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March 30, 2022

Alice Reynolds, President
California Public Utilities Commission
505 Van Ness Ave., 3rd Floor
San Francisco, CA 94102-3298

RE: Federal Funding Account Program Rules and Guidelines

Dear President Reynolds,

Thank you and all the Commission's staff for your work on the proposed rules for the California Advanced Services Fund (CASF) Federal Funding Account (FFA). First and foremost, I applaud your leadership in working diligently to close the digital divide and achieve digital equity across California. As you know, the CASF program is vital program to accomplish the state's broadband goals. In a partnership between the Legislature and Governor Newsom, this program is funded with unprecedented \$2 billion to build last-mile infrastructure to connected unserved and underserved communities with high-speed broadband service. This time-limited federal funding is a once-in-a-generation opportunity to close the digital divide across the state. As we work together to increase broadband access, I believe that the Proposed Decision (PD) for the FFA takes some positive steps in the right direction, including:

- Providing greater flexibility to CASF applicants to designate project areas;
- Reforming the challenge process to stop frivolous project challenges;
- Ensuring that funded middle-mile projects have the potential to connect with last-mile network;
- Defining a "Priority Area" as an area with a high density of unserved locations, analyzed on a county basis.

However, as my colleagues and I highlighted at our recent meeting with you and your staff, there are concerns regarding several items in the proposed rules that we believe need further consideration. Given that the CPUC is currently fielding comments from parties on the final rules before the planned adoption at your April 7th voting meeting, time is of the essence to adopt rules that will enable a successful program grant cycle that

is fair to all applicants and offers an efficient review process. To that end, I would encourage the Commission staff to consider revisions to a few areas in particular:

- **Letter of Credit Requirement.** The PD proposes that grant applicants either hold a Certificate of Public Necessity and Convenience (CPCN) or submit a Letter of Credit covering 100% of the FFA grant amount for the entire 24-month construction period. This particular requirement would severely disadvantage local governments from accessing the funds, who are likely unwilling or unable to go through the regulatory hassle of obtaining a CPCN. We request that the CPUC reconsider the level of credit requirement, especially the impact on local governments.
- **Ministerial Review Criteria.** The PD proposes several eligibility criteria for the expedited ministerial review process, including both a \$25million grant limit and a \$9,300 per connection limit. We are particularly concerned that the per-connection limit would disadvantage rural projects in the neediest areas of the state, where the cost per-connection will likely be higher than projects in urban areas. This arbitrary limit would therefore cause unnecessary delays for worthy projects. We request that the CPUC consider eliminating the per-connection threshold for the ministerial review process.
- **Revenue Limits for Applicants.** The PD includes several pricing requirements for applicants, which are intended to increase affordability for future subscribers. The Legislature remains committed to broadband affordability and we agree with the federal funding rules that require affordability protections. However, we are concerned that the proposed requirements, which are akin to revenue limits, do not strike the right balance between ensuring affordability and the business needs of running a broadband network. As a result, the requirements may prevent some potential applicants from participating in the program.

In particular, we are concerned that the proposed requirement to provide a \$40 plan to all customers for the life of the infrastructure combined with the 10-year price freeze for all plans would severely limit the amount of revenue that applicants could collect from subscribers to support the service, making projects in those areas uneconomical. These strict affordability requirements, although laudable, would likely disadvantage small ISP and municipal applicants the most. For example, a local government or small ISP would not have the option of spreading their operations and maintenance costs among a large subscriber bases, like a larger ISP can. Further, with rapid inflation appearing to have no end in sight, the proposed process for increasing plan revenues for applicants would create a bureaucratic backlog as the CPUC would likely need to consider scores of rate increase requests in the near future on a case-by-case basis.

In conclusion, we appreciate all the work in effort that went into creating these proposed rules and commend the diversity of opinions from stakeholders throughout the process.

Nonetheless, we strongly encourage the CPUC to carefully reconsider the potential unintended consequences of some of the proposed rules. We stands ready to work with you and your colleagues to ensure that we use this unprecedented opportunity to rapidly connect our unserved communities and support our low-income residents.

Sincerely,



**Sharon Quirk-Silva, Chair
Assembly Committee on Communications and Conveyance**



**Assemblywoman Megan Dahle
1st Assembly District**



**Assemblymember Jim Wood
2nd Assembly District**



**Assemblymember Cecilia Aguiar-Curry
4th Assembly District**