



FILED

01-20-11

04:59 PM

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

Order Instituting Rulemaking to Consider
Modifications to the California Advanced
Services Fund Including Those
Necessary to Implement Loan Program
and Other Provisions of Recent
Legislation.

§
§
§
§
§
§
§
§
§
§

RULEMAKING 10-12-008

**COMMENTS OF THE CAMINO FIBER NETWORK COOPERATIVE, INC. ON
ORDER INSTITUTING RULEMAKING TO CONSIDER MODIFICATIONS TO
THE CALIFORNIA ADVANCED SERVICES FUND INCLUDING THOSE
NECESSARY TO IMPLEMENT LOAN PROGRAM AND OTHER PROVISIONS
OF RECENT LEGISLATION**

January 20, 2011

Introduction

The Camino Fiber Network Cooperative, a California consumer cooperative corporation, offers the following comments in response to the Commission's Order Instituting Rulemaking filed December 16, 2010 instituted to implement the provisions of the Senate Bill 1040 relative to funding for the California Advanced Services Fund and the new consortia grant and broadband infrastructure revolving loan accounts. The Camino Fiber Network Cooperative's comments address questions presented by the Commission in Section 4 of this order and are presented in order for each section addressed in these comments.

Section 4.1.1. Funds for Consortia

Q: What eligibility criteria should the Commission apply in selecting representatives/groups to be part of a consortium?

The current state of advanced telecommunications infrastructure deployment is not uniform and is highly localized. Accordingly, community-based entities such as local governments and California consumer cooperative corporations formed to provide local advanced telecommunications services should be afforded priority for this category of funding since these entities have the best local knowledge of where additional deployment is needed to fill in the infrastructure gaps.

Q: What role should the Rural and Regional Consortia take in broadband deployment? What goals or objectives are appropriate for a consortium? What costs and activities should be eligible for funding?

Award of the Consortia funding should be primarily designated as technical assistance for local governmental units and consumer cooperatives to enable these entities to prepare preliminary network infrastructure plans and conduct due diligence. This will

enable these entities to develop more economically vetted and well thought out capital projects that are more likely to be sustainable from a business case perspective and make better use of funds earmarked for the deployment of advanced telecommunications infrastructure.

Q. How should payments to a consortium be made? For example, should a consortium receive progress payments, similar to infrastructure grantees? What documentation should be required as condition of payment?

This category of funding should be paid in a lump sum up front to provide eligible entities maximum flexibility and control over those they retain to conduct their project planning. Required documentation should be copies of invoices from contractors providing technical assistance and evidence of payment.

Section 4.1.2. Loans

Q: Who should be eligible to apply for loans?

Advanced telecommunications infrastructure deployment is not uniform and is highly localized. Accordingly, community-based providers such as local governments and consumer cooperatives should be those entities eligible for this category of funding since these entities have the best local knowledge of where additional deployment is needed to fill in the infrastructure gaps. In addition, this infrastructure is typically lacking or inadequate in areas where it is not profitable for investor owned companies to construct and operate it. Not for profit entities such as local governments and consumer cooperatives should therefore be given priority for this funding category.

Q: May an eligible entity apply for both a grant and a loan at the same time, with the Commission deciding whether a grant, a loan, or both should be awarded?

The Commission should have the flexibility to award both grants and loans based on the

merits of a given project and demonstrated need for funding.

Q: Should there be minimum and maximum amounts for the loan?

The Commission should have the flexibility to award loans based on the merits of a given project and demonstrated need for funding while ensuring the maximum number of projects are funded in keeping with the public policy expressed in Public Utilities Code Section 281(a) to administer the California Advanced Services Fund to encourage deployment of high-quality advanced communications services to all Californians.

Q: What criteria and standards should be adopted for evaluating loan applications?

Loan applications should be evaluated based on a proposed project's potential to deploy advanced telecommunications infrastructure that is both technologically and economically sustainable over the long term.

Q: What financial indices should be consulted to determine interest rates and when and how to revise the rates? Over what period should the loans be repaid?

Since the deployment of advanced telecommunications infrastructure is a long-term capital project, loan terms should be of sufficient length commensurate with the nature of these projects. Interest rates should be set as low as possible to enhance the business case for infrastructure deployment, thereby maximizing the number of proposed projects that would qualify for this category of funding.

Q: What security should be provided?

Loans should be collateralized by infrastructure assets and future revenues.

Section 4.1.3. Entities That Are Not Commission-Regulated

Q: Would/should entities that are not regulated by the Commission be eligible recipients under the Broadband Infrastructure Revolving Loan Account?

In order to meet the policy intent of the CASF encourage deployment of high-quality advanced communications services to all Californians, the Commission should continue to provide CASF funding to entities that are neither CPCN holders nor registered wireless carriers with a particular emphasis on local government entities and California consumer telecommunications cooperative corporations.

Q: To ensure appropriate accountability, what requirements should the Commission adopt for a fiscal agent or other consortium member that is not Commission-regulated?

The commission should adopt semi-annual financial reporting requirements for non-Commission regulated entities that provide an accounting of how CASF funds have been utilized.

Section 4.2.1. Eligible Applicants; Available Funding

Q: Because ARRA funding has now been fully allocated, should CASF funding opportunities still be offered to non-CPCN holders or non-registered wireless carriers?

CASF funding opportunities should continue to be offered to non-CPCN holders or non-registered wireless carriers and particularly local government units and California consumer telecommunications cooperative corporations. For census tracts with average household densities of 10-20 households per square mile, the Commission may wish to establish guidelines for locally owned and operated fixed terrestrial wireless

Internet service providers (WISPs) for projects that can serve as an interim means of extending Internet access until the business case can improve to serve these premises by other technologies including fiber to the premises. These guidelines should require WISPs to meet the FCC minimum definition of broadband, currently 4Mbps for downloads and 1Mbps for uploads and limit signal latency to the end user to a maximum of 50 milliseconds.

Q: Should the CASF funding cap of 40% be increased, considering that [i] some applicants have been unable to secure the 60% matching funds, and [ii] funds from the ARRA are no longer available?

There should be no set funding cap. CASF funds should be allocated based on the demonstrated need and merit of a given project balanced against preservation of funds for other projects in keeping with the policy intent expressed by the Legislature to administer CASF funding to encourage deployment of high-quality advanced communications services to all Californians.

Section 4.2.2. Definition of Unserved and Underserved Areas

Q: Should the CASF definitions be revised to conform with the NTIA/RUS definitions of unserved and underserved areas [Federal Register/Vol. 74, No. 130, July 9, 2009, Joint Notice of Funding Availability for the Broadband Technology Opportunities Program (BTOP) and the Broadband Initiatives Program (BIP)]? Alternatively, should the Commission revise these definitions based on the goals set forth in the 2007 report of the California Broadband Task Force?

These ARRA definitions are obsolete and prone to debate and incumbent challenges and should not be used. They introduce unnecessary controversy and delay in the deployment of advanced telecommunications infrastructure and should be not be used. Projects proposed for CASF funding instead should be evaluated on the number of households that would have access to fiber optic to the premises wireline connections

that previously lacked such service. To the extent such projects connect premises without wireline Internet access other than dialup, they should be accorded greater weight such as a percentage bonus based on the number of such premises in a proposed project's service area. Bringing service to these households is consistent with the CASF's legislatively stated goal of encouraging deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies.

There exists a consensus within the telecommunications industry that fiber optic to the premises is a proven technology providing the greatest protection against obsolescence and capacity for future expansion. Since the CASF is investing public funds in telecommunications infrastructure, it should ensure these dollars are invested in projects that offer the best value over the long term and the greatest public benefit. Fiber to the premises meets these criteria.

Section 4.2.4. Criteria for Handling Applications

Q: Should the scoring criteria or weights be modified? (We note that the scoring criteria have so far only been applied once.)

Multiple competing applications should be weighted to give greater weight to these factors:

1. The number of households that would have access to fiber optic to the premises wireline connections that previously lacked such service if the project is funded.
2. The number of premises in the first category that currently lacks wireline Internet access other than dialup.

Q: Should the Commission revise the criteria to include an industry standard cost and/or a ceiling cost per household? If so, how should the industry standard and ceiling cost per household be determined? Should the industry standard or ceiling cost depend on the proposed technology?

The Commission should generally reserve CASF funding for fiber to the premises projects. Wireless technology should generally not be funded for premises service given current technological limitations that make it unfeasible for delivery of high bandwidth demand applications. However, for lightly populated census tracts with average household densities of 10-20 households per square mile, the Commission may wish to establish guidelines for locally owned and operated fixed terrestrial wireless Internet service providers (WISPs) for projects that can serve as an interim means to extending Internet access until the business case can improve to serve these premises by other technologies including fiber to the premises. These guidelines should require WISPs to meet the FCC minimum definition of broadband, currently 4Mbps for downloads and 1Mbps for uploads and limit maximum signal latency to the end user to 50 milliseconds.

Section 4.2.5. Open Access and Net Neutrality

Q: Should the Commission require a recipient to share its CASF-funded network with competitive providers?

The Commission should require CASF funding recipients to commit to open access network architecture as a condition of funding. Doing so will afford Californians access to the broadest range of applications and Internet service providers, provide ample opportunity for future project innovations and offerings and help ensure a competitive market for Internet protocol-based services.

Section 4.2.6. Adoption/Affordability

Q: Should a CASF applicant be required to submit a plan for encouraging adoption in the area proposed?

Adoption is an outmoded concept that should not be a CASF funding criterion since the public policy intent of CASF as expressed by the Legislature is to encourage deployment of high-quality advanced communications services to all Californians. While Internet "adoption" was relevant a decade or more ago when most people first began using the Internet for Web access and email as a premium, optional service, it is no longer the case today. The Internet now functions as an all purpose, global telecommunications platform capable of transporting a wide variety of applications including text, voice and one way and interactive video.

Q: Should there be a cap on monthly rates and/or should installation and other charges be waived for a specified period?

In order to speed deployment of advanced telecommunications infrastructure to all Californians and to minimize regulatory obstacles, there should be no limitations on rates or installation charges. Additionally, if the Commission requires CASF projects be open access networks, it would allow for market competition among Internet service providers that would serve as a natural check on rates.

Section 4.2.7. Performance Bond

Q: Should the Commission modify its performance bond requirements, or provide alternatives, to minimize delays but ensure performance? Should the performance bond requirement be replaced with another form of “security?” If so, what?

Given the use of public funds to aid in the deployment of critical telecommunications infrastructure, a performance bond is a reasonable requirement provided such instruments are readily available in the bond market. In addition, the Commission may consider additional requirements to ensure networks are deployed in a timely manner including reporting non-performing projects that cannot demonstrate factors beyond their control leading to delays to the Office the State Auditor and the Attorney General's Office and reporting these referrals publicly on the Commission's Web site.

Section 4.3.2. Utilizing Existing Right-of-Way and Existing Infrastructure

Q: To what extent may resources such as the public right-of-way and existing infrastructure be utilized in deploying broadband to unserved and underserved areas in California? Are these resources currently under-utilized for this purpose? Should the Commission promote participation of right-of-way owners such as railroad corporations and Caltrans in broadband deployment, either as partners in such projects, members of consortia, or otherwise? What other public or private entities may be able to facilitate broadband deployment? What role should the Commission play in involving such entities?

Given the pressing need for rapid deployment of advanced telecommunications infrastructure, public rights of way and existing infrastructure should be utilized to the maximum extent possible with coordination among state and local government entities to speed approval of access to and infrastructure deployment in these rights of way.

Dated: January 20, 2011

Respectfully submitted,
/S/ Frederick L. Pilot
President

Camino Fiber Network Cooperative, Inc.
P.O. Box 355
Camino, CA 95709
530-295-1473
fpilot@caminofiber.net

CERTIFICATE OF SERVICE

I, Frederick L. Pilot, certify under penalty of perjury under the laws of the State of California that the following is true and correct:

On January 24, 2011, I served the attached:

COMMENTS OF THE CAMINO FIBER NETWORK COOPERATIVE, INC. ON ORDER INSTITUTING RULEMAKING TO CONSIDER MODIFICATIONS TO THE CALIFORNIA ADVANCED SERVICES FUND INCLUDING THOSE NECESSARY TO IMPLEMENT LOAN PROGRAM AND OTHER PROVISIONS OF RECENT LEGISLATION

on all eligible parties on the attached list **R.10-12-008** by sending said document by electronic mail to each of the parties via electronic mail, as reflected on the attached Service List.

Executed this January 24, 2011, at Camino, California.

____/S/_____

Frederick L. Pilot

Service List for R.10-12-008

akrebs@csumb.edu
ben.hulet@mlode.com
bnusbaum@turn.org
brent@sedcorp.biz
ccase@atcaa.org
chabran@cctpg.org
Charlie.Born@ftr.com
cityattorney@ci.watsonville.ca.us
clenno@csumb.edu
cmemerson@csuchico.edu
conniestew@humboldt
dbforslund@gmail.com
dmrcandd@iwvisp.com
douglas.garrett@cox.com
DWTCPUCDOCKETS@dwt.com
erin@solstice-gis.com
esther.northrup@cox.com
Galdys.Palpallatoc@cetfund.org
gregg@rredc.com
jacque.lopez@verizon.com
janewhang@dwt.com
jeff@sdfutures.org
jesus.g.roman@verizon.com
john@spiralinternet.com
karp@humboldt.edu
kelly_c@co.lake.ca.us
krustrum@co.tuolumne.ca.us
lbest@contracostacouncil.com
lrice@psrec.coop

marg@tobiaslo.com
mca@cpuc.ca.gov
mdozier@csufresno.edu
michael@broadbandassoc.com
mike@ruralbroadbandnow.com
pacasciato@gmail.com
Phyllis.Whitten@ftr.com
plumasco@psln.com
rcosta@turn.org
robert.swayze@laedc.org
rwh@cpuc.ca.gov
sandi.romena@gmail.com
shance@atcaa.org
sheaton@rcrcnet.org
sierratec@gmail.com
Susan.Odom@BNSF.com
tara.thronson@valleyvision.org
teri@ShepherdsCrook.us
trp@cpuc.ca.gov