

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking)	
Proceeding to Consider Rules to)	
Implement the Broadband Equity,)	R. 23-02-016
Access, and Deployment Program.)	

COMMENTS OF THE WIRELESS INFRASTRUCTURE ASSOCIATION

I. INTRODUCTION

The Wireless Infrastructure Association (“WIA”)¹ respectfully submits these comments to the Public Utilities Commission of the State of California (“CPUC”) in response to the Order Instituting Rulemaking to consider California’s rules to determine grant funding, eligibility, and compliance for funds received by the state through the National Telecommunications and Information Administration’s (“NTIA”) Broadband Equity, Access, and Deployment (“BEAD”) Program.² WIA appreciates the opportunity to provide the input of the wireless infrastructure industry on these important topics. WIA is the principal association representing the companies that build, design, own, and manage mobile and fixed wireless broadband facilities nationwide. As such, WIA’s members represent the fulcrum between the potential of historic broadband investment and the reality of universal connectivity.

¹ WIA represents the businesses that build, develop, own, and operate the nation’s wireless infrastructure. Members include infrastructure providers, wireless carriers, and professional services firms that are responsible for telecommunications facilities around the globe. On the local, state, and federal level, WIA advocates the widespread deployment of wireless infrastructure to deliver mobile broadband access to all communities.

² *Order Instituting Rulemaking Proceeding to Consider Rules to Implement the Broadband Equity, Access, and Deployment Program*, Rulemaking 23-02-016 (Feb. 23, 2023) (“BEAD Rules Order”).

States have many important considerations as they develop rules for the BEAD program. Most importantly, WIA encourages the CPUC to ensure that its rules are sufficiently flexible to allow for broad competition in its broadband funding programs to drive down overall costs and ensure funds can be used for the multitude of considerations at stake to get all citizens functionally online – including deployment, workforce development, broadband adoption, and digital literacy, among others. Bridging the digital divide is a multifaceted issue and states will have to focus efforts across a diverse array of programs to ensure not just that the service is available at every home but that it is also adopted and utilized. As California develops its rules for BEAD and IJJA programs it should ensure that funds are reaching the maximum number of people through allowing all technologies to compete for funds, provide for a highly skilled workforce, and try to allocate funds to non-deployment considerations to bring people functionally online.

II. CALIFORNIA MUST ENSURE FLEXIBILITY IN ITS PROGRAMS TO ADDRESS THE VARIETY OF NEEDS TO BRIDGE THE DIGITAL DIVIDE.

Each state will have particular considerations in crafting rules for BEAD funds and other broadband funding initiatives. California is uniquely situated by having robust mechanisms in effect which have helped spur broadband deployment. In fact, a recent study provides that only four percent of locations in California qualify as unserved or underserved for the BEAD program.³ This presents the opportunity for California to focus funds on the various uses related to deploying last-mile broadband and critical non-deployment goals provided for in the Notice of Funding Opportunity (“NOFO”). This also indicates the relatively high-cost and difficulty historically associated with connecting these hardest to reach locations in the state.

³ See ACA CONNECTS-CARTESIAN, *BEAD Program: A Framework to Allocate Funding for Broadband Availability*, State Funding Framework- California (updated Feb 2, 2023), https://acaconnects.org/index.php?checkfileaccess=/wp-content/uploads/2023/02/California_BEAD_Funding_Cartesian_ACA_02_02_23_v2.0.pdf (“*BEAD Program Framework*”).

WIA encourages the CPUC to develop rules that will ensure funds are able to be deployed expeditiously and efficiently. The impact of the digital divide was cast into a stark light during the COVID-19 pandemic. Even as the world emerges from the global pandemic, the paradigmatic shift in remote school and work is likely to continue. States have an obligation to deploy BEAD funds quickly to bring everyone online. In evaluating comparable proposals to serve unserved and underserved areas, priority should be given to projects that have a lower overall cost, or cost per subscriber, and those that can deliver connectivity quickly. Individuals who have long been stuck on the wrong side of this divide cannot afford to wait several more years to get high-speed connectivity.

a. The Commission Should Recognize Fixed Wireless Access to the Home as a Viable and Competitive Technology.

Few states will be able to achieve one hundred percent fiber connectivity with BEAD funds alone.⁴ An over emphasis on a single technology will raise the cost of the program and leave less funds available for non-deployment considerations. Accordingly, the Commission should craft flexible rules that allow for broad competition to drive down the cost of the program.

The benefit for preserving broadband technological flexibility is that it provides other options, including the increasingly popular Fixed Wireless Access (“FWA”) home broadband option. Currently, FWA is the fastest growing broadband technology in the U.S. market, accounting for 90% of new broadband growth.⁵ Improvements to the technology in recent years

⁴ See Mike Connolly, *Second Look: New FCC Maps* (Nov. 27, 2022), <https://mikeconlow.substack.com/p/secondlook-new-fcc-maps> (analyzing recently released FCC maps to determine funding shortfalls in several states if trying to achieve end-to-end fiber with only BEAD funds).

⁵ Press Release, *About 3,500,000 Added Broadband From top Providers in 2022*, Liechtman Research Group (Mar. 2, 2023), <https://www.leichtmanresearch.com/about-3500000-added-broadband-from-top-providers-in-2022/> (“Fixed wireless services accounted for 90% of the net broadband additions in 2022, compared to 20% of the net adds in 2021.”).

have enabled providers to deliver competitive speeds and reliable service to homes across the country in ways that were previously not possible. With consumers already demonstrating they value this choice in the marketplace, it is appropriate for California to consider applications for FWA in the BEAD program. FWA also has several inherent benefits in deployment compared to other technologies. First, it is one of the fastest broadband solutions to deploy. Service can be brought online in a matter of weeks, delivering high-speed broadband over a wide area. This speed and efficiency also contribute to a lower overall cost to deployment. While states need not make final decisions on which technology to deploy where, the CPUC can enable this critical technology by taking steps at the outset to preserve the flexibility of its program.

To realize the benefits of FWA broadband, WIA urges the CPUC to not set the Extremely High Cost per location Threshold (“EHCT”) so high as to prohibit non-fiber applications. As noted in the BEAD Order, NTIA encourages states to set the Threshold in a manner “that maximizes the use of the best available technology while ensuring that the program can meet the prioritization and scoring requirements.”⁶ States will be challenged to determine how to balance resources at the outset to achieve its deployment and non-deployment objectives. Setting an EHCT prohibitively high could preclude California from considering other uses of funds by overcommitting funds to fiber deployments. Further, it is notable that the EHCT does not commit a state to select a non-fiber deployment if it comes in below the cost of a comparable fiber option; instead it allows the state to consider more types of applications.⁷ If California sets its EHCT sufficiently low it, communities are still authorized to select a fiber proposal, even if it is more

⁶ BEAD Rules Order, Question 1.

⁷ See generally, WIA, *Letter to States, Extremely High Cost Per Location Threshold* (Dec. 20, 2022), <https://wia.org/extremely-high-cost-per-location-threshold-letter-to-states/>.

expensive than other submissions, but are not required to. While there is no one-size-fits-all formula for states, at least one study has suggested that an EHCT of \$9,000 would be appropriate.⁸

b. California Must Support Its Broadband Workforce to Achieve Universal Service.

Deploying broadband takes more than just purchasing equipment to provide service. Millions of Americans are currently employed in the various steps needed to enable broadband networks. However, this workforce is already working at or near capacity with planned commercial builds. The influx of state and federal funds will only increase this demand and put further strain on the workforce. NTIA recognized this critical need for the broadband workforce, including it in one of the eight eligible uses of BEAD funds “in connection with last-mile broadband deployment projects”⁹ and in requiring states to demonstrate they are considering how to ensure an adequate and available broadband workforce.¹⁰

Apprenticeship programs are particularly well suited for the telecommunications industry because they balance the need for practical instruction and training while allowing participants to actively participate in the workforce. Several states have already endeavored to bolster their workforces through the use of Registered Apprenticeships with great success.¹¹ California should take advantage of the potential of creating thousands of high-quality jobs, leading to long-term careers, in this in-demand sector.

The NOFO further requires states to include plans to develop and promote sector-based partnerships in its Proposals to the Administration.¹² These sector-based partnerships will bring

⁸ See *BEAD Program Framework*, <https://acaconnects.org/beat-program-framework/>.

⁹ BEAD NOFO at 39.

¹⁰ BEAD NOFO at 59.

¹¹ *WIA to Partner with Four Pre-Apprenticeship Providers in Ohio for Broadband Occupational Training*, Press Release (Feb. 27, 2023), <https://wia.org/wia-to-partner-with-four-pre-apprenticeship-providers-in-ohio-for-broadband-occupational-training/>.

¹² BEAD NOFO at 59.

together relevant stakeholders from government, industry, and education and training providers to develop workforce training programs. WIA serves as the Department of Labor’s (“DOL”) designated Industry Intermediary for Registered Apprenticeship in the telecommunications industry and has worked with other states to develop workforce development programs.¹³ As California develops its required workforce development proposals, WIA welcomes the opportunity to work with the state.

III. THE CPUC SHOULD AVOID POLICY THAT COULD BE INTERPRETED AS RATE REGULATION.

Finally, it is important to recognize that the unserved and underserved areas are inherently uneconomic and therefore more costly to serve. While WIA understands the need to ensure broadband is affordable for all, states must be cautious regarding requirements that could be interpreted as rate regulation, which the Infrastructure Investment and Jobs Act (IIJA) prohibits.¹⁴ To avoid the specter of rate regulation, the CPUC must be intentional in requirements regarding low-cost options. Further, capping fees charged by service providers is expressly prohibited by NTIA in the NOFO and should be avoided.

WIA supports proposals that providers can certify it has a low cost option available through participation in other low-cost programs. For example, millions of Americans have already enrolled in the Affordable Connectivity Program (ACP) provided by the FCC. The CPUC should accept participation in ACP or similar programs as default proof of a low-cost offering. A benefit of providing flexibility with deployment funding is that a state can use funding not applied to deployment to fund other connectivity programs such as affordability programs and digital literacy programs.

¹³ See, *About TIRAP*, TELECOM. INDUST. REGISTERED APPRENTICESHIP PROG., <https://www.tirap.org/about-tirap/> (last visited Apr. 17, 2023).

¹⁴ Infrastructure Investment and Jobs Act, Pub. Law No. 117-58, div. F (2021).

IV. CONCLUSION

WIA appreciates this opportunity to provide the infrastructure industry's input on these important considerations. Developing rules for the BEAD program will be an iterative process and WIA and its members stand ready to provide additional input to ensure the success of this program. WIA encourages California to adopt flexible rules that will invite broad competition and ensure the funds are deployed to the maximum extent possible. WIA also encourages California to look at the myriad of issues that constitute the digital divide and to seek creative solutions to this persistent barrier.

Respectfully Submitted,

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