

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 23, 2021

To: California Advanced Services Fund Service and Distribution Lists

Re: Elimination of the Right of First Refusal and Postponement of the February 28, 2022, California Advanced Services Fund Infrastructure Application Deadline

By this letter, the California Public Utilities Commission (Commission or CPUC) makes two changes related to the California Advanced Services Fund (CASF) Infrastructure Account: (1) the Right of First Refusal (ROFR) has been eliminated; and (2) the CPUC postpones the February 28, 2022, deadline for submission of new CASF Infrastructure applications to Q3 2022.

Background

Senate Bill (SB) 156, enacted and effective on July 21, 2021, made many changes to the CASF. Additionally, SB 4 and Assembly Bill (AB) 14, enacted and effective on October 8, 2021, continued funding of the CASF program beyond 2022 to December 31, 2032.

Elimination of the Right of First Refusal

In SB 156, the Legislature eliminated the section that established the ROFR opportunity for incumbents (formerly at Public Utilities (Pub. Util.) Code Section (Sec.) 281(f)(4)). Thus, the ROFR process established in CPUC Decision (D.) 21-03-006 and D.18-12-018 is no longer applicable. Accordingly, effective immediately, the ROFR submission deadline and Communications Division Staff publishing of the ROFR determination and updates to the Broadband Availability Map are no longer operative.

Postponement of the February 28, 2022, CASF Infrastructure Application Deadline

In D.21-03-006 and D.18-12-018, the CPUC established timelines for submission of applications for the CASF Infrastructure Account. On March 26, 2021, the Commission postponed the deadline for the 2021 CASF infrastructure grant application submission from April 1, 2021 to February 28, 2022, due to the opportunity to leverage funding from the Federal Communications Commission's (FCC) Rural Digital Opportunity Fund (RDOF) Phase I Auction 904.¹

As noted above, recent legislation made many changes to the CASF. Some of the changes relevant to the CASF Infrastructure Account include:

- Redefining “unserved area”—The previous definition was “unserved household,” meaning a household with service at six megabits per second (Mbps) downstream and one Mbps upstream. The current operative definition is: “unserved area means an area for which there is no facility-based broadband provider offering at least one tier of broadband service at speeds of at least 25 Mbps downstream, three Mbps upstream, and a

¹ See <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/casf-infrastructure-and-market-analysis/march-26-2021-letter-on-deadline-postponement.pdf>. This announcement was conveyed in a letter sent March 26, 2021, to the CASF Service and Distribution Lists.

latency that is sufficiently low to allow realtime interactive applications, considering updated federal and state broadband mapping data.”² The statute also replaced the references to “households” with “areas.”

- Priority to areas with slow or no internet—Previously, the CPUC was to give preference to projects in areas with only dial-up service or no service. Now, the CPUC is to “prioritize projects in unserved areas where internet connectivity is available only at speeds at or below ten Mbps downstream and one Mbps upstream or areas with no internet connectivity.”³
- Serviceable locations—The CPUC “shall transition CASF program methodologies to provide service to serviceable locations and evaluate other program changes to align with other funding sources, including, but not limited to, funding locations.”⁴
- Elimination of “indispensable middle-mile” language—The Legislature eliminated the section that discussed the requirements for funding middle-mile infrastructure, if it is indispensable for last-mile service, formerly Pub. Util. Code Sec. 281(f)(5)(B).
- Elimination of prerequisites for local agency infrastructure grants—Formerly in Pub. Util. Code Sec. 281(f)(9), local agencies could only receive an infrastructure grant if the CPUC “has conducted an open application process, and no other eligible entity applied.” This section has been eliminated, so that local agencies now have greater eligibility for funding.

Postponing the upcoming application deadline until after the Commission implements key changes in the CASF from SB 156, SB 4, and AB 14 will allow the Commission and stakeholders to better achieve the goals of the program.

Pursuant to Rule 16.6 of the CPUC’s Rules of Practice and Procedure, the Commission’s Executive Director may extend deadlines set forth in CPUC decisions. I therefore authorize the deadline for 2021 the CASF infrastructure grant applications to be postponed from the current date of February 28, 2022 to Q3 in 2022 (exact date to be announced in a subsequent letter or CPUC decision).

This letter is being served on the CASF Distribution List and the Service List for Rulemaking 20-08-021 via email.

Sincerely,



Rachel Peterson
Executive Director

² See Pub. Util. Code Sec. 281(b)(1)(B)(ii)(I).

³ See Pub. Util. Code Sec. 281(b)(2)(B)(ii).

⁴ See Pub. Util. Code Sec. 281(b)(4).