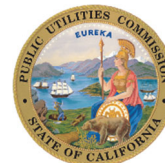


PUBLIC UTILITIES COMMISSION

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May 5, 2023

Hon. Alan Davidson
NTIA Administrator and Assistant Secretary
of Commerce for Communications and Information
Herbert C. Hoover Building
U.S. Department of Commerce
National Telecommunications and Information Administration
1401 Constitution Avenue, N.W.
Washington, D.C. 20230
bead@ntia.gov

**Re: Comments of the California Public Utilities Commission to the National
Telecommunications and Information Administration on BEAD State
Challenge Process Guidance**

Dear Assistant Secretary Davidson:

Thank you for the opportunity to submit these Comments of the California Public Utilities Commission (CPUC) to the National Telecommunications and Information Administration (NTIA) in response to the BEAD State Challenge Process Guidance (the Guidance, hereunder) issued by your agency on April 25.

Please find below our submitted comments, comprised of responses and recommended actions by NTIA to 5 Subsections (5.2, 7.1, 7.4, 7.6. and 10.2), as identified hereunder.

Section 5. Initial Location Data Requirements

5.2 Community Anchor Institution Identification

CPUC Comment 1:

The CPUC fully endorses and supports the Guidance statements relating to the role of Eligible Entities in describing community anchor institutions (CAIs). Specifically, we support language of the Guidance stating that Eligible Entities may establish “the categories of institutions proposed as CAIs” including acting to “propose service to

one or more CAs in a category not explicitly cited as a type of CAI" in the underlying Infrastructure Act statute. This approach allows the State and Territorial Eligible Entities to fine tune their respective inventories of CAs based on in-state characteristics of underserved populations, and how these state-by-state qualities may best be recognized as part of the Eligible Entities' efforts to "facilitate greater use of broadband service by vulnerable populations."

The CPUC will work with stakeholders in California to develop California's inventory of CAs as the Guidance suggests, availing ourselves of the ability to define the categories involved within the guidelines outlined.

CPUC Recommended Action by NTIA:

The CPUC recommends that the NTIA, in its final rules of the State Challenge Process, adopts the language as stated in the Guidance, to allow Eligible Entities reasonable allowances in the state-by-state definition of CAs, in order to best address the broadband service needs of vulnerable populations.

Section 7. BEAD Challenge Process Design Requirements

7.1 Description of Challenge Process

CPUC Comment 2: Challenge Portal and Associated Program Costs:

We thank the NTIA for the important details of the State Challenge Process as outlined in the Guidance. The BEAD Notice of Funding Opportunity (NOFO), released on May 13, 2022, is extremely thorough in its establishment of the rules for the Program. The NOFO remains the central point of reference for CPUC as we now draft California's BEAD Five-Year Action Plan (The Plan) and prepare for our Initial Proposal. We thank you for NTIA's financial support of both efforts via the award to the Commission of our BEAD Initial Planning Funding (Federal Award # 05-20-B278), on December 1, 2022, and through the constant support we receive from our Federal Program Officers (FPOs).

We must also point out that new details of the State Challenge Process as identified in the Guidance will generate higher costs for CPUC than previously anticipated. As the designated broadband data and mapping agency for California under the Broadband Data Collection (BDC) Program of the Federal Communications Commission (FCC), we are intimately aware of the scale of the huge datasets involved in our participation in the BDC effort. Accurately determining the number of underserved and unserved locations across the nation's most populous state requires significant data processing and associated resources each time we produce a new iteration of statewide data.

During both our Bulk Fabric Challenge and Bulk Availability Challenge filings with the FCC, the staff time and contractor costs involved were significant. As much as we welcome the opportunity to deploy the California Challenge Portal, and the public-facing resources described as requirements in the Guidance, the costs involved in standing-up these systems, and the associated information technology and staff

resources are outside our planned budget for the Five-Year Action Plan and Initial Proposal. In addition, the amount of time it will take to develop a new portal cannot be understated and will likely take longer than anticipated for a state as large and as populous as California.

CPUC Recommended Action by NTIA:

The CPUC requests that the NTIA issue a new tranche of programmatic funding for the States and Territories which shall financially support the added costs of the State Challenge Process as the requirements for Process are now more fully developed and identified by the Guidance.

7.4 Evidence Requirements

CPUC Comment 3: Publicly Accessible Speed Testing

CPUC endorses and fully supports language in the Guidance that authorizes “speed test data that has been gathered in a scientifically rigorous and reliable manner.”¹

CPUC Recommended Action by NTIA:

CPUC recommends that NTIA, in advance of its issuance of final Guidance for the State Challenge Process, review industry offerings, standards, and costs for speed test platforms which shall: a. Be relatively easy for States and Territories, local government entities, nonprofits, Tribal governments, and broadband providers to deploy and report results from for State Challenge purposes. b. Be approved by NTIA for use in the State Challenge Process. c. Be able to be deployed by States and Territories cost effectively as part of their State Challenge Process.

7.6 Transparency Requirements

CPUC Comment 4: Transparency and Public Access to The Fabric

The CPUC endorses all statements issued as draft challenge requirements in Subsection 7.6, and its paragraphs a. through c., and its concluding paragraph requiring “Eligible Entities” to “publicly post its final determinations in three lists.”

However, this Subsection, and all others correctly seeking the maximum level of transparency and public visibility possible within the State Challenge Process, misses the fact that the Broadband Serviceable Location Fabric (BSLF, the Fabric) is itself not fully transparent nor accessible to the public.

The CPUC applauds the efforts of the Federal Communications Commission (FCC) and NTIA to make the BSLF available to the States and Territories. Unfortunately, those of us that have worked with these versions of the Fabric understand that the data remains non-transparent for stakeholders across our jurisdictions. State Broadband Offices (SBOs) are restricted by license terms and conditions from fully sharing Fabric-based information with these stakeholders.

¹ Guidance, Sec. 7.3, Para 4, p. 16.

For example, the CPUC and all other SBOs are restricted on each of these critical points:

a. The CPUC may not make available for stakeholder use, via downloading Fabric-derived location information. For example, we may not publish online for public review or downloading, nor for use by broadband service providers, local jurisdictions, non-profit organizations, or Tribal governments, the Fabric location identifiers together with the applicable street address and/or latitude and longitude information for any location. The CPUC, like all SBOs nationally, is thus prohibited from managing a robust multi-party exchange of granular data as we plan and implement our State Challenge Process.

b. The CPUC may not make available any version of the Fabric, whether through the FCC or directly through CostQuest to broadband service providers for the purpose of submitting their availability or other data sets for any purpose. The CPUC's annual Broadband Data Collection is thus forced to rely purely on service address and/or latitude and longitude information that does not necessarily align with the Fabric or its locations. Given the lower quality of location information, this often leads to inaccurate matching between these locations and locations derived from the Fabric. This leads to difficulty in utilizing this information for any analysis of BEAD eligibility or accurate challenges solely based on data submitted directly to the CPUC. Work relating to determining California Advanced Services Fund (CASF) eligibility, utilizing submitted data based on the Fabric, could also be used to better analyze the accuracy of whether locations deemed ineligible by BEAD are actually eligible or the reverse, leading to more accurate challenges and therefore a more effective allocation of BEAD Funding.

CPUC Recommended Action by NTIA:

The CPUC urges the NTIA to address and solve, as the agency develops rules for the State Challenge Process, this significant barrier to the transparency and efficient management of the State Challenge Process.

We believe a resolution to this significant problem will require federal financial resources to license for public use the underlying algorithms and datasets comprising the Fabric. CPUC advocates those federal financial resources be expended for these purposes. In this way, States, Territories, nonprofits, units of local governments, Tribal entities, and broadband providers will be supported by an open public resource that is the underlying building block of accurate and granular broadband data.

Section 10. Appendix A: Data Formats

CPUC Comment 5: Broadband Serviceable Location Fabric (BSLF) Information

CPUC supports the inclusion of specific Data Formats within the final rules for the State Challenge Process. Given that we strongly advocate that the Broadband Serviceable Location Fabric (BSLF) be fully accessible to stakeholders participating in the BEAD Program with Eligible Entities, and to the public in general, we believe the Data Formats section of the final Challenge Process rules should include the

specific characteristics of the Fabric datasets, down to the Fabric location identifier level.

CPUC Recommended Action by NTIA:

NTIA should issue final Appendix A: Data Formats that document the data components of the BSLF which allow this public resource to be viewed and used by Eligible Entities, their BEAD Program stakeholders, and the general public at the location level with fully accessible data catalogs and data identifiers.

Sincerely,

/s/ IAN P. CULVER

Ian P. Culver

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Commission

cc:

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