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OVERSIGHT HEARING

California Advanced Services Fund: Federal Funding Account

Wednesday, February 1, 2023
State Capitol, Room 444
10:00AM

As part of California's 2021-2022 Budget, the Legislature adopted and Governor Gavin Newsom signed into law Senate Bill 156 (Chapter 112, Statutes of 2021). Pursuant to SB 156, \$2 billion dollars was allocated to the California Public Utilities Commission (CPUC) to establish the Federal Funding Account (FFA) within the California Advanced Services Fund (CASF) program. The purpose of the FFA is to expeditiously connect unserved and underserved Californians with high-speed broadband service. The CPUC has faced various administrative challenges with working towards making this multi-billion dollar program operational, including with staffing, data collection and mapping, and IT projects. As of today, the CPUC has not yet started awarding grants or given a firm date by when the agency expects to be prepared to open a grant application window.

Legislative oversight is imperative to ensure the CPUC administers the FFA program to meet the statutory objective: to expeditiously connect unserved and underserved households to broadband service. Time of is of the essence, not just because so many households lack access to broadband services, but also because the program is primarily funded with federal monies that expire at the end of 2026. This oversight hearing of the Assembly Communications & Conveyance Committee will provide an opportunity for the CPUC leadership to give an update on their progress and for stakeholders to share their experience with the implementation process thus far.

Background:

The Federal Funding Account (FFA) is one of several subaccounts of the California Advanced Services Fund (CASF) program, which has an overarching purpose of encouraging deployment of high-quality advanced communications services to all Californians. Specifically, the FFA was developed to award grants to eligible entities, such as internet service providers and local agencies, to build last-mile broadband projects. The FFA consists of state general fund dollars and federal dollars received through the American Rescue Plan Act (ARPA), passed by Congress as a response to the pandemic. Under federal ARPA funding guidelines, which are set by the US Department of the Treasury (Treasury), projects built with ARPA funds must be built by December 31, 2026

Following the signage of SB 156 in July 2021, the CPUC promptly initiated a public process to elicit feedback from stakeholders for the creation of the FFA program rules and guidelines. Under SB 156, the CPUC was given limited statutory guidance for creating the FFA rules and guidelines, except that they are required to be based on ARPA guidelines set by the Treasury for using the federal funds. At the time SB 156 was passed, the Treasury had not yet finalized the funding guidelines. Thus, in the interest of time and flexibility, the specific details of the FFA were left to the regulatory process. In January 2022, the Treasury adopted its final rules for the federal funds, then by April 2022 the CPUC adopted the final FFA program rules and guidelines.

The FFA program rules and guidelines for the FFA program cover a variety of topics including: defining unserved areas, eligible projects, and the scoring criteria for applications. An “unserved area” means an area for which no wireline broadband provider reliably offers broadband service at speeds of at least 25 Mbps downstream and 3 Mbps upstream to the entire community. Eligible projects must be capable of offering wireline broadband service at or above 100/100 Mbps; however, wireless technologies are categorically ineligible. For evaluating projects applications, the CPUC adopted metrics that rate applications on a scale of a possible 110 points. The evaluation criteria cover various categories that rate applications based on the type of applicant, technology performance, service affordability, and ability to provide matching funds.

Additionally, the CPUC adopted a “priority areas” designation as part of its evaluation metrics. Priority areas are a subset of the universe of unserved areas, for which an applicant can receive up to 20-points for proposing to serve. Notably, the priority area designation was not required by ARPA guidelines or California statute. Nonetheless, to undertake the work of identifying priority areas the CPUC engaged a consultant to create maps of priority areas for FFA funding.

Earlier this month, following nine months of work, the CPUC published the priority areas map to the public. The publishing of the map brings the agency one big step closer to opening a funding round; however, there is significant concern from the public about the use of the map, the priority areas represented on the map, and the underlying data used to create the map. Given that the priority areas designation has an outsized weight compared to other metrics in the evaluation criteria, there is valid reason for concern about the maps. Further, the CPUC has given mixed messaging as to the purpose of the priority areas map. The CPUC has stated that the maps were necessary for equitable distribution of the funds, but later clarified that equity was not the primary purpose of a priority area designation. As a result, there are valid questions about how the CPUC will proceed and the extent to which equity will be valued in the process.

Issues for Legislative Consideration:

As the Committee provides oversight on the administration of the Federal Funding Account, Members and the public may wish to consider the following points:

- **Timelines:** The ARPA funds, which are the largest portion of the funding for the FFA, have a final deadline of December 31, 2026. Nearly 18-months have passed since SB 156 was signed, and the CPUC represents that they are still several months away from being ready to open a funding round. As a result, there will be less time

for awarding the funding which then increases the chances the funds will not be fully spent.

- **Eligible Projects:** Wireless technologies, regardless of performance, are categorically ineligible for FFA funding. Notably, this rule was not required under ARPA guidelines or California statute. By excluding projects that use wireless technologies, the CPUC has significantly reduced the number of potential applications and must rely solely on wireline providers to utilize the funding. Until a round opens, it is unclear whether there will be enough interest from those providers to utilize all the funding by the applicable deadlines.
- **Administrative Capacity:** The CPUC has not previously administered a broadband grant program with the level of funding as the FFA. In order to meet the federal timelines, the CPUC must award hundreds of millions of dollars per funding round. Historically, the CPUC has only given away tens of millions of dollars through the CASF.
- **Priority Areas Map:** The inclusion of the priority areas designation in the CPUC's evaluation criteria poses particular challenges and raises important questions about how best to proceed towards awarding grants. While the CPUC acknowledges the challenges posed by the map, the best remedy to address the shortcomings is difficult to discern as each alternative poses several tradeoffs between time, effectiveness, and equity. For example, addressing the issues with the map will cost precious time; making no changes to the map risks further risks institutionalizing a problematic methodology for identifying funding priorities.
- **Digital Equity:** It is unclear if the CPUC is sufficiently accounting for digital equity in any of its metrics or the priority areas map. The CPUC also has not laid out a specific process that will be followed to address the equity concerns with the priority areas map, leaving the public with no clear endpoint for finalization of the maps.
- **Future Funding:** Under the Infrastructure Investment and Jobs Act (IIJA) passed by Congress in 2022, California is expected to review up to an estimated \$3-billion dollars of additional broadband infrastructure funding. The experience with the FFA program will illustrate important lessons learned for administering a future pot of broadband funding.