



PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA

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January 22, 2020
Ajit Pai, Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Chairman Pai:

I write you today to register my concerns with the proposal to hastily implement the \$20 billion Rural Digital Opportunity Fund (RDOF). Over the past month, CPUC staff have had ex parte meetings with FCC staff and commissioners' offices to explore the possibility of a federal-state partnership in the planned Phase I reverse auction. Based on new information gathered during those meetings, it appears unlikely California would have sufficient time to make necessary changes to existing statutes and program rules to achieve this goal. As such, I request changes to the program – such as a set-aside or partnership – that ensures California receives the full \$2.11 billion necessary for resilient investments in our communities.

As you know, this will be the largest amount of funding provided to date for broadband infrastructure. Most of these funds – \$16 billion – are proposed to be distributed in a single auction in November. It is imprudent to disperse this massive amount of funding in a single auction. A more appropriate approach would be disbursing the funds in smaller amounts, using more accurate data over a longer period. This would allow for a more equitable opportunity for states, local governments, and tribes to leverage the funds.

California faces significant challenges for ensuring Universal Service. Of the fifty states, California has the largest population, the third largest land area, the greatest number of people living in poverty, and is the second most expensive in which to live. California has 110 federally recognized tribes, 490,412 households that do not have high speed broadband, and a full 33% of rural households in the state have no high-speed broadband.¹ California is also a net contributor to the federal Universal Service Fund.

On January 10th, Governor Newsom launched, a "Broadband for All" strategy for California.² The broadband initiative will improve infrastructure mapping; invest and optimize resources for broadband deployment – including utilizing federal funds; and coordinate government entities across the state to prioritize connectivity. The RDOF program will not benefit from these critical state efforts.

¹ CPUC estimate at 25 Mbps download speed and 3 Mbps upload speed

² <http://www.ebudget.ca.gov/2020-21/pdf/BudgetSummary/Infrastructure.pdf>, pp. 195.

California has 421,000 RDOF bid-eligible locations – according to the FCC – that do not have access to high speed broadband. This is more than any other state in the nation.³ We estimate – optimistically – that as much as \$2.11 billion⁴ could be available for California internet service provider bids. This would be an exciting prospect; however, the results of previous FCC broadband infrastructure programs give us cause for concern:

1. **Flawed Mechanism:** The FCC's previous auction design left roughly \$150 million unawarded in California because there were no bids. Fully 97% of the funding awarded by the FCC in the previous auction went to fixed wireless and satellite providers in California. While these technologies are important, we also want to see future-proof technologies such as fiber, deployed wherever possible.
2. **No State Role:** California dedicates substantial funding to broadband mapping, deployment, engagement, and service discounts. To date, the FCC has not implemented the CPUC's requests for recognition of a state role in the RDOF auction.⁵ For example, states could provide matching funds and identify priority economic development areas. California has unique challenges and a set-aside or partnership is necessary and not unprecedented, given the special privileges afforded to New York and Alaska.
3. **Flawed Data:** It is well documented that the FCC's baseline broadband data is inaccurate.⁶ The data shows some areas as having broadband when they do not. Crucial reforms are being discussed in the FCC's Digital Opportunity Data Collection proceeding, and it would be appropriate to obtain the results of that effort before distributing such a massive amount of funding.
4. **Rushed Timeline:** The FCC's timeline is too short to allow for the development of innovative solutions for tribes and local governments,⁷ to address areas of market failure, and remove deployment barriers. There is not time to modify existing statutes and rules to work in conjunction with the FCC's program. Further, spreading the funding out over multiple auctions would allow states to develop tribal and community-based bids, and provide necessary opportunity to address issues and refine RDOF.

Bridging the digital divide is a public problem. It is a responsibility shared across all levels of government; it is not the FCC's burden alone. California – as well as 30 other states – manage similar broadband infrastructure programs.⁸ California's program is one of the oldest and most highly-funded in the nation. As we have stated in our filings, we believe that the single most effective means of bridging the digital divide is the ability of states

³ [https://ecfsapi.fcc.gov/file/10920936400802/FCC WC Docket Nos. 19-126%3B 10-9 CPUC Comments on RDOF%2C 9-20-2019.pdf](https://ecfsapi.fcc.gov/file/10920936400802/FCC%20WC%20Docket%20Nos.%2019-126%3B%2010-9%20CPUC%20Comments%20on%20RDOF%209-20-2019.pdf)

⁴ This estimate is based on 720,698 eligible locations in California and a baseline cost model used by CostQuest Associates and validated by CPUC Communications Division Staff for eligible locations estimating purposes.

⁵ [https://ecfsapi.fcc.gov/file/10920936400802/FCC WC Docket Nos. 19-126%3B 10-9 CPUC Comments on RDOF%2C 9-20-2019.pdf](https://ecfsapi.fcc.gov/file/10920936400802/FCC%20WC%20Docket%20Nos.%2019-126%3B%2010-9%20CPUC%20Comments%20on%20RDOF%209-20-2019.pdf)

⁶ "Why Your Internet Sucks," Patriot Act with Hasan Minhaj. <https://www.youtube.com/watch?v=xw87-zP2VNA>.

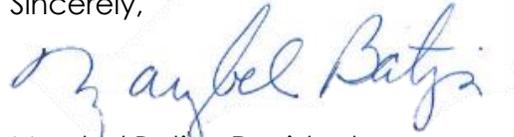
⁷ https://ecfsapi.fcc.gov/file/10118180532362/MuralNet_RDOF_ExParte_1.15.2020.pdf

⁸ Cite: NTIA state program stats.

with broadband funding programs to fully cooperate with the FCC in true federal-state partnerships.⁹

For these reasons, we ask that the FCC provide a more coordinated approach that ensures the approximate \$2.11 billion for California locations, and coordinates state efforts at funding resilient projects that leverage federal, state and local funding and resources.

Sincerely,

A handwritten signature in blue ink that reads "Marybel Batjer". The signature is fluid and cursive, with the first name "Marybel" written in a larger, more prominent script than the last name "Batjer".

Marybel Batjer, President
California Public Utilities Commission

CC: FCC Commissioners
FCC Wireline Competition Bureau senior staff
FCC Rural Broadband Auction Task Force staff
California Governor Gavin Newsom
U.S. Senator Dianne Feinstein
U.S. Senator Kamala Harris
U.S. House of Representatives Speaker Nancy Pelosi
California Congressional Delegation Members on House E&C

⁹ Cite: [CPUC Comments](#) and Reply Comments