

California Public Utilities Commission Order: Transaction Will Benefit Californians

California Emerging Technology Fund (CETF)

As part of applicants' commitment to ensure that this transaction is beneficial on an overall basis; to enhance the Broadband Connectivity section of the Greenlining Agreement, and to ensure that this transaction is consistent with statutory objectives to make advanced telecommunications services available to underserved communities, we order that applicants commit \$9 million per year for 5 years in charitable contributions (\$45 million total), to a non-profit corporation, the California Emerging Technology Fund (CETF), to be established by the Commission for the purpose of achieving ubiquitous access to broadband and advanced services in California, particularly in underserved communities, through the use of emerging technologies by 2010. No more than half of Applicant's total commitment of \$45 million to the CETF may be counted toward satisfaction of the Greenlining Agreement to increase charitable contributions by \$47 million over 5 years.

The CETF will be organized under the Nonprofit Public Benefit Corporation Law for charitable and public purposes as a nonprofit public benefit corporation, and not organized for the private gain of any person or entity.

In addition to the goal of providing ubiquitous access to broadband and advanced services in California, the CETF should also have the goals should be expanded to include adoption and usage. We note that the Greenlining Agreement and SB 909, proposed legislation sponsored by Senator Escutia, included these components in the broader vision for addressing

the Digital Divide and believe that we should do so as well.¹

Consistent with the diverse needs of California's low income, ethnically diverse, rural and disabled communities, the members of the Governing Board should have a broad array of backgrounds, experiences and expertise. SB 909 proposed the establishment of a California Broadband Access Council, and we will use this as a guide in constituting the Governing Board of CETF.²

The governing board of the CETF will be composed as follows: The Commission will select four appointees. Assuming that this proposal is also adopted in the pending Verizon and MCI proceeding, SBC shall nominate three appointees and Verizon shall nominate one appointee. We encourage SBC to appoint members with a diverse set of skills, backgrounds, and strengths. Therefore, SBC can appoint no more than one SBC employee among its three appointees.

These eight appointees shall determine the remaining four appointees to the governing board. We encourage the board to make the final four

¹ We understand that without computers and computer literacy neither availability nor access will ensure use. It is low use that is at the heart of the digital divide. CETF should consider the possibility of private/public partnerships to develop community broadband access points that provide both.

² Consistent with the vision of SB 909, the governing board should consist of representatives of a broad range of interests. In particular, the composition of the governing board should include, to the extent possible consistent with the size limitations of the governing board, representatives of this Commission, the Legislature, SBC-AT&T, Verizon-MCI, Greenlining, Latino Issues Forum, consumer advocates, groups supporting rural economic development (such as the Great Valley Center), the small business community (such as the California Small Business Association), the disability community (such as the World Institute on Disability), computer and equipment manufacturing, high-technology corporations, Broadband Institute of California, California Telemedicine and ehealth Center ("CTEC"), the Corporation for Education Network Initiatives in California ("CENIC"), the California Business, Housing and Transportation Agency ("BTH"), as well as individuals with experience in grant making and non-profit management.

appointments based upon the goal of making broadband as ubiquitous as possible in California.

The Commission will bring together representatives of this Commission, authors of the Broadband Task Force concept and the Broadband Access Council proposal, and CETF to work collaboratively from the outset to maximize effectiveness. In order to facilitate implementation of this program, our Telecommunications Division will assist in the logistics of collecting the names of the appointees and arranging the initial meeting. The Applicants should forward the list of appointees and their availability to the Director of the Telecommunications Division. There is no additional role for the Telecommunications Division after the initial meeting occurs.

Funds dedicated to the CETF will be used to attract matching funds in like amounts from other non-profit public benefit corporations, corporate entities or government agencies. It is anticipated that initial funding provided by the applicants in this proceeding (\$45 million) will be combined with funds from other sources for a total initial endowment for the CETF of \$60 million over 5 years. It is further anticipated that a majority of CETF funds will be matched by other private, non-profit, or government entities for specific projects to reach a total goal of at least \$100 million in funding over 5 years.

The CETF should earmark at least \$5 million to fund telemedicine applications that serve California's underserved communities, particularly those that serve rural areas of the state or serve a large number of indigent patients. Grants for telemedicine applications may be made directly to health care providers that operate under a not-for-profit structure or not-for-profit

public charities that provide telecommunications or technology grants. Such grants shall be used to provide telemedicine applications for the direct benefit of underserved communities and may not be used for policy advocacy work in any area including telecommunications or health care policy. Consistent with the federal telemedicine program, the funds earmarked for telemedicine applications should not be used to construct broadband transmission facilities outside of the consumer's premise, although the CETF may fund such investments with other funds.

The Articles of Incorporation, Bylaws and Charter for the CETF will be established by the governing board. The Charter will specify that the purpose of the CETF is to fund deployment of broadband facilities and advanced services to underserved communities.

"Underserved communities" is defined as communities with access to no more than two broadband service providers, including satellite, or broadband adoption rates below a statewide average. Communities with below average broadband adoption rates primarily include: low-income households, ethnic minority communities, disabled citizens, seniors, small businesses and rural or high-cost geographic areas.

The CETF will form advisory groups on deployment of broadband facilities and access to critical advanced services, such as online education and telemedicine, in rural and high-cost areas. The CETF will work with these advisory groups as well as organizations and agencies such as, the California Telemedicine and eHealth Center (CTEC), the Corporation for Education Network Initiatives in California (CENIC), the California Business and Transportation Agency (BTH), the Broadband Institute of California, Greenlining Institute, and other

organizations representing underserved, minority or disabled communities, to identify ways in which the CETF can coordinate and fund projects to link primary care health clinics and educational facilities in rural and high-cost areas to high-speed broadband networks, and promote economic development in underserved communities.

It is the intent of this Commission that broadband facilities funded by the CETF will be owned and operated by private corporations, non-governmental organizations (such as universities or health facilities) and/or local governments, or some public-private partnerships involving a combination of these entities, and not owned and operated by the CETF. Any remuneration for CETF facilities transferred to other entities will be returned to the CETF fund for use in future projects.