



December 11th, 2023

Executive Director Rachel Peterson
Director Rob Osborne

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

RE: Concerns and Recommendations Regarding the Federal Funding Account (FFA) Applications

Dear Executive Director Peterson and Director Osborne,

The California Alliance for Digital Equity (CADE), along with Alliance for a Better Community, #OaklandUndivided, CA Forward, City of Oakland, The Children’s Partnership, Community in Schools Los Angeles (CISLA), Community Coalition Antelope Valley, Fresno Coalition for Digital Inclusion, Healing and Justice Center, Institute of Local Self Reliance, Media Alliance, NextGen California, Southeast Community Development Corporation, and United Parents and Students, write to express our shared concerns regarding the Federal Funding Account (FFA) grant applications objections process, as well as objections we share for a swath of projects across the state. These shared objections are related to policy and statutory requirements that were rendered impossible and invisible by the objections portal process.

Together, we comprise representatives from education, healthcare, government, economic development, public housing, and community-based organizations, and we are all eager to see FFA funding directed to applicants whose projects truly meet the urgent broadband needs of unserved and underserved Californians.

Regarding the FFA objection process

We share the positions that the Public Advocates Office (CalAdvocates) stated in its General Objection to Applications filed via the CASF service list as a letter to Communications Division (CD) Director Robert Osborn, which noted that full access to FFA applications was not available, depriving stakeholders and consumer advocates an opportunity “to reasonably assess whether the applications comply with the FFA requirements,” and thus denying Cal Advocates - and all stakeholders - the ability to meaningfully participate in the objection process. By making only

partial application information available, CD not only violated stakeholders' constitutional right to procedural due process, but also potentially compromised the entire objection process.

Additionally, the forms provided to make objections deprecated all objections not based on locations already served or based on existing deployment plans. Those were the only objection types that allowed for uploading files with documentation, and all other types of objections were limited to 2,500-character text boxes. We note that many community and consumer advocates attempted to find workarounds, which amounted to a meaningful exclusion of community input. Some examples:

- CalAdvocates submitted their concerns as a letter to CD Director Osborn, distributed to the CASF Service List, noting, "The objection is served on the CASF Distribution List only because Cal Advocates has not been able to file a general objection through the Grants Portal."
- At the direction of John Baker, CD Broadband Deployment Team, Golden State Connect Authority's letters representing "Error in Policy or Statutory Requirement" objections were submitted under the "An Existing Agreement Exists to Build a Wireline Service to Address" tab, because the correct category tab did not allow for uploads, nor did the "Other Objections" tab.¹
- Los Angeles area advocates submitted multiple objections in the same category and utilized external HTML links for documentation to work around the small character limit and the lack of upload capability.² It is unclear if that workaround results in the submission details being included in the record.
- Fresno advocates also submitted multiple objections in the same category to contravene the 2,500-character limit and were unable to include documentation due to the lack of upload capacity.³

There is wide agreement that the data underlying the FFA map with respect to served and underserved locations is inaccurate and understates the need, especially in Disadvantaged communities and those with significant numbers of multi-dwelling units (MDUs). Yet the objections process included no options for ground-truthed corrections at scale. Instead, the only option was to object that locations are already served, and this had to be done on a location-by-location basis with information generally only available to ISPs (i.e. subscriber data). There is no way within the application or objection process to provide evidence that a given location is not served, nor any way accessible to community-based organizations or community advocates to weigh in on service realities on the ground at scale.

We note that advocates sent emails to CD to elevate these concerns and request guidance regarding how community advocates should engage; we appreciate CD staff responsiveness, but note that responses did not include solutions or specific guidance regarding how community

¹ See for example, GSCA objections to AT&T's "Amador - 1" project: [O-0545\(1\)](#) and [O-0545\(2\)](#)

² See for example UNITE-LA objections to AT&T's "LOS ANGELES PSA" project: [O-0710\(1\)](#) and [O-0717](#)

³ See for example Members of Fresno Coalition for Digital Inclusion objections to AT&T's "Fresno 1D" project: [O-0775](#) and [O-0777](#).

objections should be submitted within the limitations and confines of the official forms. An example of such email correspondence is included at the close of this letter.

Regarding objections applicable to numerous applications statewide

After careful review of the limited information available in FFA project summaries, it is abundantly clear that incumbent ISPs, particularly AT&T, have manipulated the grant process to secure funding for projects that are inconsistent with FFA goals and are attempting to prevent potential competitors from receiving FFA funds.

The general objections described below are documented in myriad project objections filed by community and consumer advocates. We summarize and consolidate them here to draw attention to consistent and troubling patterns in applications for funding across the state.

1. Project Area Objections:

Every AT&T application advocates reviewed⁴ includes a map of a large potential project area with tens, and in some cases dozens, of very small and widely geographically dispersed (sometimes 50 miles or more in largely urban and suburban areas) extremely small service areas. These very small service areas form no coherent whole, and in most cases, these extremely small service areas border or overlap with similarly extremely small service areas inexplicably included in separate AT&T applications.

Broadly, this approach is “cherry picking”, wherein a provider delineates a sizable boundary but proposes to serve a small fraction of households within it. This approach also makes collaboration or coordination with local interests impossible.

We advocate that applicants be required to submit consolidated applications inclusive of coherent project areas - contiguous communities wherein they intend to serve at least the majority of unserved and underserved households or the majority of locations in designated Disadvantaged census blocks. Contiguous service areas broken out into multiple applications should be required to be combined.

Where service areas within a single project application are not contiguous, there should be a reasonable explanation - i.e. communities not included are either already served, have pending service from an alternative provider, or are technically infeasible. Economic feasibility should be deprecated as a factor since FFA funding can cover 100% of deployment costs.

⁴ Due to organizational capacity and time constraints, we were unable to review all 250 AT&T applications.

2. Disadvantaged Communities Score Objection:

The limited application summaries and the statewide file of locations released by CD do not allow for full analysis in the time frame allotted, but advocates' review of dozens of AT&T's applications raise critical questions regarding whether they have violated the spirit and intent, if not the letter, of the Commission's scoring rubric with respect to Disadvantaged communities.

Twenty points are available where 50% of the unserved locations in the application are in Census Block Groups with median household income at or below 80% of either (a) State Median Income or (b) County Median Income if higher than State Median Income OR ARE in a "Disadvantaged community" (SB 535), as shown on the map.

Upon careful review, the separation of dozens of tiny contiguous or overlapping service areas across multiple project applications - all under the ministerial review threshold - appears to be an attempt to disingenuously qualify for these twenty points.

We advocate again that applications from the same applicant within a single County be combined for coherent analysis, and at minimum for purposes of consideration of awarding these twenty points intended to incentivize buildout in Disadvantaged communities.

3. Overlap with Locally-Driven Projects with Public Benefit at their Core

Overlap of incumbent project applications with projects proposed by municipalities or community-based organizations serving disadvantaged communities should get extra scrutiny for alignment with SB156 and FFA's stated goals and intent. Public funds should be supporting public entities, many of which are included in the municipal network applications.

4. Affordability and Lack of Transparency

Insufficient publicly available application details regarding affordability make it impossible for community and consumer advocates to evaluate projects with respect to affordability provisions. As Cal Advocates notes in their General Objection, advocates should be able to review pricing commitments, plans for low-income customers, data caps, speeds, generally available low-cost broadband plans, and marketing/outreach plans. Each of these details should be open to objections on factual, policy, and statutory requirements grounds, but no details are available for review.

Given that incumbent ISPs offer promotional pricing for a relatively short period of time (typically 1-2 years), and in recent years have raised prices on services roughly annually, failure to make publicly available whether FFA applications include commitments

regarding price increases and other affordability provisions provided for in FFA rules is a critical barrier to community and consumer advocate engagement.

5. Duplicate Locations and Inappropriate Overbuilding

Perhaps related to the practice of including multiple, geographically dispersed tiny service areas across multiple projects, many of the AT&T applications we reviewed had duplicate locations - i.e. a single location was included in two or more AT&T applications. This raises a larger concern about accuracy in these applications, and the extent to which AT&T's incoherent approach to project areas creates significant room for error and complicates accountability for those errors.

Many of AT&T's applications appear to be an explicit attempt by AT&T to upgrade their existing infrastructure in low-need communities. This is neither an efficient use of limited public dollars, nor is it in alignment with the statutory and policy goals of the FFA program.

6. Lack of Collaboration with Local Municipalities

AT&T's lack of collaboration with local municipalities in its 250 FFA Program applications, which account for three-quarters of the program's allocated funds, raises concerns about the company's commitment to public-private partnerships. AT&T's failure to engage with local stakeholders jeopardizes the FFA Program's objective of providing high-speed internet access to underserved areas. This strategy contradicts the CPUC's Final Rule, which prioritizes broadband projects led by local governments, non-profits, tribal organizations, and cooperatives. AT&T's projects should not receive any credit for collaboration and should be rigorously evaluated to ensure alignment with California's goal of universal broadband connectivity.

7. History of Incomplete Projects

AT&T filed numerous applications, comprising approximately 50% of all applications. We have serious concerns that if the Commission grants all of AT&T's applications, AT&T does not have the capacity to complete all of those projects in a timely manner. Additionally, we do not believe that AT&T would be able to "scale up" its workforce quickly enough to complete those projects within deadlines. We are concerned that AT&T has filed these applications in the hopes that the Commission grants the applications and that AT&T will subsequently reject the funding, thereby preventing or forestalling other applicants from receiving funding.

This concern is not hypothetical, as AT&T has a long history of applying for funding and then turning down that funding. For example, in 2012, the FCC awarded AT&T \$47.8

million dollars from the Connect America Fund, which AT&T rejected.⁵ Even when AT&T has accepted funding, it has been accused of failing to deliver service or building infrastructure that is insufficient.⁶ We urge the Commission to require that AT&T provide information regarding its capacity and willingness to proceed with any and all granted applications.

We wish to emphasize that it is standard industry practice for providers to claim that they intend to deploy infrastructure in specific areas (thereby preventing other entities from receiving state or federal funding to deploy infrastructure) but never actually do. This problem has been so pernicious that in 2021, the California Legislature eliminated incumbent providers' ability to object to the award of CASF awards on the grounds that the incumbent provider was planning to build in the area covered by the CASF award.

Collectively, we are aware of the profound and lasting impact the FFA could potentially have in our communities. The importance of this once-in-a-generation funding opportunity for last-mile weighs heavily on us. This is a rare opportunity where we have billions of dollars to put towards critical infrastructure investments in Disadvantaged communities across the state without some of the constraints of upcoming BEAD funding.

The CPUC made numerous public commitments to ensuring equity is at the forefront of all decision-making on how these dollars are used - for the sake of our communities and generations to come. We take the Commission at its word regarding this priority and urge you to take seriously the concerns we have elevated in this letter and in myriad application objections. We offer them in the spirit of partnership and collaboration and welcome questions and further engagement.

Thank you for your time and consideration.

Sincerely,

Alliance for a Better Community
California Alliance for Digital Equity (CADE)
CA Forward
City of Oakland
Community Coalition Antelope Valley
Community in Schools Los Angeles (CISLA)

⁵ Joan Engebretson, Verizon, AT&T Decline Broadband Connect America Funding (Jul. 25, 2012), *available at* <https://www.telecompetitor.com/verizon-att-decline-connect-america-funding/> (last accessed Dec. 6, 2023).

⁶ Nick Judin, AT&T Faces Subpoena Over \$283 Million In Federal Funds for Internet Connectivity (Sept. 15, 2020), *available at* <https://www.jacksonfreepress.com/news/2020/sep/15/t-faces-subpoena-over-283-million-federal-funds-in/> (last accessed Dec. 6, 2023).

The Children's Partnership
Fresno Coalition for Digital Inclusion
Healing & Justice Center
Institute of Local Self-Reliance
#OaklandUndivided
Media Alliance
NextGen California
Southeast Community Development Corporation (SCDC)
United Parents & Students

cc: California Advanced Services Fund Distribution List
R.20-09-001 Service List



Shayna Englin <shayna@42comms.com>

Important Update – Guidelines for Submitting Data for Objections to FFA Applications

Federal Funding Account <federalfundingaccount@cpuc.ca.gov> Fri, Nov 17, 2023 at 3:17 PM
To: Shayna Englin <shayna@42comms.com>, Federal Funding Account <federalfundingaccount@cpuc.ca.gov>
Cc: Amy Cortina Mathias <acortina@unitela.com>, "Roberts, Brian (TIS)" <brian.roberts@sfgov.org>, "bvogen@marincounty.org" <bvogen@marincounty.org>, Caroline Siegel-Singh <caroline.siegel-singh@greenlining.org>, Cinthia Diaz <cdiaz@oaklandundivided.org>, Dan Caroselli <dan.caroselli@lacity.org>, Georgia Savage <gsavage@oaklandundivided.org>, "Bennert, Jason" <jason.bennert@bos.sccgov.org>, Jermaine Hampton <jermaine.hampton@laedc.org>, Kevin Miller <kevin.miller@sccd.edu>, "lcalumpong@oaklandca.gov" <lcalumpong@oaklandca.gov>, Madison Palmer <mpalmer@unitela.com>, Natalie Gonzalez <natalie@digitalequityla.org>, "paul.zhou@fresno.gov" <paul.zhou@fresno.gov>, "Philip Neufeld (philip.neufeld@fresnounified.org)" <philip.neufeld@fresnounified.org>, Patience Milrod <pm@patiencecilrod.com>, "Messac, Patrick A" <pmessac@oaklandca.gov>, Patrick Messac <pmessac@oaklandundivided.org>, "Lachaux, Reymon (MYR)" <reymon.lachaux@sfgov.org>, Sulaiman Kenyatta <sulaiman.kenyatta@laedc.org>

Hello Shayna,

The rules regarding the objection process for FFA grant applications are the same for both ISPs and community-based organizations. All objections, regardless of who they come from, have to be based on an error of fact, policy or legal error. Even if community-based organizations do not have any of the information listed in the bullet points from your email, they can still object on any of those grounds, or that service is already provided in a particular area. Organizations would need to provide evidence to verify those claims, such as speed tests. Available resources for speed tests include CalSpeed and Ookla. You are also welcome to provide any other information you believe would support your objection. We will then evaluate any such submissions in the course of reviewing all objections that are received for applications.

Thank You,

Greg

Greg Rubenstein

Regulatory Analyst

Communications Division

California Public Utilities Commission

From: Shayna Englin <shayna@42comms.com>

Sent: Tuesday, November 14, 2023 10:40 AM

To: Federal Funding Account <federalfundingaccount@cpuc.ca.gov>

Cc: Amy Cortina Mathias <acortina@unitela.com>; Roberts, Brian (TIS) <brian.roberts@sfgov.org>; bvogen@marincounty.org; Caroline Siegel-Singh <caroline.siegel-singh@greenlining.org>; Cinthia Diaz <cdiaz@oaklandundivided.org>; Dan Caroselli <dan.caroselli@lacity.org>; Georgia Savage <gsavage@oaklandundivided.org>; Bennert, Jason <jason.bennert@bos.sccgov.org>; Jermaine Hampton <jermaine.hampton@laedc.org>; Kevin Miller <kevin.miller@sccd.edu>; lcalumpong@oaklandca.gov; Madison Palmer <mpalmer@unitela.com>; Natalie Gonzalez <natalie@digitalequityla.org>; paul.zhou@fresno.gov; Philip Neufeld (philip.neufeld@fresnounified.org) <philip.neufeld@fresnounified.org>; Patience Milrod <pm@patiencecilrod.com>; Messac, Patrick A <pmessac@oaklandca.gov>; Patrick Messac <pmessac@oaklandundivided.org>; Lachaux, Reymon

(MYR) <reymon.lachaux@sfgov.org>; Sulaiman Kenyatta <sulaiman.kenyatta@laedc.org>

Subject: Re: [EXTERNAL] Re: Important Update – Guidelines for Submitting Data for Objections to FFA Applications

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you for the reply, Greg.

Perhaps we're misreading, but very few, if any, of the guidelines here pertain to community-based objections to a project - all of them skew to information and details that are most relevant to, or in some cases only available to, ISPs.

Could you help us understand how you're envisioning community-based organizations would be able to comply with the following in the timeframes allotted:

- "At least two of the following: (1) permits, (2) easements, or (3) pole attachment applications submit and approved when infrastructure was built, and (4) pictures of provider infrastructure in the area (i.e., wires, huts, vaults, etc.). For example, street-view pictures of poles on which the attached communications infrastructure can be identified."
- "The number of subscribers and the level of service subscribed to in the area being disputed, including billing statement information to verify subscribership. This information shall be submitted unredacted to the Commission under seal."
- Category of technology for the provision of Internet access service used by the portion of the connection that would terminate at the end-user location (premises).

Thanks so much,

Shayna

--

Shayna Englin

m. 323-217-3565

On Thu, Nov 9, 2023 at 6:30 PM Federal Funding Account <federalfundingaccount@cpuc.ca.gov> wrote:

Hello Shayna,

My apologies for the delayed response. The process for objecting to Federal Funding Account grant applications is the same for ISPs, tribes, non-profit/community organizations, and local governments. If you can more clarifying information as to why you think the current objection guidelines apply only to ISPs, that might help us clear up any confusion there is about the objection process. For your reference, the objection process is described in Appendix A Section 12 of the Federal Funding Account rules.

Thank You,

Greg

Greg Rubenstein

Regulatory Analyst

Communications Division

California Public Utilities Commission

From: Shayna Englin <shayna@42comms.com>

Sent: Monday, November 6, 2023 4:11 PM

To: Federal Funding Account <federalfundingaccount@cpuc.ca.gov>

Cc: Amy Cortina Mathias <acortina@unitela.com>; Roberts, Brian (TIS) <brian.roberts@sfgov.org>;
bruce.vogen@marincounty.gov; bvogen@marincounty.org; Caroline Siegel-Singh <caroline.siegel-singh@
greenlining.org>; Cinthia Diaz <cdiaz@oaklandundivided.org>; Dan Caroselli <dan.caroselli@lacity.org>; Georgia
Savage <gsavage@oaklandundivided.org>; Bennert, Jason <jason.bennert@bos.sccgov.org>; Jermaine Hampton
<jermaine.hampton@laedc.org>; Kevin Miller <kevin.miller@sccd.edu>; lcalumpong@oaklandca.gov; Madison
Palmer <mpalmer@unitela.com>; Natalie Gonzalez <natalie@digitalequityla.org>; paul.zhou@fresno.gov; Philip
Neufeld (philip.neufeld@fresnounified.org) <philip.neufeld@fresnounified.org>; Patience Milrod
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<pmessac@oaklandundivided.org>; Lachaux, Reymon (MYR) <reymon.lachaux@sfgov.org>; Sulaiman Kenyatta
<sulaiman.kenyatta@laedc.org>

Subject: [EXTERNAL] Re: Important Update – Guidelines for Submitting Data for Objections to FFA Applications

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello:

These guidelines apply only to an ISP objecting to specific locations in an application submitted by another ISP. Are there guidelines for community objections to proposed projects?

Thank you.

--

Shayna Englin

Director, California Community Foundation Digital Equity Initiative

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m. 323-217-3565

[View as Webpage](#)



**California Public
Utilities Commission**

Guidelines for Submitting Data for Objections to Federal Funding Account Applications

Dear Members of the CASF Service Lists:

The California Public Utilities Commission Communications Division staff has posted [guidelines for submitting data for objections](#) to Federal Funding Account (FFA) applications on the [Last Mile Federal Funding Account](#) webpage.

If you have any questions, please email us at federalaccount@cpuc.ca.gov.

Thank you,

The Federal Funding Account Team

California Public Utilities Commission

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California Public Utilities Commission | [505 Van Ness Avenue, San Francisco, CA 94102](#)

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