

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** July 20, 2009

**To:** The Commission  
Meeting of July 30, 2009

**From:** Pamela Loomis, Director  
Office of Governmental Affairs (OGA) — Sacramento

**Subject:** **AB 1555 (Perez/Fuentes) – CASF and ARRA Funding  
As Amended July 16, 2009**

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT**

**SUMMARY OF BILL:**

This is an urgency bill to amend the California Advanced Services Fund (CASF) program. The bill would permit any entity eligible for grants or loan programs under the federal American Recovery and Reinvestment Act of 2009 (ARRA) to apply to participate in the CASF program for the sole purpose of seeking funds to help meet the ARRA matching fund requirement.

**SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:**

This bill will encourage the deployment of broadband facilities to unserved and underserved areas of California by helping all California broadband service providers qualify for economic stimulus federal grant monies to deploy broadband facilities in these areas. This will improve California entities' prospects of receiving a broadband infrastructure grant award under the federal stimulus programs if the entity can use the CASF funds to help meet the federal matching fund requirement. The federal programs will favor applicants that can demonstrate financial feasibility and matching fund availability.

An amendment to the CASF statute is required in order to permit the same pool of broadband service providers that will be eligible for the federal economic stimulus broadband deployment grants to apply for matching grant money from the CASF program.

## **DIVISION ANALYSIS (Energy Division):**

In Decision (D.) 07-12-054, dated December 20, 2007, the Commission created a new public purpose program, the California Advanced Services Fund (CASF), to encourage the deployment of broadband services in unserved and underserved areas, by funding 40% of the project cost through a one time infrastructure grant. The program has a total funding limit of \$100 million.

Senate Bill 1193 (Padilla) Stats. 2008 Ch. 393, codified the CASF program at PU Code sections 270(a) (7) and 281. This codification subjected the CASF to the limitations of PU Code section 270(b) which restricts the use of funds to “compensate telephone corporations for their costs of providing universal service.” Sec. 281(a) and D.07-12-054 further limit CASF funding to telephone corporations granted a certificate of public convenience and necessity (CPCN) by the CPUC or registered with the CPUC.

The federal economic stimulus package, the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111-5, 123 Stat. 115), enacted February 17, 2009, provides \$7.2 billion for grants and loans to expand access to broadband services in the U.S. The \$7.2 billion appropriation is split between the Department of Commerce’s National Telecommunications and Information Administration (NTIA) (\$4.7 billion) and the Department of Agriculture’s Rural Utilities Service (RUS) (\$2.5 billion).

The NTIA’s program - the Broadband Technology Opportunities Program (BTOP) – will award grants to public, private, and non-profit entities for funding of broadband deployment in unserved and underserved areas of the nation. The BTOP imposes at least a 20% matching fund requirement on grantees. Applicants must document their capacity to provide matching funds. The RUS program – the Broadband Initiatives Program – will award loans and/or grants for projects in remote rural areas that lack sufficient access to high speed broadband service to facilitate rural economic development. Some of the RUS awards may also require matching funds.

Together the BTOP and BIP will provide \$4 billion in broadband infrastructure awards. All such awards must be made by September 30, 2010.

This bill would permit more entities to apply for funding from the CASF program by permitting all broadband service providers who apply for ARRA broadband infrastructure awards to also apply for matching funds from CASF. This change will hopefully result in California receiving more of the federal broadband stimulus funds and increase deployment of broadband services in unserved and underserved areas of California.

The bill would potentially permit revenues collected by the CPUC from telecommunications ratepayers of regulated utilities to be granted to entities over which CPUC has no regulatory authority or over which it does not currently exercise regulatory authority. However any non-certified or non-registered entity receiving CASF grants

would still have to meet certain CASF program criteria, as well as the criteria of the ARRA broadband grant program.

### **PROGRAM BACKGROUND:**

In Decision (D.) 07-12-054 dated December 20, 2007, the Commission created a new public purpose program, the California Advanced Services Fund (CASF), to encourage the deployment of broadband services in unserved and underserved areas, by funding 40% of a project's cost through a one time infrastructure grant. One hundred million dollars was allocated to the program to be funded by a surcharge of 0.25% beginning January 1, 2008, assessed on consumers' bills for intrastate telecommunications services, coincident with a 0.25% reduction in the California High Cost Fund-B surcharge to reflect reductions in support being provided by that program. The Commission further ordered that prior to any CASF disbursements, the Commission would seek statutory authority to add the CASF as one of the funds authorized for handling by the State Treasury and to seek statutory authority for specific direction to eligible telephone corporations for remitting CASF collections and for use of the funds by the Commission.

Chapter 393, Statutes of 2008 (SB 1193, Padilla) approved and codified the CASF and program to provide grants via transfer payments to certified or registered telephone corporations to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and substantial social benefits of advanced information and communications technologies. SB 1193 amended Sections 270 and 281 of the PU Code to establish the CASF through January 1, 2013.

Currently, as required by statute and CPUC decision D. 07-12-054, the CASF grants are only available to telephone corporations that are certified by, or registered with, the CPUC.

Staff work load to implement the CASF program includes the following: Staff reviews applications filed electronically and verifies the information, including whether the area is unserved or underserved (via maps), and whether the entity is compliant with all the reporting and fee requirements of a certificated carrier. If there are any challenges to the application, staff meets with both parties. A challenge will most likely result in a request to the applicant to revise its application and resubmit. As a final step staff drafts a resolution for Commission consideration, recommending denial or approval of a CASF grant award. If a grant is approved the entity has two years to complete the project. During that period, staff reviews periodic reports of completion status submitted by the grantee and submits periodic payment requests to the State Treasurer for payment to the grantee. CASF funded projects are also subject to Commission audits.

On July 9, 2009, the Commission approved Proposed Decision in Rulemaking (R). 06-06-028 to revise aspects of the CASF program in light of the federal ARRA grant

program. ARRA offers a unique and ground breaking opportunity for California to partner with the federal government and other state agencies in advancing the goal of bridging the digital divide. This Rulemaking is intended to initiate the next steps to achieve this goal by leveraging the remaining funding from the CASF program together with funding available for broadband deployment under the ARRA.

By coordinating the process for review, approval, and funding of broadband projects utilizing a combination of CASF and ARRA money, the potential exists to more efficiently maximize the reach of broadband deployment within California. To mitigate concerns about the potential for waste, fraud, and abuse in the administration of the CASF program, applicants who are not certificated or registered by the Commission would still be required to meet eligibility standards, just as required by certificated applicants, such as providing maps, financial and technical information, etc., as warranted to justify their CASF request. These projects, if approved, would also be subject to audits and other accountability requirements of the federal BTOP and BIP programs

**LEGISLATIVE HISTORY:**

Chapter 393, Statutes of 2008 (SB 1193, Padilla)

**STATUS:**

In order to expedite the process, an Assembly bill was amended in the Senate last month. This bill is currently on the Senate Floor.

**STAFF CONTACTS:**

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**Date:** July 20, 2009

**BILL LANGUAGE:**

BILL NUMBER: AB 1555 AMENDED  
BILL TEXT

AMENDED IN SENATE JULY 16, 2009  
AMENDED IN SENATE JUNE 29, 2009

INTRODUCED BY Assembly Members V. Manuel Perez and Fuentes  
(Principal coauthors: Senators Padilla and Wiggins)  
(Coauthor: Assembly Member Chesbro)

MARCH 11, 2009

An act to amend Section 281 of the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1555, as amended, V. Manuel Perez. Telecommunications:  
California Advanced Services Fund.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law authorizes the commission to supervise and regulate every public utility and do all things necessary and convenient in the exercise of its power and jurisdiction.

Existing law, until January 1, 2013, establishes the California Advanced Services Fund (CASF) in the State Treasury, and requires a surcharge, which is imposed by the commission and collected through retail telecommunications customers' bills, to be deposited in that fund, for the purpose of encouraging the deployment of advanced communications services, as provided in a specified order of the commission. Pursuant to that order, which establishes a program providing matching funds to build broadband infrastructure in unserved and underserved areas, eligible applicants for these funds are telephone corporations having a specified certificate from the commission and wireless carriers subject to registration with the commission.

This bill would, for the sole purpose of providing matching funds pursuant to the federal American Recovery and Reinvestment Act of 2009, make any entity ~~that offers broadband services~~ *eligible for funding pursuant to that act* eligible to apply for participation in the matching funds program if that entity otherwise satisfies the eligibility requirements under the program.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 281 of the Public Utilities Code, as added by Section 4 of Chapter 393 of the Statutes of 2008, is amended to read:

281. (a) The commission shall develop, implement, and administer the California Advanced Services Fund to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies, as provided in Decision 07-12-054.

(b) (1) All moneys collected by the surcharge authorized by the commission pursuant to that decision, whether collected before or after January 1, 2009, shall be transmitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California Advanced Services Fund.

(2) All interest earned on moneys in the fund shall be deposited in the fund.

(3) The commission may not collect moneys, by imposing the surcharge described in paragraph (1) for deposit in the fund, in an amount that exceeds a total amount of one hundred million dollars (\$100,000,000).

(c) (1) Any moneys appropriated from the California Advanced Services Fund to the commission may only be expended for the program administered by the commission pursuant to subdivision (a), including the costs incurred by the commission in developing, implementing, and administering the program and the fund.

(2) Notwithstanding any other law and for the sole purpose of providing matching funds pursuant to the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), any entity ~~that offers broadband services~~ *eligible for funding pursuant to that act* shall be eligible to apply to participate in the program administered by the commission pursuant to subdivision (a), if that entity otherwise satisfies the eligibility requirements under that program. *Nothing in this section shall impede the ability of an incumbent local exchange carrier, as defined by subsection (h) of Section 251 of Title 47 of the United States Code, that is regulated under a rate of return regulatory structure, to recover, in rate base, California infrastructure investment not provided through federal or state grant funds for facilities that provide broadband service and California intrastate voice service.*

(d) The commission shall conduct both a financial audit and a performance audit of the implementation and effectiveness of the California Advanced Services Fund to ensure that funds have been expended in accordance with the approved terms of the winning bids and this section. The commission shall report its findings to the Legislature by December 31, 2010. The report shall also include an update to the maps in the final report of the California Broadband Task Force.

(e) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate

preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the use of federal matching funds for broadband programs, made available pursuant to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), at the earliest possible time, it is necessary that this act take effect immediately.