



June 13, 2017

Mr. Robert Wullenjohn
California Public Utilities Commission
505 Van Ness Avenue
San Francisco CA 94104

Dear Mr. Wullenjohn:

Sonoma County and Mendocino County have worked collaboratively in developing our attached joint general comments as a response to CASF Reform discussed in the May 25, 2017 workshop. We submit these comments as representatives of our respective two counties on the North Bay/North Coast Broadband Consortium only, and not on behalf of the entire consortium or the entire Oversight Committee.

We respect the work staff has undertaken on this project. However, we believe a number of areas will require additional review and deliberation prior to generating a final draft for CASF Reform consideration.

Sincerely,

Lynda Hopkins
Supervisor
Sonoma County

Dan Hamburg
5th District Supervisor
Mendocino County

Attachment (1)

CASF STRATEGIES DOCUMENT

All the strategies offered by the CPUC CD staff fail to recognize and give the importance to **competition** that is necessary to ensure quality performance and service by providers and to promote their ongoing investment in upgrades and new deployment of infrastructure. This is because none of the suggested strategies really remove barriers to participation in the CASF Program by smaller providers.

If the CASF Infrastructure Grant Account becomes an ILEC-only state program to reach the 98 percent goal in the short term, the state will be damaged in the long term. In essence, such a CASF Program would create monopoly power at the expense of smaller CLECS/WISPS/cable companies. One result will be an increase in market abuses which are inevitable with monopoly power and lack of competition.

Decision 07-012-054 (2007) which established the CASF specifically stated: *“This decision will also promote economic growth, job creation, and the substantial social benefits by ensuring the rapid implementation of advanced information and communications technologies through adequate long-term investment in the necessary infrastructure throughout the state, and not just in urban areas.”*

We believe “open” competition must be a keystone ingredient in the CASF Program going forward to ensure the best long-term results from this investment. Competition is what keeps a check on market abuses.¹ Without competition, the CASF investment in what “may” be adequate speeds for now will also stagnate infrastructure upgrades and new deployment, especially in rural California, while data consumption/speed needs continue to rise in the coming years.

Strategy 1: Rely on Charter and Frontier Buildout Obligations

We concur with the CPUC CD staff conclusion that this strategy cannot be prospectively measured and in its current state cannot be relied on to achieve California’s broadband goal of 98 percent.

¹ Market abuses in the Business Data Services is estimated at 50% according to the Consumer Federation of America 2016 report.

Given that these two providers committed to provide significant broadband services to additional households as part of the Commission's approvals of their acquisitions, we recommend the Commission re-engage these two providers.

Specifically, the Commission should request Charter and Frontier to submit deployment plans against their commitments to the Commission, by December 31, 2017. The actual deployment plans these two providers would inform the Commission, regional consortia, counties, communities and consumers as what to expect and what areas still needed to be reached. In essence, unless we all know *where* and *when* they will meet their commitments to the Commission we will need to proceed on the assumption that they will not help attain the California broadband goal.

Strategy 2: Rely on CAF Phase II Commitments

The CPUC CD staff makes the case why this strategy involving Frontier and AT&T should not be relied on to achieve California's broadband goal. At best, this strategy is a major step backwards for California involving the use of dated infrastructure and technology, and providing access at speeds below the existing California standards. Back in 2006 when the CASF program was being considered, in Rulemaking 06-06-028 (p 4) it was stated, ".... The CASF program should provide leadership in promoting broadband deployments in CA and not rely on federal programs to solve CA problems." This is still true today, and in order to be a leader we would add that the California speed standards should be aligned with the FCC 25/3 standards now and maintain such alignment going forward.

Strategy 3: Align CASF Program with the FCC's CAF II Program

The Central Coast Regional Broadband Consortium, in response to the CPUC CD staff whitepaper "*High Impact Areas for Broadband Availability*", called for the Commission use the FCC 25 Mbps download/3 Mbps upload standards instead of the 10/1. Likewise, NBNCBC recommended to the authors of AB 1665 that California align to the FCC 25/3 standards and in the future, maintain alignment with the federal standards. **Exhibit #1** provides the rationale we sent in support of our position for amending AB 1665.

We urge the Commission to assert its leadership by not lowering the current California standards which would only harm California. For rural areas to be able to compete in the global economy they must be capable of being *producers* of content, which means adequate upload speeds. Videoconferencing and other 2-way communication applications, and cloud storage require adequate upload speeds. Projects that are funded now must be able to meet future needs as well. Instead, California should stretch by adopting 25/3 now. Already nearly 95 percent of the households throughout California have access to 25/3 or better. We should not settle for anything less for the remaining unserved and underserved areas across the state.

ILECS will claim that without this adjustment of speed thresholds, that the PUC is "precluding" the leveraging of federal funds with state funds and that residents will be asked to "pay

twice” if these speeds are not adjusted. However, you do not reach a desired outcome (more served households) by changing the definition of the desired outcome itself, so it looks like you have reached the goal. That is exactly what the ILECs want the PUC to do, even though the standards existed when the ILECs accepted federal funding. Federal funding can be leveraged simply by the ILECs meeting the PUC “served” definition and therefore keep any potential competition out while maintaining a competitive environment which is so essential in the telecommunications ecosystem.

Strategy 4: Fund Effective Solutions

Strategy 4a: Focus on Unserved and Underserved Households in Territories of Frontier and AT&T

There are two reasons we believe this strategy is flawed. First, it makes the CASF Program non-competitive by precluding other providers the opportunity to seek a CASF grant to mount a project. Second, unless these providers will agree in writing to deploy at a minimum of 25/3 standards, it utilizes CASF grant funds that will still leave these areas underserved, probably for many years to come.

Strategy 4b: Focus on Underserved Households in General

The CPUC CD staff states why focusing on underserved households is too limiting as it runs the risk that unserved communities will remain unserved. However, pockets of unserved areas are often found in these underserved areas. Therefore, NBNCBC recommends that future CASF grant funded areas include unserved, under-served, or both areas.

Strategy 4c: Rely on Fixed Wireless

Fixed Wireless (FW) must be *part* of the complete strategy to meet the needs of California, and so modifications should be made to make the program friendlier to the unique needs of smaller FW providers by actively soliciting input from local WISPs as to their barriers to participation (such as the difficulty in mapping out a finished network, inability to provide 100% coverage in an area, inability to meet matching portion of grant requirement). This type of solution could be very cost-effective, but will not be able to meet the needs in heavily forested areas so hybrid applications should be encouraged/promoted and have needed flexibility to meet the unique needs of each area. Any fixed wireless projects to be funded must however be able to meet speed standards, no data limits (or very large data limits) and have bandwidth potential growth over time. The unique needs of FW providers may also involve changes in applications requirements such that recurring fixed costs (back-haul) are subsidized while the network is developed at each subscriber premise location.

Recognizing that wireless technologies of any kind (mobile or fixed) require a strong wired infrastructure, middle-mile projects should be funded as *open-access* middle mile projects. This builds a foundation upon which more projects can be built.

Strategy 5: Fund Commission Identified Areas

We found the write up for this strategy to be unclear and somewhat confusing. If we understand what happened between the time the original white-paper “*High Impact Areas for Broadband Availability*” was issued and the current document the CPUC CD staff determined that only eight (8) of the original 13 areas identified remained using the methodology. So, the methodology was revised adding different new areas depending on adjusting filters—Tables 2-8. In all cases the original eight areas, including Bolinas, Marin County (part of NBNCBC) remained.

Based on our review we would support the scenario in Table 4, which has 29 high impact areas. We also support the “fast track” application with two caveats. First, an application for any of these 29 high impact areas must be submitted by June 30, 2018. Second, the project must provide a minimum of 25 Mbps download/ 3Mbps upload to each household in the project.

Strategy 6: Fund Line Extensions

We support this strategy as a component of an overall strategy.

Strategy 7: Fund Expenses Beyond Deployment Costs

We supports this strategy to fund limited operating costs which may be necessary in beginning stages to make a network sustainable.

The Commission should investigate why the loan program is underutilized, when matching portions of the grant requirements are often problematic for smaller ISPs.

PROPOSED OVERALL STRATEGY

Based on our analysis and comments of the CPUC CD strategies above, we propose the following overall “Open Competition Strategy” for implementing the CASF Broadband Infrastructure Grant Account going forward. We envision a four-phased approach.

Phase 1. July 1, 2017 - September 30, 2017

The Commission Updates and Adopts its Speed Standards, Policies and Processes for the Infrastructure Grant Account

- The Commission approves new broadband standards for California to align with the FCC standards—25 Mbps download/3 Mbps upload (*This is our alternative to Strategy #3 above*).

- The Commission adopts the policy to remain aligned with the FCC standards as they increase over time. (*SEE Exhibit #1 for rationale*)
- The Commission adopts Strategy #5, High Impact areas Identified in Table 4.
- The Commission issues a call for applications for projects of these High Impact areas using the proposed “Fast Track” application process with the caveats the project deployment will be at 25/3 and this process will conclude June 30, 2018.
- The Commission adopts Strategy #6-Funding Line Extension and Strategy #7-Fund Expenses beyond deployment cost.
- The Commission specifically researches/surveys why participation by Fixed Wire-less providers has been lacking in the program, and identifies specific barriers. Responses to outreach lead Commission to develop application procedures specific for FW providers and/or smaller providers to meet their unique needs. This increases the overall competitive ecosystem necessary for continued infrastructure investment.
- The Commission researches/surveys why participation in the loan program has been lacking, and identifies specific barriers. The Commission then develops procedures specific to address these barriers.

Phase 2. October 1, 2017 - December 31, 2017

Assess and Update the Needs and Determine which Providers are Prepared to Participate and Compete

- The Regional Planning Consortia provide the Commission with a comprehensive Statement of Need based on the new standards and policies including identifying potential providers they have been encouraging to play.
- The Commission collects the latest data (Form 477) from all providers reflecting their broadband services in California as of December 31, 2017.
- The Commission requests Frontier to provide deployment plans for the 400,000 households it committed to provide access to at 25/2-3 by December 31, 2022 (*See Strategy 1 above*).
- The Commission also asks Frontier for deployment plans for the 250,000 households at 10/1 and the 100,000 at 6.5/1 it committed to in the agreement. As part of this request the Commission asks Frontier its willingness to provide access to these households at 25/3 and if so would they be participating in the CASF Program.
- The Commission requests Charter to provide its plans for its commitments (*See Strategy 1 above*) for deployment of broadband by December 31, 2019.
- The Commission requests AT&T for its deployment plans through 2020 for the 141,000 locations at 10/1, funded by CAF II (*See Strategy 2 above*). As part of this request, the Commission asks AT&T its willingness to provide access to these 141,000 locations at 25/3 and if so would they be participating in the CASF Program.
- The Commission requests Frontier for its deployment plans through 2020 for the 90,000 locations funded by CAF II (*See Strategy 2 above*). As part of this request,

the Commission asks Frontier its willingness to provide access to these 90,000 locations at 25/3 and if so would they be participating in the CASF Program.

- The Commission requests all providers and other eligible parties to submit a one-page prospectus for each deployment project at 25/3 or better they are planning to implement whether or not they will be seeking a CASF Broadband Infrastructure Grant to help them implement their projects.

Phase 3. January 1, 2018 - June 30, 2018

The Commission Updates the Status and Need for Broadband Deployment

- Based on the input from Phase 2 the Commission staff produces a preliminary report that updates the CPUC Broadband Availability Data Base and Maps by February 28, 2018. The report also provides a draft set of strategies to move forward.
- The CASF CD staff issues a call and receives comments on this preliminary report by March 31, 2018.
- The CASF CD staff revises and submits its final report, with strategies to the Commission for adoption by May 31, 2018.

Phase 4. July 1, 2018

The Commission Launches an Open Competition for grants in the CASF Infrastructure Grant Account

- The Commission initiates an open competition for grants from the CASF Infrastructure Grant Account for all self-identified prospective providers (Phase 2), based on the standards, policies, processes and strategies (Phase 1) and the staff report (Phase 3) it has adopted.

(Exhibit #1 next page)

EXHIBIT #1

When AB 1665 was introduced on February 17, 2017 NBNCBC recommended four amendments to the authors of the bill. One of those amendments was to have California adopt and stay aligned with the FCC standards in the future, starting now at 25/3. In support of our recommendation we offered the following rationale.

California should adopt the FCC standards (currently 25 Mbps downstream and 3 Mbps upstream).

In its final report issued in January 2008, **“The State of Connectivity: Building Innovation**

Through Broadband,” the California Broadband Task Force recommended seven key actions to help our state achieve fast, reliable and affordable broadband services. The first recommendation was:

“Build out high-speed broadband infrastructure to all Californians.”

In making its recommendations, the California Broadband Task Force stated, “Advancing new incentives for deployment and improving existing programs will create a world-class broadband infrastructure for California.” The CASF Program was designed to be the state’s keystone program to providing access to high-speed broadband services to ALL Californians and to create a world-class broadband infrastructure throughout the state.

After nearly a decade we still have not achieved these two goals—Broadband access to ALL Californians and deploy a world-class infrastructure.

At the national level in February 2011, the Federal Communications Commission (FCC) created the **National Broadband Plan (NBP)** wherein the FCC observed that, “Broadband is the great infrastructure challenge of the early 21st century.” The NBP recommended seven long-term goals, of which the first was:

“At least 100 million homes should have affordable access to actual download speeds of at least 100 Megabits per second and actual upload speed of at least 50 Megabits per second.”

Over the years several federal programs have been created to help fund and achieve this national goal. This goal has yet to be achieved nationwide.

An examination of the amount of grant funds from these federal programs to California

projects shows we have not reaped the magnitude of benefits we might have over the past decade. One major factor contributing to the shortfall is the fact that over the past decade the California broadband speed standards, set by the CPUC, have never matched the national broadband speed standards, set by the FCC. Here is what has happened:

- Prior to February 2012 the CPUC speed standards were 3 mbps download and 1 mbps upload.
- On February 1, 2012, the CPUC (Decision 12-02-015) revised the speed standards to require a 6 mbps download and 1.5 mbps upload for a household to be rated as “served”.
- Meanwhile until January 29, 2015 the FCC speed standards were 4 mbps download and 1 mbps upload.
- Between 2012 and 2015 CPUC Commissioner (Catherine Sandoval) and CETF CEO (Sunne McPeak) worked to get the FCC to adopt the California standards so the state and national standards would be identical.
- On January 29, 2015 the FCC adopted 25 mbps download and 3 mbps upload as the national speed standards.

By adopting the FCC standards California can once again assert its leadership role in broadband infrastructure deployment and access. If we do not adopt these standards, we then cede this leadership position to the likes of the State of New York. New York State, through its Economic Development Department, is in the midst of spending \$500 million to deploy broadband infrastructure throughout the 11 economic regions of the state. The plan calls for providing a minimum of 25 mbps to households and 100 mbps to as many locales as possible.

Yes, adopting the FCC standards does increase the number of underserved/unserved households statewide from 618,719 to 745,587, or a one (1%) percent increase. **This means that the 126,868 households currently rated “served” with broadband access between 6.0/1.5 mbps and 25/3 mbps will need to have their services upgraded to meet the new standards.**

NBNCBC believes it makes sense for California to adopt these FCC standards. And, going forward to have the CPUC work with the FCC to ensure that California and FCC standards remain identical in the future.