COM/CAP/avs **Date of Issuance 7/27/2015**

Decision 15-07-007 July 23, 2015

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Conduct a Comprehensive Examination of the California Teleconnect Fund.	Rulemaking 13-01-010 (Filed January 24, 2013)

DECISION RESOLVING PHASES 1 AND 2 ISSUES REGARDING THE CALIFORNIA TELECONNECT FUND

Table of Contents

Title **Page**

Table of Contents
Con't.

DECISION RESOLVING PHASES 1 AND 2 ISSUES REGARDING THE CALIFORNIA TELECONNECT FUND

Summary

This decision resolves the Phase 1 and 2 rulemaking issues for the California Teleconnect Fund (CTF) program by adopting restated program goals and a number of program design reform measures. The restated goals articulate the Commission's updated commitment to meeting its statutory obligations in support of universal access goals in the context of technological advances and public policy changes since the last major program evaluation in 2008. The program reform measures take into account both the successes of the program to date and the need for further adjustment and guidance to improve on those successes and make certain corrections for the program going forward.

Today's decision relied upon the significant input from all stakeholders and the Communications Division (CD) Staff. The Commission's comprehensive examination of the CTF program benefitted immensely from the input provided by the CD Staff, the important work undertaken by the parties, much of it reflected in the Joint Consensus Recommendations Report developed by the parties in response to CD Staff's Proposal and the many proposals and comments from affected stakeholders. The record reveals a wide range of consensus on a number of issues.

The most important issue on which there was unanimous agreement is that the CTF program is an effective and successful program that provides eligible participants with direct access to high-speed broadband internet service. The Commission heard this view expressed across the entire range of stakeholders, in a wide range of settings in this proceeding: formal written comments and proposals, participation in workshops, public participation hearings and through the website based portal that provided an additional, user-friendly format for participants with an interest in the proceeding that wished to participate online. The Commission was told that the expansion of the program in recent years, in both dollars and participants, was due in large measure to the great need for more affordable internet access throughout California.

In summary, today's decision adopts restated program goals, retains the fifty percent (50%) discount structure for all eligible CTF services except for voice where a 25% discount will apply, sets new eligibility criteria for participants, service providers and CTF services, directs service providers to post and submit CTF contact information, customer service and eligible service information, including pricing information after the Phase 3 decision further develops the reporting requirements, and begins a reduction of subsidies for voice and phase out of data plans services.

1. Background

This proceeding is the first comprehensive examination of the California Teleconnect Fund (CTF) program since the Commission's review of its universal service public policy programs, including CTF, beginning in 2006. That review resulted in Decision (D.) 08-06-020, which expanded to include California community colleges with an annual cap as a category eligible for the CTF discount as well, added internet services to the types of eligible services, allowed internet service providers (ISPs) to partner with certificated and wireless carriers to provide internet services, added community-based organizations (CBOs) providing 2-1-1 information and referral service to the types of eligible entities, and made California Telehealth Network (CTN) participants, funded by the pilot federal rural health care program, eligible for the CTF program.

Since that time, the CTF budget grew from $60 million in FY 2009-10 to approximately $108 million in FY 2014-15. The FY 2015-16 budget increased to $148 million, 37% above the previous year. Budget drivers have included new rules expanding the types of eligible participants, services and service providers, outreach to CBOs and a lack of price or quantity limitation on services. Program administration accounts for less than 10% of the program budget.

The Commission instituted this Order Instituting Rulemaking (OIR) in recognition of the CTF's important role in bridging the digital divide. The OIR provided the vehicle to further the important goal of bringing the benefits of advanced communications services to all Californians, while also ensuring that California ratepayers' money is spent prudently. Broadly stated, the Commission sought to consider whether the CTF is fulfilling its purpose and whether the CTF's current structure and administrative processes are adequate to further the program's goals.

Accordingly, the November 5, 2013 Scoping Memo and Ruling divided this proceeding into three phases: Phase 1 considered the proposed Restatement of Goals; Phase 2 looked at proposals for program design revisions and reforms, specifically examining program participation and service eligibility, discount levels and cost containment measures as appropriate and, Phase 3 which will examine program administration, results measurement and implementation issues.

2. Procedural Background

The Commission issued the OIR to Conduct a Comprehensive Examination of the CTF on January 24, 2013, Rulemaking (R.) 13-01-010. Following a round of initial comments[1] and replies[2] from parties, the Joint Assigned Commissioner and Administrative Law Judge Ruling issued on May 2, 2013 proposed a restatement of CTF goals for comment with the intention that a refined statement of foundational principles would provide guidance for the proposals on program design and administration anticipated in Phases 2 and

---

[1] Opening Comments were filed by The Utility Reform Network (TURN); U.S. TelePacific Corp., MPower Communications Corp. (TelePacific); Division of Ratepayer Advocates (DRA) now known as the Office of Ratepayer Advocates (ORA); Corporation for Education Initiatives in California (CENIC); California Association of Competitive Telecommunications Companies (CALTEL); Sprint Communications Company, L.P. and Cox California Telcom, LLC (Sprint/Cox); Center for Accessible Technology (CforAT); California Community Colleges Chancellor's Office (CCCO); SureWest Telephone, SureWest Televideo, SureWest Long Distance (SureWest); Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, The Ponderosa Telephone Co., Sierra Telephone Company, Inc., The Siskiyou Telephone Company, Volcano Telephone Company, Winterhaven Telephone Company, Foresthill Telephone Co., Pinnacles Telephone Co. (the "Small LECs"); Verizon California Inc., MCI Communications Services, Inc., MCImetro Access Transmission Services, TTI National Inc., Teleconnect Long Distance Services & systems Company, Verizon Enterprise Solutions, LLC., Verizon Long Distance, LLC, Verizon Select Services, Inc., Cellco Partnership, California RSA No. 4 Limited Partnership, Fresno MSA Limited Partnership, GTE Mobilenet of California Limited Partnership, GTE Mobilenet of Santa Barbara Limited Partnership, Los Angeles SMSA Limited Partnership, Modoc RSA Limited Partnership, Sacramento Valley Limited Partnership, Verizon Wireless (VAW) LLC., WWC License L.L.C. (Verizon); Pacific Bell Telephone, AT&T Corp., f/k/a AT&T Communications of California, Inc., Teleport Communications America, LLC, f/k/a/ TCG San Francisco, AT&T Mobility LLC., New Cingular Wireless PCS, LLC, AT&T Mobility Wireless Operations Holdings, Inc., Santa Barbara Cellular Systems Ltd., New Cingular Wireless PCS, LLC. (AT&T).

[2] Reply Comments were filed by Verizon, SureWest, Sprint/Cox, CENIC, AT&T, CCCCO, TURN and ORA.

3. Parties filed Comments on the proposed restatement of goals on May 31, 2013.[3] Reply Comments were filed on June 7, 2013.[4] Prehearing Conference Statements were also filed on June 7, 2013.[5] A prehearing conference (PHC) was held on June 19, 2013.

In support of the OIR and in response to the parties' requests in comments and prehearing conference statements for current program data, Communications Division (CD) Staff prepared a comprehensive data request seeking current program status information from all current CTF participating service providers. The September 6, 2013 Administrative Law Judge (ALJ) Ruling directed all CTF service providers to respond to the CD Data Request by October 7, 2013.

The assigned Commissioner issued a Scoping Memo and Ruling on November 5, 2013 (Scoping Memo) setting the scope and schedule for the rulemaking in three phases. Having reviewed the initial comments by parties in response to questions in the rulemaking (R.13-01-010) and in response to the restatement of goals, the Scoping Memo and Ruling determined that the proposed decision on Phase 1 addressing the restatement of goals would issue together with the Phase 2 proposed decision. This would allow the determination of the goals to be informed by the broader record on program design proposals.

---

[3] Comments were filed by TURN, Spring/Cox, CENIC, TelePacific, ORA, AT&T, and the Small LECs.

[4] Replies were filed by Verizon, Spring/Cox, ORA, CCCCO, TURN, CENIC, CforAT, and AT&T.

[5] PHC Statements were filed by AT&T, ORA, Sprint/Cox, CENIC and TURN.

The Scoping Memo directed the CD Staff to prepare and distribute an initial proposal that included a program overview, current status report and recommendations on Phase 2 issues no later than December 31, 2013. The Scoping Memo directed that the CD Staff Proposal would include, at a minimum, recommendations that:

1) Provide additional specificity to universal service goals,
2) Propose changes to eligibility requirements for CTF participation;
3) Clarify and discuss new and existing service provider status;
4) Propose changes to the discount mechanisms for CTF-eligible service;
5) Propose changes to the eligibility of certain services while holding workshops to ultimately develop recommendations on specific services that will be eligible for CTF discounts; and
6) Propose transitional measures that may contain costs and seek workshop input on further cost-containment measures.

The CD Staff Proposal was served on January 16, 2014. Parties provided Phase II proposals and responses to the CD Staff Proposal on February 14, 2014. Workshop presentations by CD Staff and the parties were served on February 21, 2014. A webpage devoted to the CTF Proceeding was created on the Commission's website. The CD Staff Proposal and the Parties' workshop presentations were posted to the webpage on March 3, 2014. The assigned ALJ facilitated the first Phase 2 Workshop which was held on March 10, 2014. CD Staff served a Workshop Summary on March 24, 2014.

CD Staff distributed the *California Teleconnect Fund OIR Data Request #1 Results Report* to the service list on April 30, 2014. CD Staff also revised the January 16, 2014 proposal to reflect the parties' proposals, the March 10 Workshop proceedings, and the Data Request results. CD Staff served ***CTF 2.0: Connecting California*** *Staff Proposal for the California Teleconnect Fund Revised, May 2014* report (CD Staff Revised Proposal) on May 30, 2014.[6] Given that the CD Staff Revised proposal included new proposals and some substantial revisions to their original report, an additional round of alternative proposals from parties was allowed. Parties' Comments and Alternative Proposals in response to the CD Staff Revised Proposal were filed and served on June 30, 2014.

A second Phase 2 Workshop was held on July 1 and July 2, 2014. The workshop was divided into two parts. First, an informational exchange in question and answer format took place between staff and the parties over July 1 and the morning of July 2 covering the CD Staff's and Parties' Alternative

[6] Filed and entered into the record by February 19, 2015 ALJ Ruling.

proposals. Second, the parties met without staff on the afternoon of July 2, with the ALJ in attendance, to further discuss key issues and to identify areas of consensus, partial consensus and disagreement. The Workshop Participants' Joint Summary of Workshop Discussions and Consensus Recommendations (Workshop Report) was filed and served by CALTEL on behalf of the workshop participants on July 11, 2014. The parties continued discussions outside the noticed workshops to develop consensus recommendations. The same parties requested additional time to continue discussing issues identified in the Workshop Report and to develop other agreements prior to submitting final comments. By an August 1, 2014 ALJ Ruling, the Comment and Reply deadlines were extended and leave was granted to continue discussions and submit a filing memorializing these discussions. Post-workshop discussions continued from July 30 through September 9, 2014. The Joint Parties[7] filed a ***Joint Consensus Recommendations and Discussion Summary Report*** on September 9, 2014.

Two Public Participation Hearings were held on July 29, 2014 and July 31, 2014, respectively.

---

7 Joint Parties are AT&T, Butte county Office of Education, California Association of Nonprofits (Cal Nonprofits), CALTEL, CCCCO, California Emerging Technology Fund (CETF), California Library Association (CLA), California Primary Care Association (CPCA), California Telehealth Network (CTN), CforAT, CENIC, Comcast Phone of California, LLC, Sprint/Cox, Greenlining Institute (Greenlining), ORA, SureWest, TelePacific, the Small LECs, TURN, Verizon, telecom of California LP.

Comments on all Phase 1 and 2 issues were filed on October 9, 2014.[8] Replies were filed on October 21, 2014.[9]

In addition to the proceedings' scheduled activities, the Commission's webpage hosted a comment portal for this proceeding. Comments were received at various stages by a wide range of stakeholders, many of whom were CTF participating small CBOs.

3. Restatement of Goals

As noted above, the May 2, 2013 Joint Assigned Commissioner and Administrative Law Judge's Ruling presented a proposed Restatement of Goals for the CTF program and invited the parties to comment. Upon review of the filed comments and replies, it was determined that consideration of the restatement of goals was sufficiently intertwined with program design reform issues such that the Phase 1 and Phase 2 issues should be considered together. Subsequent to receiving responses to the proposed Restatement of Goals, Phase 2 continued and program goals were addressed by the original and revised Staff Proposals, the Parties' alternative proposals, to some extent in the two Phase 2 workshops, Final Comments and Replies. The Joint Consensus Recommendations did not include a proposal on the restatement of goals. We have considered the support, proposals for modification and opposition from the

[8] Opening Comments were filed by AT&T, CCCO, Joint Consumers (Joint Consumers are TURN, CforAT and Greenlining), CENIC, CTN, the Small LECs, SureWest, Verizon, ORA, and Competitive Providers (Competitive Providers are California Cable and Telecommunications Association, Charter Fiberlink CA-CCO, Sprint and Cox).

[9] Replies were filed by CLA, the Small LECs, Joint Consumers, Verizon, CENIC, CCCCO, AT&T, ORA and the Competitive Providers.

full record of stakeholder positions in developing the Restatement of Goals we adopt today.

Consideration of a restatement of goals along with the Phase 2 program design reform proved to be very constructive. It became clear from the parties' comments and the full discussion of design elements that the initial attempt to capture the essence of the CTF program in articulated goals had produced unintended ambiguities giving rise to confusion, rather than clarification. For example, the proposed restatement of goals number 1 stated a goal of support for "adoption of advanced telecommunication technology to achieve the societal goals of equity access to public safety services, education, training, employment, job creation and economic development." Parties pointed out that this language created an implication that the Commission intended to expand the CTF program far beyond both its statutory mandate and prior eligible goals and services. AT&T, Joint Consumers,[10] ORA, Sprint/Cox, and Comcast opposed adding access to public safety services, education, training, employment, job creation and economic development to the goals of the CTF program. As they pointed out, public safety services are but one critical service that high-speed broadband service makes accessible, but it is neither the object of the CTF program design nor a measure of program success. Attempting to include a comprehensive list of the many societal benefits of high-speed broadband service is unnecessary and ultimately confusing in this context.

---

[10] Joint Comments of the Center for Accessible Technology, the Greenlining Institute and the Utility Reform Network, "Joint Consumers," on Phase 1 issues, Phase 2 issues and Party Proposals, October 9, 2014, at 3.

Further, discussion of the eligibility criteria for participants and services made it clear that program design questions had been conflated with the overarching objective of the CTF program in the initial language of the proposed restatement of goals. We agree with the Joint Consumers that the focus of the restated goals should be on clarifying current efforts rather than using the goals to expand or redirect the program. CD Staff presented a more succinct restatement of goals, free of program design elements and inventories of benefits that can potentially be accessed through the high-speed, broadband services to which CTF discounts are applied. CD Staff reasoned that the goals should articulate the type of service and the type of access that the program aims to support, in order to give the Commission and the people of California a means to evaluate whether the CTF subsidies are achieving the Commission's universal service objectives. We agree.

Today's decision adopts the CD Staff's proposed restatement of goals, with revisions based on parties' proposals and comments as follows:

1) Advance universal service by providing discounted rates to qualifying schools, maintaining pre-school, kindergarten or any of the grades 1 to 12, inclusive, community colleges, libraries, hospitals, health clinics and community organizations.[11]
2) Bring every Californian direct access to advanced communications services in their local communities;
3) Ensure high-speed internet connectivity for community CTF-eligible institutions at reasonable rates; and

[11] Restatement of Goals, #5, Appendix A, May 2, 2013 Joint Assigned Commissioner and Administrative Law Judge's Ruling.

4) Increase direct access to high-speed internet in communities with lower rates of internet adoption and greater financial need.

Discussion:

The record reveals broad based support for several of the goals we adopt today. Goal 1 was supported by a broad cross section of parties representing divergent interests.[12] It was first proposed in the Restatement of Goals proposed by Ruling to start Phase 1 of this proceeding. ORA originally proposed that it be moved from Goal 5 up to the first goal given the need to clearly embrace the Commission's universal service principles and to identify the means by which the CTF would advance those principles, namely, discounted rates for eligible entities. Naming the statutorily eligible recipients would underscore the Commission's commitment to realizing the objectives of the CTF statutes.

CD Staff's Revised proposal did not include this goal. However, the Comments received in response to the CD Staff's restatement and the final comments in this proceeding on Phase 1 and Phase 2 issues indicated continued support for this goal.

Goals 2 through 4 above are taken from CD Staff's Revised Proposal restated goals with a few but significant revisions. CD Staff's revised restatement of goals was supported by CENIC and CETF, in full. Other parties have supported a subset of the goals or have supported each with modifications. We will discuss each in turn.

---

[12] May 31, 2013 Comments by: AT&T, at 3; the Competitive Providers (Comcast, Cox, Sprint,) at 4-5; ORA, at 3-5 and the Small LECs at 3 and Appendix A.

We adopt Goal 2: bring every Californian *direct* access to advanced communications services in their local communities. We add the word "direct" to clarify that the CTF is to be targeted at in-person, hands-on access to qualifying services.[13] Adding "direct" eliminates any ambiguity that it would be otherwise permissible to utilize CTF discount funding to support an eligible organization's general administrative processes or otherwise defray the costs of operations. This distinction provides needed clarity and focus for the associated eligibility criteria addressed below.

Goal 3 is adopted as follows: insure high-speed internet connectivity for community *CTF-eligible* institutions at reasonable rates. This goal is supportive of the prior two goals but is more specific in identifying the mechanism utilized to close the digital divide, that is, to target community-based institutions to which the public has access as the appropriate recipients of CTF service discounts in order to enhance affordability of internet access. CD Staff had pointed to the Commission's recognition of anchor institutions as vehicles for realizing universal service goals, citing Commission comments related to infrastructure development submitted to the FCC.[14] However, the use of the term "anchor institution" generated significant controversy in parties' comments. The Competitive Providers objected to its use, claiming that including the term "anchor institutions" would result in an expansion of the CTF program beyond

---

[13] This discussion of "direct" access is separate from the participant criteria that requires participants to provide access to the internet through two screening points: 1) whether the applicant entity's organization provides direct or indirect benefits in the categories targeted by the CTF, *i.e.* health care, job training, job placement or educational instruction, and 2) whether the CTF discount will be applied to provide direct access to high-speed broadband internet service to reach those benefits. This discussion is found below Section 2.

[14] CD Staff Revised Proposal at 8, footnote 14.

the statutory limitations on eligible participation, had not been literally included in authorizing statutes and was otherwise overly broad and too vague to be meaningful without more thorough definition in the CTF rules or goals.[15] Without addressing the merits of these claims, we instead substitute ORA's suggested language as an equally effective and statutorily derived synonym for "anchor" institutions.

Goal 4 is adopted as follows: increase *direct* access to high-speed internet in communities with lower rates of internet adoption and greater financial need. This goal highlights the intent to target those for whom internet access is a financial hardship or impossibility. As Verizon pointed out, the concept of "need" should be expressly included.[16] While we do not agree that CD Staff's goal was overly broad, the point is well taken that the goals should explicitly state that CTF discounts on broadband services are intended to benefit target populations that are most in need. The original CD Staff proposal was slightly different and included the phrase "internet access penetration." This phrase is redundant and may be at cross purposes given that the CTF covers service costs, not infrastructure costs. Accordingly, we have eliminated this one word. We have added "direct" to the access reference for the same reasons stated for Goal 2 above.

---

[15] Comments of Cox, Sprint and Comcast ("Competitive Providers") (May 31, 2013) at 3; AT&T Comments (May 31, 2013) at 2; CforAT Comments (May 31, 2013) at 5; and TURN Comments at 3.

[16] Verizon California Inc. Opening Comments on Staff's Proposed Changes to the California Teleconnect Fund Program, October 8, 2014 at 3.

4. Eligibility Criteria for Participants

CD Staff proposed rules to clarify and refine the eligibility criteria to be applied to current and future participants. CD Staff noted that the CTF recognizes the economic and social benefits provided by eligible entities but does not function as a budgetary safety net for the entities themselves.[17] The following entity types are eligible to participate in the CTF program:

- Pre-and K-12 schools;
- Public community colleges;
- Public libraries;
- Hospitals and clinics;
- Community-based organizations that meet specific eligibility criteria; and
- Community technology programs.

CD Staff proposed eligibility criteria rule revisions by each category.

4.1. Schools

Currently, qualifying public or nonprofit private schools providing elementary or secondary education (K-12) that have endowments of less than $50 million are eligible for the CTF discount. The term "nonprofit schools" includes schools operated by a religious order that have been incorporated as a nonprofit Public Benefit Corporations or as nonprofit Religious Corporations.[18]

CD Staff proposed that since endowments are not always the most appropriate indicator of a school's need, staff proposes to eliminate the endowment cap for all schools, both public and private nonprofit. For nonprofit private schools, the endowment cap would be replaced with a Free Reduced

---

[17] CD Staff Revised Proposal, at 9.

[18] D.96-10-066.

Meal Program (FRMP) participation rate of at least 40%. All public schools would be categorically eligible, regardless of endowment or FRMP participation. CD Staff points out that by instituting the FRMP participation level for private nonprofit schools, the program will target the subsidy to the entities in most financial need. CforAT and ORA generally supported this proposal.[19] Verizon supported the CD Staff's proposal to use the FRMP participation rate as a proxy for need but opposed elimination of the endowment cap and advocated the use of both "proxies."[20]

We are not persuaded that a change from the $50 million endowment cap to the new FRMP participation rate criteria is needed at this time. The $50 million endowment cap for private, non-profit schools is utilized by the Federal E-rate eligibility criteria. The E-rate application process is by itself complex and lengthy. It does not appear that a great deal would be gained by adding another layer of complexity for this category of Federal E-rate eligible participants. Therefore, we do not adopt CD Staff's proposal to use the FRMP participation rate as an eligibility criteria for this category of potential CTF participants, but instead support mirroring the E-rate eligibility criteria for private non-profits. E-rate eligibility includes public school districts, stand-alone Head Start facilities recognized by the State of California, or public and non-profit private pre-kindergarten.

---

[19] CforAT Alternative Proposals, at 2 and ORA Opening Comments, at 6-7.

[20] Verizon Opening Comments at 4.

4.2. Community Colleges

Currently, community colleges are categorically eligible. Their discounts are subject to a cap that is adjusted annually. CD Staff proposed that there be no change to this current rule.[21]

CENIC opposes continuation of the cap on community colleges. CENIC argued that the past five years of community college participation in the CTF, coupled with increased communication from the California Community College Chancellor's Office (CCCCO) should have provided staff with sufficient data to be able to manage the community college draw on the CTF program without the existence of the cap. CENIC suggests that the current cap could be replaced with a requirement that community colleges estimate "central expenditures" for the upcoming budget year, plus one, annually by April 1. By "central expenditures," it is meant those expenditures made by the CCCCO on behalf of community colleges. CENIC suggests this information would provide the staff with sufficient support for its budgetary planning process. [22]

ORA also recommends that the cap on community colleges be discontinued stating that it is not sufficiently targeted and potentially compromises the CTF program's ability to fulfill its goals. ORA recommends other measures should the Commission seek to limit increases in community college CTF discount payments. [23]

We are persuaded that the five years of past experience together with CENIC's proposed, improved budgetary data exchange going forward will allow

---

[21] CD Staff Revised Proposal at 11.

[22] CENIC, at 2-3.

[23] ORA Opening Comments at 7-8.

staff to adequately anticipate and address any significant changes to the community college's impact on the CTF. Together with other cost containment measures adopted below, it is appropriate to remove the CTF cap from the community college participants. We will not adopt ORA's recommended limitations on the community college CTF discounts at this time. Should CD Staff see a dramatic increase in expenditures following the removal of the original CTF cap, we may reconsider imposing an "educational use only" restriction on the community colleges. At this time, there is no justification for imposing the additional administrative burden on CD Staff implied in oversight of the ORA-proposed limitation. Accordingly, the CTF cap for community colleges will no longer apply.

4.3. Libraries

Currently, libraries which were eligible for participation in state-based plans for funds under Title III of the Library Services and Construction Act are eligible for the CTF discount. CD Staff and parties do not propose any changes to the categorical eligibility for libraries. Libraries try to provide individual staff assistance to computer center users, as well as more formal training programs in using the internet, whenever possible. CD Staff cited a recent national survey finding that 56% of California libraries reported that they were the only provider of free public internet access and free public computer access in their communities. California libraries provide a model of how a CTF beneficiary organization could provide meaningful internet access. Accordingly, libraries remain categorically eligible without any change in eligibility documentation requirements.

4.4. Hospitals and Health Clinics

Currently, hospitals and health clinics that are municipal and county government-owned and operated, and hospital district facilities are categorically eligible. Also, all participants in the CTN[24] funded by the pilot federal rural health care program, qualify for the CTF discount on CTF-eligible services related to the CTN.

[24] California Telehealth Network includes: Ventura County Health Care Agency, Consolidated Tribal Health Project, Inc., San Joaquin County Health Care Services Agency, Trancultural Clinic &, SE Asian Clinic, Northeast Valley Health Corporation, Mobile Clinic (San Francisco), Share Our Selves, Free Medical Clinic (Costa Mesa), Ampla Health, Inc., Ampla Family Health Center-Yuba City, Clinica Sierra Vista, Death Valley Health Center, Tulare Community Health Clinic, Clinicas Del Camino Real, Incorporated, Clinicas Karuk Tribal Health Clinic, Yreka Karuk Tribal Health Clinic, Modoc County Health Services, Ventura County Behavioral Health Services, Pacific Clinics, Asian Pacific Family Center, Inland Behavioral and Health Services, Inc., Banning, Kern County Mental Health Department, West Kern, Southern Humboldt Community Healthcare District, Ridgecrest Regional Hospital, Modoc Medical Center, Modoc Medical Clinic, Catalina Island Medical Center, Tehachapi Valley Healthcare District, Tehachapi Family Health Center-Mojave, Shingle Springs Tribal Health Program, Placerville, MACT Health Board, Mariposa Indian Health Clinic (Medical), Mendocino Coast Clinics, Inc., CTN Main Office (Sacramento), CENIC Point of Presence (Los Angeles), Asian Pacific Health Care Venture, Inc., John Marshall High School Health Center, CA Rural Indian Health Board (CRIHB) Data Center, St. John's Well Child and Family Center, Alameda Data Center. CTN Comments (October 9, 2014) at 5-6.

CD Staff recommended no change to the eligibility for government-owned and operated hospitals and health clinics. CD Staff recommended inclusion of another group of hospitals, Critical Access Hospitals (CAHs) in this group of categorically eligible participants. CAHs are 32 hospitals designated to serve rural, high cost areas in California.[25] CAHs receive a 101% Medicare reimbursement rate and must furnish 24 hour emergency services, seven days a week. The CETF and CforAT support this proposal. ORA supports this recommendation with an additional requirement that the CAHs must also meet the government-run or non-profit criteria for other CTF recipients. We agree. CAHs should be categorically eligible participants and this decision includes CAHs in the "hospitals and health clinics" category, consistent with Cal. Pub. Util. Code § 280.

CD Staff also recommended a change to the treatment of CTN members. Currently, all participants in the CTN funded by the pilot federal rural health care program qualify for the CTF discount on CTF-eligible services related to the CTN.[26] CD Staff proposed that only participants that can individually qualify as CTF-approved participants would be eligible for the CTF discount.

We agree with CD Staff that CTN members should individually meet the CBO health care requirements before receiving CTF discounts. This is consistent with the eligibility requirements imposed on CENIC's consortium members. We discuss the eligibility criteria applicable to the individual CTN members below in

---

[25] CD Staff Revised Proposal at 12-13.

[26] *Rural Health Care Support Mechanism,* FCC, WC Docket No. 02-60, REPORT AND ORDER, Rel. December 21, 2012, FCC 12-150.

Section 5 addressing the creation of a separate healthcare community based organization category.

4.5. Community-Based Organizations

There are currently approximately 7,000 participating CBOs in the CTF program. This category was created in statute as Community Organizations in Section 280 and adopted by the Commission as Community Based Organizations in D.96-10-066. While it is clear that CBO's were intended to be eligible to participate, current rules do not provide staff with sufficient, clear guidance on how to make eligibility determinations consistent with the overall goals of the CTF program. The current rule makes eligible tax exempt 501(c)(3) or 501(d) organizations that offer the following qualifying services: health care, job training, job placement, 2-1-1 referral (as authorized by Commission Resolution) and information services, educational instruction or a community technology program providing access to and training in the internet and other technologies. CBO administrative office locations are not eligible today if they do not provide any of the qualifying services noted above. These rules are necessary but not sufficient for the CTF to operationalize the goals we adopt today. Accordingly, we adopt the CD Staff recommendations for further defining CBO eligibility criteria, with significant additions from the Joint Consensus Recommendations as follows.

a) Definition of "educational instruction"

In order to be eligible for a CTF discount, a CBO must offer one or more of the qualifying services as its primary mission. CD Staff and the parties all agreed that further defining "educational instruction" was necessary for appropriate rules governing CBO eligibility for entities that provide qualifying services. Lack of precision in the rules for this area has led to inclusion of organizations with missions providing services that are only tenuously related to CTF goals.

The Joint Parties' Consensus Recommendations included a definition of qualifying "educational instruction" as "regular, ongoing, educational or instructional programs, including planning, implementation, marketing and outreach and/or delivery of said programs that include, but are not limited to, life skills education, ESL and language education, literacy, job training, technology instruction, leadership development, and information on public benefit and social services programs eligibility and access."[27] This work provided an excellent foundation for the definition we adopt today. We take this proposal as the starting point and modify it in a few specific ways as follows.

AT&T noted that "life skills and leadership development" should not be included in the definition of qualifying educational instruction services. Not only are these terms vague for purposes of identifying any particular qualifying activity, but also may already be included in on-going, structured K-12 education. We agree with AT&T and have excluded these activities as individually qualifying services. [28]

ORA also noted that educational instruction should not include planning, implementation, marketing and outreach activities in the list of qualifying services.[29] These are administrative activities and are not eligible for CTF discount support. No convincing reasons for changing this exclusion were

---

[27] Joint Parties Consensus Recommendations, at 8.

[28] AT&T Comments (October 9, 2014) at 3.

[29] ORA Comments (October 9, 2014) at 9. This is consistent with Federal E-rate eligibility for California public and non-profit private schools offering Head Start and pre-kindergarten education.

offered in support of this particular group of activities. We have therefore excluded these activities from the Joint Parties' Consensus recommended language in the definition we adopt today.

ORA advocated that pre-school curriculum be included in the qualifying educational instruction and we have included this activity as providing eligibility for schools categorically eligible.[30] Early childhood education and academic curriculum similar to that offered in K-12 schools are appropriately included in qualifying activities for CBO educational instruction as well. We explicitly include these activities in the "educational instruction" definition we adopt today, as follows.

> *"Educational instruction" is "regular, ongoing, pre-school or K-12 academic educational or instructional programs, that can also include, ESL and language education, literacy, job training, technology instruction, and information on public benefit and social services programs eligibility and access."*

We note that there is some ambiguity regarding whether religious organizations offering education are eligible in this category. In order to provide greater clarity, we will exclude religious organizations providing early childhood or K-12 education from qualification under the CBO educational instruction category and instead will require application by these entities to meet categorical qualification requirements and restrictions under "non-profit, private" schools, as discussed above. Religious organizations that meet the CBO requirements and provide other qualifying CBO services, such as "Job Training/Placement," "Health Care/Health Services" or "Community Technology" may apply for CTF participation as a CBO.

---

[30] *Id.*, at 6.

b) Qualifying Criteria for Community Based Organizations

"Community based organization" is defined as a small, nongovernmental, California nonprofit corporation which itself directly serves individuals and families and which offers services to anyone who needs it without charge or at a minimal fee. The organization must offer services within a local geographic area in California and have a governing body drawn largely from the community it serves.

We adopt CD Staff's recommended CBO eligibility criteria, modified as shown and discussed below.

Each CBO must have:

i. Revenues less than $5 million, except for 2-1-1 CBOs or the new Health Care/Health Services CBOs. Large CBO's with small individual local chapters or offices may apply for their local individual organization if the local individual organization operates below the $5 million revenue cap;

ii. Qualifying Services must be 50% or more of a CBO's mission;

iii. IRS 501(c)(3) tax exempt letter;

iv. IRS Form 990 or other financial statements and attestation, if they do not have a Form 900 or if the Form 990 is inadequate;

v. Provides its community access to the internet – except for Health Care/Health Services or 2-1-1 CBOs;

vi. Provides services directly to individuals at specific geographic locations;

vii. A majority of members of the Board of Directors are members of the community the organization serves;

viii. Services are provided directly or through some closely related indirect assistance. "Indirect Assistance" means providing assistance on site to those unable to do so because of disability or limited English proficiency;

ix. Internet access for purely administrative purposes continues to be prohibited;

x. Religious organizations must meet all the CBO criteria above and provide qualifying services through a separate legal entity that files a separate federal income tax return;

xi. 2-1-1 information and referral CBOs will continue to be eligible as approved by Commission resolution;

New eligible subcategory of CBO called "Health Care/Health Services CBO is adopted. The following eligibility criteria apply to Health Care/Health Services CBOs in addition to the general CBO eligibility criteria above:

xii. A Health Care/Health Services CBO must be staffed by licensed medical personnel on site; and

xiii. A Health Care/Health Services CBO must accept Medicare and MediCal or provide services without charge or at a minimal fee.

Discussion:

Today, CBO's have a revenue cap of $50 million. CD Staff and the Joint Consumers support lowering the cap to the $5 million we adopt today.[31] In addition, Verizon has supported targeting only those most in financial need, arguing that the revenue cap should be lowered to "a fraction of $50 million."[32] CD Staff notes TURN's Comments in crafting their recommendation as follows:

---

[31] CD Staff Revised Proposal at 13 and 16, Joint Consumers at 7 and footnote 16.

[32] Verizon Comments at 5.

> "…most small CBOs, as TURN has defined them above, have revenues nowhere near this [$50 million] amount. While revenue data on small nonprofits has been challenging to find…a surrogate is to examine expenses. Over 66 percent of all potential CTF-eligible nonprofits in California report expenses of less than $500,000, whereas the majority of CTF participants report expenses in the $1 million to $5 million range. Using the large nonprofits above, for example, United Way of the Bay Area had 2011 expenses of approximately $34 million; Goodwill Industries of SF, San Mateo and Marin had 2011 expenses of approximately $36 million. Thus, better targeting of small CBOs will result in a broader diffusion of CTF subsidies and improved access for target populations."[33]

ORA disagrees that the CBO revenue cap should be lowered, reasoning that nonprofit budgets are tailored to the needs of providing the qualifying services, not maximizing shareholder benefit. Further, ORA was concerned that lowering the cap will exclude large CBOs that are effectively serving large numbers of the CTF's target population.

We agree that the CTF is appropriately limited to small CBO's, and will lower the revenue cap to $5 million. However, we do not wish to arbitrarily exclude large CBO organizations if they operate local, community-based entities. For this reason, in order to mitigate the potential disqualifying impact on large, organizations that have small, community-based, separately operated sites, we will allow local chapters or offices of larger CBO's to apply individually if it can demonstrate that the local individual organization operates below the $5 million revenue cap.

---

33 TURN Opening Comments, at 6.

CD Staff initially proposed two eligibility criteria for CBOs to demonstrate that their clients are underserved and/or disadvantaged populations; adoption and income levels. To qualify, a CBO must serve a community located within a zip code with a household internet adoption rate of less than 72% and a CBO must serve a low income community within a zip code with a median income of less than 150% of the federal poverty level. In their comments, The Joint Consumers and the Small LEC's did not agree that these are appropriate criteria, arguing that that it will exclude those underserved communities that happen to reside geographically within a "rich" zip code. This concern arises particularly in dense urban areas where pocket communities with limited resources reside side by side or embedded geographically in areas with median of high income residents. We are similarly concerned that while zip codes are easily identifiable means to define a "community" it may well mask income and resource diversity. For this reason, we do not adopt these proposed criteria.

The CforAT raised the issue of direct versus indirect internet access in response to CD Staff's proposed CBO Criteria viii. In its Joint Consumer Comments with TURN and Greenlining, they provided examples of direct and indirect internet access that would qualify CBOs for CTF eligibility. The prime example of qualifying *direct* internet access is when the clients of the CBO access the computer at a physical location to get on the internet. An example of a qualifying *indirect* internet access is when a CBO staff member accesses the internet on behalf of clients who may be physically challenged or have literacy issues.[34] ORA finds Joint Consumers' definitions of direct and indirect internet

[34] Joint Consumers Comments at 7-8.

access to be reasonable.[35] Verizon also supports direct internet access as requirement for CBO eligibility.[36]

We adopt the Joint Consumers' definition of direct internet access service because it is consistent with CD Staff proposal's to require CBOs (except for 211 and health care) to provide internet access to its clients. Direct services are those that provide internet access and technology directly to the client of the CBO. As CD Staff noted:

> California libraries provide a model of how a CTF beneficiary organization could provide "direct" internet access. Libraries provide not only public access to computers and internet connections, c, but also individual staff assistance to computer center users, as well as more formal training programs in using the internet. According to the 2011-2012 Public Library Funding and Technology Access Survey: Survey Findings and Results, published by the University of Maryland: Of 800 California libraries who responded to this question, 34.5% offered formal IT training classes, and 77.6% offered informal point-of-use assistance. Of 823 California libraries, more than 45% helped patrons complete online job applications. Most strikingly, of 862 California libraries who responded to this question, 480, or 55.7%, reported they were the only provider of free public internet access and free public computer access in their communities. [37]

---

[35] ORA Reply, at 3.

[36] Verizon Opening at 5.

[37] CD Staff Revised Proposal at 11-12.

We agree, hands-on experience on a computer and navigating the internet are essential to bridging the digital divide.

We also adopt the Joint Consumers' proposal to include indirect internet access as an eligible CTF qualifying service, when appropriate. Language, literacy and physical barriers are significant challenges for accessing computers and technology. Accordingly, we adopt as qualifying indirect services those "providing assistance on site to those unable to do so because of disability or limited English proficiency at the CBO."

CD Staff proposed CBO criteria:

> "xi. Internet access for purely administrative purposes continues to be prohibited."

Joint Consumers also support prohibiting CBOs from qualifying for the CTF if they only used internet access for administrative purposes because this use is neither direct or indirect internet access.[38] Consistent with D.96-10-066, CD Staff currently disqualifies CBO locations that serve solely administration functions. [39]

---

[38] Joint Consumers Opening Comments at 8.

[39] D.96-10-066 at 85 states:

> "This CBO must also certify that it offers health care, job training, job placement, or educational instruction. This latter requirement ensures that the discounted telecommunications services are being used to directly or indirectly benefit the public at large, and that the discount is not being used simply to reduce the CBO's telecommunications expenses. This definition of a qualifying CBO also imposes a limit on the number of CBOs which can take advantage of this program, which in turn, minimizes overall funding costs."

We maintain this restriction. However, there is a practical issue of how to separate an internet access service that is used for both administrative purposes and to provide clients with direct access to the internet. For example, a T-1 line may be used for both public access to the internet by the CBO's clients as well as phone service for its staff. Therefore, hybrid use segregation or other separation issues will be included in the scope for Phase 3 in this proceeding.

4.6. Health Care/Health Services CBO

The Joint Parties' recommended that a new category for health care CBOs be created in recognition that entities providing health care services to underserved areas or populations are appropriate recipients of CTF discounts. This category would be a subcategory of qualifying CBOs and remain separate from the statutory category for hospitals and health clinics. Further, these entities and the services they provide are both unique and distinct from other categories of CBOs and are therefore, deserving of different, specifically tailored eligibility criteria. In order to qualify as a Health Care/Health Service CBO CTF participant, the Joint Consensus recommendation was that the entity must serve:

Either:

1) a) a Health Professional Shortage Area(s) (HPSA) (an area designated by Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services as having shortages of primary medical care, dental or mental health providers), or (b) a Medically Underserved Area (MUA) or Medically Underserved Populations (MUP) (areas or populations designated by HRSA as having too few primary care providers, high infant mortality, high poverty and/or high elderly population); or

2) Entity qualifies as eligible for the Federal Communications Commission's Healthcare Connect Fund (HCF) by meeting an eligibility category in Block

> E of FCC Form 460 ("Rural Health Care Universal Service Eligibility and Registration Form"), and must also serve a Medically Underserved Area (MUA) or Medically Underserved Population (MUP).[40]

In contrast, CD Staff proposed that CTN's members now must qualify individually. When the Commission approved CTF categorical eligibility for CTN's members, CTN was a pilot federal rural health care program. Data centers and administrative offices did not qualify for the program as health care providers.[41] In its 2012 Report and Order, the FCC declined to include off-site administrative offices or data centers as eligible sites and will support connections and network equipment associated with off-site data centers and administrative offices only when purchased by participants in the Healthcare Connect Fund. The Joint Parties' Recommendation, number 2) above would result in making those entities eligible. It should be noted that CTN's membership also includes for-profit facilities, private and public university teaching hospitals.[42]

CTN opposes this proposal to require all of its members to individually qualify. CTN anticipated that the Commission may require individual qualification for its members. It proposed adoption of the Joint Parties'

---

[40] These FCC HCF Block E eligibility categories include: (a) community health center or health center providing health care to migrants; (b) community mental health center; c) local health department/agency; d) non-profit hospital; e) part-time eligible entity located in an ineligible facility; f) post-secondary education institution offering health care instruction teaching hospital or medical school; g) rural health clinic, including mobile rural health care provider; h) dedicated Emergency Room of rural, for-profit hospital; and i) a consortium of the above.

[41] FCC *Rural Health Care Support Mechanism* ORDER, FCC, WC 02-60, FCC 06-144, Rel September 29, 2006, Paragraph 3.

[42] *Rural Health Care Support Mechanism*, WC Docket No. 02-6-, FCC 12-150, Rel December 21, 2012, FN373.

Recommendation number 2 above. CTN and the Joint Parties proposed that all entities eligible under Block E of FCC Form 460 ("Rural Health Care Universal Service eligibility and Registration") be eligible for the CTF. CTN pointed out that almost all of its participants qualify under Block E of FCC Form 460.

CTN stated that is current 281 members are a "drop in the bucket" of the 9,000 current CTF Participants of which there are 6000 CBOs.[43] CTN currently has 281 sites with a goal to expand to 800 sites.[44] The increase in CTN's draw on the CTF will result not only from the additional sites but also from reduced funding by the federal government. According to CTN, CTF pays 7.5% of total costs currently. However, under the new lower federal funding level, CTF could expect to pay 17.5% of total costs.

CforAT and other parties expressed concern that for-profit hospitals and teaching hospitals or medical schools are not appropriately included in this category. These entities have not been eligible to participate in the past. CTN membership includes teaching hospitals that are part of the state university system and private universities, and for-profit emergency rooms that do not currently qualify for CTF funding. Its membership also includes data centers which do not currently qualify for CTF funding and which may impose a large draw on the fund.

We cannot adopt the Joint Parties' Recommendation in paragraph number 1. It well describes a portion of the target population that is the intended beneficiary of CTF funding. However, further criteria are necessary to provide reasonable assurance that the target underserved areas or population are in fact

---

[43] CTN Opening Comments, at 8-10.

[44] *Id.*, at 3 and 8.

receiving qualifying services. CD Staff's recommendations well serve this purpose. First, CD Staff would require health care CBOs be staffed by licensed medical personnel and second, that they must accept Medicare and MediCal or provide services without charge or at a minimal fee.[45] We adopt these recommended criteria as shown in Appendix A to this decision.

We do not adopt the Joint Parties' Recommendation in paragraph number 2) As noted above, allowing all FCC HCF Block E eligible entities would allow eligibility for for-profit hospitals, emergency rooms and teaching hospitals or medical schools that have not been and are not otherwise eligible. In addition, data centers have not been eligible to receive CTF funding. Insufficient justification is offered to support inclusion of entities that cannot individually qualify. Adopting the Joint Parties' Recommendation, paragraph 2 would create an unjustified exemption to a number of important limitations on eligibility adopted today. Data centers support administrative functions rather than providing client care to the underserved, target population and CTF funding is not appropriate to support purely administrative functions. For-profit hospital eligibility would be an exemption to the requirement that all CBOs be non-profit. Providing ratepayer funded public purpose benefits would support profit margins of for-profit entities. We find this an inappropriate use of CTF funding. There is nothing otherwise distinct about the healthcare sector that justifies an exception from the requirement that all CBOs must be nonprofits. Universities and affiliated teaching hospitals do not qualify for CTF funding, either as non-profits or under the category for Government Hospitals and Clinics. There

---

[45] CD Staff Revised Proposal at 4.

is no clear justification for allowing an exemption for this group of healthcare providers under the new CBO category.

The Joint Consensus recommendations did not include a position on whether the $5 million revenue cap applicable to other CBO categories should apply to this new category as well.[46] Joint Consumers supported imposing a $50 million revenue cap on this CBO category.[47] Verizon recommended imposing the $5 million revenue cap applicable to all other CBO categories.[48] The Joint Parties' recommendations raised the concern that unlike for-profit companies, the size of a non-profit organization's revenues does not indicate need from a subsidy, because non-profit organizations usually rely on varying levels of donations and grants from year to year. While revenue may be above an arbitrary, cap, expenses may be equally high. The provision of health care is costly, and dependent upon economies of scale. This is especially true for health clinics operating in rural areas with healthcare worker shortages. Since we maintain the requirement that Health Care/Health Services CBOs must be non-profits, we agree with the parties that do not favor a revenue cap for this CBO category.

Given the exponential growth in telemedicine and reliance on the internet in the delivery of medical care, coupled with the anticipated cut-back in federal funding for CTN members, there is a significant risk of a disproportionate increase in burden on the CTF as a whole going forward. These concerns were raised in final comments but not fully vetted in either the workshops or in

---

[46] Joint Parties at 10.

[47] Joint Consumers Comments at 11.

[48] Verizon Comments at 7.

proposals in response to CD Staff. As a result we adopt the new Health care/Health services CBO category with the eligibility criteria discussed above as well as the requirements otherwise applicable to CBO's as proposed by CD Staff, except that a $5 million revenue cap per entity will not apply. Instead, we will adopt the proposal to set an initial budget cap for the CTF members as a whole within this category and the CTN membership in particular. Setting this cap will require a reasonable forecast of the impact this new category will likely have on CTF resources going forward.

This was the prudent step taken when the community colleges were categorically added to the eligible participant list five years ago. In that time, as discussed above, we have determined that, even as the group with the largest single draw on CTF dollars, the community colleges have not had a detrimental impact on the CTF as a whole. A budget cap on the Health care/Health services CBO category will provide the needed risk mitigation given that this category alone would likely account for a large, incremental increase in CTF expenditures in the near term.

We do not have sufficient record developed in Phase 2 of this proceeding to set the amount of a budget cap for this category and for the CTN qualifying members as a subgroup within this category. Given the concerns over the loss of federal funding support for the CTN and the anticipated expansion of the number of qualifying participant sites, the potential for the CTN members to become a disproportionately large draw in the first few years of participation warrants prudent risk mitigation. We should therefore direct further consideration of the issues surrounding setting an appropriate budget cap in the scope of Phase 3 in this proceeding.

We direct CTN to provide a 3 year forecast of total member expenses and a list of members to CD Staff within 60 days of the effective date of this decision. The forecast should include all underlying assumptions including price and speed levels. CD Staff will use this information to prepare and serve a brief report in Phase 3 on the schedule adopted by the assigned ALJ regarding: 1) how much CTF funding was distributed to CTN members in the years since their inclusion as qualifying participants; 2) how many existing CBO members may qualify under the new category and the amount of the fund associated with their claims to date; 3) based in part on those estimates, provide a recommendation for an initial budget cap and 4) a method to review the impact of the CTN membership on CTF funding as a whole and for the new Health Care/Health Services category, in particular.

5. CTF-Eligible Service Criteria

5.1. Eligible Service List

The Commission has not updated the CTF-eligible service list since 2008. As CD Staff informed us:

> "Rapid technological advances have resulted in a continuing introduction of new, complex telecommunication and internet access services, which often bundle CTF-eligible services with non-CTF-eligible services. Current rules require staff to determine on a case by case basis if a service or a component of a service is eligible for the CTF discount based on whether the service or one of its components is functionally equivalent to the list of services established by the Commission many years ago. The combination of these two factors creates significant challenges for staff. Consequently, CD Staff proposed that the Universal Services Administrative Company's (USAC's) Fiscal Year 2014-15 services eligibility list for the federal E-Rate

program for all entity types be adopted with modifications and updated annually by staff. [49]

We are persuaded that aligning closely with the Federal E-Rate program for identifying eligible services is good policy. Not all CTF participants receive Federal E-Rate subsidies. Nonetheless, we find that the FCC's program design choices in setting service eligibility categories and criteria as well as the identified Eligible Services List are well suited to the CTF for all entities. Moreover, program administration efficiency, transparency and simplicity would result from a close alignment in this area of program design. Therefore, we adopt use of the USAC Fiscal Year 2014-15 Eligible Services List and definitions for the categories, Digital Transmission Services, Internet Access, Wireless Internet Access, Voice Service and Functional Equivalents, with some modifications.[50]

The Joint Parties agreed with this CD Staff proposal and included in their recommendations a number of proposals that respond to CD Staff's position to use the Federal E-Rate program eligible service list. The Joint Parties recommended that the Commission designate the following categories of services and their functional equivalents, which are included in the USAC's Eligible Services List for the 2014-2015 funding year for the FCC's E-Rate program, as eligible for the CTF discount: 1) Digital Transmission Services, 2) Internet Access Services, 3) Wireless Internet Access Services and 4) Voice Services. Multi-Protocol Label Switching (MPLS) is also eligible when used in conjunction with another CTF-eligible service. The Joint Parties recommended

49 CD Staff Revised Proposal, at 17.

50 *Schools and Libraries Universal Service Support Mechanism*, FCC Docket No. 02-6; GN Docket No. 09-51, Rel. October 22, 2013, Priority One.

definitions for each category.[51] We adopt them as set forth in Appendix A to this decision.

CD Staff agreed with these Federal E-Rate Program definitions and provided a detailed list of eligible and ineligible services, with certain exceptions, in Appendix B to the Revised Staff Proposal Report. We attach CD's list and adopt it as presented in Appendix B to this decision. CD Staff will update the eligible services list annually via the administrative letter process. CTF administrative letters will be signed by the CD Director and posted to the Commission's CTF webpage.

5.2. Reduction of Voice (Including VoIP) and Phased Elimination of Data Services

CD Staff recommended discontinuing eligibility of Voice (including VoIP) in conjunction with the Federal E-Rate program's elimination of subsidies for this service. "Voice Services" are those designated eligible under D.96-10-066 for the purpose of two-way communications, and their functional equivalents, including voice communications provided via interconnected Voice Over Internet Protocol (VoIP). While services like Digital Subscriber Line (DSL) and T1 may be used for voice service, we do not classify them as voice services in this proceeding because they are primarily high-speed internet access or data services.

A number of parties are opposed to the elimination of CTF discounts for voice and VoIP. SureWest, the Small LECs and others argue that exclusion of Voice and VoIP services is inconsistent with statutory provisions governing the CTF and the Commission's universal service goals.[52] The statutory provisions

---

[51] Joint Consensus Recommendations, at 13-14.

[52] SureWest Comments at 1; Small LECs at 5.

governing the CTF do not mandate inclusion of voice services and VoIP to eliminate the digital divide.

The FCC's recent E-Rate Modernization Order identifies voice services as "legacy services" dating back to 1997 when the Federal E-Rate program was established. The options for Internet access then were generally limited to dial up modem services offered over POTS lines, and the data links provided by T-1 and T-3 lines. Today, a much broader array of high-speed broadband services may be available in many but not all California areas, and are needed by schools and libraries to support modern digital learning initiatives.

The FCC explained:

> Support for voice services today consumes approximately one third of E-rate commitments while many schools and libraries are unable to access the funding they need for internal connections to provide high-speed broadband throughout schools and libraries. In order to meet our goal of funding high-speed broadband services to support digital learning in schools and robust connectivity for all libraries, we conclude that we can no longer continue to fund voice services at the same discounts rates as applied to other eligible services that provide broadband access. [53]

The FCC concluded that phasing down support for voice services and eliminating support for certain legacy services will allow the Federal E-rate program to focus funding on high-speed broadband.

The Federal E-rate program subtracts 20% from the school or library's voice service discount each year until the Federal E-rate discount reaches zero. We appreciate the fundamental rationale of the FCC's decision to phase down support for voice services and that agency's decision to focus its funding support

[53] FCC Modernization Order at 136-7.

on high-speed broadband connectivity. Indeed, we believe that CTF, too, should focus its support on advanced telecommunications services, and that, in the long term, a similar approach may be appropriate for CTF.

CD staff obtained data about CTF participants, services, and funding over the course of this proceeding. In FY2012-13, voice-only services amounted to approximately $13.4 million out of the program's total $77.4 million in discounts, or 17.3% of the total fund discounts. In that year, voice-only services represented the second largest single category of expenditure after services offering download speeds greater than or equal to 100 Mbps up to less than 1 Gbps. For E-rate participants, the undiscounted portion of voice rates eligible for CTF discount will increase as E-rate phases down voice, because CTF's discount has been 50% of the purchase price, net after E-rate discount.[54] As this decision explains, CTF is intended to ensure high-speed internet connectivity for community CTF-eligible institutions at reasonable rates. It does not represent a budget support mechanism for the routine costs of operating an entity.

While we are mindful of the development of new, advanced telecommunications technologies and the fiscal impact of voice services on CTF, other limitations and uncertainties prevent us from fully phasing out voice (and VoIP) discounts at this time. We have limited, California-specific data available to analyze the geographic distribution of voice subsidies and how CTF participants use voice services. And we know that parts of California remain unserved or underserved by broadband, and we are mindful that removing

[54] E.g., E-rate historically averaged approximately a 70% discount for typical schools and CTF covered 50% of the remaining 30%, or approximately 15% of a voice bill for a typical school. By federal FY2018-19, when E-rate fully phases out voice, CTF without alteration would cover 50% of the entire voice bill for a typical school.

support to those parts of California could impact the ability of qualifying entities and the communities they serve to access even the best available telecommunications services in their communities.

In light of those limitations and uncertainties, we reduce CTF support of voice (and VoIP) services from 50% to 25%. We will continue to monitor fund impacts from this and other changes to ensure that CTF is working towards its program goals. As technology develops and is deployed throughout the State, further review of the precise scope of advanced telecommunications services will be necessary. The state of the art in advanced telecommunications services has changed considerably since the CTF was created nearly 20 years ago.

While we are not yet prepared to fully eliminate support for legacy services, CTF support must change in response to the changing nature of advanced telecommunications services.

We are particularly concerned about retaining support for eligible schools, libraries, government-owned and operated health care facilities, and Critical Access Hospitals that lack access to broadband. For schools, libraries, and health clinics and hospitals meeting the eligibility requirements in section 4 above, we will establish a process in Phase 3 for those entities located in areas with broadband availability categorized as "unserved"[55] or "underserved"[56] to receive an exemption from the reduced support for voice. In other words, eligible schools, libraries, government-owned and operated health care facilities, and

[55] Less than 0.768mbps downstream and less than or equal to 0.200mbps upstream.

[56] Less than 6mbps and greater than or equal to 0.768mbps downstream, and less than 1.5mbps and greater than 0.200mbps upstream.

Critical Access Hospitals in areas unserved or underserved by broadband may remain eligible for 50% support for voice services.

Adopting this approach starts California on the path towards focusing CTF support on advanced telecommunications services, but it does so more gradually than E-rate. This will allow time to continue collecting and analyzing data, as well as to create a process to establish a narrow set of potential exemptions from reduced support for legacy services. The Commission may update the newly revised CTF discount for voice service, pursuant to additional analysis, after better data becomes available; we are especially concerned about tracking the impact of these changes on the overall CTF program budget.

Elimination of federal discounts for wireless data plans takes effect in FY2015. The FCC explained that: "[w]e consider funding for individual data plans or air cards for individual users to be not cost effective when those users can already access the Internet through internal wireless broadband networks on wireless –enabled devices without the help of stand-alone data plans or air cards."[57] There is no phase-out period but Federal E-rate does allow for wireless data plans, if it can be demonstrated they are more cost-effective than Wi-Fi, on-site facilities-based internet access.

CTF program implementation will commence as shown in Appendix C. Appendix C to this decision shows the E-Rate and CTF program data phase down and reduced voice support schedules. We adopt the approach and will implement the voice discount reduction and data elimination as shown in Appendix C.

Consistent with federal policy, CTF will provide discounts for wireless data plans and air cards, if the entity can demonstrate it is the most cost-effective means of internet access. CTF will accept documentation of the FCC's E-rate approval of the entity's wireless data plan as evidence that it is the most cost effective solution available. For entities that do not receive E-rate, methods to determine cost effectiveness will be developed in Phase 3.

[57] FCC E-Rate Modernization Order, at 151-2.

5.3. Dark Fiber

CD Staff proposed including dark fiber lease service as a supported technology under the CTF. In response to AT&T's objection to this recommendation, CD Staff noted that dark fiber service provides a readily available and cost-effective way to extend internet access in some areas, in line with program goals, citing our recent recognition of transport as a telecommunications service in D.13-12-050. CD Staff concluded that inclusion of the leasing of dark fiber was an important component of the array of service options available to help reach program goals. We agree and will include dark fiber leasing service on the list of eligible services adopted today. Maintenance, equipment or construction costs are not CTF eligible, consistent with Appendix B, Non-Eligible Communication Services.

5.4. Services Bundled with Ineligible Components-Cost Allocation

The Joint Parties recommended that the CTF program adopt one of the Federal E-rate program rules regarding cost allocation when a product or service contains ineligible components. A cost allocation is usually performed so discounting can be provided on the eligible portion of the service.

The Federal E-rate program allows full funding for the product or service if the ineligible features are insubstantial and inseparable from an eligible service and are included on an "ancillary basis." Further, if no separate pricing is available for those features, then costs need not be allocated to the ineligible functionality. "Ineligible functionality" is considered "ancillary" if: 1) a price for the ineligible component cannot be determined, and 2) the product or service is the most cost-effective means of obtaining the eligible functionality.

The Joint Consensus recommendations explain:

> "For example, the standard pricing for some Internet access services includes caching and/or filtering services that are not themselves E-rate eligible. Since these components are part of the standard product offering, and they meet the conditions above, then the full package would be eligible for support."[58]

We are persuaded that this is a sensible approach and adopt it for making cost allocation determinations when presented with products or services that bundle ineligible with eligible services that meet the FCC criteria for ancillary use. It makes sense to align the CTF with the Federal E-rate program. In this way, the information requirements we adopt below in today's decision together with the Federal E-rate cost allocation rules will contribute to a more administratively efficient and transparent process than has existed until now.

Carriers will submit documentation demonstrating that the ineligible services meet the FCC criteria and policy. We echo the E-rate program administrator, Universal Service Administrative Company's (USAC's), caution on application of the ancillary use rule:

> "Applicants and service providers must be sure that they do not "hide" the attempted procurement of ineligible features in funding requests through the user of a single line item charge that is not cost allocated."[59]

Also consistent with FCC cost allocation rules, bundled services that include both eligible and ineligible services that can be separated will still need a cost allocation.[60]

---

[58] Joint Consensus at 14.

[59] *Schools and Libraries Universal Service Support Mechanism,* CC Docket No. 02-6; GN Docket No. 09-51, Rel. October 22, 2013, Special Eligibility Conditions, at 23.

[60] *Id.* at 23.

5.5. Carrier Reporting Requirements – Market/Brand Names Per Service, Eligible Service Category, Brief Description and Pricing Information

CD Staff identified the current case-by-case service eligibility determination requirements as one of the most significantly challenging administrative functions under the existing rules. In addition to the proposals adopted above to more specifically identify eligible services using the USAC list, CD Staff proposed that carriers annually submit documentation showing that their CTF claimed services were approved by the Federal E-rate program. CD Staff reasoned that FCC supporting documents showing service eligibility approval would reduce the administrative burden on staff and fast track the processing of CTF claims. Under CD Staff's proposal, all supporting documents must be submitted to the Commission for approval prior to paying CTF discounts. Further, CD Staff would ensure compliance with CTF service eligibility and discount calculations by conducting in-depth "spot checks" that will sample claims for a more detailed review and analysis.[61] In-depth spot checks would also ensure that CTF discounts are properly calculated and CTF funds are not spent on ineligible services.

Parties raised a number of significant concerns regarding the documentation requirements CD Staff proposed at the July, 2014 workshops. The Joint Parties reflected these objections in the consensus recommendations and presented a substitute proposal addressing how service providers would certify that they are providing only eligible services to program participants, as follows.

---

[61] CD Staff Revised Proposal, at 17-18.

Documentation of CTF Eligible Services

> Within ninety days of the date of issuance of this decision, CTF providers will submit to the Communications Division Director a list of services that they provide within each Eligible Service category and their functional equivalents available to CTF customers. The report shall include (a) the marketed name of each service; (b) the Eligible Service category of each service; and (c) a brief description of each service including speed levels. Carriers will update their lists as necessary to reflect any modifications (i.e., new services added or current services discontinued) prior to seeking CTF reimbursement for a new service (provided that any new service offering will still be eligible for CTF discounts if the service is purchased by CTF participants prior to a carrier submitting an updated list).
>
> Within ninety days of the date of the issuance of this decision, CTF providers will submit the following to the Communications Division Director: (a) provider's CTF contact name, phone number and email address; and (b) list of California cities served by the provider. Providers will update this information as necessary to reflect any changes. Communications Division staff will compile this information and post it on the Commission's CTF webpage, updating it at least every 3 months with any changes received.
>
> Staff may review claims to determine if a more detailed analysis is necessary and may otherwise conduct audits of carriers' CTF claims.[62]

This recommendation goes far towards providing an updated CTF eligible services list, greater consumer responsiveness by providers, and more of the basic information needed by staff to properly administer claims. It well answers the need for service providers to identify themselves, the services offered and the

---

[62] Joint Parties Consensus Recommendations at 15-16.

basis for processing claims related to bundled offerings that include both eligible and ineligible services, as far as it goes. However, one crucial factor for any reasonable assessment of eligibility, cost-effectiveness and compliance with CTF rules is missing: cost information. In addition, while the Commission endeavors to provide the best, detailed, and current consumer information available, the Commission's website cannot act as a substitute for service providers' commercial product and contact information on their own websites. Cost information by eligible service product is fundamental for the transparency needed to enable consumers to make informed service choices, to maintain competitive neutrality within the CTF program, to support competitive market efficiency and to allow for effective program oversight. Accordingly, we adopt the Joint Consensus Recommendation with these two added conditions: CTF Service providers must disclose complete and detailed pricing information for each CTF-eligible service and their functional equivalents and in addition, post all reported information, with appropriate updates, on their websites. Pricing information will be made public after the Phase 3 decision further develops the reporting requirements. These provisions are also a condition of service provider eligibility as discussed below in Section 6.

We will include further development of the pricing information detail reporting requirements in Phase 3.

6. Service Provider Eligibility

Currently, only CPCN holders or wireless registration holders may make claims for compensation from the CTF. CPCN holders may partner with internet service providers (ISPs) and file claims on their behalf for internet access related services. As a result, competitive service providers that are not regulated by the Commission are receiving CTF funding under qualifying conditions.

CD Staff recommended adding qualifying requirements as conditions for filing claims. Specifically, CD Staff recommended that all service providers must maintain a list of all CTF-eligible products they offer with pricing information and CTF contact information on a separate page of their public company websites. We will adopt CD Staff's recommendation and by today's decision order that the CTF-eligible service information report required in Section 4 above be posted on a separate, dedicated page of each CTF service provider's company website as a condition of CTF-approved provider status. The requirement to make public pricing information will begin after the Phase 3 decision further develops the reporting requirements. CD Staff correctly points out that this is consistent with actions taken imposing conditions on recipients of California Advanced Services Fund (CASF) grants and loans. While the Commission does not regulate non-CPCN or registration holders with respect to service quality or pricing of services, the Commission is well within its authority to prudently administer CTF funding consistent with Pub. Util. Code Section 451, among other statutory provisions in adopting this new service provider approval condition.

6.1. Local Government and Non-Profit Service Provider

CD Staff recommended that local governments and nonprofit corporations be allowed to provide service to CTF-eligible participants in underserved areas. "Underserved areas" were defined using criteria similar to that used by the California Advanced Services Fund (CASF,) that is, where download speeds are less than 6Mbps and upload speeds are less than 1.5Mbps. CD Staff recognized that California Pub. Util. Code § 270 may limit the ability to use CTF subsidies for services provided by non-telecommunications corporations. CD Staff reasoned that allowing CTF support to local governments and non-profits to provide service in underserved areas is consistent with CTF program goals. [63]

Verizon opposed this proposal stating that it conflicted with Section 280(d), which prohibits use of CTF money except for those entities specified in Section 280(a). Verizon also argues that allowing nonprofits to claim from the fund would allow CBOs to receive discounts without meeting the more stringent criteria Staff proposes, stating that it makes no sense to discuss nonprofits in the service provider context as separate from CBOs. Verizon concluded that the proposal also conflicted with the cost containment goal but did not elaborate on how the conflict arose.[64]

Competitive Providers stated that the existing rules that allow certificated and registered entities to offer unregulated advanced services that are eligible for CTF discounts through an affiliated entity or partnership make the staff proposal unnecessary, implying that this mechanism could function as the vehicle for subsidizing non-profit or local government providers' services. [65]

ORA supported the proposal in principle but noted that SB1364, approved by the Governor on September 20, 2014, removed the provision in Pub. Util. Code § 270 that stated that moneys in each of the state's universal service funds are the proceeds of rates and are held in trust for the benefit of the ratepayers and "to compensate telephone corporations" for their cost of providing universal service. The provision now provides that moneys in the funds are held "in trust." However, ORA notes that there is still a question whether an explicit

---

[63] CD Staff Revised Proposal, at 20-21.

[64] Verizon Opening Comments at 8.

[65] Competitive Providers' Opening Comments at 13, footnote 32.

grant of statutory authority is still necessary, noting that such a grant was adopted in the CASF context. Nonetheless, ORA agreed with CD Staff that nonprofit and local government should be allowed to participate in the CTF if sufficient ratepayer protections and safeguards are in place to ensure program compliance and integrity. While concerns regarding financial and technical fitness arise in this context, ORA suggests that the CASF program requirements provide a sufficient model of protection. [66]

The CD Staff proposal to allow CTF subsidies for nonprofits and local governments providing eligible services in underserved areas has much to commend it. Such subsidies would put not-for-profits service providers on the same competitive basis as the for-profit providers currently certified and registered within the existing CTF framework. However, the parties have raised important considerations that have not been sufficiently developed in this record to allow for resolution. For example, it is unclear whether the Competitive Providers' suggestion that such providers could be registered and certified for partnership or contract affiliation with a regulated entity under the existing framework is logistically or commercially viable. Indeed, the CD Staff proposal, as well as ORA's and Verizon's Comments, assume nonprofit and local government providers are not otherwise authorized under existing rules and would require an expansion of current eligibility. Finally, there is no evidence in the record regarding the availability of nonprofit or local government service offerings in underserved areas. Knowing whether these offerings now exist or if adoption of the CD Staff proposal would create incentives to bring a new

---

[66] ORA Opening Comments, at 12-13.

category of provider into existence is one crucial element to resolution that has been unexplored to date. Accordingly, we refrain from adopting CD Staff's proposal in this decision without prejudice to considering it at a later time.

7. Cost Containment

CD Staff raised the issue of cost minimization for the CTF program and appropriately asserted that this concern is fundamental to the Commission's oversight of the program, at any level of funding. We agree. This concern is made more acute in the context of the FY2015-16 budget's unprecedented increase to $148 million, a 37 percent increase over FY2014-15's budget. Prudent expenditure of ratepayer funds is of paramount concern in this decision.

Having acknowledged this responsibility and commitment to just and reasonable rates, we note that the objective of this decision is not cost cutting for its own sake. We adopt a wide array of CTF program design changes and reforms today based in the first analysis upon the ability of these refinements to further the CTF program and to operationalize program goals.

We also recognize that the changes adopted today have impacts, up and down, on the costs of the CTF program. We continue to assess, at each juncture, whether the cost impact of an adopted reform is proportional to the objective it is designed to meet. If a proposal is at cross-purposes with meeting CTF program objectives, we have not adopted it, even as it may effectively hold down costs for the program as a whole. We adopt the cohort of program changes today, with the proviso that the financial impacts of these reforms should be assessed once experience with new practices yield enough data to be evaluated. This includes impacts on all stakeholders, ratepayers, CTF participants and their service benefiting populations, telecommunications carriers and internet service providers.

CD Staff states in general that rapid growth in program expenditures is driven in part by entities using ever more advanced and costly services and using more of those services. The current subsidy is 50% of the service price, independent of price level or quantity of service purchased. The Commission does not regulate price, service type or quality for internet access services. Therefore, this source of program expenditure increases would continue unabated, absent the measures taken in today's decision. We continue to rely upon competitive telecommunications markets to provide the benefits of increased efficiency, technological innovation and downward price pressure. In this context, the legislature has mandated that consumers unable to gain access to these benefits due to either lack of physical availability or financial inequities that make internet access unaffordable, be given CTF discount assistance. Clearly, the administrative subsidy itself can have a significant impact on the market outcomes for consumers. With these dynamics in mind, it is incumbent upon us to consider the proposals in this proceeding for how to best use the tools of administrative oversight, regulatory intervention and economic incentives to enhance and deliver the benefits we expect from otherwise competitive market activity to all Californians.

7.1. CTF Discounts Will Continue to be 50% of Program Costs, Net of E-Rate Subsidies for Federal E-Rate Participants

Currently, CTF subsidies are set at 50% of the purchased service price, independent of price level or quantity of service purchased. For participants in the Federal E-Rate program, the 50% subsidy is applied to the purchase price, net of the Federal E-rate subsidy. CD Staff proposed to change the structure of the CTF subsidy entirely by eliminating the 50% of the service purchase price in favor of instituting a fixed dollar amount per download speed. The new CTF subsidy amount would apply to non-Federal E-rate eligible participants only. Federal E-rate program participants would continue to receive the current 50% of net service purchase price support under the CD Staff proposal.

CD Staff proposed a new rule that would create an index where every service is classified into 1 or 12 speed index levels. For each speed index level, a set fixed dollar discount would be based on the lowest historical price paid by a CTF participant. This historical amount would be adjusted periodically to reflect potential cost savings due to technological advances.[67] CD Staff recognized that the fixed dollar mechanism might need further refinement for geographic price differentials. CD Staff explained that the annual fixed dollar amounts per speed level would be posted on the CTF website prior to the beginning of a fiscal year. In this way, both carriers and customers will know in advance how much money they will receive from the CTF by multiplying the fixed dollar discount by the number of subscribed services at a particular speed level.

While proposing that the new, fixed dollar discount not apply to schools, libraries and CTN, CD Staff recognized that the Commission may choose to apply the same methodology across all participant categories. In that case, CD Staff recommended that schools, libraries and CTN receive a discount that is the lower of 50% CTF discount after federal funding or the fixed dollar amount, so that these entities would never receive combined federal and state discounts in excess of the price of the service.[68]

---

67 CD Staff Revised proposal, at 23.

68 CD Staff Revised Proposal at 24.

The CD Staff proposal to change to a fixed price discount methodology has much to commend it: unlike under the current percentage discount, the fixed dollar amount would allow the customer to see the full higher price which would inform the decision to consume less or seek services from alternative providers, which in turn, would place desired downward pressure on prices in general. Price discipline in the market place would also be enhanced as customers are moved to seek more competitive options, thus making carriers less inclined to raise prices. Any incentive to "upsell" under the current, uncapped or specified pricing structure by increasing the quantity and/or types of service enhancements that would result in increased costs to CTF participants up to the former total costs (prior to availability of the discount) would be eliminated. Since the new discount methodology would allow the customer to see more of the full price of the service, upselling would be limited to fixed dollar discount amounts, based on the lowest historical price by any customer.

There are administrative advantages to the fixed dollar amount methodology as well: it provides customers better budgeting tools since both carriers and customers will know in advance the amount of subsidy they will receive from the CTF by multiplying the fixed dollar discount by the number of subscribed services at a particular speed. The fixed dollar discount would also eliminate the administrative burden of determining the basis for the CTF discount on complex bundled services, which contain both CTF-eligible and CTF-ineligible components.

The Joint Parties opposed this proposal reminding the Commission that there is no identified mandate to lower the level of program expenditures to justify the fixed price per speed proposal. Further, the Joint Parties state that the proposal is not feasible. They assert that should the Commission identify a need to reduce the overall size of the fund, a reduction from the current 50% discount level to a lower percentage is preferable to the fixed price per speed methodology. CENIC, CCCCO, K-12 schools and the CLA do not support reducing the discount percentage under any circumstance.[69] The Competitive Providers challenged the appropriateness of a "two-tiered" discount that is higher for schools, libraries and CTN and a lower fixed dollar amount for other CTF participants, for example.[70]

The consumer representatives similarly oppose the fixed price per speed methodology.[71] ORA advocated that the continuation of the current 50% discount rate is administratively simpler for applicants, carriers and CD staff. ORA contended that the flat rate proposal would in fact compromise the program's ability to meet its universal service goals. It advises that cost containment can be achieved instead by refining eligibility criteria for participants and services, along with close monitoring of service prices across technologies. "If, over time, these cost containment measures prove insufficient, the Commission can then consider additional measures."[72]

We agree with this strategy and will retain the 50% discount structure given the other reforms adopted today, including new eligibility requirements for participants and services and the pricing information reporting requirements discussed above herein. CD Staff's proposal may be reconsidered, along with

---

69 Joint Consensus Recommendations, at 7 and 12.

70 California Cable and Telecommunications Association, Charter Fiberlink CA-CCO, LLC, Cox California Telcom, L.L.C. and Sprint Communications Company L.P. (collectively, "Competitive Providers") at 7.

71 Joint Consumers' Opening Comments at 9.

72 ORA Comments at 14.

other more aggressive cost cutting measures should the incentives and competitive benefits prove inadequate to provide sufficient downward price and discount level results we anticipate from today's adopted reforms. We are concerned that a change in program design of this magnitude could have significant, negative consequences for meeting overall program goals. Accordingly, it makes more sense to gain experience with the targeted reforms adopted today before considering structural changes to the discount methodology itself. Such a departure from current program design would be more appropriately implemented and assessed in isolation from the range of reforms adopted today. It is a proposal that could be considered in the future, if necessary.

7.2. CTF Discount for Schools Capped at the Level Equal to the Federal E-Rate Discount

Joint Consumers explained that today schools receive varying levels of E-Rate funding for eligible services based on need, as determined by the percentage of students eligible for the Free/Reduced Meal Program. At present, schools are eligible to receive subsidies from the CTF in the amount of half of the remaining costs (not covered by E-rate) after applying the Federal E-Rate subsidy. This is a variable portion of the total cost of the eligible service because the federal subsidy varies among schools. Yet, CTF covers half of all remaining costs after the application of the Federal subsidy, with no limit.

Joint Consumers point out: "As a result of this method of calculating CTF eligibility levels, California subsidizes schools with fewer disadvantaged students at a higher rate than schools that serve larger vulnerable populations, the exact reverse of the Federal E-rate. Therefore, to adhere to the CTF goals of serving the disadvantaged and preventing fraud, waste, and abuse, Joint Consumers recommend that schools should not receive a CTF discount that exceeds their E-Rate discount. In other words, each school should be eligible for a CTF discount of up to 50% of their costs for services after applying the E-rate discount, up to an amount equal to the school's Federal E-rate subsidy."[73] We agree and adopt this limitation. Federal E-rate eligible schools' CTF discounts will be no higher than their E-rate subsidy.

8. Additional Oversight Activities

8.1. Participant Eligibility Renewal

Currently, every CTF participant must have its eligibility verified at least every five years. CD Staff proposed that both current and new participants must reapply within three years of the effective date of this decision as well as report annually the unduplicated headcount of individuals who used the supported internet service. CD Staff further recommended that the Commission continue with the current application requirement that the applicant must notify the Commission of any changes to the information contained in its application so that changes in status on eligibility criteria such as revenue level or community demographics would be self-reported between verification deadlines. In addition, staff will conduct regular and random audits to ensure continued eligibility.[74]

---

[73] Joint Consumers at 14.

[74] CD Revised Staff Proposal at 26.

The Joint Parties agreed to the three year eligibility verification as a consensus recommendation for CBOs, only.[75] The Joint Parties further recommended that we refine verification requirements for CBOs to include, for example, some combination of attestation and meaningful documentation regarding claims of eligibility. This reflects some of the in depth discussion that occurred in the July workshop on this topic. Many parties expressed concern that a number of the new CD Staff-proposed reporting and documentation requirements were infeasible.

We will modify CD Staff's recommendation so that all CBO participants are required to reapply every three years. This will protect the integrity of the program by insuring that the CBOs who currently receive discounts but who will be ineligible under the new rules will be automatically purged from the system.

While there appears to be broad support for specific application and verification support from CBO participants, there were also a broad array of documentation choices proposed by parties and discussed without resolution at the July workshop. It appears that further development of specific documentation and implementation details such as staff resources and compliance incentives is needed and would benefit from further vetting in Phase 3. Accordingly, implementation and documentation specifics for the three year reapplication for CBOs will be included in the scope for Phase 3.

8.2. One Year Moratorium on New CTF Participant Applications

In the context of proposing the three year renewed verification for participants, CD Staff recommended a one-year moratorium on new applications

[75] Joint Parties at 16.

to allow sufficient time to prepare the infrastructure necessary to implement new program requirements and to begin the reverification process. CD Staff further explained during workshops that implementation of the reverification process will put reverification applications together with new applications and likely use significant staff time. Ultimately, CD Staff anticipated that the burden on existing resources will be significant and delays in the new application review time could be expected.

There was significant opposition to the one-year moratorium on new CTF applications. In particular, the CLA and the many individual libraries provided comments at our PPHs in opposition to the one year moratorium on new participants proposed by staff.

We recognize that the administration budget for the entire CTF program is 10%, an unusually slim allocation for such a significant program and that staff resources were constrained before the annual budget and program activity increases rose at such a steep rate as today. Rather than ordering a one-year moratorium on new applications, we will allow the program to proceed without limitation, and will process applications in the order they were received. We will solicit further recommendations from CD Staff in Phase 3 on improvements to resource allocation or budget augmentation necessary to implement the CTF program reforms we adopt today.

9. Comments on Proposed Decision

The proposed decision of Commissioner Peterman in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on May 11, 2015 by Charter Fiberlink CA-CCO and Cox, Surewest, Joint Consumers, Small LECs, CALTEL, AT&T, ORA, T-Mobile West LLC,[76] CETF and Butte County Office of Education. Leave was granted to the California Association of Nonprofits to late file opening comments on May 13, 2015.

Reply comments were filed on May 18, 2015 by Small LECs, Surewest, Verizon, ORA, Joint Consumers, T-Mobile West, LLC and CalTEL.

Some of the opening and reply comments reiterate prior positions but some offer very constructive suggestions, clarifications and corrections to improve the proposed decision. As necessary or useful, we revise the proposed decision by also modifying the body of this Order, Findings of Fact, Conclusions of Law and/or Ordering Paragraphs.

In addition, a number of parties raised concerns related to implementation and administration impact of the rules adopted today. These issues are within the scope of Phase 3 which will commence following the final Phase 1 and Phase 2 decision.[77]

10. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Irene K. Moosen is the assigned ALJ in this proceeding.

Findings of Fact

1. The CTF program is an effective and successful program that provides eligible participants with direct access to high-speed broadband internet service.

---

[77] November 5, 2013 Assigned Commissioner's Scoping Memo and Ruling, at 6. May 5, 2015 Ruling of Assigned Commissioner Amending Scoping Memo and Ruling.

2. The Commission was told that the expansion of the program in recent years, in both dollars and participants, was due in large measure to the great need for more affordable internet access throughout California.

3. This proceeding is the first comprehensive examination of the CTF program since the Commission's review of its universal service public policy programs, including CTF, beginning in 2006.

4. The CTF budget has grown from $60 million in FY 2009-10 to approximately $108 million in FY 2014-15. The FY 2015-16 budget increased to $148 million, 37% above the previous year.

5. Budget drivers have included new rules expanding the types of eligible participants, services and service providers, outreach to CBOs and a lack of price or quantity limitation on services. Program administration accounts for less than 10% of the program budget.

6. The Commission instituted this OIR in recognition of the CTF's important role in bridging the digital divide.

7. The following entity types are eligible to participate in the CTF program:

- Pre-and K-12 schools;
- Public community colleges;
- Public libraries;
- Hospitals and clinics;
- Community-based organizations that meet specific eligibility criteria; and
- Community technology programs.

8. The $50 million endowment cap for private, non-profit schools is utilized by the Federal E-rate eligibility criteria.

9. The five years of past experience with community college participation in the CTF, together with CENIC's proposed, improved budgetary data exchange

going forward allows staff to adequately anticipate and address any significant changes to the community college's impact on the CTF.

10. Currently, hospitals and health clinics that are municipal and county government-owned and operated, and hospital district facilities are categorically eligible.

11. All participants in the California Telehealth Network funded by the pilot federal rural health care program qualify for the CTF discount on CTF-eligible services related specifically to the CTN.

12. Critical Access Hospitals (CAHs) are 32 hospitals designated to serve rural, high cost areas in California. CAHs receive a 101% Medicare reimbursement rate and must furnish 24 hour emergency services, 7 days a week.

13. California Telehealth Network currently has 281 sites but its goal is to expand to 800 sites.

14. An increase in CTN's draw on the CTF will result not only from the additional sites but also from reduced funding by the federal government. Currently, CTF pays 7.5% of CTN's total costs. However, under the new lower federal funding mechanism CTF could expect to pay 17.5% of total costs.

15. CTN's membership includes teaching hospitals that are part of the state university system and private universities, and for-profit emergency rooms which currently do not qualify for CTF funding. CTN membership also includes data centers which are not qualified for CTF funding currently.

16. There are approximately 7,000 participating Community Based Organizations (CBOs) in the CTF program.

17. The current rule makes CBOs eligible that are tax exempt 501 (c)(3) or 501(d) organizations that offer the following qualifying services: health care, job

training, job placement, 2-1-1 referral and information services, educational instruction or a community technology program providing access to and training in the internet and other technologies.

18. CBO administrative office locations are not eligible today if they do not provide any of the qualifying services.

19. Lack of precision in the definition of "educational instruction" has led to inclusion of organizations with missions providing services that are only tenuously related to CTF goals.

20. California libraries provide a model of how a CTF beneficiary organization could provide "direct" internet access. Libraries provide not only public access to computers and internet connections but also individual staff assistance to computer center users, as well as more formal training programs in using the internet.

21. Hands-on experience on a computer and navigating the internet are essential to bridging the digital divide.

22. The Joint Parties' Consensus Recommendations included a new category for health care CBOs in recognition that entities providing health care service to underserved areas or populations are appropriate recipients of CTF discounts. This category would be a subcategory of qualifying CBOs and remain separate from the statutory category for hospitals and health clinics.

23. Health Care/Health Services CBOs and the services they provide are both unique and distinct from other categories of CBOs.

24. The exponential growth in telemedicine and reliance on the internet in the delivery of medical care, coupled with the anticipated cut-back in federal funding support for CTN members presents a significant risk of a disproportionate draw on the CTF fund compared with other eligible categories.

25. A budget cap was placed on the community colleges when that group was initially made CTF eligible as a prudent financial risk management tool.

26. The Commission has not updated the CTF-eligible service list since 2008.

27. Rapid technological advances have resulted in a continuing introduction of new, complex telecommunication and internet access services, which often bundle CTF-Eligible services with non-CTF-eligible services.

28. Current rules require staff to determine on a case by case basis if a service or a component of a service is eligible for the CTF Discount based on whether the service or one of its components is functionally equivalent to the list of services established by the Commission many years ago. This situation creates significant challenges for staff.

29. The Joint Parties recommended designation of the following categories of services and their functional equivalents, which are included in the USAC's Eligible Services List for the 2014-15 funding year for the FCC's E-Rate program, as eligible for the CTF discount: 1) Digital Transmission Services, 2) Internet Access Services, 3) Wireless Internet Access Services and 4) Voice Services. Multi-Protocol Label Switching (MPLS) is also eligible when used in conjunction with another CTF-eligible service.

30. CD Staff recommended discontinuing eligibility of Voice (including VoIP) services and data plans and air cards for mobile devices. Many parties opposed this recommendation.

31. The FCC's E-Rate Modernization Order identifies voice services as "legacy services" dating back to 1997 when the Federal E-rate program was established. The options for internet access then were generally limited to dial up modem services offered over POTS lines, and the data links provided by T-1 and T-3 lines. Today, a much broader array of high speed broadband services may be

available in many, but not all California areas, and are needed by schools and libraries to support modern digital learning initiatives.

32. The Federal E-rate program subtracts 20% from the school or library's voice service discount each year until the E-rate discount reaches zero in phasing out the eligibility of these services.

33. Elimination of federal discounts for wireless data plans and air cards takes effect in FY 2015.

34. The FCC explains that funding for individual data plans or air cards for individual users is not cost effective when those users can already access the Internet through internal wireless broadband networks on wireless-enabled devices without the help of stand-alone data plans or air cards.

35. The FCC allows for wireless data plans if it can be demonstrated that they are more cost-effective thanWi-Fi on-site facilities-based internet access.

36. CD Staff proposed including dark fiber lease service as a CTF-eligible service because it provides a readily available and cost-effective way to extend internet access in some areas.

37. The Joint Parties recommended that the CTF program adopt the Federal E-rate program rules regarding cost allocation when a product or service contains ineligible components.

38. The Federal E-rate program allows full funding for the product or service if the ineligible features are included on an "ancillary basis." If no separate pricing is available for those features, then costs need not be allocated to the ineligible functionality. "Ineligible functionality" is considered "ancillary" if: 1) a price for the ineligible component cannot be determined, and 2) the product or service is the most cost-effective means of obtaining the eligible functionality.

39. CD Staff recommended that all service providers maintain a list of all CTF-eligible products they offer with pricing information and CTF contact information on a separate, dedicated page of their public company websites as a condition of CTF-approved provider status.

40. CD Staff recommended that local governments and nonprofit corporations be allowed to provide service to CTF-eligible participants in underserved areas.

41. CTF subsidies are currently set at 50% of the purchased service price, independent of price level or quantity of service purchased. For participants in the Federal E-Rate program, the CTF 50% subsidy is applied to the purchase price, net of the Federal E-rate subsidy.

42. CD Staff proposed to change the structure of the CTF subsidy entirely by eliminating the 50% of service purchase price in favor of instituting a discount based on a fixed dollar amount per download speed.

43. The Joint Parties and others opposed this proposal for several reasons. They argue that there is no identified mandate to lower the level of program expenditures that would necessity the cost cutting that would result from the CD Staff proposal, that the proposal is not feasible and that it would result in an unfair "two-tiered" discount that is higher for some, lower for others within the same participant category. ORA warned that the flat rate per download speed proposal may in fact compromise the program's ability to meet its universal service goals.

44. Currently, every CTF participant must have its eligibility verified at least every five years.

45. CD Staff proposed that both the current and new participants must recertify within three years of the effective date of this decision as well as report

annually the unduplicated headcount of individuals who used the supported internet service.

46. CD Staff recommended that the Commission continue with the current application requirement that the applicant must notify the Commission of any changes to the information contained in its application so that changes in status on eligibility criteria such as revenue level or community demographics would be self-reported between application deadlines.

47. The Joint Parties agreed to the three year eligibility verification as a consensus recommendation for CBOs only and further recommended specific attestation and documentation requirements in support of claims of eligibility.

48. The administration budget for the entire CTF program is 10%, an unusually slim allocation for a program of this size and significance. CD Staff resources were constrained before the annual budget and program activity increases rose at such a steep rate as today.

49. Anticipating delays in processing the eligibility applications proposed today due to resource constraints, CD Staff proposed a one-year moratorium on new applications.

Conclusions of Law

1. The CD Staff's proposed restatement of goals, with revisions based on parties' proposals and comments should be adopted as shown in Appendix A to this decision.

2. We should retain the E-rate eligibility criteria for private non-profit schools that caps endowments at $50 million.

3. The CTF budget cap for community colleges should no longer apply. To adequately anticipate and address any significant changes to the community college's impact on the CTF, community colleges should submit estimated

"central expenditures" for the upcoming budget year, plus one, annually by April 1. By "central expenditures," it is meant those expenditures made by the CCCCO on behalf of community colleges.

4. Libraries should remain categorically eligible without any change in eligibility requirements.

5. Critical Access Hospitals that meet the government owned and operated or non-profit criteria should be categorically eligible participants as a subgroup under the "Hospitals and Health Clinics" category.

6. California Telehealth Network members must individually qualify by meeting the requirements for Health Care Community Based Organizations before receiving CTF discounts.

7. Current rules governing Community Based Organizations are necessary but insufficient for the CTF to operationalize the restated program goals.

8. The recommendations for further defining CBO eligibility criteria should be adopted as shown in Appendix A to this decision.

9. Given that there is a practical issue of how to separate an internet access service that is used for both administrative purposes and to provide clients with direct access to the internet, hybrid use segregation or other separation issues should be included in the scope for Phase 3 of this proceeding.

10. The Commission should adopt a new eligible subcategory of CBO called "Health Care/Health Services CBO."

11. The Commission should adopt the eligibility criteria for Health Care/Health Services CBOs as shown in Appendix A to this decision.

12. Allowing all FCC HCF Block E eligible entities to be qualifying Health Care/Health Services CBOs would allow eligibility for CTN members that are for-profit hospitals, emergency rooms, teaching hospitals, medical schools, and

data centers, all of which cannot qualify individually. Insufficient justification exists to support providing CTF subsidies to entities that cannot individually qualify.

13. No revenue cap per entity should be imposed on Health Care/Health Services CBOs since they must already be non-profits to qualify.

14. An initial budget cap should be adopted for the Health Care/Health Services CBO category as a whole. An initial budget cap should be adopted for the CTN membership group in particular as well.

15. The level of the Health Care/Health Services CBO budget cap and the CTN budget cap should be set in Phase 3 of this proceeding. All other issues associated with implementation of these budget caps should be considered in Phase 3 as well.

16. The Commission should adopt use of the USAC Fiscal Year 2014-2015 Eligible Services List as guidance for our adopted list of categories and definitions as shown in Appendix A to this decision.

17. The detailed list of eligible services as set forth in Appendix B, attached to today's decision should be adopted.

18. CD Staff should update the eligible services list annually via administrative letter.

19. Reducing the CTF discount for voice and VoIP services is consistent with statutory provisions governing the CTF and the Commission's universal service goals. The statutory provisions governing the CTF do not mandate inclusion of voice services and VoIP to eliminate the digital divide. Nor do our universal service goals suffer by limiting support for voice and VoIP from CTF eligible services.

20. Reducing support for voice services and eliminating support for data plans will allow the CTF to focus funding on high-speed broadband and will be aligned with the Federal E-rate program.

21. The Commission should reduce CTF support for voice service discounts; for eligible schools, libraries, government-owned and operated health care facilities , and Critical Access Hospitals in areas classified unserved or underserved by broadband. Phase 3 should create a process for those entities to seek exemption from the reduced support for voice discounts.

22. The reduced CTF voice service discounts should occur as shown in Appendix C. Elimination of CTF discounts for data plans and air cards should proceed on the same schedule as shown in Appendix C. The Commission should adopt Appendix C to this decision.

23. CTF should provide discounts for wireless data plans and air cards only if the entity can demonstrate it is the most cost-effective means of internet access, consistent with the Federal E-rate program.

24. The Commission should include dark fiber lease services in the eligible services list.

25. The Commission should adopt the Federal E-rate approach to cost allocation between eligible and ineligible services, coupled with information reporting requirements to create a more administratively efficient and transparent process for determining service eligibility than exists today.

26. Phase 3 of this Rulemaking should include consideration of documentation requirements to implement today's adopted cost allocation processes and related ancillary functionality showings by CTF claimants.

27. The Commission should adopt the conditions for service provider eligibility requirements shown in Appendix A.

28. The Commission should direct CD Staff to review claims to determine if a more detailed analysis is necessary and may otherwise conduct audits of carriers' CTF claims. CD Staff would ensure compliance with CTF service eligibility and discount calculations by conducting in-depth "spot checks" that will sample claims for the more detailed review and analysis as necessary.

29. Phase 3 should include further development of the annual reporting submittals, detailed pricing information and documentation requirements necessary to implement today's decision in the scope of issues.

30. The record is insufficient to resolve the issues raised regarding the CD Staff's recommendation to include local government and non-profit service providers as CTF-qualifying service providers.

31. The Commission should retain the current 50% discount structure. For the Federal E-rate program participants, the California Teleconnect Fund's 50% discount applies to eligible service costs minus the Federal E-rate subsidy. For E-rate schools, the CTF discount amount should be no higher than their E-rate subsidy.

32. The Commission should adopt a three-year program eligibility reverification requirement for entities who are not categorically eligible.

33. The Commission should include development of implementation and documentation specifics for the adopted three-year reverification requirement in Phase 3 of this proceeding.

34. The Commission should not adopt a one-year moratorium on new applications to the CTF program.

35. The Commission should direct CD Staff to present recommendations on improvements to resource allocation and potential budget augmentations for

administration of the CTF program as necessary to implement the CTF program reforms adopted today in Phase 3 of this proceeding.

O R D E R

IT IS ORDERED that:

1. The Restatement of California Teleconnect Fund Goals is adopted as set forth in Appendix A.
2. The California Teleconnect Fund Rules set forth in Appendix A are adopted.
3. The California Teleconnect Fund Eligible Services List is adopted and attached to this decision as Appendix B.
4. The reduction in voice services discounts as shown in Appendix C is adopted.
5. The elimination of data plans as shown in Appendix C is adopted.
6. Community Colleges shall provide estimated "central expenditures," for the upcoming budget year, plus one, annually by April 1 to Communications Division staff. "Central expenditures," means those expenditures made by the California Community Colleges Chancellor's Office on behalf of community colleges.
7. The following issues will be included in the scope for Phase 3 of this Rulemaking:

    - Since there is a practical issue of how to separate an internet access service that is used for both administrative purposes and to provide clients with direct access to the internet, Phase 3 will consider hybrid use segregation or other separation issues.
    - The level of the Health Care/Health Services Community Based Organizations budget cap and the California

Telehealth Network budget cap and associated implementation issues.

- The documentation requirements to implement today's adopted costs allocation processes and related ancillary functionality showings by California Teleconnect Fund (CTF) claimants.
- Development of the annual submittals, detailed pricing information and documentation requirements necessary to implement today's decision.
- Implementation and documentation specifics for the adopted three-year eligibility verification requirement.
- CD Staff shall present recommendations on improvements to resource allocation and potential budget augmentations for administration of the CTF program as necessary to implement the CTF program reforms adopted today.
- A process for schools, libraries, government-owned and operated health care facilities, and Critical Access Hospitals, in areas classified as unserved or underserved by broadband, to seek exemption from the reduced support for voice services.

8. With respect to the budget caps ordered in this decision applicable to the Health Care/Health Services Community Based Organizations (CBO) category and the subcategory of California Telehealth Network (CTN) members, Communications Division Staff is directed to serve a brief report in Phase 3 on the schedule adopted by the assigned Administrative Law Judge regarding: 1) how much California Teleconnect Fund (CTF) funding that was distributed to CTN members in the years since their inclusion as qualifying participants; 2) how many existing Community Based Organization (CBO) members may qualify under the new Health Care/Health Services CBO category and the amount of the fund associated with their claims to date; 3) based in part on those estimates, provide a recommendation for an initial budget cap and 4)

recommend a method to review the impact of the CTN membership on CTF funding as a whole and for the new Health Care/Health Services category, in particular.

9. Within 60 days of the effective date of this decision, California Telehealth Network shall provide a three year forecast with underlying assumptions including prices and speed levels of total member California Teleconnect Fund expenses and a list of members to Communications Division Staff.

This order is effective today.

Dated July 23, 2015, at San Francisco, California

MICHAEL PICKER
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
LIANE M. RANDOLPH
Commissioners

Appendix A
California Teleconnect Fund
Goals and Program Rule Changes

APPENDIX A
California Teleconnect Fund
Goals and Program Rules Changes

California Teleconnect Fund Program Goals

- Advance universal service by providing discounted rates to qualifying schools, maintaining pre-school, kindergarten or any of the grades 1 to 12, inclusive, community colleges, libraries, hospitals, health clinics and community organizations.
- Bring every Californian direct access to advanced communications services in their local communities;
- Ensure high-speed internet connectivity for community CTF-eligible institutions at reasonable rates; and
- Increase direct access to high-speed internet in communities with lower rates of internet adoption and greater financial need.

California Teleconnect Fund <u>Categorically Eligible Participant Rules</u>

1. Schools: The Federal E-rate eligibility criteria for private non-profits that caps endowments at $50 million is retained for California Teleconnect Fund School Participants.

2. Community Colleges: The CTF budget cap for community colleges will no longer apply.

3. Libraries: Libraries remain categorically eligible without any change in eligibility requirements.

4. Hospitals and Health Clinics: Critical Access Hospitals should be categorically eligible participants as a subgroup under the "Hospitals and Health Clinics" category. Critical Access Hospitals must individually meet the government owned and operated or non-profit criteria for CTF recipients.

Community Based Organization Participant Eligibility Criteria Rules

- "Educational Instruction" is defined as "regular, ongoing, preschool or K-12 academic educational or instructional programs that can also include ESL and language education, literacy, job training, technology instructions and information on public benefit and social services programs eligibility and access." We exclude religious organizations providing early childhood or K-12 education from qualification under the CBO educational instruction category and instead should require application by these entities to meet categorical qualification requirements under "Non-profit, private" schools. Religious organizations that otherwise meet the CBO requirements by providing other qualifying services may apply for CTF participation as a CBO.

Each CBO must have:

- Revenues less than $5 million, except for 2-1-1 CBOs or the new Health Care/Health Services CBOs. Large CBO's with small individual local chapters or offices may apply for their local individual organization if the local individual organization operates below the $5 million revenue cap.
- Qualifying Services must be 50% or more of a CBO's mission.
- IRS 501(c)(3) tax exempt letter.
- IRS Form 990 or other financial statements and attestation, if they do not have a Form 990 or if the Form 990 is inadequate.
- Provides its community access to the internet – except for Health Care/Health Services or 2-1-1 CBOs.
- Provides services directly to individuals at specific geographic locations.
- A majority of members of the Board of Directors are members of the community the organization serves.

- Services are provided directly or through some closely related indirect assistance. "Indirect Assistance" means providing assistance on site to those unable to do so because of disability or limited English proficiency.
- Internet access for purely administrative purposes continues to be prohibited.
- Religious organizations must meet all the CBO criteria above and provide qualifying services through a separate legal entity that files a separate federal income tax return.
- 2-1-1 information and referral CBOs will continue to be eligible as approved by Commission resolution.

5. New eligible subcategory of CBO called "Health Care/Health Services CBO is adopted. No revenue cap per entity will be imposed on CBOs in this subcategory. Entities must meet the following criteria in addition to the general CBO eligibility criteria above:

- A Health Care/Health Services CBO must be staffed by licensed medical personnel on site; and
- A Health Care/Health Services CBO must accept Medicare and MediCal or provide services without charge or at a minimal fee.

6. California Telehealth Network members shall be individually qualified before receiving California Teleconnect Fund discounts.

7. An initial budget cap will be adopted for the Health Care/Health Services CBO category as a whole and an initial budget cap will be adopted for the California Telehealth Network membership group in particular.

8. The level of the Health Care/ Health Services CBO budget cap and the CTN budget cap will be set in Phase 3 of this proceeding. All other issues associated with implementation of these budget caps will be considered in Phase 3 as well.

California Teleconnect Fund Eligible Services List Rules

9. The Eligible Service List categories and definitions are as follows:

   - "Digital Transmission Services" generally refer to data links that connect multiple points using any available technology. An eligible digital transmission service may be used to connect an eligible location to the Internet or Internet2. Digital transmissions services used to link local networks are commonly called "wide area networks" (WANs).

   - "Internet Access" is generally only available for basic conduit access to the Internet, but is not available for content, equipment, and services beyond basic conduit access to the Internet.

   - "Wireless Internet Access provides Internet access to portable devices or other devices capable of receiving a wireless service. A wireless Internet access service designated for portable electronic devices is eligible if used for the intended goals of the CTF program at a CTF eligible location and is the sole method to deliver Internet Access to a mobile device at that location. Applications (including GPS) for wireless devices are not eligible for discount. Service/Data charges dedicated solely to the provision of these applications are not eligible and require cost allocation consistent with the cost allocation requirements of the Federal E-Rate program. Mobile hotspot service designed for portable electronics is eligible if used for the intended goals of the CTF program at a CTF eligible location and is the sole method to deliver Internet Access to a mobile device at that location.

   - "Voice Services" are those designated eligible under D.96-10-066 for the purpose of two-way voice communications, and their functional equivalents, including voice communications provided via interconnected Voice Over Internet Protocol (VoIP), regardless of the regulatory status of the provider. The CTF discount shall not apply to any charges for local or long distance calling or features that are integrated with or added to the Voice Services.

- A "Functional Equivalent" service provides the same functionality to an end-user as an Eligible Service, but does so through a different means such as a different technology, protocol, platform, configuration or other standard.

10. Appendix B is the adopted Eligible Services List.

11. CD Staff will update the eligible services list annually via administrative letter.

12. Elimination of California Teleconnect Fund eligibility for data plans and reduction in discounts for voice and VoIP services will occur on the schedule beginning as shown in Appendix C.

13. CTF will continue to provide discounts for wireless data plans and air cards only if the entity can demonstrate it is the most cost-effective means of internet access, consistent with the Federal E-rate program. CTF will accept documentation of the FCC's E-rate approval of the entity's wireless data plan as evidence that it is the most cost-effective solution available. For entities that do not receive E-rate discount, methods to determine cost-effectiveness will be developed in the Phase 3 decision.

14. The Eligible Services List also includes dark fiber lease services.

15. The Federal E-rate approach to cost allocation between eligible and ineligible services is adopted.

California Teleconnect Fund Service Provider Eligibility Criteria Rules

16. The following requirements are conditions for service provider eligibility:

- Documentation of CTF Eligible Services is required as follows:

  <u>Documentation of CTF Eligible Services</u>

  Within ninety days of the date of issuance of this decision, CTF providers will submit to the Communications Division Director a list of services that they provide within each Eligible Service category and their functional equivalents available to CTF customers. The report shall include (a) the marketed name of each service; (b) the Eligible Service category of each service; and (c) a brief description of each service, including speed levels. Carriers will update their lists as necessary to reflect any modifications (i.e., new services added or current services discontinued) prior to seeking CTF reimbursement for a new service (provided that any new service offering will still be eligible for CTF discounts if the service is purchased by CTF participants prior to a carrier submitting an updated list). Within ninety days of the date of the issuance of this decision, CTF providers will submit the following to the Communications Division Director: (a) provider's CTF contact name, phone number and email address; and (b) list of California cities served by the provider. Providers will update this information as necessary to reflect any changes. Communications Division staff will compile this information and post it on the Commission's CTF webpage, updating it at least every 3 months with any changes received.

- In addition, the CTF providers' report must include complete and detailed pricing information for each CTF-eligible service and their functional equivalents. Pricing information will be reported after the Phase 3 decision further develops the reporting requirements.

- CTF providers must make public all reported information, with appropriate updates, on a separate, dedicated page of their websites including, but not limited to: CTF-eligible service information included in the report required in today's decision, a list of all CTF-eligible products offered with pricing information and CTF contact information. The requirement to make public details pricing information will begin after the Phase 3 decision further develops the reporting requirements.

17. CD Staff will review claims to determine if a more detailed analysis is necessary and may otherwise conduct audits of carriers' CTF claims. CD Staff will ensure compliance with CTF service eligibility and discount calculations by conducting in-depth "spot checks" that will sample claims for the more detailed review and analysis as necessary.

California Teleconnect Fund Discount Structure

18. The California Teleconnect Fund Discount is 50% of eligible service costs, except for voice which will be discounted at 25%. For Federal E-rate program participants, the California Teleconnect Fund's discount applies to eligible service costs minus the Federal E-rate subsidy. For E-rate schools, the CTF discount amount shall be no higher than their Federal E-rate subsidy.

19. CBO's must reverify CTF program eligibility every three (3) years.

20. Development of implementation and documentation specifics for the adopted reverification rule will occur in Phase 3 of this proceeding.

(END OF APPENDIX A)

APPENDIX B

List of Eligible CTF services

The CTF uses the Universal Services Administrative Company's (USAC) E-rate definitions for Digital Transmission Service, Internet Access and Wireless Internet Access, with certain exceptions.

The following services listed under these categories are eligible for CTF reimbursements:

Digital Transmission Service*

- Asynchronous Transfer Mode (ATM)
- Broadband over Power Lines (BPL)
- Digital Subscriber Line (DSL)
- DS-1, DS-3
- Ethernet
- Fiber
- Frame Relay/Permanent Virtual Circuit (PVC)
- Integrated Services Digital Network (ISDN, BRI, PRI)
- OC-1, OC-3, OC-12, OC-N
- Satellite service
- Switched Mulitimegabit Data Service (SMDS)
- T-1, T-3, Fractional T-1
- Wireless
- Wide Area Networks (WAN)

The following service may be eligible for CTF reimbursement subject to preapproval by CD staff:

The telecommunications component of:

- Distance learning capability
- Video, or
- Interactive television

Internet Access* - Support in this funding category is generally only available for basic conduit access to the Internet but is not available for content, equipment purchased by applicants, and services beyond basic conduit access to the Internet. Basic conduit access technologies include but are not limited to:

- Broadband over Power Lines (BPL) – enabled Internet access service
- Cable
- Digital Subscriber Line (DSL)
- Fiber/Dark Fiber
- Satellite service
- Telephone dial-up
- T-1 lines
- Wireless
- Wide Area Network (WAN)

Wireless Internet Access Service*

- Wireless Internet Access Service – The CTF discount only applies to data plans and laptop cards and not cellular voice minutes or plans.**

Telephone Service ***

- **Measured Business Service**
- **VoIP**

Non Eligible Communication Services

The following items are not eligible for CTF reimbursement:

- Content/Usage;
- Construction/Infrastructure;
- Maintenance/Inside Wire Maintenance;
- Video conferencing services;
- Email Services;
- Web Hosting;
- Firewall ;
- Domain Name Service;

- Dynamic Host Configuration; and
- Mobile hotspot service (only for educational purposes).

For bundled products/services that contains both eligible and non-eligible services, carriers must cost allocate to receive partial CTF reimbursements.

*Some services may be excluded from USAC's eligibility service list.

**This is the current policy as well.

*** Support in this funding category is only available for basic voice services or VoIP. Long Distance, extra features, usage, equipment, etc. are not eligible for funding.

(END OF APPENDIX B)

APPENDIX C
Discount Reduction for Voice/VoIP Services and Elimination of Data Plans

E-rate Discount					
FCC E-rate Phase Down	Federal Fiscal Year 2014-15	Federal Fiscal Year 2015-16	Federal Fiscal Year 2016-17	Federal Fiscal Year 2017-18	Federal Fiscal Year 2018-19
Voice Services	70%	50.0%	30.0%	10.0%	not eligible
Wireless Data plans	70%	not eligible	not eligible	not eligible	not eligible

CTF Discount					
CTF Phase Down	July 1, 2014 – September 30, 2015	October 1, 2015 – June 30, 2016	State Fiscal Year 2016-17	State Fiscal Year 2017-18	State Fiscal Year 2018-19
Voice Services	50%	50%	25%	25%	25%
Wireless Data plans (for schools)	50%	not eligible	not eligible	not eligible	not eligible
Wireless Data plans (for all other entities)	50%	50%	not eligible	not eligible	not eligible

Notes:

The statewide average E-rate discount of approximately 70% is used as a proxy E-rate for a typical school.

Phase 3 of the proceeding will develop methods to determine the cost effectiveness of Wireless Data plans for entities that do not receive E-rate.

(END OF APPENDIX C)