Testimony of Commissioner Rachelle Chong of the
California Public Utilities Commission
Before the Subcommittee on Communications, Technology and the Internet
Re Broadband Programs Relating to the American Recovery and Reinvestment Act
April 2, 2009

I want to thank Chairman Boucher and Congressman Sterns for the kind invitation to testify on California's broadband programs, as they relate to the American Recovery and Reinvestment Act (Recovery Act or ARRA). As a former FCC commissioner from the Nineties, it is always a pleasure to be back in the nation's Capitol, but this time wearing the hat of a commissioner of the California Public Utilities Commission (CPUC).

California is one of the nation's broadband leaders, with a broadband mapping project under our belt, a unique broadband infrastructure grant program, and a successful "digital divide" program. As the home of the technology and entertainment industries, California took these actions because we recognized that our economic development and global competitiveness depends on it. California is grateful for the opportunity presented by the broadband programs in the Recovery Act. California is waiting anxiously for the right time to put in "shovel ready" project applications. We are strongly encouraging applicants to take advantage of this "once in a lifetime" opportunity.

State Consultation

California thanks Congress for including a state consultation role for the broadband programs in the Recovery Act. States with deep broadband expertise like California should have the ability to make recommendations on applications for its state. With a broadband mapping exercise completed in 2006 and as updated with our infrastructure program data, California authorities such as my utilities agency, know where the unserved and underserved areas are in our state. We would like to ensure that the dollars granted to applicants for our state do indeed serve to fill in an unserved area or improve an underserved area.

In 2006, Governor Arnold Schwarzenegger had the foresight to form a blue ribbon Broadband Task Force, on which I served. The Task Force performed a broadband mapping exercise and brought recommendations to the Governor for state action. Out of these efforts came the CPUC's California Advanced Services Fund (CASF). The CASF program is one of the few broadband infrastructure grant programs in the nation.

The CPUC also set up the California Emerging Technology Fund (CETF), a non profit organization intended to bridge the Digital Divide with $60 million in seed capital donated by AT&T and Verizon during merger activities in 2005.

Governor Schwarzenegger has designated the office of the Chief Information Officer to quickly review and prioritize any broadband applications for our state. The CIO has asked the CPUC and CETF to assist it.

Broadband Mapping

I recommend that NTIA and RUS require that each state engage in a broadband mapping exercise in order to have an accurate understanding of its unserved and underserved areas and not waste its ARRA funds. In California, we were pleasantly surprised to find that we had 96% of the state served by some form of broadband, although the 4% that was unserved meant 1.4 million persons and 2,000 communities without broadband. This is why the CPUC started our California Advanced Services Fund (CASF) program – to try and bring an "onramp to the Internet" to every community for economic development and social welfare reasons.

The broadband mapping exercise further revealed that we had a lot of work to be done as to underserved areas. We had a lot of slow broadband in certain parts of the state, particularly the rural far north, parts of the Central Valley, and certain areas of Southern California. It is my opinion that if we had not done our broadband mapping first, we would not have accurately targeted our infrastructure funds to the right places. Thus, accurate broadband mapping is a critical initial step, so that the broadband ARRA funds truly are used to bring broadband to unserved and underserved areas, as intended.

California advocates granular broadband mapping data at the street address level, which is how our State conducted our voluntary broadband mapping exercise in the 2006-2007 timeframe. We support the concept that broadband companies be required to provide such granular market data to state entities responsible for broadband at least annually, so that the state entity may accurately measure the extent of broadband access and availability.

Public-private partnerships (PPPs) on broadband mapping have been successful in California, with a neutral third party receiving and aggregating the data for a state agency due legitimate confidentiality concerns by broadband providers.

California recommends that the broadband mapping funds be fairly allocated among the states, with an eye towards population, density, area, broadband penetration, and state commitment to broadband.

Learnings from California's Broadband Infrastructure Program, CASF

Unserved and Underserved Definitions

California recommends that the NTIA and RUS put out an early definition of "unserved" and "underserved" areas. In California's CASF program, an "unserved area" was defined as an area that is not served by any form of facilities-based broadband, or where Internet connectivity is available only through dial-up service or satellite.

"Underserved" was defined as an area in which broadband is available but no facilities-based provider offers service at speeds of at least 3 Mbps download and 1 Mbps upload.

California recommends priority first is given to unserved areas, followed by underserved areas. We recommend timed filing windows beginning with unserved areas, followed by underserved area applications.

Broadband Speeds and Competitive Neutrality

The CPUC established a "current generation" speed benchmark of 3 Mbps download and 1 Mbps upload to CASF subscribers. This speed was not a minimum, however, as the CPUC believed that any broadband speed is better than no service at all; thus applications with any speed were accepted. The CPUC was balancing a speed level that would allow one to telecommute given current Internet uses to download video and data, while acknowledging "speed matters" by ranking faster speed applications higher in our application criteria.

Our formula awarded more points for faster service at a diminishing level in order to favor applications that would provide "current generation" speeds over those applications that sought "next generation" speeds. The formula is easily adapted to faster speeds over time. Notably, the California Broadband Task Force set a state goal of 50 Mbps by 2015 for global competitiveness.

Any ARRA program should be competitively neutral, with the goal of the least cost solution to avoid fraud, waste and abuse of the funds.

Matching Funds

The CASF program grants successful applicants 40% of the cost of the broadband infrastructure, while the applicant must bear the other 60% of the costs. What we have learned so far in California is that the 40% CASF match was probably not enough to provide incentives for broadband carriers to bring service to the most remote and rural unserved areas. I have had providers tell me that I could have given them 100% of the infrastructure cost for some of these very remote or rural areas, and it still would not make any business sense for them due to the extreme costs to bring broadband to these areas, coupled with the scarcity of subscribers.

I was pleased to see that under the ARRA, you have provided a hefty 80% funding match. I am hopeful that this 80% level will provide stronger incentives for the providers to serve the unserved and underserved areas. Here in California, we will consider an additional CASF match of at least 10% in order to provide strong incentives to our providers.

I recommend that NTIA require a firm match from the provider with 20% funding from any other source which must be specifically delineated and reasonably assured. For

example, grants from California's CASF program should be considered an assured source of matching funds.

Criteria for Broadband Infrastructure Grants

The CASF criteria and weighting may be helpful to NTIA or RUS as it decides on criteria for their ARRA programs. The CASF scoring criteria on broadband infrastructure projects include:

Criterion	Weight (Points)
Funds requested per Potential Customer	40
Speed	20
Service Area	15
Timeliness of Completion of Project	5
Pricing	10
Guaranteed Pricing Period	5
Low Income Areas	5
Total	**100**

I suggest that NTIA/RUS add as a criterion the number of jobs created by the project, consistent with ARRA goals.

Applications are subject to protest by third parties who may claim the proposed project area (or parts of it) is served. The CPUC staff may exclude parts of project area after investigation. Our broadband map of the state is updated with CASF data, on a rolling basis to keep it current.

CASF Applicants Submit Maps, Shapefiles and Speeds

CASF applicants are required to submit the most up-to-date census block group and geographic spatial map data to show broadband deployment and accurately depict unserved/underserved areas. A shapefile showing proposed service boundaries is required, along with lists of CBGs and zip codes to identify project boundaries. We also asked for advertised speed of existing broadband infrastructure within 5 miles of proposed project.

Prorating Costs and Middle Mile/Transport Issues

Applicants for CASF funds were allowed to pro-rate costs for projects where both unserved, underserved and served areas were included. Applicants had to fully explain the allocation of costs between areas eligible for funding and those that were not but affected by the project.

"Middle mile" or transport costs were allowed, but the applicant had to show it was necessary to upgrade "middle mile" transit facilities to reach broadband speeds for unserved or underserved project areas. Only the proportion of the middle mile or transport costs that would serve the unserved or underserved project was allowed to be recovered via the CASF grant.

Applications Include Potential Subscribers to Be Served and Detailed Budget

CPUC required the number of potential subscribers to be served in the targeted area, by households consistent with U.S. Census Bureau definition. A detailed budget was also required, showing a breakdown of project cost elements, and the availability of the 60% matching funds to be supplied by applicant or third parties. Grantees must submit invoices to obtain CASF reimbursement.

Bonds

No bond was required upon CASF application but an executed bond was required 5 days after effective date of CASF award. A performance bond "ensures costs in the event that the contractor abandons the work before its completion or fails to complete the work as required by the contract. The performance bond equals the contract price." The staff gave the PUC a recommendation on the need for performance bond and could waive it upon a showing, such as the grantee is a well established carrier.

Pricing Information

The proposed monthly charge for first year pricing for broadband was required to be disclosed in the application, with service restrictions, required equipment, etc. set forth. A minimum commitment of a year for monthly subscription fee was sought. Extra points were given if there was a special broadband rate for low income persons in the area. These provisions were important to the consumer groups who participated in our CASF rulemaking.

Qualifications

We required an applicant's balance sheet for latest available date. CASF funding was limited to entities with a Certificate of Public Convenience and Necessity or a wireless carrier registered with the CPUC. The CPUC is considering making CASF program competitively neutral as there has been interest by unregulated entities like Wireless ISPs.

ARRA requires non discrimination and network interconnection policy, no less than the FCC's Broadband Policy Statement. I recommend that these restrictions be carefully crafted in order to not discourage non regulated broadband providers from applying.

CASF Infrastructure Results So Far

Over 50 applications have been received by the CPUC requesting over $35 million and covering 160,000 households. Some areas received more than one application. $9.15 million of our $100 million fund is committed so far, with over 8,800 households benefited. The CPUC has plenty of money left to match federal ARRA funds for new projects in a new round to be gathered as soon as NTIA/RUS criteria are released.

Learnings from our CETF Program

Background

In 2005, CPUC created the California Emerging Technology Fund (CETF), a non profit organization with $60 million in seed money over 5 years donated by AT&T and Verizon during merger approvals. CETF's mission is to provide leadership statewide to minimize the "digital divide" by accelerating the deployment and adoption of broadband and other advanced communication services to unserved and underserved communities. CETF has given $20 million in grants so far to grantees that have track record of success in communities of focus. CETF is working on "needle moving" projects to bring digital literacy to three groups of consumers: rural, urban disadvantaged and people with disabilities.

The CETF strategic plan has five goals: (1) Civic leader engagement; (2) Venture philanthropy grant making; (3) Public policy promulgation; (4) Public awareness and collaboration; and (5) Strategic partnerships.

CETF requires a 3-to-1 match for every CETF dollar given to a grantee so grantees "have skin in the game." CETF considers the applicant's demonstrated track record; it looks for well respected community-based organizations with ability to integrate technology into a coherent program to transform their communities.

CETF also looks at the grantee's ability to address needs of people with disabilities ranging from accessible website and programs, to accessible facilities. CETF ensures there is a detailed budget and cost effectiveness on per unit cost outcomes. The grantees must agree to collaborate with others and be willing to participate in Learning Communities to share "best practices" and "lessons learned". They must have a viable plan for sustainability of their programs, with quarterly deliverables, quantified outcomes, and milestones required. They must be able to articulate a coherent monitoring and evaluation plan. They must have documented support from key ally

community and regional organizations that see broadband technology as key component of economic prosperity strategy.

Criteria for CETF Evaluation of Programs

Criterion	Weighting (points)
Alignment with CETF mission and approach	15
Understanding and incorporation of broadband technology	10
Organization management and leadership capacity	10
Quality and clarity of work plan	15
Quality and clarity of accessibility plan	10
Ability to leverage CETF funds	10
Prudence and transparency of budget and cost effectiveness	10
Quality of monitoring and evaluation component	5
Depth and breadth of collaboration and support	10
Prospects for long term sustainability	5
Total	**100 points**

I suggest NTIA add as a new criterion the number of jobs created by the project.

CETF also works on major policy initiatives:

- A Digital Literacy policy being considered for our State

- School2Home – A laptop project for low income middle school students which includes computer training for parents and teachers too

- Telehealth - $3.6 million in matching money for FCC rural telehealth pilot project grant of $22.1 million for California Telehealth Network

- Smart Housing – Bringing broadband to affordable housing units

- Smart Infrastructure – Bringing broadband conduit to all new housing

- Model Policies and Ordinances – Working to ease permitting issues for broadband providers with local authorities, state authorities and federal authorities

CETF Accomplishments

CETF has enjoyed major accomplishments*

Telemedicine sites (California Telehealth Network matching funds)	500 – 1,000
Housing units connected to broadband	30,000
People trained for digital workforce	1,300
Youth becoming digitally literate	2,800
Adults becoming digitally literate	5,600
Computers refurbished	22,000
People reached through distance learning	30,000
* Conservative estimates	

More Information on California Programs

- Commissioner Rachelle Chong, California Public Utilities Commission, crc@cpuc.ca.gov; and Robert Haga, Chief of Staff to Commissioner Chong, rwh@cpuc.ca.gov
- Sunne Wright McPeak, President and CEO, California Emerging Technology Fund, sunne.mcpeak@cetfund.org http://cetfund.org/
- Joe Camicia, Chief of Staff, Office of the Chief Information Officer, joe.camicia@cio.ca.gov

Thank you very much for this opportunity to testify before you. I look forward to answering any questions you may have.