

**COMMENTS TO THE
US DEPARTMENT OF AGRICULTURE RURAL UTILITY SERVICE
WASHINGTON, D.C. 20250**

In the Matter of:

Final Rule to Expand Broadband Access in
Rural America Under the ReConnect
Program

RUS-20-Telecom-0023

**COMMENTS OF THE
CALIFORNIA PUBLIC UTILITIES COMMISSION**

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I. INTRODUCTION

The California Public Utilities Commission (CPUC or California) submits these comments in response to the United States Department of Agriculture (USDA), Rural Utilities Service's (RUS) invitation for comments on its final rule establishing the Rural eConnectivity (ReConnect) Program (RUS Rule).¹ The RUS Rule will implement rules and requirements for the ReConnect Program to expand broadband service to rural America. The CPUC generally supports the approach of the USDA in adopting the RUS Rule with some important changes that will help make the program more effective in reaching unserved rural areas and in making lasting infrastructure investments. These recommended changes are discussed below.

II. DISCUSSION AND RECOMMENDATIONS

A. Areas with State Funding

As part of the eligible and ineligible areas discussion, the RUS Rule encourages applicants to work with states and tribal governments and “submit information detailing where state funding has been provided.”² The CPUC supports and urges more coordination and collaboration between federal and state programs to address broadband needs in unserved areas. Collaboration and coordination should be undertaken to jointly support, combine, and leverage funding for broadband infrastructure proposals.

¹ *Federal Register* 11603 / Vol. 86, No. 37, released February 26, 2021, Department of Agriculture Rural Utilities Service [Document Number: 2021-03443]. *Rural eConnectivity Program*. See 86 FR 11603, 7 CFR § 1740. <https://www.federalregister.gov/documents/2021/02/26/2021-03443/rural-econnectivity-program>, (RUS Rule).

² RUS Rule, 86 FR 11612, 7 CFR § 1740.11(b)(2).

Coordination and collaboration should not focus on using Program B as a means to disqualify an area from Program A. The CPUC, and nearly 30 states with broadband programs, have undertaken great efforts to provide funding for broadband infrastructure.³ The USDA should not exclude areas that have received state funding for broadband infrastructure from the ReConnect program. Rather, the USDA should consider prioritizing projects with state funding. By doing so, state and federal funding would work together to address broadband needs in unserved areas instead of utilizing uncoordinated strategies. Leveraging both federal and state funds can have a greater impact, and lower the burden on their respective funds, if states and federal agencies work in a partnership to target funding for broadband infrastructure.

The USDA, in determining areas eligible for funding, should also consider wider benefits—such as state funding that supports precision agriculture. The California Broadband Action Plan, issued on December 30, 2020, outlined collaboration among California agencies and broadband programs, including to “[i]dentify and facilitate new broadband projects that support precision agriculture and food systems in rural communities.”⁴ The ReConnect program should coordinate and collaborate with other programs to facilitate the deployment of precision agriculture.

³ The Pew Charitable Trusts, State Broadband Policy Explorer, available at <https://www.pewtrusts.org/en/research-and-analysis/data-visualizations/2019/state-broadband-policy-explorer>.

⁴ California Broadband Action Plan 2020 at 32, available at <https://broadbandcouncil.ca.gov/wp-content/uploads/sites/68/2020/12/BB4All-Action-Plan-Final.pdf>.

B. Defining “Rural Areas”

The RUS Rule defines “rural areas” as “any area that is not located within:

(1) A city, town, or incorporated area that has a population of greater than 20,000 inhabitants; or (2) an urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants as defined in the Agency mapping tool.”⁵

The USDA should provide flexibility to allow any applicant to choose a rural definition from among those used by the USDA. The current ReConnect definition of “rural areas” is too restrictive in California and other similarly situated states where many rural communities are ineligible because they are too close to urban areas to qualify.

California’s rural population lacks access to fast speeds, with only 39 percent of California’s population having access to 100/20 megabits per second (Mbps) or greater and 71 percent having access to only 25/3 Mbps or greater as of December 31, 2019.⁶ The ReConnect program can benefit California’s rural population by adopting a more flexible approach in defining eligible rural areas.

C. Defining “Sufficient Access”

The RUS Rule defines “sufficient access” as “a rural area in which households have broadband service at the minimum acceptable level of broadband, as set forth in the latest Federal Register notice announcing funding for the program. This definition will

⁵ RUS Rule, 86 FR 11611, 7 CFR § 1740.2.

⁶ EOY 2019 CA Fixed Broadband Deployment by County – Population, *See* <https://public.tableau.com/profile/cpuc#!/vizhome/EOY2019CAFixedBroadbandDeploymentAnalysisByPopulation/County>.

be used to determine the eligibility of a proposed service area and cannot be lower than 10 megabit per second (Mbps) downstream and 1 Mbps upstream...”⁷

The first recommendation of the California Broadband Action Plan is to modernize broadband speed and performance standards. This means broadband defined at minimum speeds of 25/3 Mbps with a goal of 100/20 Mbps.⁸ The ReConnect program should adopt a similar, forward-looking definition of “sufficient access,” of 100/20 Mbps instead of 10/1 Mbps. To the extent there is concern about leaving behind the most underserved areas, the program should prioritize areas with speeds slower than 25/3 Mbps. By adopting a higher speed threshold of 100/20, the program can bring rural areas across the nation faster speeds necessary for work, home, and educational needs.

D. Evaluating Financial Feasibility

To evaluate an applicant’s financial feasibility and capacity, the RUS Rule proposes to require sufficient cash flow and other operating requirements, and to require financial information that includes evidence of any other funds required for projects.⁹ The California Broadband Action Plan adopted support for creating new entities, such as cooperatives, to deploy broadband networks. These new entities would not have the long operational and lending history of others that have benefitted historically from USDA programs. The ReConnect rules should maximize flexibility and recognize state support,

⁷ RUS Rule, 86 FR 11611, 7 CFR § 1740.2.

⁸ California Broadband Action Plan at 23. See <https://broadbandcouncil.ca.gov/wp-content/uploads/sites/68/2020/12/BB4All-Action-Plan-Final.pdf>.

⁹ RUS Rule, 86 FR 11616, 7 CFR §§ 1740.61 and 1740.63.

including financial support, in the requirements for financial feasibility and financial information.

III. CONCLUSION

The CPUC appreciates this opportunity to provide input and urges the USDA adopt the recommendations discussed in these comments. The CPUC recommends that the USDA: (1) prioritize projects with state funding and coordinate with state broadband programs; (2) revise the definition of rural areas to reach more areas; (3) revise the definition of “sufficient access” to 100/20 Mbps instead of 10/1; and (4) allow for greater flexibility in the financial requirements to allow more organizations to participate in the program. We believe these changes will allow the ReConnect program to reach more unserved rural Americans across the nation.

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