-029 and 24-09-050 to conform to the NTIA's new requirements contained in the BEAD Restructuring Policy Notice. Staff will issue further guidance setting forth the specific conforming process to meet these requirements, as necessary, but in general parties should review the text of the BEAD Restructuring Policy Notice. Simultaneously, the BEAD Restructuring Policy Notice necessitates that potential subgrantees either modify existing proposals or submit new proposals to conform to the new requirements. Our Staff must then evaluate the proposals in light of NTIA's new standards.¹⁰¹

In response to concerns raised by certain parties regarding how Staff will implement the NTIA's new scoring rubric,¹⁰² we clarify that, consistent with the NTIA BEAD Policy Restructuring Notice, the Commission will use Minimal

¹⁰¹ Modifying such provisions of California's Initial Proposal does not alleviate applicants from complying with California state law or regulatory requirements that are otherwise applicable.

¹⁰² Comcast, Opening Comments, filed June 24, 2025, at 5-7. Comcast, Reply Comments, filed July 1, 2025, at 7-9. TURN, Opening Comments, filed June 24, 2025, at 4-5. CTIA, Opening Comments on Proposed Decision, filed July 17, 2025. USTelecom, Opening Comments on Proposed Decision, filed July 17, 2025, at 3-4.

BEAD Program Outlay as the sole primary scoring criteria. If the Commission receives two applications proposing to serve the same general project area and the proposed project costs are within 15 percent on a per broadband service location basis, Staff will award up to 90 points for the “Speed of Network and other Technical Capabilities” secondary criterium and up to 10 points for the “Speed of Deployment” secondary criterium. We further ratify the Staff notices issued on July 16, 2025 and July 17, 2025, and therefore need not address the assertion that the proposed decision as initially drafted would have unlawfully delegated discretionary authority to Staff to develop the scoring criteria.

5. Procedural Schedule for Final Proposal

The Commission intends to vote on a Resolution on the BEAD Final Proposal prior to its submittal to the NTIA.¹⁰³ However, the new deadline for the Commission to submit the BEAD Final Proposal to NTIA compels the Commission to advance the adoption of the Final Proposal, in conformance with NTIA’s Restructuring Policy Notice. This is a federal requirement that the Commission must adhere to in order to maintain California’s eligibility to participate in the BEAD program, absent NTIA authorizing a waiver for extension of time to submit the Final Proposal.

Public Utilities Code Section 311(g)(3) provides, in pertinent part:

“Consistent with regulatory efficiency and the need for adequate prior notice and comment on commission decisions, the commission may adopt rules, after notice and comment, establishing additional categories of decisions subject to waiver or reduction of the time period in this section. “

¹⁰³ D.24-09-050 at pp. 177 and 178 (Ordering Paragraph 2(h).)

We decline to waive the comment period entirely, due to the high value we place on public comments. We do, however, determine that a reduced public review and comment period appropriately balances the need for regulatory efficiency with the goal of public notice and comment,¹⁰⁴ in the face of NTIA's revised requirements in the Restructuring Policy Notice. Moreover, we are required to satisfy NTIA's public notice and comment requirements.

Accordingly, the Commission, in order to meet state and federal legal and regulatory requirements, will approve a BEAD Final Proposal via Resolution before submitting such proposal to NTIA. Before voting on any Final BEAD Proposal, the Commission will issue and serve the service list in this proceeding the draft Resolution setting forth its proposed BEAD Final Proposal, to provide parties an opportunity to file comments on the draft Resolution. The Commission will not accept reply comments.

Commission Staff will provide notice to parties regarding the mechanics of the application process, including dates for the opening of the prequalification window and the application window. Commission Staff will provide all necessary information to potential applicants regarding how to submit new or modified applications in the "Benefit of the Bargain" round, the last and final application window for the BEAD program. Commission Staff will provide application materials to potential applicants, answer questions, and provide FAQs.

¹⁰⁴ California Bill Analysis, S.B. 779 Assem. (August 24, 1998).

6. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

The last public comment was submitted to the Docket Card on July 17, 2024. Thus, there are no relevant public comments on the Docket Card.

7. Procedural Matters

This decision affirms all rulings made by the assigned Administrative Law Judge and Assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

8. Comments on Proposed Decision

In its Notice, the NTIA set the Commission a 90-day time frame in which to modify its subgrantee selection process, run that selection process, and submit its Final Proposal. To miss that deadline would put at risk the BEAD program’s vast potential benefits to underserved Californians. The Commission must do what it can to meet that deadline while adhering to California law and preserving the fundamental rights of the parties to this proceeding.

Section 311(d) of the Public Utilities Code provides, in pertinent part: “The commission shall issue its decision not sooner than 30 days following filing and service of the proposed decision by the assigned commissioner or the administrative law judge, except that the 30-day period may be reduced or waived by the commission in an unforeseen emergency situation or upon the stipulation of all parties to the proceeding or as otherwise provided by law.” The

Commission's Rules of Practice and Procedure provide guidance on the types of situations that constitute an "unforeseen emergency." For example, the Commission may reduce or waive the comment period where there are "[d]eadlines for Commission action imposed by . . . other administrative bodies or tribunals," or for "[u]nusual matters that cannot be disposed of by normal procedures if the duties of the Commission are to be fulfilled."¹⁰⁵ Both of these examples fit: although NTIA did not give the Commission a deadline for issuing *this* Decision, the issuance of this Decision is a key first step towards submitting a Final Proposal within NTIA's 90-day deadline, and we cannot plausibly meet that deadline if this Decision is delayed. We likewise find that, under the circumstances presented here, the fulfillment of the Commission's duties requires quick action.

The Commission may also reduce or waive the comment period

for a decision in a proceeding in which no hearings were conducted where the Commission determines, on the motion of a party or on its own motion, that public necessity requires reduction or waiver of the 30-day period for public review and comment. For purposes of this subsection, "public necessity" refers to circumstances in which the public interest in the Commission adopting a decision before expiration of the 30-day review and comment period clearly outweighs the public interest in having the full 30-day period for review and comment. "Public necessity" includes, without limitation, circumstances where failure to adopt a decision before expiration of the 30-day review and comment period would place the

¹⁰⁵ Rules of Practice and Procedure, Rule 14.6(a)(7)-(8).

Commission or a Commission regulatee in violation of applicable law, or where such failure would cause significant harm to public health or welfare.¹⁰⁶

We find that the public necessity requires a shortened comment period here. As we explain above, we cannot plausibly complete all of the requirements set out by NTIA if this decision is delayed. Failing to meet NTIA's requirements could cause California to surrender the potential benefits of the BEAD program, which would cause significant harm to the public welfare.

Under the unique circumstances presented by this case, the Commission finds that the additional requirements and shortened deadline set by NTIA constitutes an unforeseen emergency within the meaning of section 311(d). Comments on this proposed decision were due no later than 7 calendar days after this proposed decision was filed. On July 17, 2025, the following parties filed comments: 1) TURN, CTIA, and USTelcom. No reply comments were allowed.

In response to comments, Section 4 was revised at page 24 to clarify the implementation of the NTIA's new scoring rubric, as was Conclusion of Law 4 and Ordering Paragraph 2.

9. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Thomas J. Glegola is the assigned Administrative Law Judge in this proceeding.

¹⁰⁶ Rules of Practice and Procedure, Rule 14.6(c)(10).

Findings of Fact

1. The Infrastructure Investment and Jobs Act of 2021 (P.L. 117-58 §60102(b)) establishes the BEAD Program, under the administration of the NTIA.

2. On December 26, 2023, the Commission submitted its Initial Proposal to the NTIA.

3. Between the submission of the Initial Proposal and March 8, 2024, NTIA requested several changes to Initial Proposal Volume One, as well as additional support information. On March 8, 2024, NTIA provided its final curing request for Volume One.¹⁰⁷ On May 9, 2024, the Commission adopted D.24-05-029, approving Volume One of the Initial Proposal.

4. Between the Commission's submission of the Initial Proposal in December 2023, and August 23, 2024, the NTIA requested numerous changes to Initial Proposal Volume Two, as well as additional supporting information. On September 26, 2024, the Commission adopted D.24-09-050, which approved Initial Proposal Volume Two. On October 2, 2024, the NTIA approved California's BEAD Initial Proposal Volume Two.

5. After the NTIA approved California's Initial Proposal Volume Two, by statute the Commission had until October 2, 2025, to submit its Final Proposal, which would include recommended subgrantees.

6. On April 22, 2025, the NTIA announced that the U.S. Department of Commerce was undertaking a detailed review of the BEAD Program and extended California's deadline to submit its Final Proposal to January 2, 2026.

¹⁰⁷ See, Ruling of assigned ALJ Noticing NTIA Curing Instructions and Other Items, issued April 2, 2024.

7. On June 6, 2025, the NTIA issued its BEAD Restructuring Policy Notice, changing the policy requirements that States must submit a Final Proposal by September 4, 2025.

8. The NTIA's BEAD Restructuring Policy Notice changes the policy requirements that States must adhere to in conducting their subgrantee selection processes and requires the modification of Decisions 24-05-029 and 24-09-050.

9. The IIJA requires a BEAD subgrantee to offer not less than one low-cost broadband service option.

10. Public Utilities Code Section 311(d) provides, in pertinent part: "The commission shall issue its decision not sooner than 30 days following filing and service of the proposed decision by the assigned commissioner or the administrative law judge, except that the 30-day period may be reduced or waived by the commission in an unforeseen emergency situation or upon the stipulation of all parties to the proceeding or as otherwise provided by law.

11. Public Utilities Code Section 311(g)(3) provides, in pertinent part:

"Consistent with regulatory efficiency and the need for adequate prior notice and comment on commission decisions, the commission may adopt rules, after notice and comment, establishing additional categories of decisions subject to waiver or reduction of the time period in this section. "

Conclusions of Law

1. The Governor designated the Commission to serve as the recipient of and administering agent for the BEAD program for California.

2. The NTIA has the authority to review, revise, and approve a State's Initial Proposal and Final Proposal.

3. This decision complies with NTIA requirements.

4. The Commission has the authority to delegate to Staff the ministerial review of BEAD Program applications, including the following activities, all of which will be included in a proposed Final BEAD Plan that must be adopted by the Commission, after first receiving public comment:

- a. Revising BEAD eligibility for broadband serviceable locations;
- b. Scoring BEAD applications, consistent with the NTIA BEAD Restructuring Policy Notice and the guidance in Section 4 of this decision;
- c. Developing guidance for BEAD applicants;
- d. Providing notice of the BEAD grant application windows; and
- e. Preparing the Commission's BEAD Final Proposal, which the Commission will consider via resolution prior to submitting to the NTIA.

5. It is reasonable for the Commission to delegate to Staff the authority discussed in Conclusion of Law 4.

6. A reduced public review and comment period for the draft Final Proposal appropriately balances the need for regulatory efficiency with the goal of public notice and comment.

7. The shortened timeframes and additional actions that must take place within these shortened timeframes set forth in the Restructuring Policy Notice constitutes an unforeseen emergency within the meaning of Section 311(d) of the Public Utilities Code, necessitating a reduced comment period for this proposed decision.

O R D E R

IT IS ORDERED that:

1. The Commission modifies Decisions 24-05-029 and 24-09-050 to conform to the Broadband Equity, Access, and Deployment Policy Restructuring Notice issued by the National Telecommunications and Information Administration on June 6, 2025.

2. Consistent with the direction provided in this decision, the California Public Utilities Commission delegates to its Communications Division Staff, the authority to review grant applications for the Broadband Equity, Access, and Deployment (BEAD) Program, including the following activities, all of which will be included in a proposed Final BEAD Plan that must be adopted by the Commission, after first receiving public comment:

- a. Revising BEAD eligibility for broadband serviceable locations;
 - b. Scoring BEAD applications, consistent with the BEAD Policy Restructuring Notice issued by the National Telecommunications and Information Administration on June 6, 2025, as well as the guidance in Section 4 of this decision;
 - c. Developing guidance for BEAD applicants;
 - d. Providing notice of the BEAD grant application windows; and
 - e. Preparing the Commission's BEAD Final Proposal, which the Commission will consider via resolution prior to submitting to the National Telecommunications and Information Administration.
3. Rulemaking 23-02-016 remains open.

This order is effective today.

Dated July 24, 2025, at San Francisco, California.

ALICE REYNOLDS

President

DARCIE L. HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

Commissioners

Commissioner Matthew Baker recused himself from this agenda item and was not part of the quorum in its consideration.