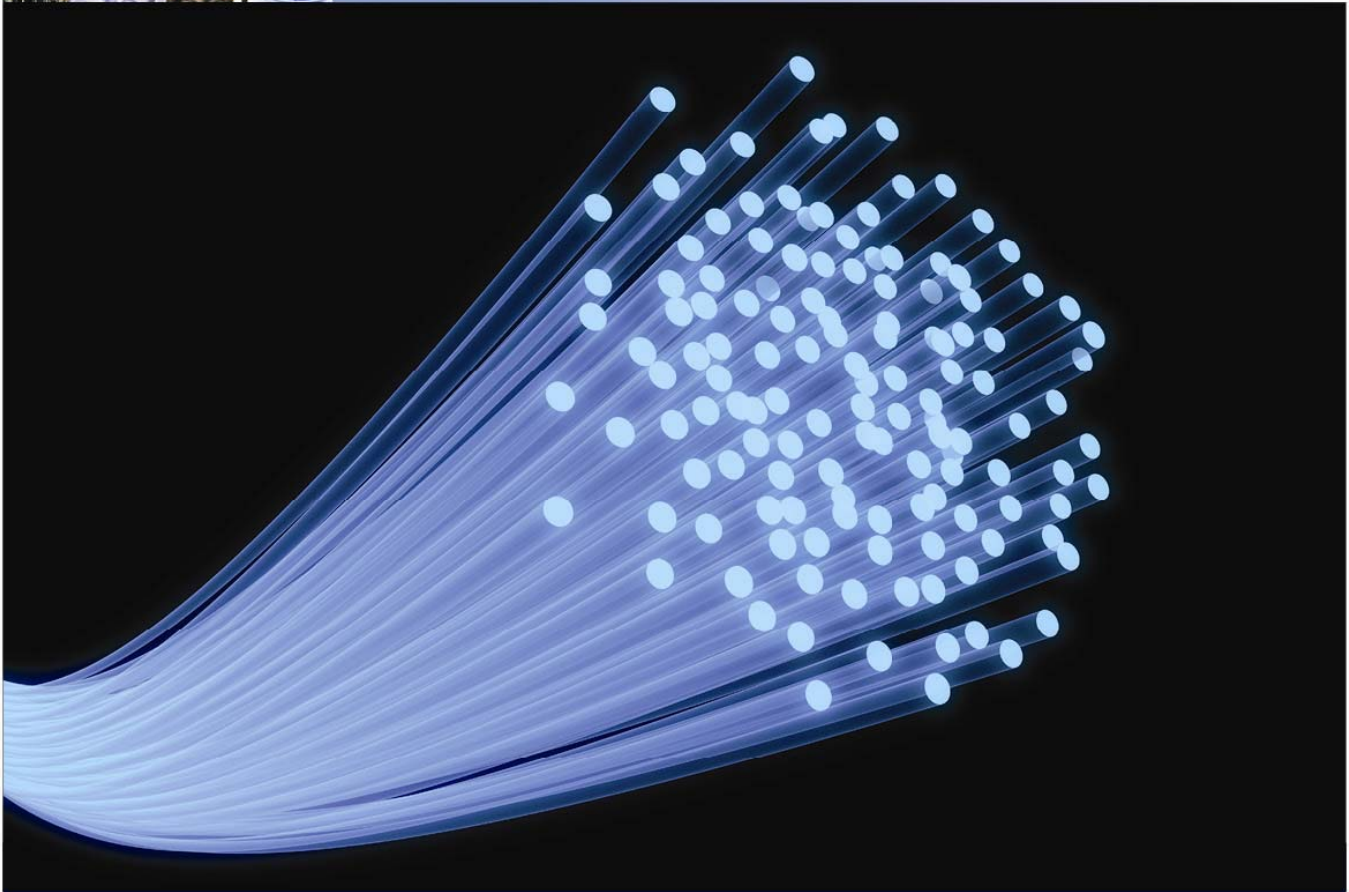




California Public Utilities Commission



California Advanced Services Fund Interim Performance & Financial Audit Report

Volume I – April 2011



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California Public Utilities Commission
Communications Division

**INTERIM AUDIT REPORT
ON THE
CALIFORNIA ADVANCED SERVICES FUND (CASF)**

**VOLUME I
PERFORMANCE AUDIT**

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I. EXECUTIVE SUMMARY

In December 2007, the California Public Utilities Commission (CPUC or Commission) established the \$100 million ratepayer funded California Advanced Services Fund (CASF) to spur the deployment of advanced information and communications technologies through the construction of infrastructure throughout the state.

The CPUC staff prepared this report to satisfy a statutory requirement for an interim performance and financial audit report to the Legislature on the implementation and effectiveness of the CASF. Volume I of this report is the Performance Audit, which focuses on the utilization of the \$100 million CASF funds, the projects funded by these monies, the number of projects that have been completed, the beneficiaries of the projects, and the status of funded projects. This report summarizes how the CASF has made progress bridging the digital divide, in terms of new households served and improvement in speeds.

To date, CASF has funded 41 projects amounting to \$57.87 million covering 15,161 square miles and potentially benefiting 318,788 households. Funding for unserved areas account for \$4.91 million (8% of the total awards) for 15 projects covering 3,236 square miles and 27,427 households. Funding for underserved areas, including middle-mile projects, amount to \$52.96 million (92% of the total awards) for 26 projects covering 11,925 square miles and 291,361 households.

Of the 41 projects approved for funding, the Commission approved 30 projects for matching CASF grants of up to 40% of project costs, and 11 projects for contingent matching grants of about 10% of project costs to supplement the applicants' request for American Reinvestment and Recovery Act (Recovery Act) funding. Six of the 11 CASF project applicants seeking Recovery Act funding succeeded in their efforts to obtain federal grants. As a result, with an investment of about \$30 million in CASF funds, California was able to leverage almost \$155 million in federal matching funds. This is a significant accomplishment for California that CASF helped to achieve.

To date, 14 projects (11 in unserved and 3 in underserved areas) have been completed. These projects covered customers in 12 counties across the state. Actual broadband subscribership for the 14 completed projects has reached 872 out of an estimated target of 2,743 households. As most of the projects were recently completed in 2010, improvement in the take rate is expected. Broadband speeds offered in the completed projects range from 1.5 to 6 mbps download / .384 to .768 mbps upload in unserved areas and 3 to 10 mbps download / 1 to 1.5 mbps upload.

Eighteen projects are under construction, to be completed in 2011 - 2013, or are undergoing pre-construction activities.

Implementing the CASF has not been without challenges. In the first quarter of 2010, total grants approved reached a high of \$91 million, demonstrating a high demand for the grant monies to build broadband facilities in areas of the state. However, the Commission has had to revoke the approval of eight CASF projects to date and may need to rescind nine more projects for several reasons:

- the project proponents were unable to secure matching funds,
- the grantees decided to fund the project using their own internally generated funds, or
- the grantees decided to abandon the project because of an increase in the project costs resulting from changes in the project assumptions (e. g., terrain and geographical constraints, low projected subscribership/revenue flows).

Compliance with the Commission's performance bond requirement also has been a challenge for some grantees who have no track record with the Commission (i.e., are not certificated entities) and who rely on outside sources to generate their matching funds. Furthermore, compliance with the California Environmental Quality Act (CEQA) requirements has caused delays in the start of project construction as some grantees have had to revise their project alignment due to permitting issues.

The Commission issued an Order Instituting Rulemaking (OIR), R.10-12-008 in December 2010 to implement the provisions of Senate Bill (SB) 1040, which was signed into law in September

2010. SB 1040 amended Section 281 of the Public Utilities Code to extend and modify the CASF program. The new legislation increased the overall funding for the program to \$225 million and added a new consortia grant and broadband infrastructure revolving loan accounts to the infrastructure grant program already in place.

The Commission instituted R.10-12-008 not only to address implementation of SB 1040, but also to obtain public input and suggestions on changes that could be instituted to make the CASF a more effective vehicle for broadband infrastructure development and deployment. Based on the issues and challenges encountered in program implementation since its inception and the need for the Commission to address implementation of SB 1040, the Commission posed several questions in the rulemaking including whether the CASF's existing Infrastructure Grant Program should be modified to achieve the following: (1) change the matching grant of 40%, (2) limit CASF eligibility to Certificate of Public Convenience and Necessity (CPCN) or Wireless Identification Registration (WIR) holders, (3) change the definition of unserved and underserved areas, (4) make the application process more transparent, (5) change the evaluation criteria, and (6) prescribe a ceiling / limit on the cost per household. Other questions posed for comments address several issues: loan program eligibility, terms, conditions, requirements and security; and consortia grant eligibility, role, goals and objectives, reimbursable costs, and payment. The Commission expects to issue a decision(s) adopting changes to the CASF program within the year.

II. PURPOSE OF THE REPORT

The California Public Utilities Commission is submitting this report to the Legislature in accordance with Section 281 (f) (1) of the Public Utilities Code:

The commission shall conduct an interim and final financial audit and an interim and final performance audit of the implementation and effectiveness of the California Advanced Services Fund to ensure that funds have been expended in accordance with the approved terms of the grant awards and loan agreements and this section. The commission shall report its interim findings to the Legislature by April 1, 2011. (P.U. Code § 281 (f) (1))

This report covers the first three years of the CASF program and covers program interim performance. This report highlights projects approved as of December 31, 2010 in unserved and underserved areas, projects completed and in progress, the number of households estimated to benefit from completed and construction-in-progress projects, projects for rescission, and the CASF cost for funding these projects on a per household basis. It also highlights program implementation challenges to date and the Commission's current proceeding that addresses CASF program expansion per SB 1040 and other program changes.

III. BACKGROUND ON CASF PROGRAM

A. Procedural and Legislative History

In Decision (D.) 07-12-054, dated December 20, 2007, the Commission created a new universal service program, the California Advanced Services Fund (CASF), to encourage the deployment of broadband services in unserved and underserved areas by funding 40% of project costs through a one-time infrastructure grant. The Commission allocated one hundred million dollars to the program to be funded by a surcharge of 0.25% beginning January 1, 2008, assessed on revenues collected from end-users for intrastate telecommunications services, coincident with a 0.25% reduction in the California High Cost Fund-B surcharge to reflect reductions in support being provided by that program. The Commission further ordered that prior to any CASF disbursements, the Commission would seek statutory authority to add the CASF as one of the funds authorized for handling by the State Treasury and to seek statutory authority for specific direction to telephone corporations for remitting CASF collections and for use of the funds by the Commission.

On September 27, 2008, Governor Schwarzenegger signed SB 1193 (Chapter 293, Stats 2008) codifying the Commission's formation of the CASF. The bill confirmed that the CASF legislation is intended to develop, implement, and administer a program to provide for transfer payments to telephone corporations to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and substantial social benefits of advanced information and communications technologies, as provided in Commission Decision 07-12-054. SB 1193 was codified as Section 281 of the Public Utilities Code.

On June 12, 2008, the Commission adopted Resolution T-17143 prescribing the application requirements, scoring criteria for the award of funds, and a timeline for other filings and notifications including projected Commission Meeting dates for final approval of award(s). This same Resolution directed interested applicants seeking funding for unserved and underserved projects to file their project proposals and funding requests by July 24, 2008 and August 25, 2008, respectively. First priority was given to applications for unserved areas, and if funds were still available, to underserved areas.

Through Resolution T-17143 (Appendix A), the Commission allowed the following types of entities to apply for CASF Funding:

- carriers with a CPCN that qualify as a “telephone corporation” as defined under Public Utilities Code §234,
- wireless carriers registered with the Commission,
- entities with pending CPCN applications to provide service as a “telephone corporation” subject to approval of its CPCN, and
- a consortium as long as the lead financial agent for the consortium is an entity holding a CPCN or a wireless carrier registered with the CPUC.

On July 9, 2009, the Commission issued D.09-07-020, establishing new schedules and plans for the filing, review, and approval of an additional round of broadband project requests. This Decision also provided the potential for the applicants to seek CASF program funding while pursuing funding for broadband deployment grants issued under the Recovery Act. Because the federal grants under the Recovery Act can fund up to 80% of the project, the Commission provided applicants in D.09-07-020 the opportunity to seek an additional 10% funding coverage from the CASF, leaving only 10% for the applicant to provide.

On July 29, 2009, the Legislature enacted Assembly Bill (AB) 1555 (Chapter 24, Stats 2009), which expanded the application eligibility to entities other than telephone corporations provided the CASF funding is pursued in conjunction with funding from the Recovery Act. AB 1555 states that “[n]otwithstanding any other law and for the sole purpose of providing matching funds pursuant to the federal American Recovery and Reinvestment Act of 2009

(Public Law 111-5), any entity eligible for funding pursuant to that act shall be eligible to apply to participate in the program administered by the commission pursuant to subdivision (a), if that entity otherwise satisfies the eligibility requirements under that program.”

In Resolution T-17233 (October 29, 2009), the CPUC approved specific CASF application requirements for broadband providers and applicants that are not holders of Telecommunications Certificate of Public Convenience and Necessity (CPCN) and/or Registered Wireless Providers to implement the provisions of AB 1555.

On September 25, 2010, Governor Schwarzenegger signed SB 1040 (Chapter 317, Stats 2010), which increased the CASF appropriation from \$100 million to \$225 million. The increase of \$125 million to be collected after January 1, 2011 is allocated to the following accounts: \$100 million to the Broadband Infrastructure Grant Account, \$10 million to the Rural and Regional Urban Consortia Account, and \$15 million to the Broadband Infrastructure Loan Account. The \$125 million will be funded by a surcharge to be assessed on revenues collected from end-users and collected at \$25 million a year beginning calendar year 2011.

We have also included the three CASF Legislative Bills (SB 1193, AB 1555, and SB 1040) in the Appendix to this report.

B. Program Implementation Procedures

Guidelines, requirements, and evaluation criteria for funding requests by certificated carriers are contained in Resolutions T-17143 (Appendix A). In summary, CASF applicants are required to submit the most current Census Block Group (CBG) and geographic spatial map data to show broadband deployment that accurately depicts served and unserved areas. A shapefile showing proposed service boundaries as well as CBGs and ZIP Codes is required. Projects proposed for funding under the unserved and underserved categories are mapped, and the corresponding CBGs and ZIP codes are posted on the CPUC’s CASF webpage seven days after the filing date.¹ This is done to afford interested parties an opportunity to challenge the areas proposed as to their unserved or underserved status as well as to give interested parties a chance to submit counter proposals. This competitive process also encourages the

¹ As required by Resolution T-17143, the posting on the CPUC’s website does not include the name of the applicant.

least cost proposal to obtain funding. The submissions also serve as data for the Commission to update the California broadband availability map created by the California Broadband Task Force (CBTF).

CPUC staff reviews the applications/projects proposed to determine if the project would comply with the requirements of Resolution T-17143. Using the CBTF maps, as well as any challenges or counter proposals filed, staff also determines whether the proposed coverage area is indeed unserved or underserved. Where a proposed project area is deemed to already be served or not underserved, the applicant is given the opportunity to revise its proposal to eliminate already served or not underserved areas from the original submission, and by adjusting the projected total project costs and the CASF funding request.

The CPUC requires applicants to include in the application data consistent with U.S. Census information on the potential subscribers to be served in the targeted area. Applications must also include information on the advertised speed of the broadband service, the timeline for the completion of the project which should not exceed 24 months, the proposed pricing including initial connection charges, recurring charges, other non-recurring charges, service restrictions and any commitments that customers must meet, and guaranteed pricing for a minimum of one year for each customer.

Applicants may offer speeds slower than the benchmark speed of 3 megabits (mbps) per second download and 1 mbps upload; staff then evaluates the offered speed using the adopted scoring criteria.

Applicants need not possess a performance bond when the application is submitted, but may be required to obtain a bond upon Commission approval if the grantee's 60% matching fund is sourced from outside sources and grantee is not a well-established carrier with significant assets in the state. The performance bond is due five business days after the completion of the CEQA review² and is based on the total amount payable under the CASF award.

² The original deadline for submission of the performance bond under Resolution T-17143 was five days after Commission approval of the project. Resolution T-17233 revised this requirement to five days after completion of the CEQA review.

Grantees are also required to comply with the California Environmental Quality Act (CEQA) by providing a Proponent’s Environmental Assessment (PEA) prior to the first 25% payment. The PEA includes information on any land crossings requiring discretionary or mandatory permits or environmental review as well as any other special permits required by other government agencies.

When more than one project is submitted for a given area, projects are scored based on seven factors with each factor scored relative to the best offer (Minimum or Maximum, where applicable). The project that scores the “best” for each criterion is awarded more points and serves as a standard against which all other projects are scored. Each factor has a corresponding formula that determines its value and applicants’ data is entered into the formula for each criterion to generate points. Scores for each of the criterion are added together to obtain each project’s total score.³ The scoring criteria include:

<u>Criterion</u>	<u>Weight (Points)</u>
i) Funds Requested per Potential Customers	40
ii) Speed	20
iii) Service Area	15
iv) Timeliness of Completion of Project	5
v) Pricing	10
vi) Guaranteed Pricing Period	5
vii) Low-Income Areas	5
TOTAL:	<hr style="width: 100%; border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> 100

The requirements for non-certificated carriers, as adopted by the Commission in Resolution T-17233 (Appendix B), are essentially the same as those for certificated carriers. Thus, the application requirements, including due diligence and prudence, currently imposed on CPCN applicants were made applicable to all non-licensed applicants requesting CASF funding. These include the submission of a certificate of good standing to be submitted by the applicant, submission of an affidavit attesting that the applicant will comply with Rules 1.1, 1.11 and 2.2 of the Commission’s Rules of Practice and Procedure, and applicant’s agreement

³The scoring criteria was designed to rank projects and CASF funding allocated following the ranking of the projects on the assumption that the amount of funding requests will be more than the \$100 million available. This scoring criteria was used only once since the competition for CASF money did not occur.

in writing to allow the Commission to inspect the applicant's accounts, books, papers, and documents related to the application and award of CASF funds.

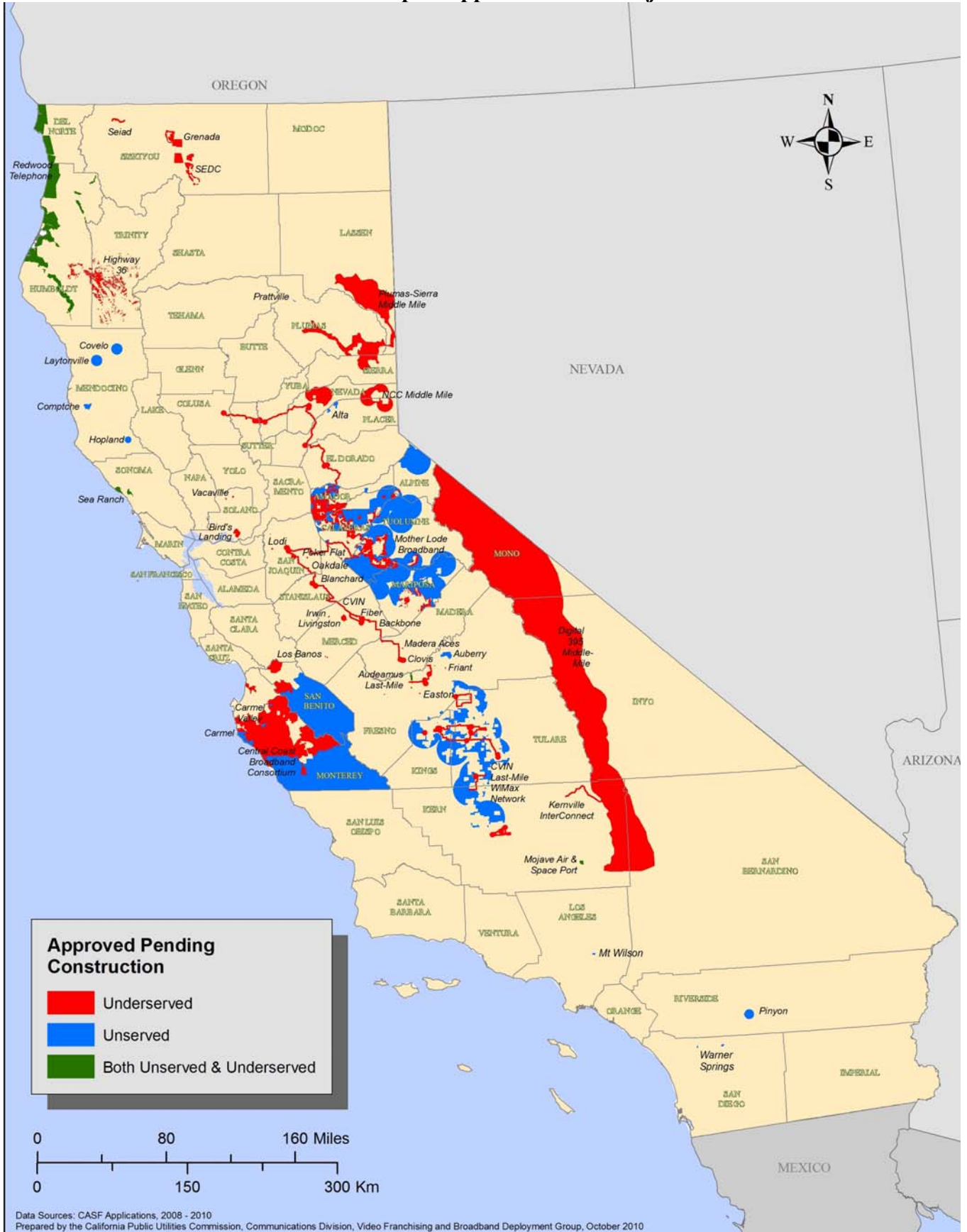
IV. PROGRAM OUTCOMES AND ACCOMPLISHMENTS

As of December 31, 2010, the total CASF awards amount to \$57.87 million for 41 projects covering 15,161 square miles and potentially benefiting 318,788 households with broadband access.

- Unserved areas: \$ 4.91 million for 15 projects covering 3,236 square miles and 27,427 households, with speeds ranging from 1.5-14.0 mbps download and 0.384-14 mbps upload.
- Underserved areas: \$52.96 million for 26 projects covering 11,925 square miles and 291,361 households, with speeds ranging from 3.0-1000 mbps download and 1.0-1000 mbps upload.

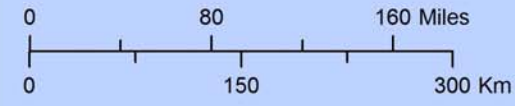
The statewide map below shows the location of the approved projects. The table on the following page summarizes the CPUC approved CASF projects to date as well as identifies specific approved funding levels and key information for each project.

Statewide Map of Approved CASF Projects



Approved Pending Construction

- Underserved
- Unserved
- Both Underserved & Unserved



Data Sources: CASF Applications, 2008 - 2010
 Prepared by the California Public Utilities Commission, Communications Division, Video Franchising and Broadband Deployment Group, October 2010

Legend:
40% CASF Funding
Approved for Recovery Act funding during the first round
Not approved for 1st round Recovery Act funding / Resubmitted and not approved for 2nd round Recovery Act funding
Approved for Recovery Act funding during the second round

CASF APPROVED PROJECTS December 2010

GRANTEE	PROJECT NAME	LOCATION	PROJECT SIZE (in sq. miles)	# of HOUSEHOLDS	CASF FUNDING
A. Unserved Areas					
AT&T	Grenada	Siskiyou	13.90	275	\$57,596
AT&T	Hopland	Mendocino	13.90	328	\$61,952
AT&T	Blanchard	Mariposa	13.90	123	\$35,816
AT&T	Mount Wilson	Los Angeles	2.10	15	\$2,420
Verizon	Pinyon	Riverside	27.02	382	\$174,000
Frontier	Prattville	Lake Almanor, Plumas	2.00	171	\$41,192
AT&T	Comptche	Mendocino County	11.51	97	\$18,392
AT&T	Alta/Blue Canyon	Nevada/Placer Counties	10.84	236	\$56,628
AT&T	Warner Springs	San Diego County	3.50	66	\$93,896
AT&T	Carmel Valley	Monterey County	4.44	83	\$47,916
Willits Online	Covelo	Mendocino	3.50	300	\$54,000
Willits Online	Laytonville	Mendocino	3.50	500	\$54,000
Rapid Link, Inc. and Mother Lode Internet	Mother Lode Broadband	Alpine, Amador, Calaveras, Tuolumne and Mariposa	3,063.00	14,629	\$2,771,341
MCC Telephony	Kernville Teleconnect Project	Kernville, Onyx, Weldon, Wofford Heights, Inyo, Kern	44.00	9,179	\$285,992
Ponderosa Cable Vision	Ponderosa Cablevision Auberry Project (Mount Diablo Base, Meridian)	Fresno	18.65	1,043	\$1,154,780
TOTAL FOR UNSERVED AREAS			3,235.76	27,427.00	4,909,921.00
B. Underserved Areas					
AT&T	Lodi	San Joaquin	1.26	35	\$137,416
AT&T	Oakdale	San Joaquin	1.28	47	\$108,783
AT&T	Irwin	Merced	0.72	35	\$41,411
AT&T	Los Banos	Merced	0.87	13	\$120,170
AT&T	Easton	Fresno	0.52	9	\$49,869
Citizens	Birds Landing	Solano	17.00	69	\$100,444
Frontier	Livingston	Merced	8.00	234	\$62,000
AT&T	Vacaville	Solano	1.73	33	\$171,914
AT&T	Madera Acres	Madera	0.62	20	\$43,301
AT&T	Friant	Fresno	0.50	5	\$46,463
AT&T	Clovis	Fresno	0.30	125	\$36,393
AT&T	Carmel	Monterey	0.99	14	\$91,083
Siskiyou Telephone Co.	Siskiyou Seiad Project (Seiad)	Siskiyou County	108.00	134	\$2,621,824
University Corporation at Monterey Bay	Central Coast Broadband Consortium Middle-Mile (Castroville, Moss Landing, Nashua, Salinas, Cooper, Chualar, Gonzales, Paicines, Soledad, Carmel Valley, Penvir, Carmel, Greenfield, Big Sur, Jamesburg, Mascorini Place, Tassajara Hot Springs, Gonzales, King City, Lockwood, San Ardo, San Lucas, Jolon, Millers Ranch, Pine Canyon Mob. Est., Sycamore Flat, Bradley, Bryson, Martinus Corner, Nacimiento, Parkfield, San Miguel, Valleton, Wumpost, Gorda, Hunter-Liggett, Plasket, Pleyto, Lucia, Slaters Hot Springs, Posts, King City, Hollister, Hudner, San Juan Bautista, Salinas, Bitterwater, Idria, Llanada, Panoche, Pinnacles, San Benito, Santa Cruz)	Monterey, San Benito, and Santa Cruz Counties	3,787.00	15,026	\$4,975,009
Nevada County Economic Resource Council	Nevada County Connected Middle Mile (Cherokee, Hobart Mills, Junction House, Kingvale, Lake City, Moores Flat, North Bloomfield, North Columbia, Orleans Flat, Relief, Washington, Woolsey Flat)	Nevada County	303.72	1,294	\$1,312,747
IP Networks	Hwy 36 Humboldt-Trinity Counties Project (Bridgeville, Mad River, Dismore and Ruth)	Humboldt and Trinity Counties	218.00	527	\$4,212,982
California Broadband Cooperative	Digital 395 Middle Mile (Topaz, Coleville, Bridgeport, Mono Lake, June Lake, Crowley Lake, Benton, Mammoth Lakes, Bishop, Big Pine, Independence, Lone Pine, Cartago / Olancha, Boron, China Lake, Ridgecrest, Inyokern, Johannesburg, Kramer Junction, Red Mountain)	Mono, Inyo and Eastern Kern Counties, North Eastern San Bernardino	965.00	28,127	\$19,294,717
Verizon	The Sea Ranch Project	Sonoma	20.00	232	\$1,872,017
Plumas Sierra Telecommunications	Plumas-Sierra Middle-Mile Project Plumas County (Blairsdon-Graeagle, Chilcoot, Clo), Lassen County (Doyle, Herlong, Litchfield, Janesville, Milford, Standish, Susanville), Sierra County (Calpine, Loyalton, Sierraville).	Plumas, Lassen and Sierra	2,524.00	174	\$1,721,280
Rapid Link and Mother Lode Internet	Mother Lode Broadband	Alpine, Amador, Calaveras, Tuolumne and Mariposa	525.00	\$17,841	\$3,110,064
Audearnus	Tranquility and West Fresno	Fresno County	20.60	585	\$1,154,496
Race Telecommunications	Mojave Air and Space Port Project	Kern County	5.10	231	\$506,199
Siskiyou County Economic Development Council	Siskiyou County Economic Development Council	Siskiyou	62.70	18,573	\$1,697,029
Calaveras Telephone Company	Poker Flat Project	Calaveras	1.00	409	\$640,698
Redwood Telephone	Northern California Open Community fiber Network Project	Humboldt, Del Norte	728.00	785	\$2,169,815
CVIN LLC	Central Valley Independent Network, LLC. (CVIN) & the Corporation for Educational Network Initiatives in California (CENIC) middle mile fiber-optics network infrastructure	Placer, El Dorado, Amador, San Joaquin, Stanislaus, Calaveras, Colusa, Tuolumne, Mariposa, Merced, Madera, Nevada, Fresno, Tulare, Sutter, Yuba, Kings and Kern County	2,623	206,764	\$6,659,967
TOTAL FOR UNDERSERVED AREAS			11,924.91	291,361.00	\$52,958,090.50
TOTAL CASF FUNDING FOR UNSERVED AND UNDERSERVED AREAS			15,160.67	318,788.00	\$57,868,011.50

The Commission received 89 CASF project applications as of December 31, 2010 -- 27 applications for unserved areas and 62 applications for underserved areas. Out of the 89 project applications, the Commission has approved 49 projects for funding. Of these 49 projects, the CPUC subsequently rescinded approval for 8 projects because the applicant was unable to secure matching funds for the project either from its own funds or from the Recovery Act, because the proponent decided to pursue and fund the project on its own, or because the applicant abandoned construction of the project due to low subscribership and/or revenue flows.

Of the 41 projects still remaining, 30 of these are approved for matching CASF grants of up to 40% of project costs while 11 are for matching grants of about 10% of project costs to supplement Recovery Act grants. Fourteen of the 41 approved projects have been completed to date, while 18 projects are under construction and are expected to be completed in 2011 through 2013. Funding for nine of the 41 funded projects may be rescinded due to the grantees opting out of the project, decision not to avail of CASF funding, and inability to secure the matching funds (see Section VII for details).

Forty CASF project applications have not been funded since the applicants' proposed broadband areas do not qualify as unserved and underserved. Although applicants were given the opportunity to modify their proposals, the applicants opted not to pursue the CASF funding further.

The following table provides a summary of the status of applications received.

CASF Project Application Summary			
	40% Funding	10% Funding	Total
Applications Received	58	31	89
Not Funded	27	13	40
Funding Approved	31	18	49
Funding Rescinded	1	7	8
Remaining Funded Projects	30	11	41

A. CASF/Recovery Act Funded Projects Received More Funding

CASF funds awarded to applicants who were also pursuing Recovery Act grants totaled \$40.780 million while funds awarded to CASF-only applicants totaled \$17.087 million.

Of the 11 projects granted funding contingent on the applicant's securing Recovery Act funding, six projects have been successful. These are as follows:

Project Name	Recovery Act Funding (in millions)	CASF Funding (in millions)
Ponderosa Cablevision Auberry Project	\$3.852	\$1.155
Calaveras Poker Flat Project	\$4.087	\$0.641
Digital 395 Middle Mile Project	\$81.149	\$19.295
Plumas Sierra Telecommunications (PST) Middle Mile Project	\$13.770	\$1.721
Audeamus Last Mile Project	\$5.483	\$1.154
Central Valley Independent Network, LLC (CVIN) & the Corporation for Educational Network Initiatives in California (CENIC) Last Mile Project	\$46.620	\$6.660
TOTAL	\$154.961	\$30.626

With an investment of about \$30 million in CASF funds, California has been able to leverage almost \$155 million in federal matching funds for broadband deployment in the state. This level of broadband deployment is a significant accomplishment that CASF helped bring about in California.

B. Underserved Areas Received More Funding than Unserved Areas

Underserved areas received 92% of the total funding while unserved areas received 8%.

C. Broadband Projects are Located in Areas Identified in the 2008 CBTF Report as Unserved

Projects approved for funding in unserved areas are located in communities⁴ identified in the January 2008 Final Report of the California Broadband Task Force as being unserved by wireline broadband.

The report lists 2,000 communities that have no broadband access. When completed, the CASF funded projects in 161 communities or areas will effectively reduce this number to 1,839 communities.

Underserved projects, including middle-mile projects, are expected to cover a total of 551 communities or areas.

D. Over 300,000 Households Are Expected to Benefit from CASF Projects

Pages 22 and 23 show updated maps of remaining unserved and underserved areas in California reflecting the CASF projects approved as of December 2010 as well as the updated Broadband Availability Maps created pursuant to the CPUC's collection of data from California providers pursuant to a Recovery Act Broadband Mapping grant. These maps also show the Incumbent Local Exchange Carrier (ILEC) territories.

The CBTF report identifies 1.4 million mostly rural Californians or approximately 500,000 households that lack broadband at any speed. If all of the 15 unserved area projects approved for CASF funding as of December 2010 are successfully completed, 27,427 households would have access to broadband service. In the underserved areas, some 291,361 households will have access to broadband speeds of no less than 3 mbps download and 1mbps upload when all 26 approved projects are completed.

⁴ The Final report of the California Broadband Task Force- January 2008, Appendix : List of Communities Unserved by Wireline Broadband defines communities as those listed as populated places in the United States Geological Survey, Geographic Names Information System (GNIS).

E. Broadband CASF Cost per Household

There is a very minimal difference in the provision of CASF funding for unserved and underserved areas on a per household basis. The CASF cost per household overall is \$182 with unserved areas averaging \$179 and underserved areas averaging \$182. Cost per household in unserved areas ranged from \$31 to \$1,825 while that for underserved areas ranged from \$91 to \$19,566. A per-project examination of the cost per household reveals that it costs more to provide broadband service in underserved areas. At the same time, the middle-mile projects, which CASF considers as serving underserved areas, offsets the overall cost per household in underserved areas since the middle-mile projects are able to serve more households as they have a larger coverage area.



STATE OF CALIFORNIA

Wireline and Fixed Wireless Broadband Availability





STATE OF CALIFORNIA Wireline and Fixed Wireless Broadband Availability



V. PROGRAM IMPLEMENTATION CHALLENGES

A. Declining Participation Rate from Large and Mid-Sized Carriers

In the first phase of the program, i.e., where 40% funding was available only to certificated or registered wireless carriers, 45 out of 54 applications were submitted by large and mid-sized carriers (i.e., AT &T, Verizon, Frontier).

After CASF funding was made available to non-certificated carriers to take advantage of the CASF funding leverage on Recovery Act funding approval, the large and mid-sized carriers (except two)⁵ who participated during the first phase did not submit any new applications. Twenty four out of 35 applications submitted after August 2008 came either from small local exchange carriers or their affiliates and other broadband providers.

B. Need to Rescind Some CASF Funded Projects

During the first quarter of 2010, total CASF grants approved reached a high of \$91 million. A significant portion of these awards, however, were contingent on the applicants securing Recovery Act funding. Because of the inability of several of these applicants to secure Recovery Act funding (in the case of 10% CASF funded projects) and/or secure funding from other sources (for 40% funded projects), the Commission has had to rescind CASF funding for eight projects totaling \$45.93 million.⁶

The following table shows the eight projects that have been rescinded to date:

⁵ Verizon submitted and was approved for CASF funding for the Sea Ranch project. Although funds were initially awarded for the Lookout and Alturas projects of Frontier, in Resolutions T- 17224 and T-17234, respectively, these awards were rescinded in Resolution T-17272 based on Frontier's decision not to pursue the Lookout project and to fund the Alturas project using its own funds.

⁶ Resolution T-17272 (May 20, 2010) rescinded total grants for 7 projects amounting to \$38.10 Million and Resolution T-17280 (July 8, 2010) rescinded a grant award amounting to \$7.83 million. Since Frontier opted not to collect the approved CASF matching grant or seek Recovery Act funding but chose to complete the Alturas project using its own funds, Resolution T-17272 only rescinded CASF funding for the Alturas project; the CBGs pertaining to the Alturas project were not returned to the pool of unserved and underserved CBGs and made available to new applicants.

Original Resolution #	Rescinding Res #	Applicant	Project	County
T-17229	T-17272	Inyo Networks	Last Mile Project Topaz, Coleville, Bridgeport, Mono Lake area, Benton Lake area Big Pine, Independence, Lone Pine, Cartago/Olancha, Boron, Kernville,(and area surrounding), Onyx, Wofford Heights, Weldon, South Lake, Mesa Mountain, Lake Isabella, Red Mountain, Mojave (outskirts), California City	Mono, Inyo and Kern
T-17241	T-17272	Race Telecommunications	Last Mile Project Race Telecommunications, Inc., Last Mile Project (Arvin, Bear Valley Springs, CDP, Boron CDP, California City, Golden Hills CDP, Mojave CDP, Rosamond CDP, Stallion Springs CDP, Tehachapi)	Kern
T-17245	T-17272	California Valley Broadband	Middle Mile	Fresno, Madera, Merced, Sacramento, San Joaquin, Solano, and Stanislaus
T-17234	T-17272	Frontier	Alturas	Modoc and Lassen
T-17224	T-17272	Frontier	Lookout	Modoc
T-17246	T-17272	Plumas Sierra	Last Mile Project (Outskirts of Susanville, Janesville, East of Janesville, Milford Areas, Herlong, Doyle)Last Mile Project	South eastern Lassen
T-17239	T-17272	Broadband Associates	Northeastern California Project	Butte, Colusa, Glenn, Lake, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Tehama, and Yuba
T-17187	T-17280	Broadband Associates	Highway 299 Broadband Network (Glendale/Blue Lake, Korbel, Willow Creek, Salyer, Burnt Ranch/Hawkins Bar/Trinity Village, Big Bar/Big Flat/Del Loma, Junction City, Weaverville, Douglas City, Lewiston, French Gulch)	Humboldt, Trinity and Shasta Counties

The Commission further expects that it will need to issue a resolution to rescind the grant awards for nine out of the 41 projects that have been approved due to grantees' opting out of the project, deciding not to avail themselves of CASF funding, or being unable to secure the matching funds (See Section VII.C below).

C. Performance Bond Compliance

The CASF guidelines require that recipients post a performance bond for the amount of the CASF grant when the recipient's matching 60% funding comes from its own capital funds and the recipient does not have an established track record with the Commission (i.e., not a well-established carrier in the state). Although the recipients have certified in their applications that they will put up a performance bond if CASF funding is approved, it appears that some of the recipients are not familiar with or have had no previous experience in securing performance bonds, thus delaying the project construction.

Five of the 41 projects awarded require the posting of performance bonds by the recipients: the Mother Lode Unserved Broadband Project, the Plumas-Sierra Middle-Mile Project (with CASF and Recovery Act funding), the Mother Lode Underserved Project, the Mojave Air and

Space Port Project, and Central Valley Independent Network Project (with CASF and Recovery Act funding).

To date, none of the above CASF recipients has posted a performance bond with the Commission, although the recipients of CASF and Recovery Act funding have submitted a security bond to the National Telecommunications and Information Administration (NTIA) and/or Rural Utilities Service (RUS) as a pre-requisite to loan/grant acceptance from these two federal agencies.

Grant recipients have reported several specific problems in securing the performance bond: confusion about specific language for the bond, the collateral required by the bonding company (which is 100% of the CASF award), and a financier for the project to put up a Letter of Credit as a form of collateral. We are re-examining performance bond compliance in the current OIR proceeding evaluating CASF rules.

D. California Environmental Quality Act (CEQA) Compliance

While it is clear from Resolution T-17143 that projects are subject to CEQA review, some recipients did not accurately consider the time and costs involved for this step in the process when estimating their construction timeline. For example, although one CASF application and the approving Resolution indicates a timeline of 10 months, actual project construction is longer than 10 months if the required CEQA review timeline of at least 8 months is factored in.

Project completion delays from CEQA have impacted four CASF projects, thereby slowing the pace of broadband deployment. Although we do recognize the need for CEQA and the benefits it provides, we also observe that CEQA compliance poses challenges for our CASF grant recipients.

E. Increased Construction Costs and Other Factors

Some applicants decided not to pursue projects when the areas they proposed were found to be already served and not underserved. Although applicants have the option to modify their proposal, the changes in the project costs and the assumptions associated with changes in the

project alignment, such as costs attendant to geography, population, and permitting, render the project unviable, if modified.

F. Adequacy of 40% Grant Award

Prospective applicants and other parties have asked the Commission whether the CASF program can provide funding for over 40% of the project costs since their projects are not viable at 40% grant. An applicant who has not been able to secure Recovery Act funding but has been conditionally approved for 10% CASF funding and could reapply for 40% CASF funding, if it chose, has inquired whether the Commission will entertain a proposal for 100% CASF grant. We are re-examining the 40% grant award level in a current Order Instituting Rulemaking (OIR) proceeding reviewing CASF rules.

VI. RECENT PROGRAM DEVELOPMENTS

Senate Bill (SB) 1040 (Chapter 317, Stat. 2010), expanded the CASF with the creation of two new accounts, the Rural and Regional Urban Consortia Grant and the Broadband Infrastructure Revolving Loan Accounts. SB 1040 provided funding of \$125 million as follows: \$100 million to the Broadband Infrastructure Grant Account, \$10 million to the Rural and Regional Urban Consortia Account, and \$15 million to the Broadband Infrastructure Loan Account. The \$125 million will be funded by a surcharge to be assessed on end-users intrastate bills and collected at \$25 million a year beginning Calendar year 2011.

To implement the provisions of this legislation and to address possible changes to the program based on CASF's three year implementation experience, including those suggested by the Division of Ratepayer Advocates in its Petition to Modify⁷, the Commission opened an OIR (R.10-12-008) on December 16, 2010. Because of the legislative mandate to encourage deployment of advanced telecommunications services to all Californians, the rulemaking will initially focus on the Consortia Grant in order to begin implementing SB 1040 as soon as possible.

⁷ Division of Ratepayer Advocates Petition for Modification of Decision 07-12-054, Implementing California Advanced services Fund (CASF) filed September 14, 2010.

Based on the challenges and issues encountered by the CASF program in the past three years, the CASF staff provided input on the set of questions that the Commission asked parties in R.10-12-008 to address in their comments. These questions cover the following areas:

- Loan program eligibility, terms, conditions, requirements, and security
- Consortia grant eligibility, role, goals and objectives, reimbursable costs, and payment
- Potential changes to the existing infrastructure grant program include the following:
 - Changing the matching grant of 40%
 - Limiting eligibility to CPCN or WIR holders
 - Changing the definition of unserved and underserved areas
 - More transparency in handling applications
 - Changing the evaluation criteria
 - Placing a ceiling or limit on the cost per household

Parties filed their opening and reply comments with their responses to the questions posed in R.10-12-008 on January 21, 2011 and February 18, 2011, respectively. The CPUC intends to issue a series of decisions within this year to implement the Consortia Grant initially and to adopt further program changes to make CASF a more effective vehicle for broadband infrastructure development and deployment.

VII. CASF PROJECT DETAILS

A. Completed Projects

Actual broadband subscribership for the 14 completed projects has reached 872 out of an estimated target of 2,743 households. As most of the projects were recently completed in 2010, improvement in the broadband take rate is expected.

Broadband speeds offered in the completed projects range from 1.5 to 6 mbps download / .384 to .768 mbps upload in unserved areas and 3 to 10 mbps download / 1 to 1.5 mbps upload.

The following table presents a listing of the 14 completed CASF projects, along with pertinent project information.

COMPLETED CASF PROJECTS

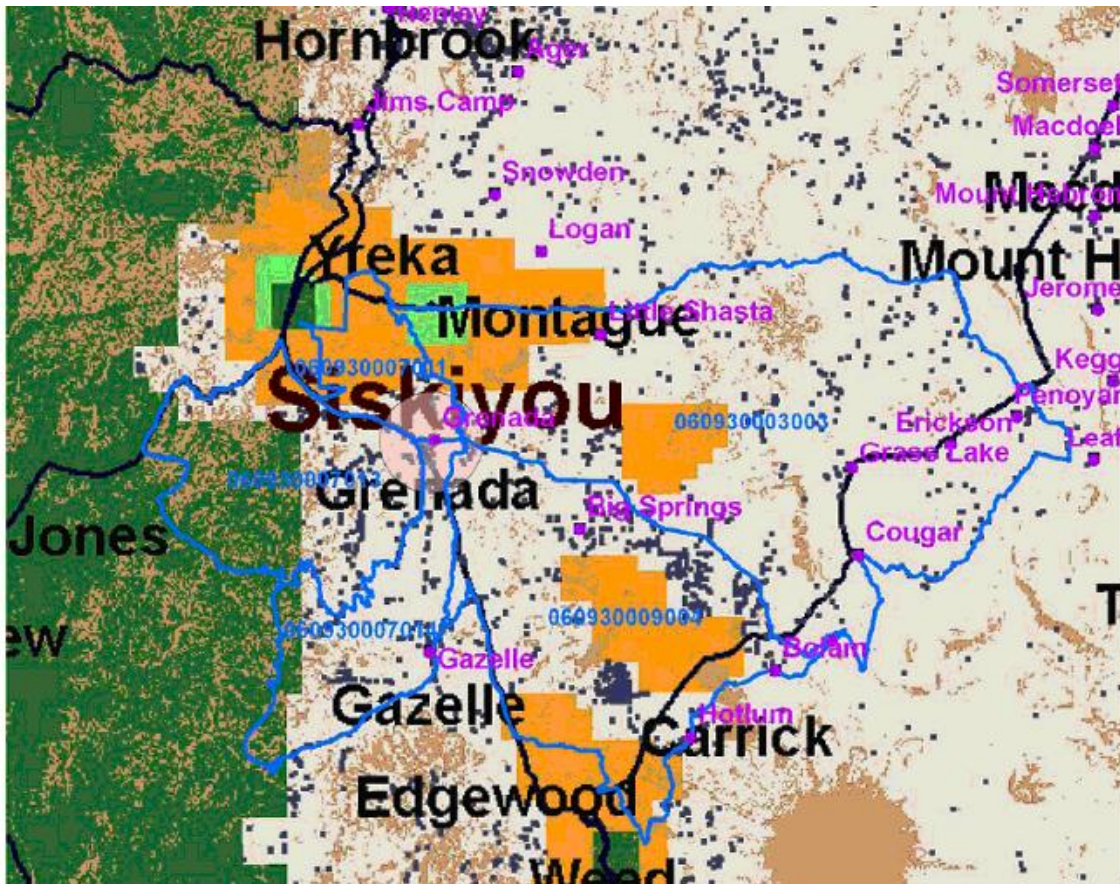
	GRANTEE	PROJECT NAME	LOCATION	PROJECT SIZE (in sq. miles)	# of HOUSEHOLDS	CASF FUNDING	TYPE OF PROJECT
1	AT&T	Grenada	Siskiyou	13.90	275	\$57,596	Unserved
2	AT&T	Hopland	Mendocino	13.90	328	\$61,952	Unserved
3	AT&T	Blanchard	Mariposa	13.90	123	\$35,816	Unserved
4	AT&T	Mount Wilson	Los Angeles	2.10	15	\$2,420	Unserved
5	Verizon	Pinyon	Riverside	27.02	382	\$174,000	Unserved
6	AT&T	Comptche	Mendocino County	11.51	97	\$18,392	Unserved
7	AT&T	Alta/ Blue Canyon	Nevada/ Placer Counties	10.84	236	\$56,628	Unserved
8	AT&T	Warner Springs	San Diego County	3.50	66	\$93,896	Unserved
9	AT&T	Carmel Valley	Monterey County	4.44	83	\$47,916	Unserved
10	Willits Online	Covelo	Mendocino	3.50	300	\$54,000	Unserved
11	Willits Online	Laytonville	Mendocino	3.50	500	\$54,000	Unserved
12	AT&T	Lodi	San Joaquin	1.26	35	\$137,416	Underserved
13	Citizens	Birds Landing	Solano	17.00	69	\$100,444	Underserved
14	Frontier	Livingston	Merced	8.00	234	\$62,000	Underserved
	TOTAL FOR COMPLETED PROJECTS			134.37	2743	\$956,476	

1. Grenada - Siskiyou County

AT&T's broadband service in the Grenada area of Siskiyou County is a high speed, stand alone, internet access service which uses existing Digital Subscriber Line (DSL)⁸ technology and wire line facilities. This project is projected to serve 275 households covering an area of 13.9 square miles in 5 CBGs. Download speeds are up to 1.5 mbps and upload speeds are up to 384 kbps.

Date Approved:	November 12, 2008 in Resolution T-17182
Location:	Grenada in Siskiyou County
Grant:	\$ 57,596
Projected Completion Date:	14-15 months from Project Approval
Actual Completion Date:	Fourth Quarter 2009
Ready for Service:	Fourth Quarter 2009

Grenada Shapefile



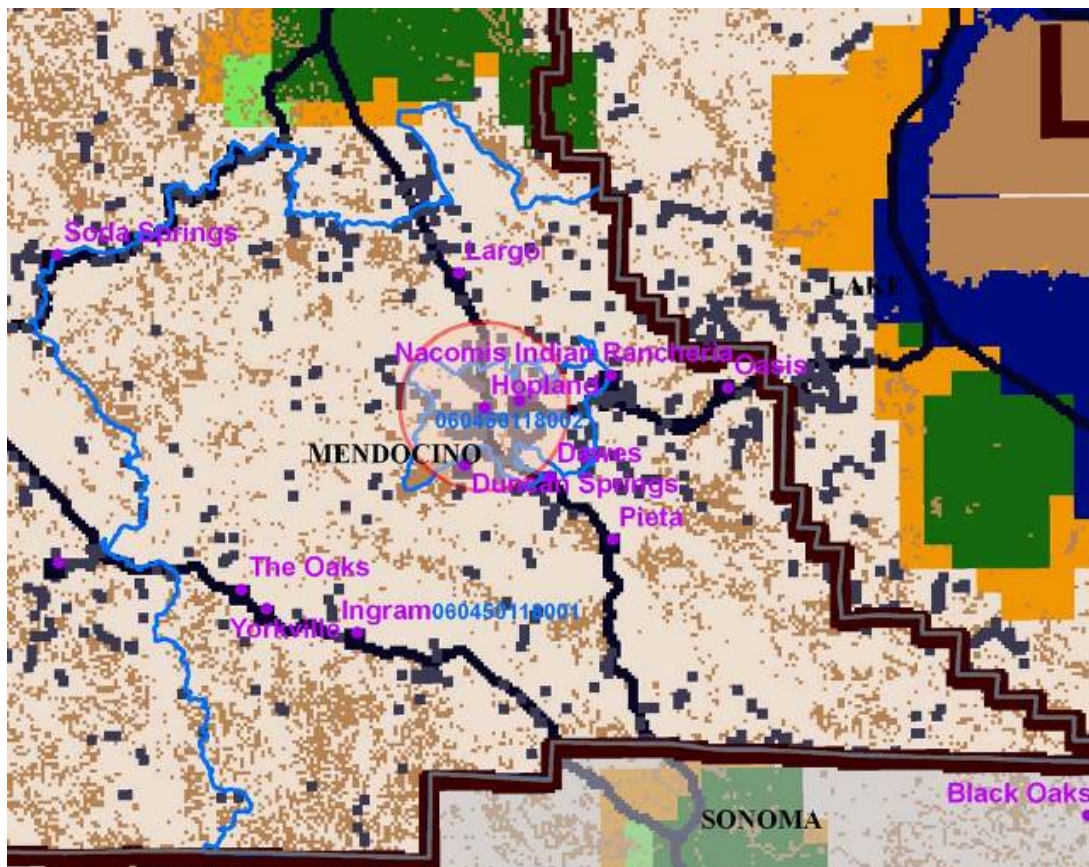
⁸ Provides digital connection over the copper wire of the local telephone network. DSL allows the phone line to provide digital communication without blocking access to voice service.

2. Hopland - Mendocino County

AT&T's broadband service in the Hopland area of Mendocino County is a high speed, stand alone, internet access service which uses existing DSL technology and wire line facilities. This project is estimated to serve 328 households covering an area of 13.9 square miles in 2 CBGs. Download speeds are up to 1.5 mbps and upload speeds are up to 384 kbps.

Date Approved:	November 12, 2008 in Resolution T-17182
Location:	Hopland in Mendocino County
Grant:	\$61,952
Projected Completion Date:	14-15 months from Project Approval
Actual Completion Date:	Fourth Quarter 2009
Ready for Service:	Fourth Quarter 2009

Hopland Shapefile

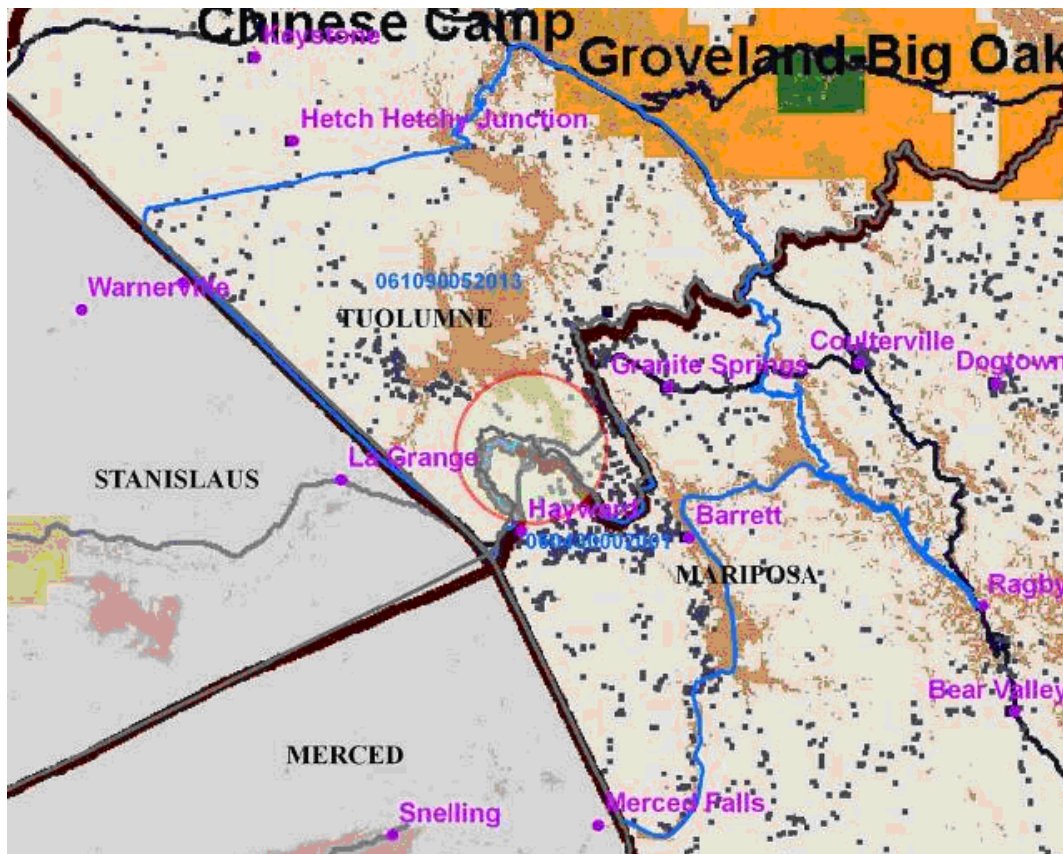


3. Blanchard - Mariposa County

AT&T's broadband project in the Blanchard area of Mariposa County is a high speed, stand alone, internet access service that uses existing DSL technology and existing wire line facilities. This project will be able to serve 123 households covering an area of 13.9 square miles in 2 CBGs. Download speeds are up to 1.5 mbps and upload speeds are up to 384 kbps.

Date Approved:	November 12, 2008 in Resolution T-17182
Location:	Blanchard in Mariposa County
Grant:	\$35,816
Projected Completion Date:	14 - 15 months from Project Approval
Actual Completion Date:	Fourth Quarter 2009
Ready for Service:	Fourth Quarter 2009

Blanchard Shapefile



4. Mount Wilson - Los Angeles

AT&T's Mount Wilson broadband project in Los Angeles County offers high speed, stand alone, internet access service, using existing DSL technology. This project is estimated to serve 15 households covering an area of 2.1 square miles in 1 CBG. Download speed is up to 1.5 mbps and proposed upload speed is up to 384 kbps.

Date Approved:	November 12, 2008 in Resolution T-17182
Location:	Mount Wilson in Los Angeles County
Grant:	\$2,420
Projected Completion Date:	18-20 months from Project approval
Actual Completion Date:	Third Quarter 2009
Ready for Service:	Third Quarter 2009

Mount Wilson Shapefile

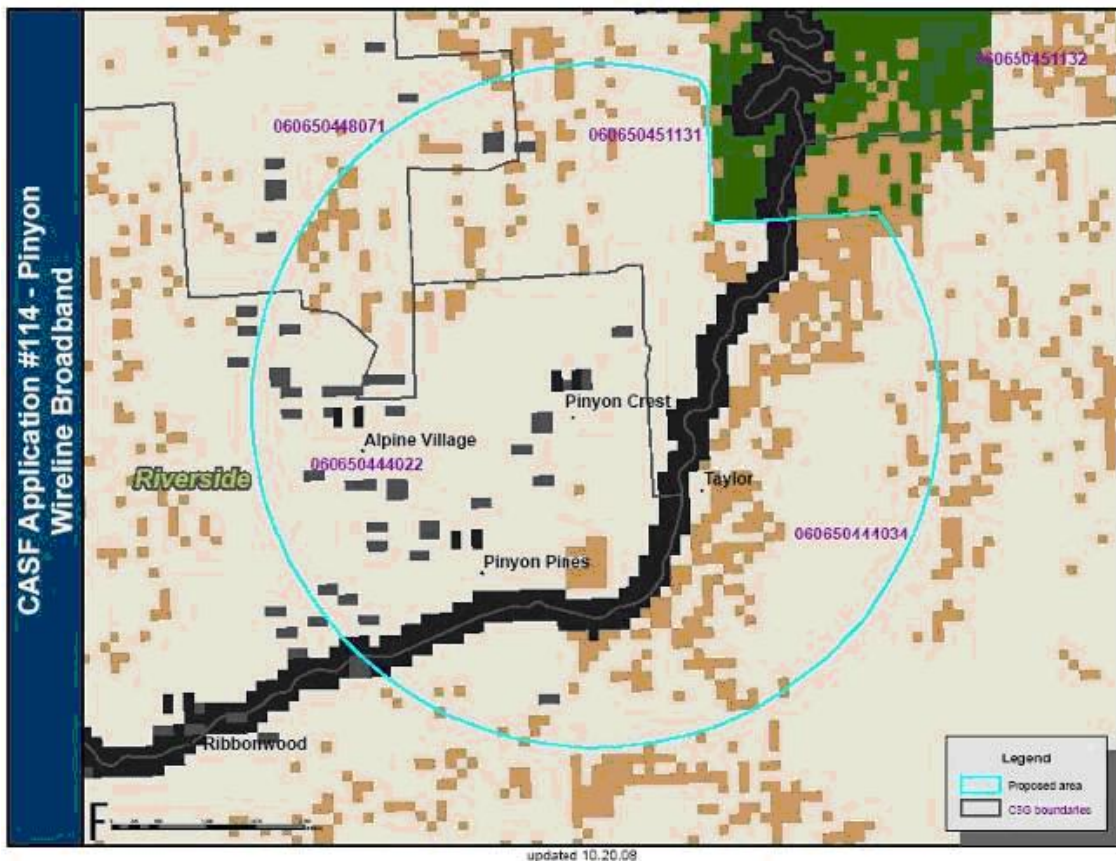


5. Pinyon - Riverside County

Verizon California's Pinyon Crest project in Riverside County uses the backhaul from Palm Springs to service 382 households covering an area of 27.02 square miles in 4 CBGs. This project is adjacent to an existing broadband service area (Palm Springs Canyon) which has speeds of between 5-10 Mbps. This project will reach four remote communities in the Palm Springs Canyon that currently do not have any broadband service. Download mid-speed is 1.5 mbps and upload mid speed is 0.385 mbps.

Date Approved:	November 12, 2008 in Resolution T-17182
Location:	Pinyon in Riverside County
Grant:	\$174,000
Projected Completion Date:	3 - 4 months from Project approval
Actual Completion Date:	October 6, 2010 (1 year and 10 months)
Ready for Service:	October 6, 2010

Pinyon Shapefile



Microwave Tower



Broadband Equipment

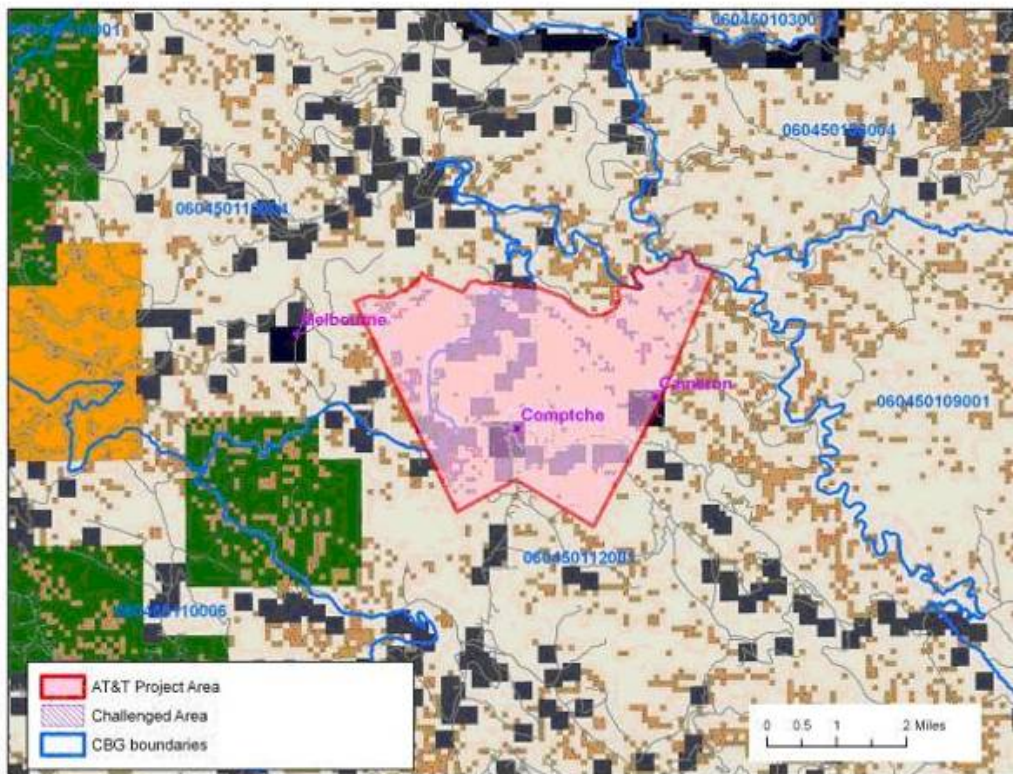


6. Comptche - Mendocino County

AT&T's Comptche project in Mendocino County offers high speed, stand alone, internet access service, using existing DSL technology. This project is estimated to serve 97 households covering an area of 11.51 square miles in two CBGs. The download speed is up to 1.5 mbps and proposed upload speed is up to 384 kbps.

Date Approved:	February 20, 2009 in Resolution T-17195
Location:	Comptche in Mendocino County
Grant:	\$18,392
Projected Completion Date:	18-20 months from Project approval
Actual Completion Date:	Fourth Quarter 2009
Ready for Service:	Fourth Quarter 2009

Comptche Shapefile

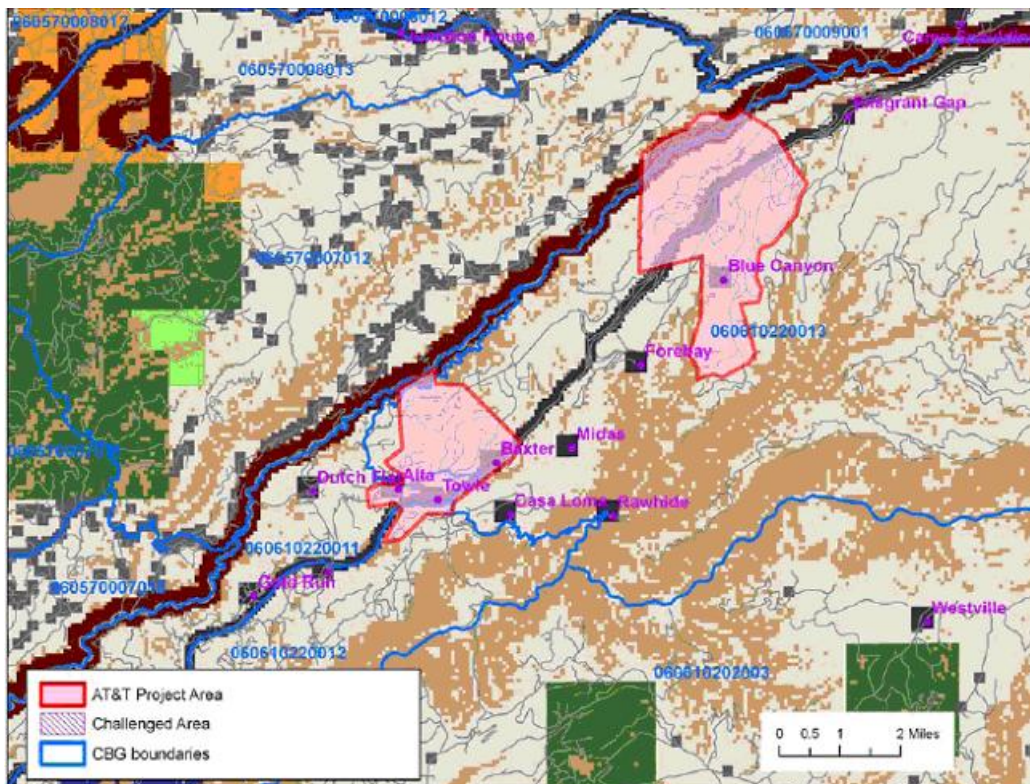


7. Alta/Blue Canyon - Placer County

AT&T's Alta/Blue Canyon broadband project in Nevada/Placer Counties is a high speed, stand alone, internet access service which uses existing DSL technology and wire line facilities. This project will be able to serve 236 households covering an area of 10.84 square miles in four CBGs. Download speeds are up to 1.5 mbps and upload speeds are up to 384 kbps.

Date Approved:	February 20, 2009 Resolution T-17195
Location:	Alta in Placer County
Grant:	\$56,628
Projected Completion Date:	18-20 months from Project Approval
Actual Completion Date:	Fourth Quarter 2010
Ready for Service:	Fourth Quarter 2010

Alta/Blue Canyon Shapefile

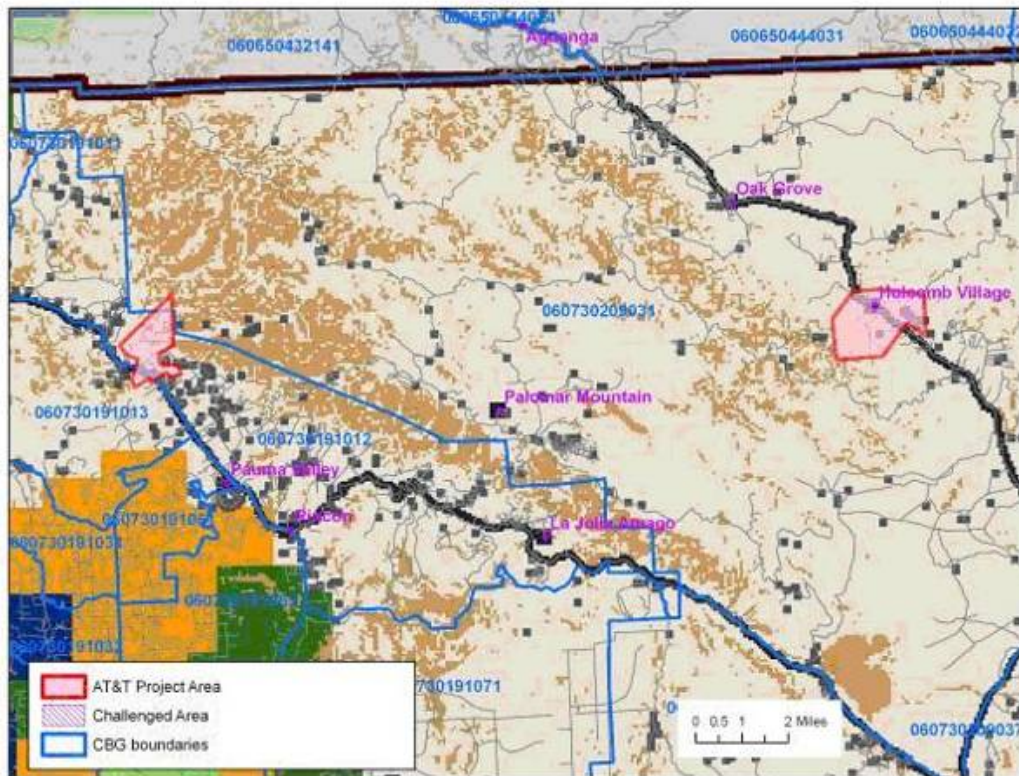


8. Warner Springs - San Diego County

AT&T's Warner Springs project in San Diego County offers high speed, stand alone, internet access service, using existing DSL technology. This project is estimated to serve 66 households covering an area of 3.5 square miles in 3 CBGs. The project provides a download speed of up to 1.5 mbps and upload speed of up to 384 kbps.

Date Approved:	February 20, 2009 in Resolution T-17195
Location:	Warner Springs in San Diego County
Grant:	\$93,896
Projected Completion Date:	18-20 months from Project approval
Actual Completion Date:	First Quarter 2010
Ready for Service:	First Quarter 2010

Warner Springs Shapefile

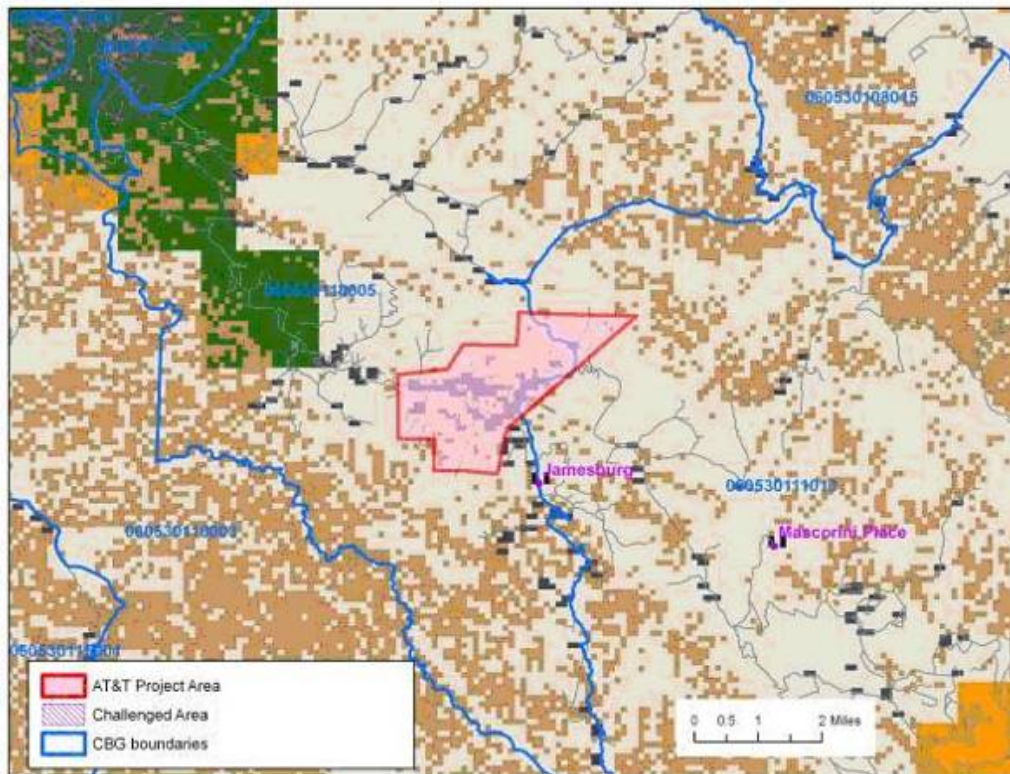


9. Carmel Valley - Monterey County

AT&T's Carmel Valley project in Monterey County offers high speed, stand alone, internet access service, using existing DSL technology. This project is estimated to serve 83 households covering an area of 4.44 square miles in two CBGs, with a download speed of up to 1.5 mbps and upload speed of up to 384 kbps.

Date Approved:	February 20, 2009 in Resolution T-17195
Location:	Carmel Valley in Monterey County
Grant:	\$47,916
Projected Completion Date:	18-20 months from Project approval
Actual Completion Date:	First Quarter 2010
Ready for Service:	First Quarter 2010

Carmel Valley Shapefile

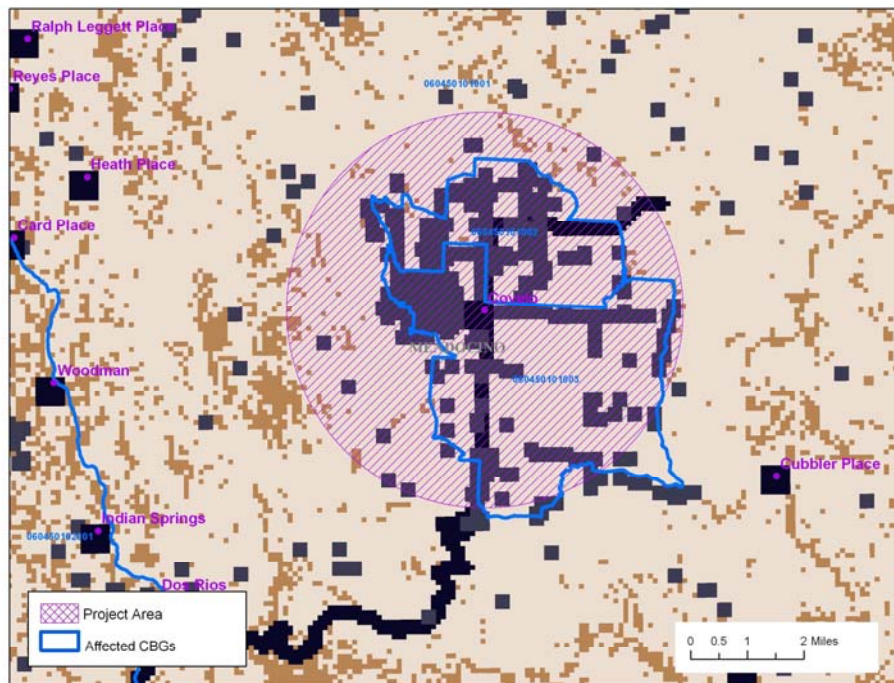


10. Covelo - Mendocino County

Willits Online deployed ADSL2+ 2 based broadband service which reached most addresses that have existing wireline telephone service within 3.5 miles of Willits' central office. This project is estimated to serve approximately 300 households in Covelo. Speeds are up to 6mbps download and up to 6 mbps upload.

Date Approved:	March 12, 2009 in Resolution T-17183
Location:	Covelo in Mendocino County
Grant:	\$54,000
Projected Completion Date:	8 months from Project approval
Construction Completion Date:	December 15, 2009
Ready for Service:	December 15, 2009

Covelo Shapefile

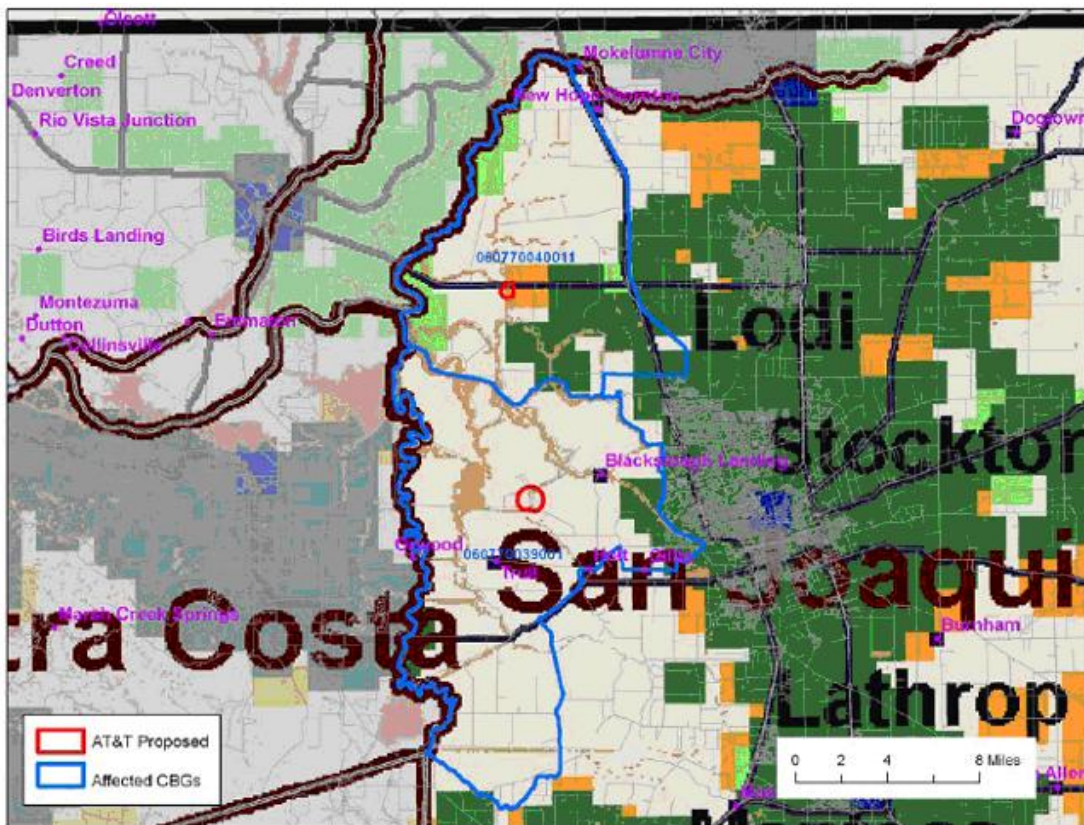


12. Lodi-San Joaquin County

AT&T's broadband service in the Lodi underserved area of San Joaquin County is a high speed, stand alone Internet access service, powered by Internet Protocol (IP) connections over AT&T's backbone. This project will be able to serve 35 households covering an area of approximately 1.26 sq. miles. Download speed is up to 10 mbps and upload speed is up to 1.5 mbps.

Date Approved:	March 12, 2009 in Resolution T-17196
Location:	Lodi in San Joaquin County
Grant:	\$137,416
Projected Completion Date:	24 months from Project Approval
Actual Completion Date:	Fourth Quarter 2010
Ready for Service:	Fourth Quarter 2010

Lodi Shapefile

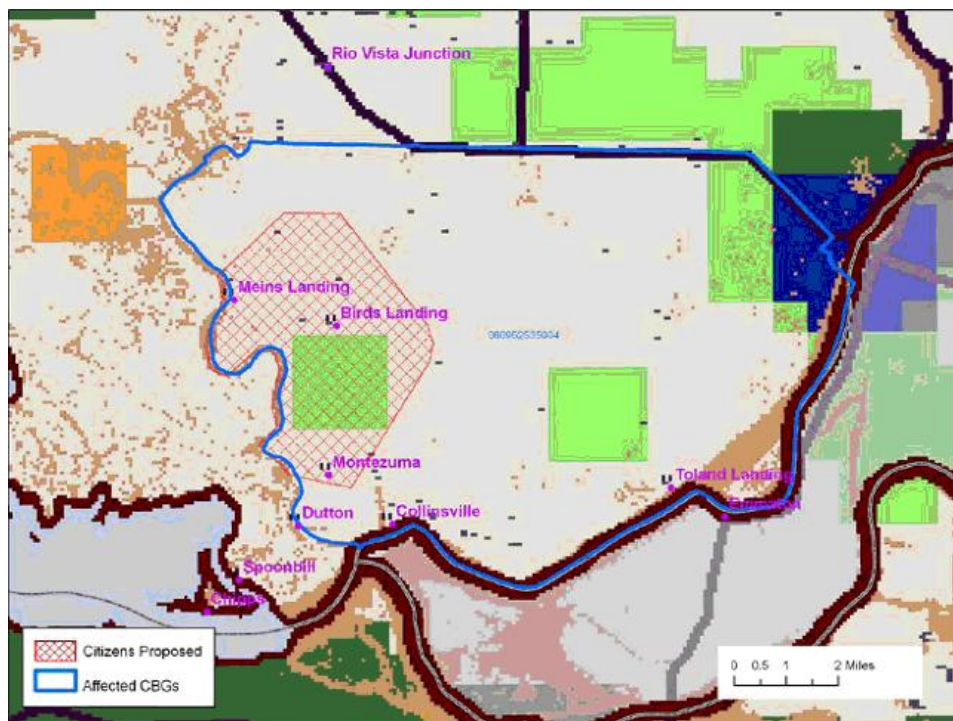


13. Birds Landing - Solano County

Citizens Telecommunication Company's Birds Landing project, located in the Rio Vista exchange of Solano County, extends high speed internet service through the expansion of DSL deployment into the more remote underserved areas of its rural exchanges. This project is estimated to serve 69 households covering an area of approximately 17 square miles. Download speeds are up to 3 mbps and upload speeds are up to 1 mbps.

Date Approved:	March 12, 2009 in Resolution T-17196
Location:	Birds Landing in Solano County
Grant:	\$100,444
Projected Completion Date:	7 months from Project approval
Actual Completion Date:	March 10, 2010
Ready for Service:	March 16, 2010

Birds Landing Shapefile



14. Livingston - Merced County

Citizens Telecommunication Company will extend additional DSL capability in the southeastern portion of the Livingston exchange through High Bit Rate Digital Subscriber Line (HDSL)⁹ span line equipment¹⁰, 3 - Infratel brickhouse cabinets¹¹ and 4 - Adtran Digital Subscriber Line Access Multiplexers (DSLAMs)¹². This project is estimated to serve 234 households covering an area of approximately 8 square miles. Download speeds are up to 3 mbps and upload speeds are up to 1 mbps.

Date Approved:	March 12, 2010 in Resolution T-17196
Location:	Livingston in Merced County
Grant:	\$62,000
Projected Completion Date:	7 months from Project approval
Actual Completion Date:	November 10, 2009
Ready for Service:	November 15, 2009

Livingston Shapefile



⁹ HDSL delivers T-1 (1.536 Mg usable bandwidth) over a 4-wire loop of 2 pairs. Unlike Asymmetric DSL (ADSL), HDSL bandwidth is symmetric, as equal bandwidth is provided in each direction.

¹⁰ A span refers to that portion of a high-speed digital system that connects a Central Office or Terminal Office to another Terminal Office.

¹¹ A brickhouse is an easy to install, cost effective outdoor solution for housing mini DSLAMs and cross connect blocks all in a single compact enclosure.

¹² A piece of technology installed at a telephone company's Central Office that sits on one end of a subscriber's loop. At the other end is a box that the customer plugs his PC and his phone into. The DSLAM will then provide phone service and high-speed internet service to the customer.

B. Projects under Construction

Eighteen projects are under construction and are expected to be completed in 2011 through 2013. When completed, these projects will cover 10,033 square miles and are expected to benefit 280,097 households. The table below is a summary of the projects while details of each of these projects are in the succeeding pages.

CASF PROJECTS UNDER CONSTRUCTION

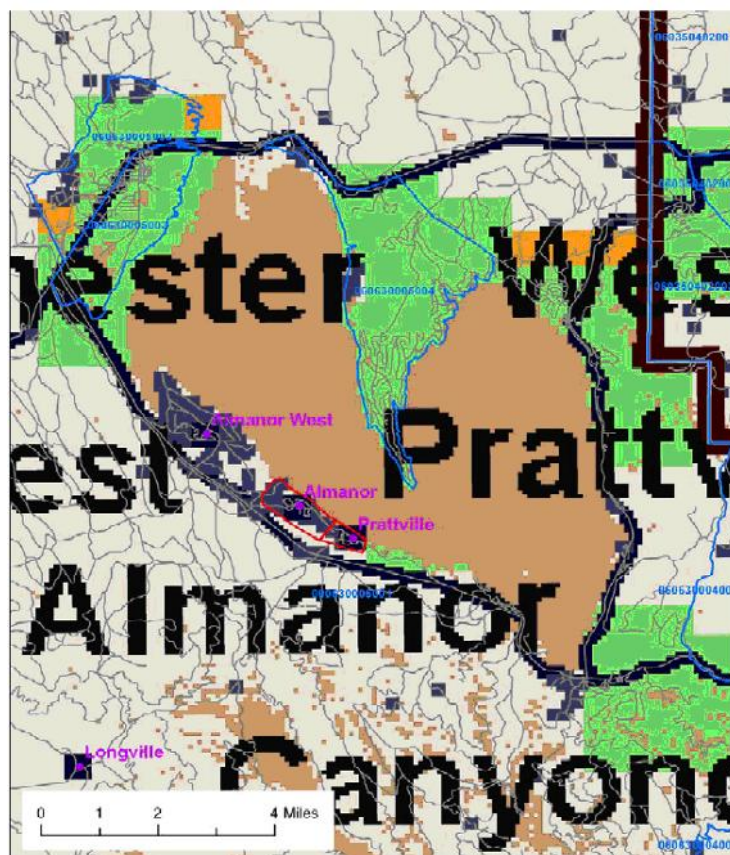
	GRANTEE	PROJECT NAME	LOCATION	PROJECT SIZE (in sq. miles)	# of HOUSEHOLDS	CASF FUNDING	TYPE OF PROJECT
1	Frontier	Prattville	Lake Almanor, Plumas	2.00	171	\$41,192	Unserved
2	MCC Telephony	Kernville Teleconnect Project	Kernville, Onyx, Weldon, Wofford Heights, Inyo, Kern	44.00	9,179	\$285,992	Unserved
3	Rapid Link, Inc. and Mother Lode Internet	Mother Lode Broadband	Alpine, Amador, Calaveras, Tuolumne and Mariposa	3,063.00	14,629	\$2,771,341	Unserved
4	Ponderosa Cable Vision	Ponderosa Cablevision Auberry Project (Mount Diablo Base, Meridian)	Fresno	18.65	1,043	\$405,613	Unserved
5	AT&T	Los Banos	Merced	0.87	13	\$120,170	Underserved
6	AT&T	Easton	Fresno	0.52	9	\$49,869	Underserved
7	AT&T	Vacaville	Solano	1.73	33	\$171,914	Underserved
8	AT&T	Friant	Fresno	0.50	5	\$46,463	Underserved
9	AT&T	Clovis	Fresno	0.30	125	\$36,393	Underserved
10	IP Networks	Hwy 36 Humboldt-Trinity Counties Project (Bridgeville, Mad River, Dismore and Ruth)	Humboldt and Trinity Counties	218.00	527	\$4,212,982	Underserved
11	California Broadband Cooperative	Digital 395 Middle Mile (Topaz, Coleville, Bridgeport, Mono Lake, June Lake, Crowley Lake, Benton, Mammoth Lakes, Bishop, Big Pine, Independence, Lone Pine, Cartago / Olancho, Boron, China Lake, Ridgecrest, Inyokern, Johannesburg, Kramer Junction, Red Mountain)	Mono, Inyo and Eastern Kern Counties, North Eastern San Bernardino	965.00	28,127	\$19,294,717	Underserved
12	Verizon	The Sea Ranch Project	Sonoma	20.00	232	\$1,872,017	Underserved
13	Plumas Sierra Telecommunications	Plumas-Sierra Middle-Mile Project Plumas County (Blairsdon-Graeagle, Chilcoot, Clio); Lassen County (Doyle, Herlong, Litchfield, Janesville, Milford, Standish, Susanville); Sierra County (Calpine, Loyalton, Sierraville)	Plumas, Lassen and Sierra	2,524.00	174	\$1,721,280	Underserved
14	Rapid Link and Mother Lode Internet	Mother Lode Broadband	Alpine, Amador, Calaveras, Tuolumne and Mariposa	525.00	\$17,841	\$3,110,064	Underserved
15	Audeamus	Tranquillity and West Fresno	Fresno County	20.60	585	\$1,154,496	Underserved
16	Race Telecommunications	Mojave Air and Space Port Project	Kern County	5.10	231	\$506,199	Underserved
17	Calaveras Telephone Company	Poker Flat Project	Calaveras	1.00	409	\$640,698	Underserved
18	CVIN LLC	Central Valley Independent Network, LLC. (CVIN) & the Corporation for Educational Network Initiatives in California (CENIC) middle mile fiber-optics network infrastructure	Placer, El Dorado, Amador, San Joaquin, Stanislaus, Calaveras, Colusa, Tuolumne, Mariposa, Merced, Madera, Nevada, Fresno, Tulare, Sutter, Yuba, Kings and	2,623	206,764	\$6,659,967	Underserved
	TOTAL FOR PROJECTS UNDER CONSTRUCTION			10,033.27	280,097	\$43,101,367	

1. Prattville - Plumas County

Frontier's project will add DSL capability for 171 households through the addition of a Calix Digital Loop Carrier w/ High Speed Internet capability in the Prattville area of its Chester Exchange covering approximately a two square mile area in one CBG. This one CBG covers a sub-section of Prattville that currently does not have any broadband service. Download speed will be approximately 3 mbps and upload speed is up to 1 mbps.

Date Approved:	November 12, 2008 in Resolution T-17182
Location:	Prattville in Plumas County
Grant:	\$41,192
Project Start Date:	January 1, 2011
Construction Start Date:	May 15, 2011
Projected Completion Date:	June 30, 2011
Projected Ready for Service Date:	July 15, 2011

Prattville Shapefile

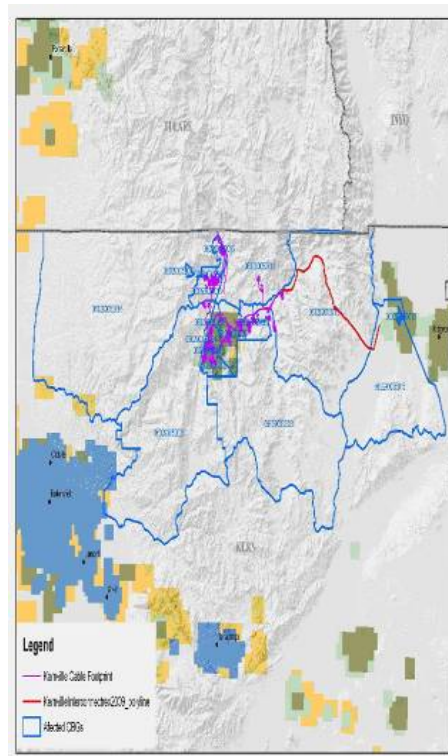


2. Kernville - Kern County

MCC Telephony of the West, LCC's project involves the construction of 32.3 miles of underground fiber optic cable, a middle-mile backbone connection, along State Highway 178 between its Ridgcrest and Lake Isabella systems. Ridgcrest has sufficient circuit capacity and, via this new middle-mile construction, will allow MCC to deliver high-speed Internet to unserved homes in the Lake Isabella system. In addition, replacing the two existing analog node networks with the new fiber-optic line will end the need for MCC to lease circuits (currently at capacity) from local exchange carriers. This project will be able to deliver service to 9,179 households covering an area of about 44 square miles in 16 CBGs. Download speed will be up to 8 mbps and upload speed will be up to 768 kbps.

Date Approved:	September 10, 2009 in Resolution T-17221
Location:	Kernville in Kern County
Grant:	\$285,992
Project Start Date:	4 months + CEQA from Project Approval
Projected Completion Date:	June 2011
Projected Ready for Service Date:	July 2011

Kernville Shapefile



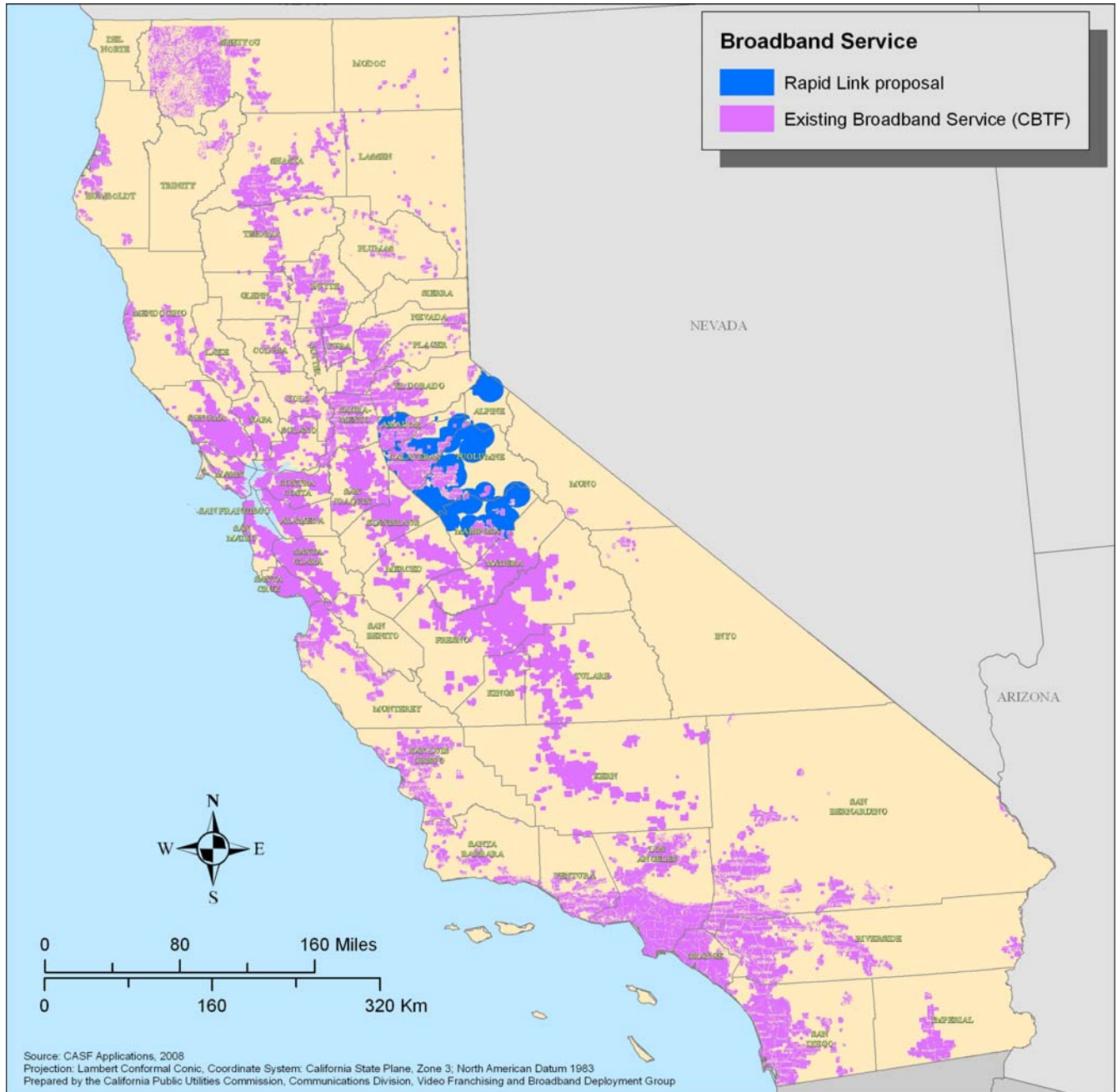
3. Mother Load Broadband Project – Alpine, Amador, Calaveras, Tuolumne, and Mariposa Counties

The Mother Load Project will use Mother Load Internet’s (MLI), a consortium partner with, local broadband provider) experience, support and presence by expanding a network of fixed wireless broadband services. MLI’s network will include two redundant 300 mbps links from Stockton and Sacramento to increase backhaul capacity. This backhaul is expected to feed the MLI network of primary and repeater towers with sufficient bandwidth. The network will include 44 primary towers with each primary tower, equipped with three radios in three different frequencies offering Line of Site and Non-Line of site capability. Primary towers will feed up to two repeater towers similarly equipped with 180 degree antennas to propagate signal into targeted markets. The system will have 132 towers equipped with over 1000 access points. The receiver radios located at the customer’s premises will have a Line of Site capacity of up to 14 mbps for both upload and download and Non Line of Site capacity of up to 8 mbps.

The Mother Load Broadband Project is projected to serve 73 communities/areas in the Alpine, Amador, Calaveras, Tuolumne and Mariposa counties.

Date Approved:	July 9, 2009 in Resolution T-17197
Location:	Alpine, Amador, Calaveras, Tuolumne and Mariposa Counties
Grant:	\$2,771,341
Projected Completion Date:	20 months from Project Approval
Projected Ready for Service Date:	The project has been delayed due to changes in the grantees’ organizational structure and issues in securing the performance bond

Mother Lode Broadband Map



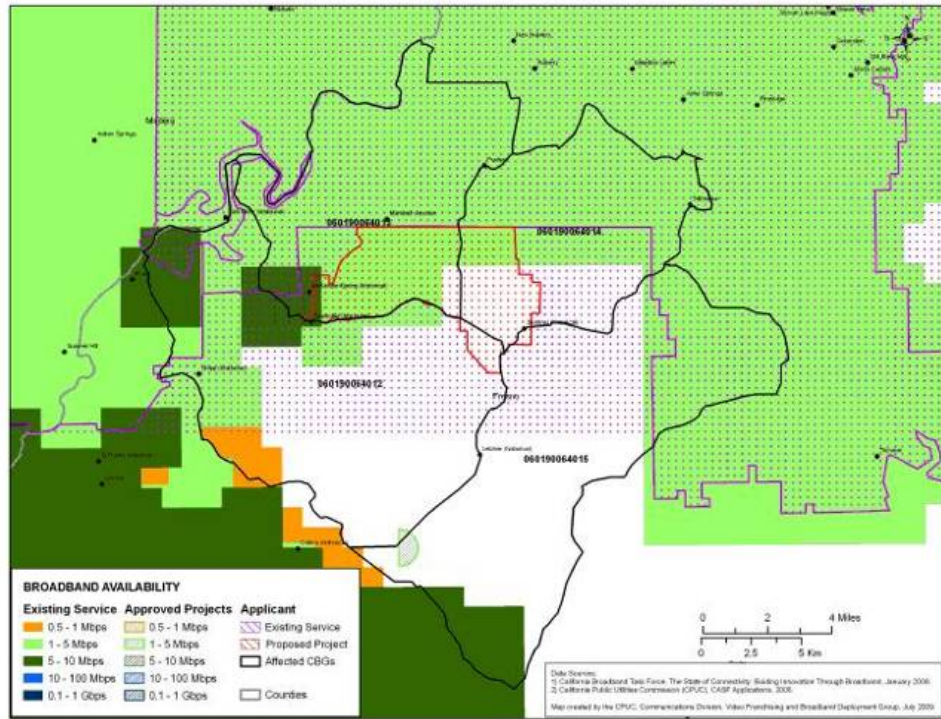
4. Auberry - Fresno County

The Ponderosa Auberry project involves the extension of its DSL coverage into the proposed area, Township 11 in Fresno County, by utilizing fiber-to-the-home technology, utilizing the ITU-T G 984 standard. Ponderosa will install two OLT terminals which will be constructed on county rights-of-way. All other construction will utilize existing PG&E poles. These terminals will be linked to current Ponderosa facilities in the existing coverage area.

This project will be able to deliver service to 1,043 households covering an area of about 18.65 square miles in four CBGs at average speeds 30 mbps download and 13.33 mbps upload.

Date Approved:	November 20, 2009 in Resolution T-17236
Location:	Mount Diablo Base, Meridian in Fresno County
Grant:	\$405,613
Projected Completion Date:	May 10, 2013; however, the construction will be "substantially" complete (70%) by the end of July 1012.
Projected Ready for Service Date:	Service deployment will commence at the completion of the first construction phase, anticipated to be approximately August 1, 2011

Auberry Shapefile

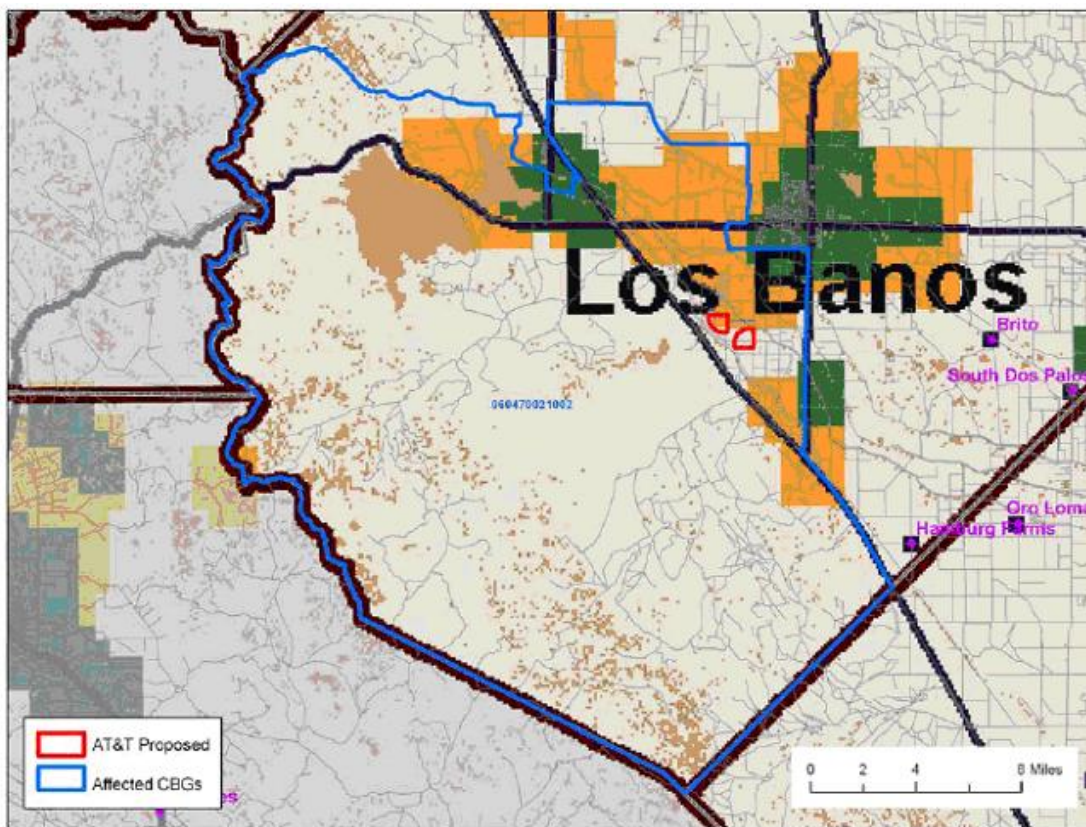


5. Los Banos - Merced County

AT&T's Los Banos project of Merced County offers high speed, stand alone Internet access service, powered by IP connections over AT&T's backbone. This project will be able to serve 13 households covering an area of approximately 0.87 square. miles. Download speeds will be up to 10 mbps and upload speeds will be up to 1.5 mbps.

Date Approved:	March 12, 2009 in Resolution T-17196
Location:	Los Banos in Merced County
Grant:	\$120,170
Projected Completion Date:	Second Quarter 2011
Projected Ready for Service Date:	Third Quarter 2011

Los Banos Shapefile



6. Easton - Fresno County

AT&T's project in the underserved Easton area of Fresno County offers high speed, stand alone Internet access service, powered by IP connections over AT&T's backbone. This project will be able to serve 9 households covering an area of approximately 0.52 square miles. Download speeds will be up to 10 mbps and upload speeds will be up to 1.5 mbps.

Date Approved:	March 12, 2009 in Resolution T-17196
Location:	Easton in Fresno County
Grant:	\$ 49,869
Projected Completion Date:	Second Quarter 2011
Projected Ready for Service Date:	Third Quarter 2011

Easton Shapefile

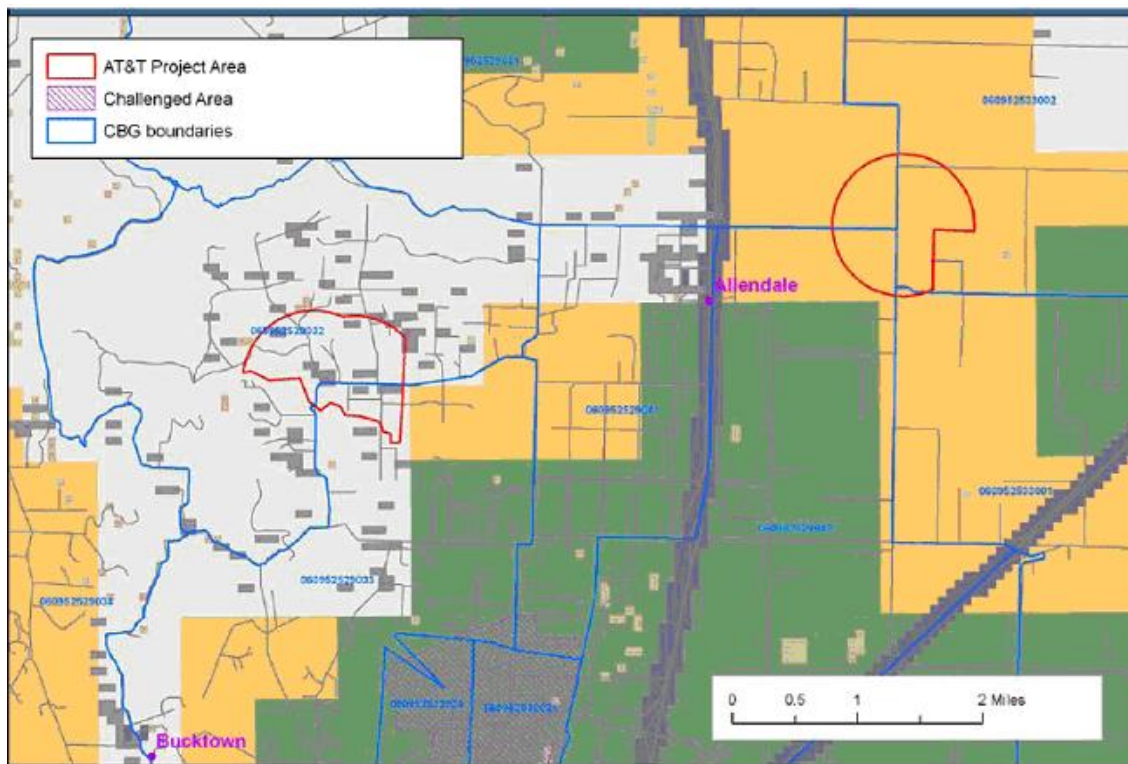


7. Vacaville - Solano County

AT&T's Vacaville broadband project in Solano County offers high speed, stand alone, internet access service, powered by IP connections over AT&T's backbone. This project will be able to serve 33 households covering an area of 1.73 square miles in 5 CBGs. Download speeds will be up to 10 mbps and upload speeds will be up to 1.5 mbps.

Date Approved:	April 16, 2009 in Resolution T-17199
Location:	Vacaville in Solano County
Grant:	\$171, 914
Projected Completion Date:	First Quarter 2011
Projected Ready for Service Date:	Second Quarter 2011

Vacaville Shapefile

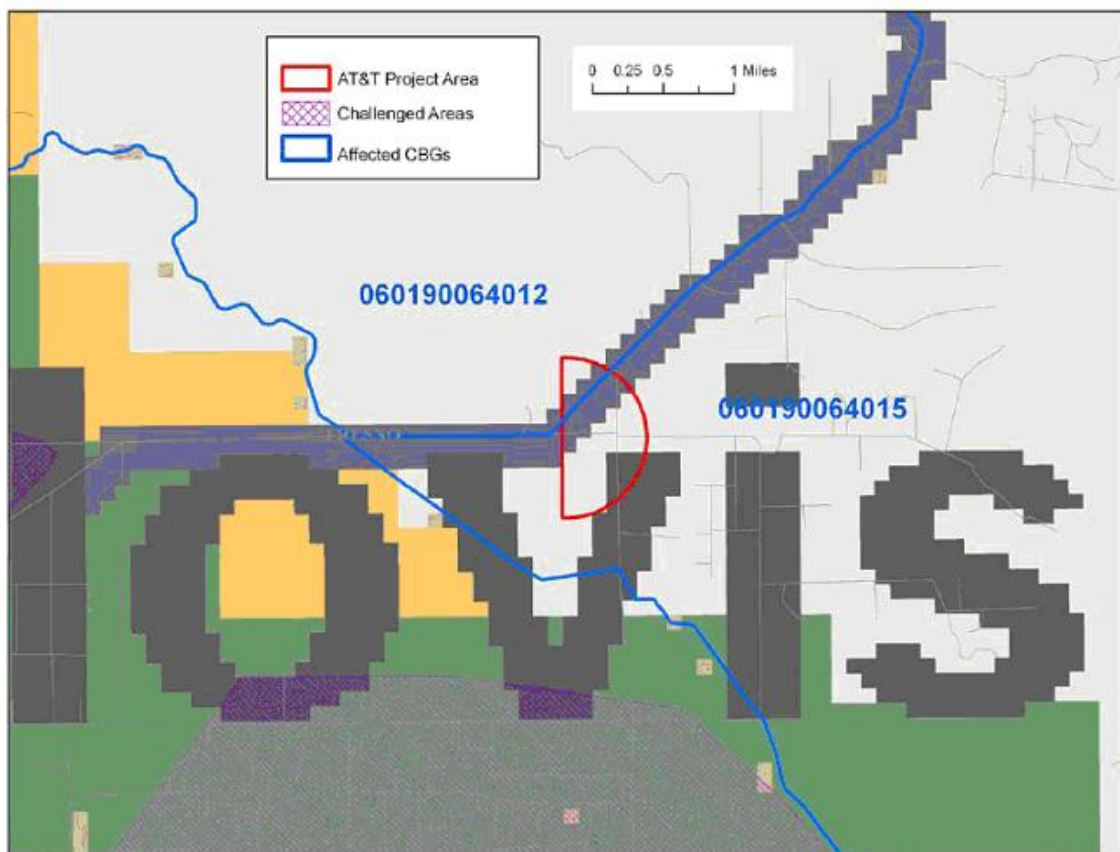


8. Friant - Fresno County

AT&T's broadband project in the Friant area of Fresno County offers high speed, stand alone, internet access service, powered by IP connections over AT&T's backbones. This project will be able to serve 5 households covering an area of 0.5 square miles in two CBGs. Download speeds will be up to 10 mbps and upload speeds will be up to 1.5 mbps.

Date Approved: April 16, 2009 in Resolution T-17199
Location: Friant in Fresno County
Grant: \$46,463
Projected Completion Date: Second Quarter 2011
Projected Ready for Service Date: Third Quarter 2011

Friant Shapefile

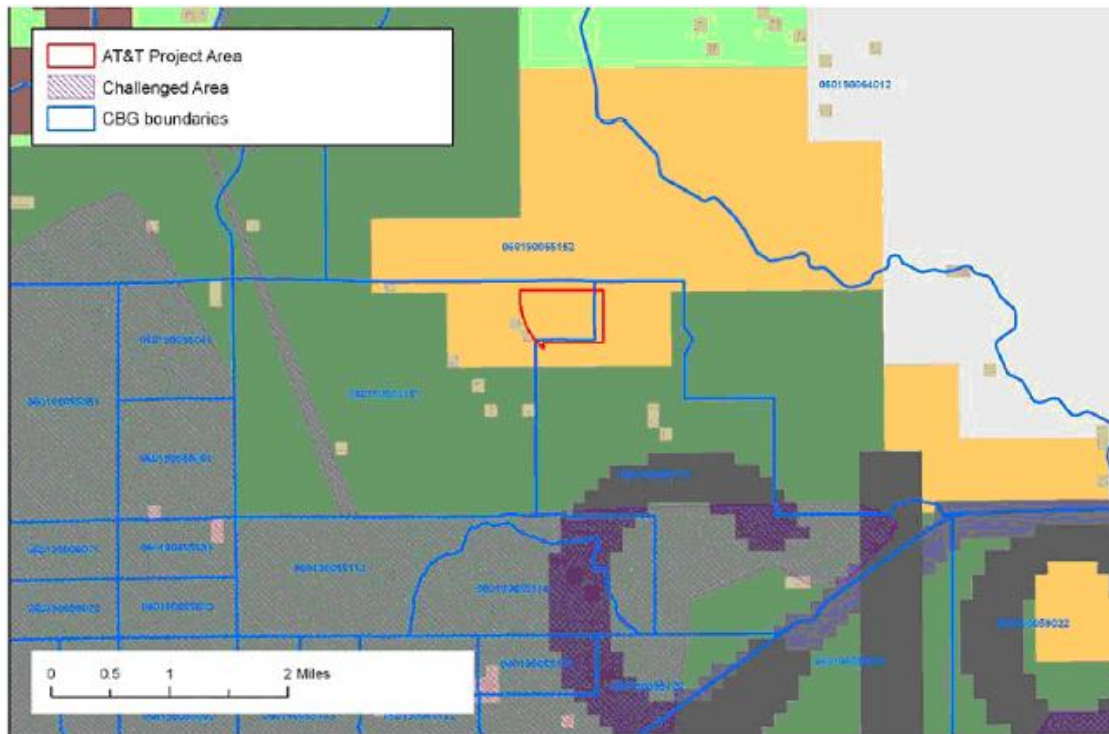


9. Clovis - Fresno County

AT&T's broadband project for the Clovis area of Fresno County offers high speed, stand alone, internet access service, powered by IP connections over AT&T's backbones. This project will be able to serve 125 households covering an area of 0.3 square miles in two CBGs. Download speeds will be up to 10 mbps and upload speeds will be up to 1.5 mbps.

Date Approved:	April 16, 2009 in Resolution T-17199
Location:	Clovis in Fresno County
Grant:	\$36,393
Projected Completion Date:	Second Quarter 2011
Projected Ready for Service Date:	Third Quarter 2011

Clovis Shapefile



10. Highway 36 Humboldt-Trinity Counties Project - Humboldt, Tehama and Trinity Counties

By leveraging the PG&E network within the Redwood Coast Connect project region, IP Networks Inc. (IPN) will bring fiber connectivity from the Cottonwood sub-station across approximately 121 miles into downtown Eureka. The 72-count fiber cable system, optimized for long distances and capable of withstanding ice weight and other weather conditions, will connect with existing PG&E overhead transmission infrastructure. In partnership with 101 Netlink, a California North Coast wireless high speed internet provider, IPN's broadband network will connect to several underserved, dial-up communities along the State Highway 36 corridor. Nineteen CBGs will receive at minimum speeds starting at 4 mbps download and 1.5 mbps upload.

Date Approved:

November 20, 2009 in Resolution T-17227

Location:

Bridgeville, Mad River, Dismore, and Ruth in Humboldt, Tehama and Trinity Counties

Grant:

\$4,212,982

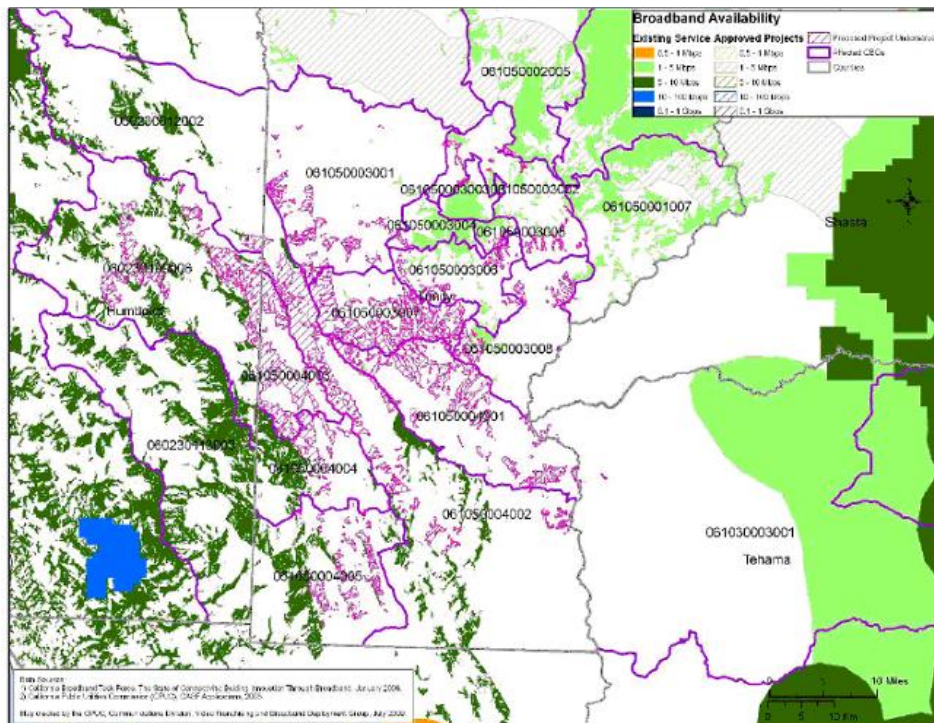
Projected Completion Date:

Summer 2011

Projected Ready for Service Date:

Summer 2011

Hwy 36 Humboldt-Trinity Counties Project Shapefile



11. Digital 395 Middle Mile - Mono, Inyo, Kern, and San Bernardino Counties

The California Broadband Cooperative Inc. (CBC) Digital 395 project proposes to construct a 448 mile 10 Gigabit high capacity fiber optic middle mile / backhaul route along US Highway 395 from Barstow, California in San Bernardino County in the south to the Nevada State line at Topaz Lake in Mono County in the North. The network will establish a future-proof broadband "middle mile" link to over three dozen communities, stimulate broadband edge-out in the local communities, and fill-in wireless voice and data transmission gaps along the well-traversed US Highway 395 corridor. The CBC Digital 395 project will also create route diversity and redundancy between Southern California and Northern Nevada for enhanced communications, public safety, telemedicine and national security.

The CBC Digital 395 middle mile network will feature an open access architecture with local points of wholesale interconnection for service providers including wireless internet service providers (WISPs), that provide last mile broadband and Internet access. The area that the CBC Digital 395 wholesale middle mile network proposes to serve contains 28,127 households, 2,571 businesses, and 168 community anchor institutions, including 74 educational, 12 health care, 11 libraries and 26 public safety entities. The area also contains 41 additional anchor institutions including: two military bases, courthouses, municipal utilities, regional Federal offices for the Bureau of Land Management and the U.S. Forest Service. Besides serving most community anchor institutions, the project will significantly contribute to elevating the broadband subscribership in the project serving area above its current relatively low penetration rate.

Download speeds will be 100 mbps up to Gigabit Ethernet and upload speeds will also be 100 mbps up to Gigabit Ethernet.

Date Approved:
Location:

December 3, 2009 in Resolution T-17232
Topaz, Coleville, Bridgeport, Mono Lake,
June Lake, Crowley Lake, Benton,
Mammoth Lakes, Bishop, Big Pine,

Independence, Lone Pine, Cartago /
Olancho, Boron, China Lake, Ridgecrest,
Inyokern, Johannesburg, Kramer Junction
and Red Mountain in Mono, Inyo, Kern,
and San Bernardino Counties

Grant:

Projected Completion Date:

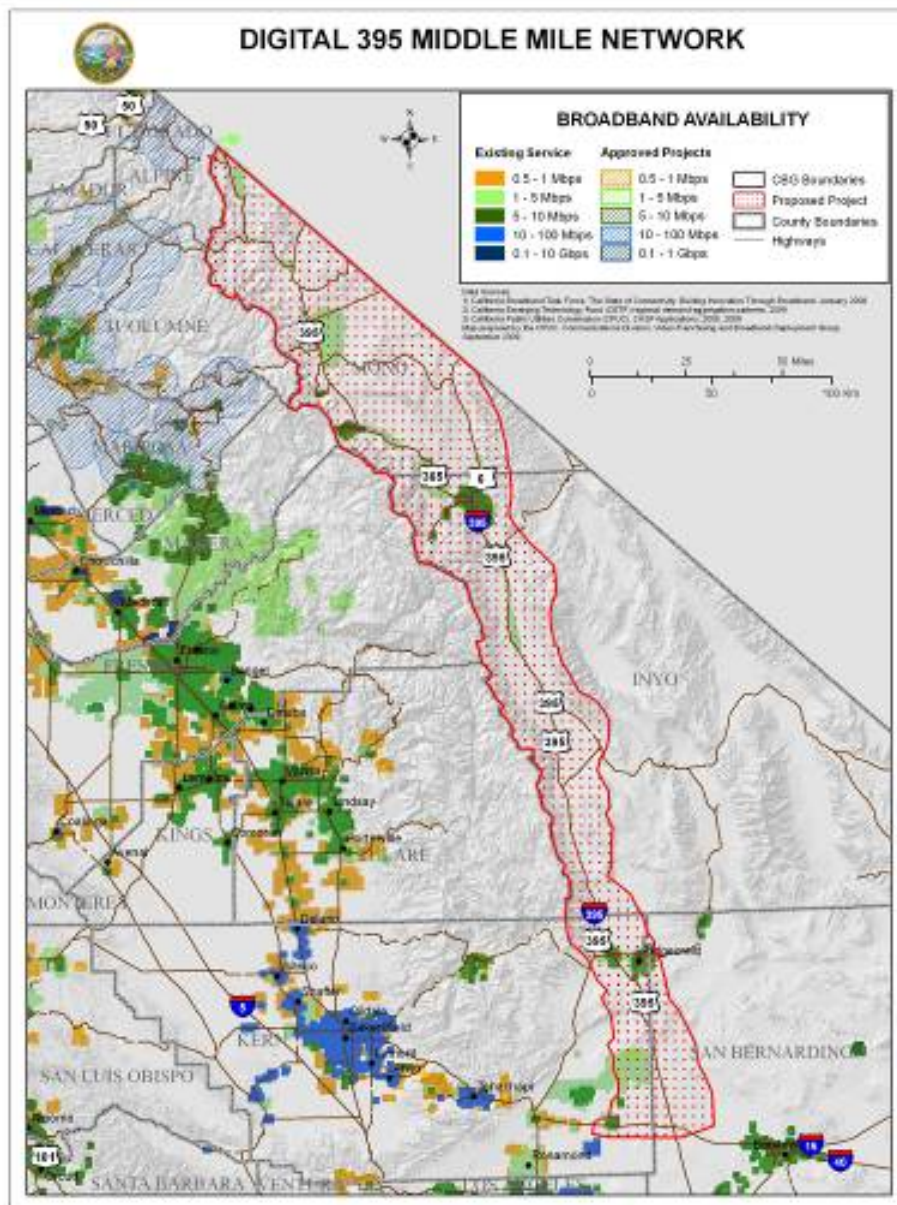
Projected Ready for Service Date:

\$19,294,717

July 2013

March 2012-July 2013

Digital 395 Middle Mile Network Shapefile



12. Sea Ranch - Sonoma County

Verizon California, Inc. plans to construct new fiber optic line extending from the Timber Cove wire center to The Sea Ranch wire center. Connection from Timber Cove south with AT&T's Monte Rio wire center and other leased facilities will enable the backhaul of traffic to Verizon's Novato facilities. Three CBGs will receive at minimum speeds starting at 7 mbps download and 768 kbps upload.

Date Approved:	January 21, 2010 in Resolution T-17238
Location:	Sea Ranch, Timber Cove, and Cazadero in Sonoma County
Grant:	\$1,872,017
Projected Completion Date:	October 2011
Projected Ready for Service Date:	October 2011

Sea Ranch Shapefile



Sea Ranch Construction



Splice Box and Cable Marker



13. Plumas-Sierra Middle Mile Project - Plumas, Lassen, and Sierra Counties

Plumas Sierra Telecommunications' (PST) project involves the construction of a middle-mile backhaul network equipped with Packet Optical Network Platform (PONP) terminal equipment which will serve anchor institutions and wholesale service providers via a point-to-point configuration with logical ring service architecture and an OC-48¹³ core network at four core node sites. For the wholesale customers' subscribers, the nodes will be equipped with a variety of standard interfaces to accept traffic from DS1¹⁴ to OC-3¹⁵ circuits. This network will also give service providers access to greater backhaul bandwidth capacity so that they may offer emerging services that retail customers are likely to demand, while fostering service area economic development.

This project is estimated to serve 30 CBGs covering an area of 2,524 square miles. The proposed network will serve anchor institutions and wholesale service providers. Customers will include three wholesalers and 171 anchor institutions. Download speeds will range from 1.544 mbps for DS 1 or T1 to 100 mbps for anchor institution Ethernet and virtual private line.

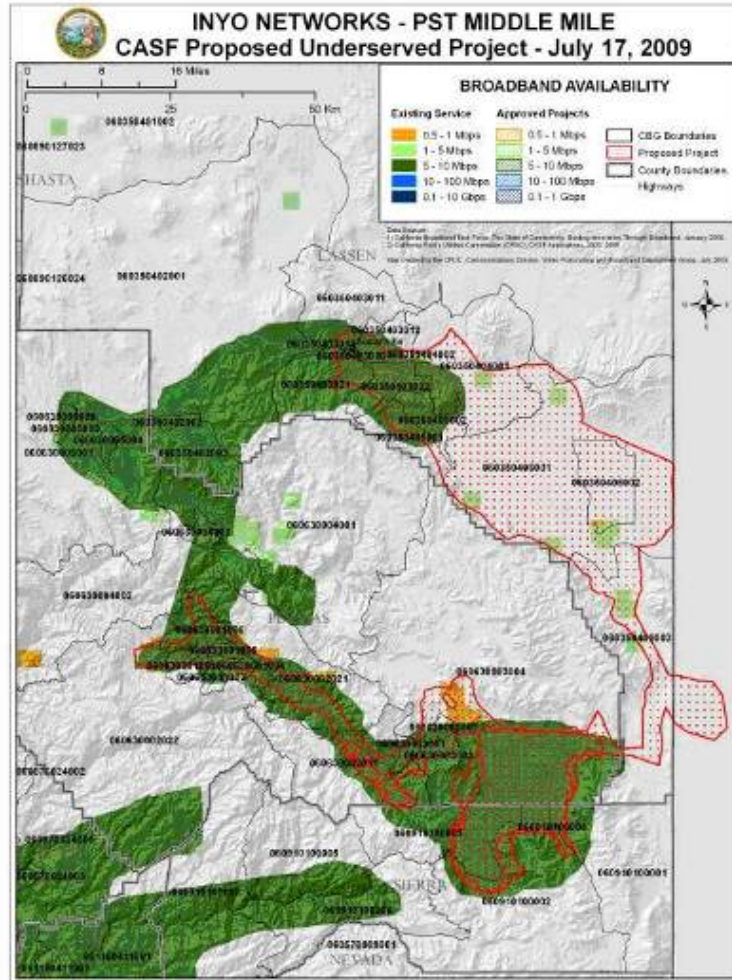
Date Approved:	February 25, 2010 in Resolution T-17230
Location:	Blairsdien-Graeagle, Chilcoot, Clio, Doyle, Herlong, Litchfield, Janesville, Milford, Standish, Susanville, Calpine, Loyalton and Sierraville in Plumas, Lassen, and Sierra Counties.
Grant:	\$ 1,721,280
Projected Completion Date:	December 31, 2012; ARRA requires construction to be completed by July 31, 2013
Projected Ready for Service Date:	As early as December 2011 with final build-up completion by December 31, 2012.

¹³ Optical Carrier-48 is a fiber-optic network line that facilitates data delivery at a transmission speed of up to approximately 2,488 megabits per second (mbps).

¹⁴ Digital Signal 1 is a telecommunications standard which transmits voice and data between devices. A DS1 circuit consists of twenty-four (24) channels which transmit at 64 kilobytes per second (kbps), or at a total 1.536 mbps for a DS1 circuit.

¹⁵ Optical Carrier-3 is a fiber-optic network line that facilitates data delivery at a transmission speed of up to approximately 156 mbps.

Plumas-Sierra Middle Mile Shapefile



14. Mother Lode Broadband - Tuolumne, Calaveras, Amador, Alpine and Mariposa Counties

This project will increase the broadband speed levels of the underserved areas of Tuolumne, Calaveras, Amador, Alpine and Mariposa counties up to 14 mbps with line-of-site technology and 8 mbps with non line-of-sight technology, or an average of 11.9 mbps upload and download speeds. Mother Lode Broadband's network will consist of Access Point broadcast radios transmitting broadband signal to Subscriber Unit radios installed at the customer's location. It includes dual point-to-point licensed backhaul links from Sacramento and Stockton feeding into the network at Sutter Creek and network at Bald Mountain.

This project is estimated to serve approximately 17,841 households covering an area of 525 square miles in 87 CBGs.

Date Approved:

May 6, 2010 in Resolution T-17225

Location:

Areas of Tuolumne, Calaveras, Amador, Alpine and Mariposa Counties

Grant:

\$3,110,064

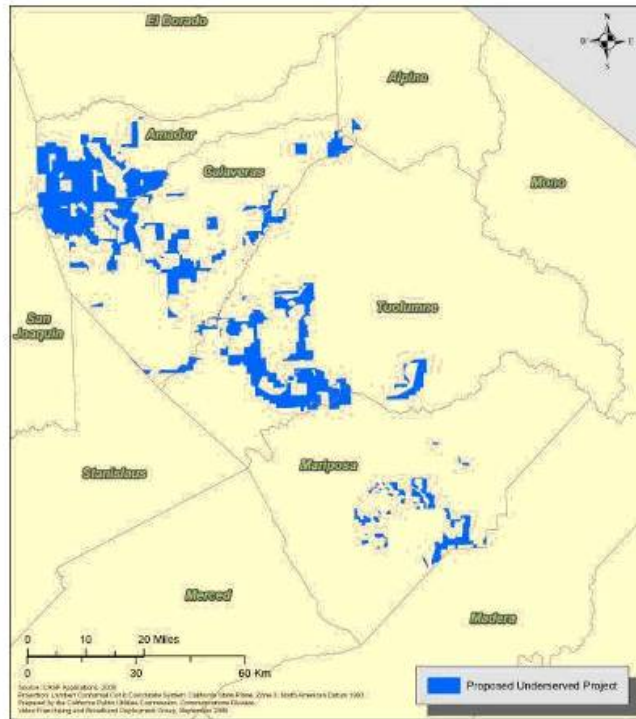
Projected Completion Date:

20 months

Projected Ready for Service Date:

The project has been delayed due to changes in the grantees' organizational structure and issues in securing the performance bond.

Mother Lode Broadband Project Shapefile



15. Tranquility and West Fresno - Fresno County

Audeamus LLC's Last Mile project offers high-speed internet access, data, long distance and video. The proposed technology to provide these services is a standards-based point-to-point Fiber to the Premises (FTTP) technology. This Active Ethernet over Fiber technology is based on IEEE 802.3 standards and provides the largest bandwidth connection to subscribers currently available.

The project will cover an area of 20.6 square miles in four CBGs and will serve 234 households in unserved areas and 351 households in underserved areas.

Residential download speeds range from 5-35 mbps and can be up to 100 mbps.

Residential upload speeds range from 2-5 mbps and can be up to 100 mbps. Business download speeds will range from 10-50 mbps, and can be provided up to 100 mbps.

Business upload speeds will range from 3-20 mbps and can be provided up to 100 mbps.

Date Approved:

May 6, 2010 in Resolution T-17265

Location:

Tranquility and West Fresno in Fresno County

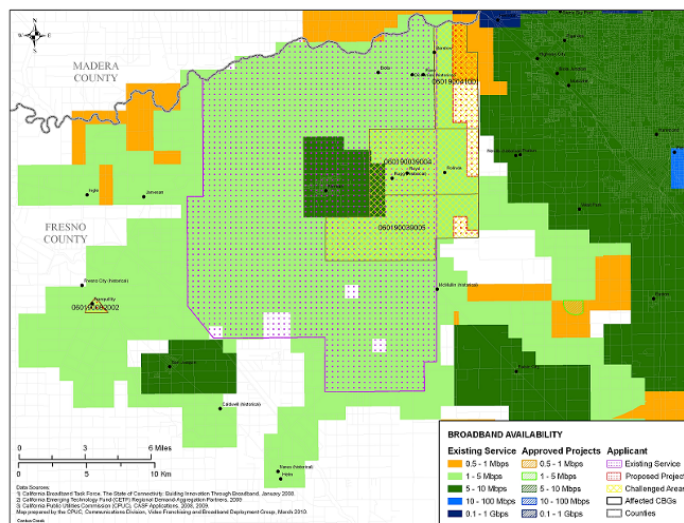
Grant:

\$1,154,494.50

Projected Ready for Service Date:

18 months from project approval

Audeamus LLC Last Mile Project Shapefile



16. Mojave Air and Space Port Project - Kern County

The Mojave Air and Space Port is a fiber-to-the-premise network which will deploy long-haul fiber from its Internet source at One Wilshire in Los Angeles to the local region through the establishment of a regional central office, collocation facility and the building of a regional optic backbone network to serve one market within the Kern County.

The total proposed project of 5.1 square miles surrounds unserved and underserved areas of 231 businesses.

The download speed will be up to 100 mbps and the upload speed will be up to 15 mbps.

Date Approved:

June 24, 2010 in Resolution T-17279

Location:

Mojave Air and Space Port in Kern County

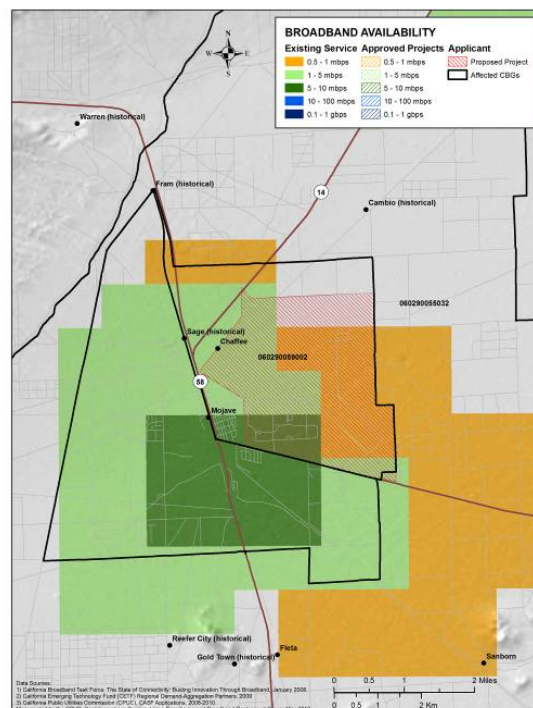
Grant:

\$506,199

Projected Ready for Service Date:

Completion within 24 months of project approval

Mojave Air and Space Port Project Shapefile



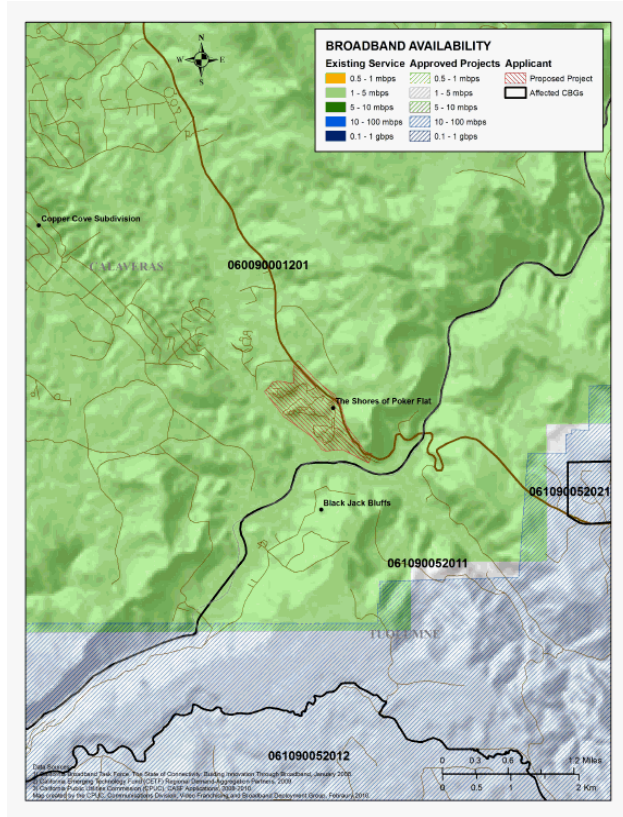
17. Poker Flat - Calaveras County

The Poker Flat project involves the upgrade of broadband service for an isolated shoreline community located six miles south from the main Copperopolis turn off from State Highway 4. There are 409 households located in the project area which covers approximately one square mile on Lake Tulloch. Calaveras Telephone Company will install a fiber-to-the-home (FTTH) network in the Poker Flat area. Construction will include upgrading existing access cabinets with FTTH functionality. The installation of new remote power and fiber management cabinets will support the FTTH deployment. Customer terminations will include network-powered systems installed at each location to convert the fiber-based access network to the copper-based system within each home. Proposed equipment located in central offices or remote cabinets will utilize Calix C7 platform/system equipment for the network deployment.

The project is projected to serve an estimated 409 households and cover one square miles in one CBG. The advertised download speed will be 3-20 mbps and the advertised upload speed will be up to 0.512-5 mbps.

Date Approved:	July 29, 2010 in Resolution T-17282
Location:	Poker Flat in Calaveras County
Grant:	\$640,698
Projected Ready for Service Date:	18 months from Project Approval

Poker Flat Project Shapefile



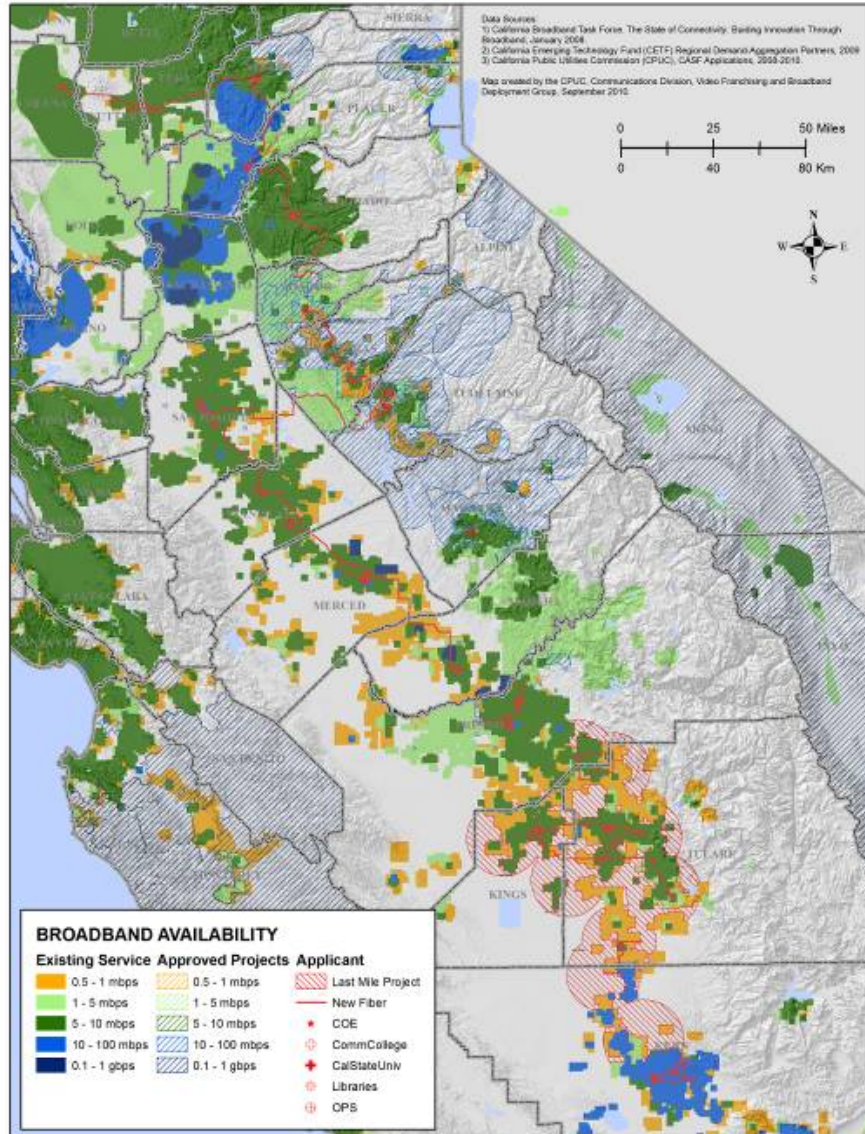
18. Central Valley Independent Network, LLC (CVIN) & the Corporation for Educational Network Initiatives in California (CENIC) Middle Mile Fiber-Optics Network Infrastructure - Amador, Calaveras, Colusa, El Dorado, Fresno, Kings, Kern, Mariposa, Merced, Madera, Nevada, Placer, San Joaquin, Stanislaus, Tuolumne, Tulare, Sutter, and Yuba Counties

CVIN will build, operate, and maintain a 1,371 middle mile fiber-optics network infrastructure which will provide robust open access network capabilities to 18 Central Valley counties: Amador, Calaveras, Colusa, El Dorado, Fresno, Kings, Kern, Mariposa, Merced, Madera, Nevada, Placer, San Joaquin, Stanislaus, Tuolumne, Tulare, Sutter, and Yuba. CVIN's new infrastructure project would link CVIN to CENIC's advanced statewide backbone and the worldwide Internet. CVIN also plans to construct a last mile WiMax wireless broadband network in the rural portions of Fresno, Tulare, Kings, and Kern to provide broadband access to these unserved areas

The project area will cover 111 last mile CBGs and 52 middle mile CBGs. For last mile, download speeds will be up to 14 mbps and upload speeds will be up to 5 mbps. For middle mile, download speeds will be up to 10 GigE. This project is estimated to serve 206,764 households, 20,502 businesses, and 60 anchor institutions.

Date Approved:	October 14, 2010 in Resolution T-17295
Location:	Mojave Amador, Calaveras, Colusa, El Dorado, Fresno, Kings, Kern, Mariposa, Merced, Madera, Nevada, Placer, San Joaquin, Stanislaus, Tuolumne, Tulare, Sutter and Yuba Counties
Grant:	\$6,659,967
Projected Ready for Service Date:	30 months from project approval

CVIN Shapefile



C. Projects for CASF Funding Rescission

As explained below, the Commission expects that it will need to issue a resolution to accomplish the following: (1) rescind the approving CASF resolutions and grant awards, (2) disencumber the corresponding CASF matching funds approved (except for the Siskiyou Seiad Project), and (3) make available to new applicants the Census Block Groups (CBGs) (except for the Siskiyou Seiad Project) that had been approved in the following projects:

1. Irwin – Merced County
2. Oakdale – San Joaquin County
3. Carmel – Monterey County
4. Madera Acres – Madera County
5. Siskiyou Seiad Project - Siskiyou County
6. Siskiyou County Economic Development Council Project – Siskiyou County
7. Nevada County Connected Middle Mile – Nevada County
8. Northern California Open Community Fiber Network Project – Humboldt and Del Norte County
9. Central Coast Broadband Consortium Middle-Mile – Monterey, San Benito and Santa Cruz counties

1. Recipients Opting Out

Although the Commission had allocated funds to certain projects, a recipient has subsequently decided not to pursue four projects because of increased project costs, or a reassessment of project assumptions rendering the project economically unviable. Although no CASF funds have been disbursed for these projects, significant staff time has been spent reviewing the proposals and developing resolutions for projects in these categories. These projects are:

- Irwin – Merced County
- Oakdale – San Joaquin County
- Carmel – Monterey County
- Madera Acres – Madera County

2. Recipient Will Not Avail Itself of CASF Funding

Siskiyou Telephone Company has informed the Commission that it decided to use its own funds for the Seiad project in Siskiyou County, and as of September 2010 had completed the project.

3. Recipients' Inability to Secure Matching Funds

The proponents of four Commission-approved contingent grant awards have not been able to secure Recovery Act funding, but to date, the CPUC has not rescinded those projects. Two project proponents, i.e., Central Coast Broadband Consortium Middle-Mile project and the Northern California Open Community Fiber Network Project, have indicated their interest in pursuing the projects, and are exploring ways of making the projects work through changes in the project alignments, plan, or financing. Although staff has extended additional time for grantees to seek alternative financing, we are wary that the extension should not be indefinite because the project areas remain closed to other prospective applicants who are interested in all or a portion of the awarded projects' areas, have submitted application(s) and have the required matching funds.

The following projects that have been unable to secure Recovery Act funding:

- Siskiyou County Economic Development Council Project – Siskiyou County
- Nevada County Connected Middle Mile – Nevada County
- Northern California Open Community Fiber Network Project – Humboldt and Del Norte County
- Central Coast Broadband Consortium Middle-Mile – Monterey, San Benito and Santa Cruz counties

APPENDIX A
Resolution T-17143

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division
Program Management and Implementation Branch

RESOLUTION T-17143
June 12, 2008

R E S O L U T I O N

Resolution T-17143. Approval of the California Advanced Services Fund (CASF) Application Requirements and Scoring Criteria for Awarding CASF Funds

Summary

This resolution adopts the application requirements, timelines, and scoring criteria for parties to qualify for broadband project funding under the California Advanced Services Fund (CASF). The application requirements, guidelines, checklist and scoring criteria are attached at the end of this resolution.

Background

The California Advanced Services Fund (CASF), a two-year program established by the Commission on December 20, 2007 in Decision (D.) 07-12-054, provides matching funds of up to 40% of the total project cost for the deployment of broadband infrastructure in unserved and underserved areas in California. The Commission has allocated \$100 million for qualifying projects. The CASF is funded by a 0.25% surcharge on end-users' intrastate bills, effective January 1, 2008. Priority in funding will be for unserved areas, defined as areas that are not served by any form of facilities-based broadband, or where Internet connectivity is available only through dial-up service or satellite. If funds are still available, CASF funding will be extended to underserved areas, defined as areas where broadband is available but no facilities-based provider offers service at speeds of at least 3 Mega Bits per Second (MBPS) download and 1 MBPS upload.

In compliance with Ordering Paragraph (OP) 11 of D.07-12-054, and OP 1 of the January 23, 2008 Assigned Commissioner's Ruling (ACR), the Communications Division staff (CD) held a technical workshop on February 7, 2008 to discuss a draft template (straw man) for applicants in submitting CASF proposals and the scoring system to be used in comparing and ranking CASF proposals for funding. The assigned Commissioner and Administrative Law Judge (ALJ) presided over the workshop. Subsequently, CD

distributed a preliminary draft workshop report on February 25, 2008 to workshop participants for them to offer input to CD staff as to the accuracy of the workshop report by March 3, 2008. Based on input from parties, CD revised and submitted the final workshop report to the Assigned Commissioner on March 7, 2008. An ACR Releasing the Final Workshop Report on the CASF was issued and served to parties in the R.06-06-028 proceeding on March 13, 2008.

As prescribed in OP 12 of D.07-12-054, we are approving in this resolution the final scoring criteria and template to be used for CASF project proposals.

Discussion

In this resolution, the Commission adopts the application requirements, guidelines, and scoring criteria, which were developed using the process outlined in the January 23, 2008 ACR.

The following section discusses the comments raised by parties both in the workshop and in their submitted post-workshop comments on the straw man proposal.

A. Application Requirements

1. Description of Provider's Current Broadband Infrastructure Within 5 miles of the Current Proposed Project and Shapefile (.shp) ¹ of Current Service Area

Parties' Comments:

AT&T argues that the proposal for a description of current broadband infrastructure within 100 miles of the project is unnecessary, burdens the process unnecessarily, and is not within the Commission's jurisdiction. AT&T, however, is agreeable to providing a Shapefile of the proposed build out area including a description of adjacent broadband infrastructure if that area will receive incidental benefit from the application. Verizon believes that the Commission should allow Digital Infrastructure Video Competition Act (DIVCA) providers to reference or affirm that the data required has already been provided to the Commission under the DIVCA requirements. Comcast agrees to provide the information required but in general terms, without including the providers' trade secrets or other proprietary information.

¹ Shapefile (.shp) is a digital vector (non-topological) storage format for storing geometric location and associated attribute information. The Shapefile format is created by ArcView and can be used by ArcView, ARC/INFO, ArcGIS and other widely used GIS software.

Discussion:

Since the Commission is funding 40% of the total broadband project cost, we believe it reasonable and necessary to require submission of information and maps of current infrastructure that will be used to verify that funds are not allocated to areas that already have broadband infrastructure. The Commission is requiring the most up-to-date census block group (CBG) and geographic spatial map information to determine the extent of deployment of broadband services and to more accurately pinpoint unserved or underserved areas that have yet to benefit from advanced telecommunications services. We are convinced that the requirement to show 100 miles of any current broadband facilities from the project is unnecessary and over burdensome, so we reduce the requirement to a description of the provider's current broadband infrastructure and/or telephone service within 5 miles of the proposed project, if applicable. We also request speed information for the broadband infrastructure identified, if applicable.

2. Description of Proposed Broadband Project Plan Including Project Size, Download and Upload Speed Capabilities of Proposed Facilities

Parties' Comments:

Participants raise the issue of accuracy in measuring speed delivery to service areas as many factors may cause variances to occur such as the time of day, distance from the central office or remote terminal, number of customers using the network at the same time, etc. AT&T notes that as to its Digital Subscriber Line (DSL) service, speeds are faster nearer the central office and slower farther from the central office. AT&T recommends that applicants submit "up to" speeds that they use in advertising. DRA and TURN, on the other hand, opine that "up to" speeds are not sufficient, that speeds vary in actuality, and recommend that speed requirements should be more specific in order to ensure subscribers really obtain the advertised speed. DRA also seeks clarification on whether the 3 MBPS download and 1 MBPS upload speed is a requirement or the optimum speed.

TURN and DRA recommend that the Commission develop a way to track and measure speeds after the project is completed to ensure that the speed promised by the provider is actually met.

Discussion:

In establishing the benchmark of 3 MBPS download and 1 MBPS upload to CASF subscribers, the Commission sought to establish a reasonable benchmark to effectively work from home given current uses of the Internet to download video and data, while providing a reasonable balance of technology, engineering and

costs as of the end of 2007.² However, the 3/1 speed benchmark does not mean that projects that offer less than these benchmark speeds will be automatically denied funding. We clarify that projects that meet the benchmark speeds will score higher on the speed criterion than projects that do not meet the 3/1 MBPS speed. For example, should there only be a single application for an unserved area and the speed proposed therein is lower than the 3/1 MBPS speed benchmark, this application will be given serious consideration and may be selected given there are no other applications for that unserved area.

The Commission recognizes that there are differences affecting speed among the existing broadband technologies; thus, speed is only one of several criteria that will be considered in the evaluation of CASF proposals. Through the proposal evaluation and scoring process, we will award funds to projects that score the highest points based on all the criteria. A proposal that includes a speed of 3/1 MBPS or greater potentially has an advantage to receive funding when combined with all its other high-rating criteria points. Therefore, we retain the speed benchmark of 3 MBPS download and 1 MBPS upload as required in D.07-12-054. Proposals of projects offering less than 3/1 MBPS speed will be considered and rated accordingly.

Prior to the reimbursement of the final payment to recipients, a completion report describing the total project costs, including engineering, planning, and material costs, is required. In that final report, recipients shall include an assessment of the speed the broadband facilities are delivering to their subscribers as compared to the initial proposals approved by the Commission. In the workshop, there was much discussion among the participants regarding how to ensure specified speeds continue to be offered long after funds have been dispersed and service is established. The Federal Communications Commission currently requires broadband providers to submit Form 477 annually and include speed data. While there is an imperfect match between the current reporting areas for the Form 477 and CASF, Form 477 information will be useful in documenting CASF deployment for the specific new service area(s) of the carrier. CASF recipients shall submit a copy of their Form 477 data directly to the Commission, under General Order 66-C, when they submit this data to the FCC for a five year period after completion of the project.

In general, the Commission believes that the advertised speed is a reasonable indicator of the actual speed. While not exactly the same definition used by the

² D.07-12-054, Finding of Fact 27 and pages 40-41.

FCC in Form 477,³ it is consistent with how broadband services are purchased and understood by consumers. In advertising for broadband service, broadband providers regularly include legal caveats related to speed and the Commission fully expects that those same caveats would be included in CASF applications. A number of state and federal statutes and regulations of general applicability relate to ensuring commercial advertisements contain accurate information. It is reasonable for the Commission to rely on those rules and their enforcement by appropriate state and federal enforcement entities. This Commission does not need to use its scarce resources to engage in speed monitoring exercises absent evidence of actual instances of alleged fraud relating to broadband service funded under this program. Thus reliance on advertised speeds provides the best measure of reporting and comparing applications.

In addition, we will require recipients to include test results on the download speed and upload speed on per CBG and per ZIP Code bases in the final completion report. Completion testing is good project planning and execution and including the results of such testing in the final completion report should not be burdensome.

3. Geographic Locations by CBGs Where Broadband Facilities Will Be Deployed

Parties' Comments:

AT&T argues that the CBG specificity required will reveal the identity of the applicant, as well as disclose the applicant's proposed technology. Instead, AT&T recommends that the Commission only publish the CBGs and their corresponding standardized code.⁴ DRA agrees that the CASF website should publish the CBGs applied for and a map identifying the section(s) of the CBGs that the applicant proposes to serve as the CBG numbers do not provide sufficient information to allow for competing bids. TURN concurs with DRA's position that the submission should include a shapefile and boundaries of areas to be served.

Discussion:

Since some rural areas are quite large, a list of CBGs would be insufficient to identify the number of potential subscribers in a CBG area. A shapefile showing

³ FCC Form 477, Instructions at p.3 for March 1, 2008 Filing (of data as of 12/31/2007). ("filers should consider the end user's authorized maximum information transfer rate ("speed") on that connection.")

⁴ Federal information processing standards codes (FIPS codes) are a standardized set of numeric or alphabetic codes issued by the National Institute of Standards and Technology (NIST) to ensure uniform identification of geographic entities through all federal government agencies. <http://www.census.gov/geo/www/fips/fips.html>

boundaries is required to clearly and accurately identify/plot the service area under application.

In consideration of the parties' concern over the proprietary nature of some information, only the list of CBGs and shapefiles showing boundaries of areas where broadband projects are proposed will be posted on the Commission's website. This information will be updated after each application deadline and carriers can check the CPUC website to see what CBG areas are under consideration for CASF deployment. No other applicant information will be posted.

4. Explanation for Asserting that an Area is Unserved or Underserved

Parties' Comments:

Both AT&T and Verizon raise the possibility that proposing service to a yet unserved area could result in making broadband also available in an area already served by another broadband provider but with a different technology, e.g., wireless broadband overlap with DSL. In this scenario, AT&T suggests that the area still be evaluated as unserved but that funding be pro-rated with the exclusion of costs pertaining to the already served area. Likewise, AT&T suggests that the Commission consider an area that has 75% of its population not having any access to any form of broadband service as unserved. Parties acknowledge the usefulness of the wireline broadband availability map and list of unserved communities and request that the same information be made available for wireless broadband service. TURN recommends that the Commission further refine the definition of unserved and underserved. Further, because of rapid changes in broadband landscape and technology, participants raise the question of the reference timeframe for asserting that an area is unserved or underserved.

Parties advocate that the initial round of submission strictly be for unserved areas.

Discussion:

An unserved area is 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. An underserved area is 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.

The Commission's goal is, as its first priority, to provide service to areas that are entirely devoid of broadband service. Revising the definition of unserved and accepting applications for 75% unserved areas as 100% unserved is not the intent of the Commission and will not serve the purpose for which the CASF is

established. The submission by applicants of shapefiles and lists of CBGs and ZIP Codes is meant primarily to accurately identify the boundaries of the unserved and served areas.

As of the date of this resolution, the wireline and wireless availability maps are available in the Broadband Task Force Report at www.calink.ca.gov/taskforcereport/ and should be a source for all carriers to use in the preparation of their applications. The Commission will use all the available Report's map data to evaluate applications received in determining unserved and underserved areas for proposed project plans. We acknowledge that the Task Force Reports' availability maps may not be 100% accurate particularly as time passes. Any party may file comments to a particular application noting actual broadband service in a particular alleged unserved area, and the staff shall investigate to see if the applied-for area is indeed served or not.

We agree with comments that we should allow applicants to pro-rate costs when projects include facilities in unserved and underserved -- and even "served" -- areas. It is not reasonable to assume that providers will undertake a project to deploy in strictly unserved areas or potentially not be eligible for funding because the project also includes an upgrade in facilities to an adjacent area. Applicants must fully explain the allocation of costs and provide the Commission with a full accounting of that allocation at each funding phase of the project.

For example, if a project will cost \$2.5 million and 20% of those costs are related to facility improvements that will benefit both unserved and served areas, applicants should pro-rate the amounts related to each area. Thus, if the common facilities will be used equally by unserved areas and by communities with broadband today, then the applicant should only include \$250,000 in the application for facility improvement costs. The applicant should thus ask for \$900,000 in CASF funds (\$800,000 for construction in the unserved area, and \$100,000 in common costs allocated to the unserved area). The applicant should fully explain the total cost of the project and the allocation that was made to arrive at the figures used in the application.⁵

⁵ a) Total Project Cost x 20% equals amount of facility improvements benefiting both Unserved and Underserved areas: ($\$2,500,000 \times 0.20 = \$500,000$),
b) Equal proration of facility improvements: Unserved area = \$250,000 and Underserved area = \$250,000,
c) Common cost funded by CASF for facility improvements: Unserved area equals $\$250,000 \times 0.40 = \$100,000$,
d) Project cost *exclusive* of facility improvements equals $\$2,000,000$ ($\$2,500,000 - \$500,000$),
e) CASF funding of project costs *exclusive* of facilities improvements equals $\$800,000$ ($\$2,000,000 \times 0.40$),
f) Thus, the applicant's Total CASF funding request would be $\$900,000$ ($\$800,000 + \$100,000$).

We also agree with Verizon that, in order to deliver adequate telecommuting level broadband service for 2008, we should consider the total network costs of deploying broadband to an area. Verizon specifically pointed out the situation where the transit service between the unserved or underserved community and an Internet node does not have enough capacity to allow broadband service in that community. In other words, we may deploy broadband technologies in the community only to have the traffic slow to “dial-up” level because the current transit capacity can only provide that “dial-up” speed of service. While it appears these situations are limited, the circumstances where providers have made this claim are notable. We should not allow these inadequate “middle mile” facilities to throttle the delivery of broadband and information services to target communities. Thus, we find it is reasonable to consider necessary upgrades to the transit component to reach the desired speed benchmark as part of a CASF grant. The burden is on the applicant to provide sufficient information to show this upgrade is necessary. For example, we would expect to see information related to the engineering of the network that would require this upgrade, as well as an allocation of costs and usage of the transit facilities by other served areas as explained above.

The Commission shall consider applications received by July 24, 2008 for unserved areas first. We will also consider applications received between July 25, 2008 and August 25, 2008 as submitted at the same time. If necessary, a subsequent filing period between August 26, 2008 and October 2, 2008 will occur and all applications received in that period will be considered submitted at the same time. Subsequent filing periods, not to exceed three months, may be created by CD if applications do not exceed the available funds. After considering all of the unserved applications received by the initial deadlines, through October 2, 2008, and if funds are still available, underserved area applications will be considered.

The determination of whether an area is served or underserved is made at the time the application is filed.

5. Estimated Number of Subscribers

Parties’ Comments:

Participants advocate the use of uniform standards for measuring the estimated number of subscribers and ask that the Commission clarify the definition of “subscriber.” AT&T recommends that the Commission use the definition of “household” used in D.07-03-014, Appendix D, footnote 2. Verizon recommends that subscribers should be defined as “occupied households” as only occupied households can subscribe to broadband service. TURN concurs with the use of

households but also points out that the number of potential subscribers would be influenced by the price charged for the service. Thus, the applicant should also be required to submit information on its marketing plans, pricing subscription rates, etc.

Discussion:

Applications shall include a determinate number of potential subscribers within the new targeted area. New subscribers may be represented by households, consistent with the U.S. Census Bureau definition as a house, apartment, a mobile home, a group of rooms, or a single room that is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and that have direct access from the outside of the building or through a common hall.⁶ An explanation of the methodology used in determining the number of potential subscribers is required. The explanation should be based on census data for the CBGs and ZIP Codes listed in the application. We recognize that wireless services are by definition mobile and to the extent a wireless provider's potential subscribers data will vary from the US Census Bureau household data for a region, they should provide an explanation of the variance.

6. Delineated Schedule for Deployment

Parties' Comments:

TURN argues that applicants should provide further detail on this item, including all prerequisite actions necessary to complete deployment, so that the Commission can assess, as objectively as possible, whether applicants will be able to meet the 24-month timeline requirement. AT&T suggests that CASF recipients notify the Commission if they believe the 24-month deadline cannot be met.

Discussion:

CD needs the ability to examine how likely it is that proposed projects will meet the 24-month timeline, and to track the progress of approved projects during construction. Schedules should show both major construction milestones and all prerequisite tasks and actions necessary, such as securing rights-of-way, CEQA, etc., to satisfy deployment.

CASF recipients shall notify the Commission as soon as they become aware that they may not be able to meet the 24-month timeline. Payment will be reduced if applicants are unable to meet the 24-month timeline, *or* if applicants fail to notify the Commission of any delays in project construction or implementation. A goal of this Commission is to encourage broadband service to unserved and underserved communities as soon as possible in order to enhance that area's economic development and other benefits that flow from broadband availability.

⁶ California Public Utilities Code, § 5890(j)(3). This definition is consistent with the U.S. Census Bureau's definition of an occupied housing unit.

7. Proposed Budget

Parties' Comments:

Parties generally agree that the Commission should require applicants to furnish a proposed budget, except that during the workshop AT&T requested clarification that applicants stipulate the percentage of the total budget that will be funded by CASF monies.

Discussion:

The Commission needs from applicants a detailed proposed budget so that the Commission can determine how much of CASF funding is being requested, and whether the amount requested is 40% or less of the total cost of the proposed project. Applicants shall provide a detailed breakdown of project cost elements, including the source and amount of funds for each cost element, and the availability of matching funds to be supplied by applicants or other third parties.

8. Performance Bond

Parties' Comments:

During the workshop Verizon expressed concern at having to post a bond for each application it submits, and sought clarification that applicants need only post a bond for those applications that are ultimately approved. AT&T suggested that the Commission follow the process established for DIVCA, wherein franchisees are required to provide the Executive Director a copy of their executed bond within five business days after the effective date of their state video franchise.⁷ Small Local Exchange Carriers (LECs) asserted that, if applicants are deemed financially fit, then this requirement may not be necessary.

In post-workshop filed comments, Verizon asserts that this requirement is rendered unnecessary by other provisions, such as the requirement that CASF recipients submit progress reports before receiving CASF funds in fractional payments. If a performance bond is deemed necessary, Verizon recommends that the Commission clarify that applicants need only state their agreement to post a bond if their application is approved. Verizon further suggests that the scope of the bond be specified to ensure completion of the project, not for continued operations once construction has been completed. Comcast asserts that standardized commercial performance bond terms should be set before the Commission receives any applications, so that applicants can account for such costs in preparing their applications.

⁷ D.07-03-014, pp. 80-81.

Discussion:

The Commission agrees that the DIVCA process provides a helpful model. Thus, the Commission will require applicants to state in their applications that they will agree to provide to the Executive Director and to the Communications Division Director a copy of their executed bond, equal to the total amount payable under the CASF award, within five business days after the effective date of their CASF award.⁸

While financial information may demonstrate that an applicant has sufficient funds at the time of application, this does not necessarily ensure that a CASF recipient will have sufficient funds at the time when construction is scheduled to begin, or that funds will continue to be available during construction. We agree with the Small LECs that a distinction can be drawn between applicants that are utilizing their own funds for the 60% of the total project cost and those applicants that are financing the 60% through a loan or debt offering. Thus, an applicant that certifies that the 60% of the funding they are providing comes from their capital budget and is not obtained from outside financing sources should not be required to post a performance bond. In addition, there may be other reasonable situations where a performance bond is deemed not necessary. We do not want the bond requirement to discourage small applicants; however, the bond does serve an important function to ensure the completion of the project. The Communications Division (CD) will include a recommendation about the need for a performance bond in individual cases as CASF decisions are brought before the Commission.

The Commission further clarifies that the scope of a required bond is to ensure completion of the proposed project, and does not extend to ensuring continued operations.

9. Proposed Recurring Retail Price per MBPS

Parties' Comments:

During the workshop, AT&T sought clarification that the proposed price commitment is the same for which the Commission is seeking a minimum price commitment of one year (Item 15 in Section IV of Appendix A, Application Requirements and Guidelines), and additionally that this price would represent the maximum price customers could expect to pay during that initial period. TURN noted that data pricing is usually expressed as a flat (monthly) fee for a given level of subscription, rather than on a per MBPS basis.

⁸ State Contracting Manual, Current as of October 2005. Volume 1: Glossary p.5: A performance bond “insures 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 must equal the contract price.”

Parties generally agree that applicants should disclose all information that impacts the price of their broadband service offering, along with any service restrictions, such as tying availability of broadband services to the purchase of other services, commitments, any requirements that customers must meet, or equipment that customers must purchase or lease, in order to receive the service. Verizon specifically suggests that applicants include all billed revenues they would receive from a subscriber over 12 months, expressed as a monthly average. Alternatively, AT&T suggests that applicants use the monthly rate per MBPS and spread the non-recurring charges over 12 months. Comcast asserts that applicants should provide a total retail price excluding discounts and promotions. DRA and TURN argue that applicants should indicate what services customers will receive for the stated monthly subscription fee, i.e. applicants should match a specific price to a specific upload and download speed. DRA asserts that the Commission must clarify whether and which bundles may be considered more optimal when evaluating this requirement. TURN further asserts that any pricing directed at low-income customers should also be indicated.

Discussion:

The attributed monthly charge – inclusive of all recurring rates and non-recurring charges and a description of what services the customer will receive – may be more useful than just the price alone on a per MBPS basis, given differences among providers and corresponding differences in subscription fee structures. Applicants shall disclose all service restrictions, tying availability of broadband services to the purchase of other services, commitments, any requirements that customers must meet, or equipment they must purchase or lease, in order to receive service. We adopt Verizon’s proposal for calculating the subscription fee, which includes the sum of all recurring rates and non-recurring charges over a 12-month period, expressed as a monthly average price. Projects may vary in terms of what services and speeds are offered, as well as service restrictions, term commitments, etc. By combining all associated rates and charges into one monthly average price, the method proposed by Verizon would more readily allow for comparable estimates than those proposed by AT&T and other parties.

We clarify that this attributed monthly charge represents a monthly allocation of the total amount that customers should expect to pay; the maximum amount that customers actually pay each month should be the stated monthly subscription fee.

The stated price should be exclusive of any promotions or discounts because the Commission is concerned that including such provisions may distort the subscription fee calculation. However, CASF recipients are not precluded from making such offers available to customers. By eliminating seasonal or

promotional discounts from the evaluation process, comparison between applications is more reflective of the long-term incremental cost (to customers), which provides a fairer evaluation.

We decline to determine optimal bundles at this time. The primary purpose of CASF is to promote broadband infrastructure deployment to unserved/underserved areas, not to influence CASF recipients' marketing strategies or how CASF recipients package their services.

Finally, this program is primarily designed to make broadband service available to those without any level of broadband today. A focus on pricing is inapposite in the situation where there is no service today. CASF is designed to provide incentives to broadband providers to build facilities in difficult to serve areas, where heretofore no price could be paid because the service did not exist. However, while too much emphasis on pricing is not appropriate, the Commission believes that pricing terms are a factor in the success of the service and has structured CASF so that providers will need to offer competitive prices in order to create a sustainable operation given their particular investments and cost structures.⁹

Further, the Commission encourages, but will not require, applicants to offer discounted prices for low-income customers. As discussed in Section D (Scoring Criteria), points will be awarded for applications proposing to serve low-income areas. At this time, broadband service is not a component of basic service for Lifeline purposes, thus discounted pricing for low-income broadband service is not legislatively required.¹⁰

10. Period of Commitment for the Initial Price of Broadband Service

Parties' Comments:

During the workshop TURN sought clarification as to whether the one-year commitment was on a per customer basis, i.e. whether an individual who signs up 365 days after the CASF recipient has commenced service would be guaranteed the same price for one full year. AT&T expressed concern that committing to a single price over essentially a two-year period might discourage the company from upgrading their technology.

⁹ D.07-12-054, Finding of Fact 37 and pages 43-44, 47-48.

¹⁰ Broadband service is not regulated by the Commission but by federal authorities. The Commission is considering changes to the California Lifeline program in R.06-05-028, including ways to make the program more competitively and technologically neutral.

In post-workshop filed comments, AT&T suggests a one-year price guarantee lock-in, and that customers should not be able to renew on Day 360 at the same initial guaranteed price. TURN asserts that prices should not be allowed to increase by more than the general rate of inflation for three years. DRA argues that the one-year minimum is too short, given that CASF recipients will not be restricted from selling other services and should thus have ample opportunity to recover operating and maintenance costs. DRA also responds to AT&T's concern regarding upgrading technology by adding a requirement that customers should have the option to remain on the previous service at the committed price, or to upgrade at the new price.

Discussion:

Broadband is not a regulated service under the authority of this Commission; it is regulated by the federal authorities. The Commission, however, does and should retain some discretion to ensure continued public benefits from this investment since the Commission is approving 40% of project infrastructure costs.

We clarify that the monthly subscription fee, as described in Appendix A (Item 14 in Section IV), is the price for which the Commission seeks a minimum commitment of one year (Item 15 in Section IV of Appendix A). As discussed during the workshop, we further clarify that applicants may stipulate one price to which they will commit for one time period, and to different prices for subsequent periods within that initial year of service.

We note that the period of commitment is on a per customer basis, such that any customer who signs up within one year of the beginning date of service can expect the same price guarantee(s) from the day they begin their subscription, albeit not for an entire year. For example, a new customer that signs up on Day 365 of the CASF recipient's initial year of providing service shall pay the same price for the first month of service as a customer who signs up on Day 1. As pricing varies by provider, applications should include any customer requirements.

We agree with the parties that assert that the Commission has no authority to regulate broadband pricing or service. We also agree that participation in CASF would not thereby make an otherwise unregulated provider subject to the Commission's jurisdiction.¹¹ The Commission's authority with respect to these

¹¹ See e.g., D.06-06-010, p.5, *mimeo* ("The FCC has determined that it, not the states, will prescribe what regulations apply to IP-enabled services"), *See also, Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, Declaratory Ruling and Notice of Proposed Rulemaking, 17 FCC Rcd 4798, 4801, para. 4 (2002) (*Cable Modem Declaratory Ruling*), *aff'd*, *Nat'l Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 125 S. Ct. 2688 (2005) (*NCTA v. Brand X*). *Appropriate Framework for Broadband Access to the Internet over Wireline*

unregulated providers is limited to the administration of the CASF program. This Commission will not adjudicate or be a forum for billing, quality of service, service, or other disputes relative to broadband Internet access services or interstate broadband services except to the extent necessary to administer CASF. Such inquiries should be directed at federal authorities such as the Federal Communications Commission or the Federal Trade Commission.

The primary goal of the CASF is to bring broadband infrastructure and thus service to rural areas that have none. For those areas the price today may as well be extremely high. A voluntary price commitment by CASF recipients is one way for the Commission to distinguish between different proposals and place a higher value on those applications that propose a lower customer cost. It is understandable for parties to desire to expand this requirement as far as possible, but we must be cognizant of the unavailability of broadband service today in the target areas. A voluntary price commitment for one year is a reasonable balance between these competing interests.

Thus, while we agree with DRA's suggestion that customers should be allowed to remain on the original service at the committed price in the event that the provider upgrades its service offerings, we decline to mandate it. CASF recipients should not be the cause of delays in technological upgrades. Customers should also have the option to upgrade at the same (initial) price for the remaining term of their contract.

Applicants are being asked to commit to (a) price(s) for services that are not likely to take effect until, at the earliest, fall of 2010.¹² Given the pace of market changes and the corresponding difficulty in projecting market conditions, the Commission declines to require a longer pricing commitment than one year, or to impose a price cap following the initial price guarantee. We also concur with AT&T's position not to allow customers to renew on Day 360 at the same guaranteed price. The providers are free to change their price after the guaranteed term has expired. Technological and regulatory changes and developments may dictate a change in the pricing structure.

Facilities, CC Docket No. 02-33, FCC 05-150, Report and Order and Notice of Proposed Rulemaking (August 5, 2005) (*Wireline Broadband Internet Access Order and Broadband Consumer Protection Notice*), *In the Matter of Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, WT Docket No.07-53, FCC 07-30, 22 FCC Rcd 5901 (rel. Mar. 23, 2007)(*Wireless Broadband Internet Access Order*), *Petition of AT&T Inc. for Forbearance Under 47 U.S. C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services*; *Petition of BellSouth Corporation for Forbearance Under Section 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services*, WC Docket No. 06-125, Memorandum Opinion and Order, FCC 07-180 (rel. Oct. 12, 2007) (*AT&T Title II and Computer Inquiry Forbearance Order*).

¹² The earliest that funds will be approved is fall of 2008.

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11. Financial Qualifications

Parties' Comments:

AT&T recommends that, instead of Rule 2.3 of the Commission's Rules of Practice and Procedure,¹³ the Commission follow the alternative to the bond requirement suggested for DIVCA applicants, whereby applicants would have been required to produce a financial statement that demonstrates that they possess unencumbered cash that is reasonably liquid and readily available to meet expenses.¹⁴ Another alternative is to require applicants to provide a statement in the affidavit that they are financially, legally and technically qualified to complete the proposed project.

Discussion:

Applicants must provide a balance sheet as of the latest available date, along with an income statement that covers the period from close of the last calendar year for which an annual report has been filed with the Commission to the date of the balance sheet. This requirement should not be prohibitively difficult to satisfy, since CASF applicants (or at least the lead participant in a consortium) are required to be registered with the Commission, and are required to submit these documents in their annual reports.¹⁵

12. Applicant's Certificate of Public Convenience and Necessity (CPCN) or U-Number

Parties' Comments:

During the workshop, DRA noted that wireless applicants should be explicitly required to provide their registration information. In its post-workshop comments, AT&T argues that this information is unnecessary and a possible hindrance to applicants with limited geographical operating authority.

Discussion:

Several considerations lead us to retain this requirement. In D.07-12-054, the Commission determined that it will limit CASF funding to entities with a CPCN that qualify as a "telephone corporation" as defined under Public Utilities Code §234, except that wireless carriers registered with the Commission need not obtain

¹³ Rule 2.3 (Financial Statement) requires a financial statement that includes all amounts and types of stock, bonds, and other indebtedness, along with balance sheet and income statements.

http://docs.cpuc.ca.gov/published/RULES_PRAC_PROC/70731.htm#P289_38341

¹⁴ D.07-03-014, pp.81-82. The Commission decided, however, not to allow this option for the DIVCA application process.

¹⁵ Although wireless carriers that are registered with the Commission are not required to file this information, for CASF purposes they will be subject to this requirement.

a CPCN to qualify. The Commission has a fiscal responsibility to ensure that funds are used for the purpose for which they are intended and thus, needs to have some regulatory authority over the recipients. The Commission does not have the same capabilities to oversee and ensure the proper use of ratepayer funds by unregistered entities. To ensure that funds are used properly and that any waste, fraud, or abuse does not result in losses to ratepayers, limiting recipients to “telephone corporations” is the most responsible course of action at this time.¹⁶

As we noted above in Section 10, broadband service is not a Commission-regulated public utility offering. It is regulated by the Federal Communications Commission, and other federal authorities. This Commission must have some means of verifying that applicants are viable and up-to-date on all requirements associated with their CPCN authorization. We emphasize that the Commission is not categorically precluding broadband providers that are not registered with the Commission from applying for CASF funds. These providers may partner with or apply through a consortium, so long as the financial agent for the consortium is an entity with a CPCN or U-number.

Prospective applicants who do not have a CPCN or U-number and are not registered wireless carriers can obtain information for obtaining a CPCN, U-number or be registered with the Commission at the following Commission website URL link:

- o <http://www.cpuc.ca.gov/NR/rdonlyres/1FFA2BC1-1D33-482C-9AD8-5C9F2550EC1A/0/CASFWirelessFAQsheet42408.doc>

13. Name and Contact Information

Parties’ Comments:

AT&T suggests that only the names of principal officers be required instead of officers and directors, as is required for DIVCA applicants.

Discussion:

¹⁶ This proceeding contains no record that other entities are ready or capable of utilizing CASF funds. If the Commission finds that regulated entities do not make use of the CASF funds or that additional entities (such as unregulated wired or wireless Internet Service Providers) should be eligible for future funding, then we may consider other alternatives. For example, as the program develops and the Commission gains experience in these projects, it may consider expanding the program to entities such as those eligible under the AB 140 rural telephone infrastructure program or entities eligible under the California Teleconnect program. However, such action is beyond the scope of this Resolution, but may be considered later if proposed in a petition for modification to our CASF decisions or on the Commission’s own motion.

Only the name(s) and contact information of key officer(s) for each proposed project will be required. We will not require directors' information.

14. Affidavit

Parties' Comments:

Parties generally agreed that the Commission should require this item, although parties expressed concern that they may incorrectly identify an area as unserved/underserved due to the vintage of the data on which they are basing their assertion.

Discussion:

The Commission will require that all CASF applicants sign and submit an affidavit affirming, under Rule 1.1 of the Commission's Rules of Practice and Procedure, that all information provided in their application packets is true and correct, to the best of their knowledge. We recognize that the unserved and underserved areas may not be complete or have changed since the maps were produced by the California Broadband Task Force. The Commission clarifies that applicants will not be penalized for good faith assertions. A copy of the Affidavit is attached to this resolution as Appendix C.

B. Submission and Timelines

Parties' Comments:

During the workshop AT&T noted that there is no stated date by which an application would be denied or granted, and requested that such a designation be made. DRA and Small LECs both inquired as to how parties would be notified of initial submissions and protests. Kerman specifically asked if the Commission would notify ILECs when an application is submitted for a part of their (ILECs') service territory. Kerman also expressed concern about having to continuously check the website for updates, if the Commission accepts applications filed after June 2, 2008 (date revised to July 24, 2008 in this resolution).

While parties agree that the identity of each applicant should be kept confidential, AT&T and Verizon suggest that the actual boundaries of each proposed project should also remain confidential, as they regard this information as proprietary and potentially disadvantageous to first movers. AT&T and Verizon recommend that the only information to be publicized should be the list of CBGs for which each project is being proposed. TURN and DRA assert that a list of CBGs is insufficient, given that CBGs in rural areas tend to be large and are likely to include both served and unserved areas. Therefore, they suggest that a map showing the actual boundaries of proposed projects should also be posted on the website.

AT&T, TURN and DRA all oppose counterbids, and TURN and DRA each propose an alternative process for considering and approving project proposals. In the initial round of TURN's proposed process, all applications for uncontested areas are evaluated, while the Commission concurrently addresses and resolves challenges to initial applications. Round 1 determinations are made the same day that Round 2 applications, for previously challenged areas, are due. TURN asserts that Round 2 applicants should not gain information from the Round 1 awards. TURN also suggests that the Commission establish a set of protocols for opening and evaluating bids, and offers an example from the London Regional Transport Authority.¹⁷

DRA's suggested process is to first consider areas that are entirely unserved, and then areas that have a mixture of unserved and underserved areas in a subsequent round. DRA also suggests that the Commission establish a final cut-off date for submission of applications.

Discussion:

Both the list of CBGs and a map showing the boundaries of each proposed project shall be published. This will obviate the need to second-guess whether a proposed project intersects areas that are already served.

We adopt the Timeline for Submission and Evaluation shown in Section V of Appendix A to this resolution. This Timeline considers OP 8 of D.07-12-054 and the approval of the CASF award by the Commission through the resolution process.¹⁸

The Commission will not provide separate notification to ILECs when an application is filed to serve part of their (ILECs') service territory. Since the location of each proposed project will be posted on the Commission's website, it should not be problematic for participants to monitor which areas have been applied for and to cross check these with areas of interest. In addition, in Section V of Appendix A to this resolution, we establish subsequent filing deadlines. With such information we are providing notice to the entire state as to areas for which applications have been submitted.

¹⁷ TURN post-workshop comments, Attachment A, February 19, 2008. <http://docs.cpuc.ca.gov/efile/CM/78990.pdf>

¹⁸ D.07-12-054, OP 8 states that "Responses to funding requests shall be due 30 days after receipt by the Communications Division, except that responses that present a counteroffer to meet the proposed broadband commitment under different terms shall be due 45 business days after the proposal is submitted." OP 12 of D.07-12-054 states that "Individual awards of CASF funding shall also be authorized by separate Commission resolution."

The Commission will retain the option to consider counter proposals. Since the only information that will be made public is the location of proposed projects, it is not expected that applicants submitting counter proposals will have any unfair advantage vis-à-vis initial bidders. Moreover, consideration of counter proposals will encourage all applicants to put forth their most competitive and efficiently designed proposal.

Pursuant to D.07-12-054, the Commission will first consider proposals for entirely unserved areas.¹⁹ If any funds remain after unserved areas have been awarded, the Commission will then consider applications for underserved or mixed unserved/underserved areas. D.07-12-054 also states that proposals will be accepted until all of the funds allocated to the CASF have been designated or until December 2011.²⁰

C. Proposal Checklist

Parties' Comments:

During the workshop TURN noted that the proposed checklist shows voice service as a required offering. In post-workshop filed comments, TURN and Comcast both support eliminating the basic voice requirement. TURN supports eliminating this requirement so that local providers may apply for CASF funds. Comcast argues that voice service should not be required until the Commission allows competition in small LECs' service territories.

If this requirement is retained, TURN recommends further requiring that applicants provide information on the basic voice service they will offer. Comcast asserts that such a requirement should be limited to battery backup and E911 service.

Discussion:

Provision of basic voice service is not a requirement to receive CASF funds as we believe the availability of a voice equivalent is an application available on all broadband services. However, if applicants choose to offer voice service (other than basic service) as an additional feature to broadband customers, they must, at a minimum, comply with the FCC's E911 and battery backup requirements.²¹ In setting this requirement, we do not intend to modify existing minimum basic service requirements for local exchange service in this proceeding

¹⁹ D.07-12-054, p.3

²⁰ D.07-12-054, p.28. See Section 4, supra for additional timeline details.

²¹ Information on the FCC's E911 and battery backup requirements can be found at:

<http://www.fcc.gov/pshs/services/911-services/> and http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-177A1.pdf

We note that by providing broadband service to unserved areas, it will give additional telephone service choices to subscribers through Voice over Internet Protocol providers. This serves this Commission's goal of increasing phone service choices to consumers, consistent with federal and state laws and policies.

The Proposal Checklist, included as Appendix B, is revised to reflect all modifications to CASF application requirements as adopted in this resolution.

D. Scoring Criteria

The model for scoring CASF applications sets the basic framework for evaluating applications. It determines how the CASF criteria will be used to rank applications. Commission staff initially proposed that the best way to rank applications would be to assign points for each criterion, which when added together, would form a score for each application that could be used to objectively rank them.

Each criterion has an associated formula that determines its value. Value in this context is defined as how well the goals of the CASF program are promoted. A score for each CASF application is derived from these formulas. Each formula is calculated with applicants' data, producing a point score. Points from all criteria will be added together to determine each application's total score.

Weight is the maximum number of points achievable for each criterion and is used to set a limit on each criterion's value. In determining the weight for each criterion, the value of each criterion is considered against all other criteria. As the total weight (100) is constant, when the weight of one criterion is increased, the values of all others decrease. To better illustrate a tradeoff, CASF funds could produce either of the following examples: Many customers served with adequate speed, or few customers served with fast speeds. Arranging criteria from highest to lowest weight also serves as a list of the most to least important, or in other words valuable, criteria.

Relative scoring measures an application's performance by how well they do compared to all other applications. The application that does the "best" for each criterion is awarded maximum points and sets the bar for all other applications. Relative scoring uses a formula to determine a pre-weighted score between zero and one for each criterion in each application. These pre-weighted scores are then multiplied by weights that set the maximum number of points and the percentage of the total score. Weights are set at amounts that reflect the importance of each criterion with respect to the policy goals of the CASF program. Introducing

weights into the scoring formulas sets a limit on the amount each criterion can affect the total score. Using weights in the scoring process ensures applicants are incented properly to offer a mixture of the features most sought after by the Commission for the CASF program. Weighting also takes into account diminishing returns. This would be very difficult to accurately represent in a non-relative formula.

The formulas to determine the pre-weighted scores all follow the same basic principle. The scores equal the criterion's percentage of the highest or lowest where applicable (example: for the area criterion, we want to see applications serve as much area as possible; for price, we want to see applicants offer service priced as low as possible, etc.) amount for that criterion out of all applications. Imagine three applicants; their respective submissions for criterion "x" are 100, 75, and 60. If we wanted to maximize "x"; we see that 100 is the highest amount submitted, so all applications would be measured against that amount. The pre-weighted scores for each respectively would be: $100/100=1$, $75/100=0.75$, $60/100=0.6$. Alternatively, if we wanted to minimize "x"; we see that 60 is the lowest amount submitted, so all applications would be measured against that amount. The pre-weighted scores for each respectively would be: $60/100=0.6$, $60/75=0.8$, $60/60=1$. The benefit of relative scoring is that it is possible to set the weighting for each criterion at a level that reflects the policy goals of the CASF, and the points given for each criterion cannot exceed its weight.

In the February 7, 2008 workshop, CD presented the straw man proposal using relative scoring criteria and solicited comments from participants. Additional written comments were also solicited from participants after the workshop; these comments were submitted on February 19, 2008.

Parties' Comments:

Comments of parties during the workshop and in their February 19, 2008 post-workshop filed comments are summarized below.

Four parties proposed changes to the formulas in the ACR. In the workshop, Verizon asked that the square root be dropped from the speed formula because they believe it does not appropriately punish applicants who offer poor speeds. They did not echo this statement in their filed post-workshop comments. In their post-workshop comments, Verizon suggested that for those applications that do not meet a certain standard, their score be reduced by either 25%, 50%, or 75% because the point penalty for offering slow speeds is low due to the use of a square root in the speed formula.

TURN likewise proposes a different formula for speed and service area as follows:

Speed: based on the 3 MBPS download and 1 MBPS upload speed standard established by the Commission:

$$[b_i / \text{Max}(b)] * 20$$

where:

$B_i = (\text{Applicant's proposed download speed}/3 \text{ Mbps}) + (\text{Applicant's proposed upload speed}/1 \text{ Mbps})$ and,

$\text{Max}(b) = \text{the highest } b_i$

Service Area: revise this criterion so that applicants are not awarded for large but unpopulated areas. TURN specifically suggests the formula:

$$N_i / \text{Max}(N) * 10$$

where:

$N_i = \text{number of households in the bidder's service area}$ and,

$\text{Max}(N) = \text{maximum number of households among the relevant proposals}$

TURN also suggested the square root be removed from the speed formula and in its place, both upload and download should be divided by the benchmark. TURN believes that the use of a square root function biases the overall ranking process against applicants who can offer higher speeds. In addition, TURN urged using households in place of units of distance for the area formula. TURN believes that a measure of physical area will not accurately capture, for all intents and purposes, practical service area. Finally, TURN believes the pricing formula should consider basic and premium prices, but both should be weighted differently. TURN believes this will yield the most accurate representation of service price.

TURN seeks clarification on the definition of "n" in the straw man formula. TURN also points out a mathematical inconsistency between the formula as presented in Attachment B of the January 23, 2008 ACR and the Excel file distributed to parties after the workshop.

DRA and the Latino Issues Forum recommended that preference points be given to applicants offering service in low-income and/or uneconomic areas because of

the fundamental universal service principle, as well as less densely populated areas since these areas are otherwise less likely to be served.

The following table compares CD’s straw man proposal weight allocation for each criterion with parties’ comments on/suggested revisions to the proposed allocation.

Criteria/Formula/Weight (points)	CD Straw Man	AT&T	Verizon	TURN	DRA	Comcast	Latino Issues Forum
Funds Requested per Potential Customer	50	50	40	35	“Too many points”	40	
Speed	15	15	25	20		25	
Service Area	15		10	10			
Timeliness	10		0	0		5	
Pricing	5	5	25	25	“Not Enough Points”	10	10
Guaranteed Pricing Period	5		0	10	“Not Enough Points”		10
Low-Income Areas/Low-Density Areas					10		10

Discussion:

The square root shall remain in the speed formula because we believe there is a diminishing return to the value of speed, i.e., each additional unit of input (in MBPS) yields less and less additional output or value.

The 25%, 50%, or 75% reduction proposed by Verizon is unnecessary because the formula in the straw man already appropriately takes this into account. Using Verizon’s suggestion, it is theoretically possible for one applicant to be scored 25%, 50%, or 75% lower than another for an application that proposes a speed that is far less than 25%, 50%, or 75% lower.

The speed formula in the ACR did not measure unserved applications the same way it measured underserved applications. For unserved applications, the formula correctly accounts for the diminishing returns associated with speed, but for underserved applications, the formula measures the increase in speed as if it were increasing from zero rather than the appropriate point on the value curve. However, we do not believe a separate formula for underserved applications is necessary, as underserved areas only have MBPS speeds up to 3/1 (the difference

in the slope at the point on the value curve the applicant is at, versus the slope at the origin), which is not sufficiently less to warrant separate treatment.

With respect to TURN's alternative formula, the Commission believes that dividing the speed by the benchmark speeds is not the best means to evaluate CASF applications. Such a formula will result in valuing upload speed three times greater than download speed and does not consider the diminishing returns to the value of speed. TURN's proposal is empirically backwards, since download speed has been viewed as more valuable to potential customers than upload speed. Also, TURN's proposal does not take into account the possibility that an application could be for an underserved area. If TURN's proposed formula were applied, an applicant who proposes to increase broadband speed in an underserved area would have total speed counted, potentially giving them an unfair advantage when compared to an application for an unserved area.

TURN's arguments that households should be used in place of units of distance and that a measure of physical area will not accurately capture practical service area are mistaken. In the first criterion, *Funds Requested per Customer*, households are already captured as potential customers. As for DRA's and LIF's concerns regarding low density areas, the existing criteria, taken as a whole, effectively ensure that the positive aspects of density are a consideration. The service area criterion awards more points to applications that will serve larger areas, thus ensuring that the broadband deployment reaches as many people living in as many places as possible.

Moreover, from a CD staff demographic analysis, we have confirmed that unserved areas that we have prioritized in this program are low density populated areas. Using GIS software, we have determined that the average population density of census blocks that intersect unserved areas was approximately 124 persons per square mile in calendar year 2000, while the average population density of census blocks that do not intersect unserved areas was approximately 7,108 persons per square mile.²² Based on this analysis, we believe concerns regarding low density have been adequately addressed.

TURN's suggested changes to the pricing formula are not necessary as there is only one service being considered and the lowest priced proposal per MBPS gets more preference points. Thus, it is in the applicants' best interests to price service at a level that will attract subscribers.

²² California Department of Forestry and Fire Protection, Census 2000 Block Data – complete aggregated data from Census TIGER files. <<http://gis.ca.gov/meta.epl?oid=5676>> (Accessed May 30 2008).

TURN states in its comments that the term “n” is undefined in the straw man and was incorrectly defined during the workshop. TURN correctly state that during the workshop, CD defined “n” as the population. In this case, population means “group of individual persons, objects, or items from which samples are taken for statistical measurement”, the group in this case being CASF applications. The Commission clarifies that “n” is in fact the number of total applications.

TURN is correct in pointing out that there is an inconsistency between the formula in the ACR and the scenario spreadsheet handed out by CD staff after the February 7, 2008 workshop, with respect to the computation of speed. Appendix D is a corrected scenario analysis of the CASF scoring.

The Commission agrees with the comments of DRA, Latino Issues Forum and TURN that accounting for low income areas would be beneficial to the CASF program. A seventh criterion is, therefore, added to the scoring criteria – Low-Income Areas – and is reflected in Section VII of Appendix A (Application Requirements and Guidelines).

The Commission also agrees with comments of DRA that accounting for low density areas would speed deployment in areas less likely to be served, and affirms that the Service Area criterion is designed to reward projects that propose to serve larger (and likely less densely populated) areas.

With respect to the weight allocation suggested by parties, the Commission offers the following comments:

- *Funds Requested per Potential Customer* - Increasing the weight for this criterion will encourage applicants to reduce the cost of their proposals, which would free up resources to fund more applications. A consequence of lowering the weight is that fewer potential customers will end up getting served. We believe that a weight of less than 40 will compromise the core goal of the CASF. A weight of 40 points is set for this criterion.
- *Speed* - Increasing the weight for this criterion motivates applicants to increase the broadband speeds of their proposals. Setting this weight too high could leave some potential customers with broadband service that exceeds their needs while some potential customers would not receive service at all. While motivating applicants to offer speeds greater than the minimum is a good idea, economies of scale will eventually come into play making it less expensive for a carrier to significantly increase their speed than to serve an entirely new customer.

Offering extra speed is encouraged, but should not be weighted too highly, as it would detract from all other criteria. We believe a weight greater than 20 will detract too much from the core goal of the CASF given that the diminishing returns built into the formula for this criterion give more points to those on the lower end of the spectrum. A weight of 20 is assigned to this criterion.

- **Service Area** - Increasing the weight for this criterion motivates applicants to increase the amount of physical area they propose to serve. Lowering the weight for this criterion diminishes this incentive, allowing applicants to focus more resources on other criteria. A lower weight also diminishes the impact of the five-year commitment to offer broadband service to any residential household or small commercial business within the service territory covered by the deployment. Setting this weight too high would provide an unfair advantage to applicants who propose to serve unpopulated areas. Assigning a weight below 15 would not accurately represent the value of serving a large area, and would provide an unfair advantage to “less rural” applicants.²³ A weight of 15 points is allocated to this criterion.
- **Timeliness** - Raising the weight for this criterion motivates applicants to complete the project as quickly as possible, which is one key purpose of the CASF program (bringing broadband faster to unserved or underserved area). Considering that D.07-12-054 already prescribes 24 months for completion of the project, this criterion is assigned 5 points.
- **Pricing** - Offering a low price is encouraged, but ultimately applicants will need to set prices that potential customers can afford if they hope to stay in business. Since D.07-12-054 structured CASF so that price is an important factor in the success of the service and providers will need to offer competitive prices given their own investments, 10 points is assigned to this criterion.
- **Guaranteed Pricing Period** - Offering a longer price guarantee is encouraged, but ultimately the applicants will need to set prices for a length of time that is financially viable if they hope to stay in business. The requirement of at least a one year price guarantee as required by D.07-12-054 is an adequate starting point. A weight of 5 points is assigned to this criterion.

²³ See CPUC Res T-17002, Appendix B, Section II. G, *See also Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd at 6388-96, ¶¶ 48-53.

- *Low-Income Areas* - 5 points will provide a reasonable balance between the need to provide broadband service to the greatest number of people and the need to provide this service to areas with low income populations. This will serve to help bridge the Digital Divide to ensure low income populations have access to a broadband service provider as a first critical step.

In summary, we adopt the criteria and weight allocation for each criterion as identified in the following table:

<u>Criterion</u>	<u>Weight (points)</u>
Funds Requested per Potential Customer	40
Speed	20
Service Area	15
Timeliness	5
Pricing	10
Guaranteed Pricing Period	5
Low-Income Areas	5
Total:	100

E. Payment

Parties' Comments:

AT&T suggests the elimination of the 10% retention requirement since payments are to be based on progress billing at 25, 50, 75 and 100% progress, supported by project status reports and project completion reports (in the case of the final payment), and the posting of a performance bond to ensure project completion. DRA's comment focused on clarification of the timing for funding collection, disbursement and duration of collection of the CASF surcharge.

Discussion:

We find merit in AT&T's comments and will eliminate the 10% retention requirement.

On the collection and disbursement of CASF funds, since January 1, 2008, the effective date of the 0.25% CASF surcharge rate, carriers have been instructed to hold custody of all the collected CASF surcharge revenues and accumulated interest until the Commission provides further direction on the disposition of these revenues. Upon Legislative approval of CASF funding through the State Treasury, carriers will remit the CASF surcharge monies collected to a designated fund as directed by the Commission. The Commission is coordinating with its Office of Government Affairs for the enactment of legislation that would govern remittances and disbursements under the CASF program.²⁴

In accordance with D.07-12-054, CASF funding applications will be accepted until all of the funds allocated to the CASF have been designated for specific projects or December 2011, whichever occurs first. A future evaluation of this CASF program will occur in 2010, and this Commission and the Legislature will consider whether to extend the CASF program based on how effectively it has met the goals of the program.²⁵

²⁴ SB-1193 was introduced by State Senator Alex Padilla to amend Section 270, and to amend, renumber, and add Section 281 of, the Public Utilities Code, to establish the CASF within the state treasury and authorize the collection and disbursement of funds thereto. In May 2008, SB-1193 was approved by the full Senate by a vote of 33-3 and now moves to the Assembly for consideration. In addition, SB-780, sponsored by Senator Pat Wiggins, may impact the CASF: as proposed it would extend both the California High-Cost Fund-A (CHCF-A) and California High-Cost Fund-B (CHCF-B) programs until January. 1, 2013; the bill further states the intent of the Legislature that funds distributed by both programs be used to address (1) the continued need for universal and affordable service in high-cost areas of the State, particularly where competition is limited, and (2) the ability to access the fund for broadband deployment in unserved and underserved areas through varied mechanisms, including "innovative and community-based approaches to extending broadband access." The Senate, in mid-January 2008, voted 37-3 to advance this bill and amend PU Code §739.3.

²⁵ The Commission will begin an evaluation of the effectiveness of the initial awards under CASF no later than July 1, 2010, D.07-12-054, page 28.

F. Execution and Performance

Parties' Comments:

Parties' comments primarily center on the submission of reports both to guarantee full payment and to ensure that recipients conform to committed standards both during project implementation and construction and after project completion.²⁶

Discussion:

The proposed application guidelines presented during the workshop already provide audit, verification and discovery authority to the Commission. This authority extends during project construction and implementation.

The recipient is expected to submit progress reports as an attachment to their invoices submitted at 25%, 50%, and 75% completion. These percentages relate to cost, so that when recipients have spent 25%, 50%, and 75% of the total projected costs of the project, they may submit a progress report documenting those costs. Such progress reports shall use both the schedule for deployment; major construction milestones and costs submitted in their proposals and indicate the actual date of completion of each task/milestone as well as problems/issues encountered and the actions taken to resolve these issues/problems during project implementation and construction. Recipients shall also include test results on the download speed and upload speed on a per CBG and per ZIP Code basis in the final completion report.

G. California Environmental Quality Act (CEQA) and Other Permits

CEQA issues and requirements were not addressed in the straw man document or during the workshop. However, it has been subsequently determined by staff that CEQA review may be required depending on considerations such as the type of technology and/or location of the proposed broadband project. Therefore, compliance with CEQA is an item added to the list of information required for each application. However, the Commission will not conduct a CEQA analysis as part of the scoring and ranking process to determine CASF funding eligibility.

²⁶ In their post workshop submissions, the following parties made the following comments:

- Comcast - the Commission should establish the content of the completion report as this is the basis of full payment;
- DRA - the Commission should conduct any necessary audit, verification, monitoring, and discovery during project construction and implementation; and
- Latino Issues Forum - the Commission should require the submission of reports after project completion, at six month intervals, for the first 24 months after project completion and annually, thereafter.

The scoring and ranking of applications for CASF funding eligibility is not an “approval” of a “project” within the meaning of CEQA.²⁷ During the scoring and ranking process, the Commission will not have sufficient information to conduct meaningful, project-level review under CEQA, nor will the Commission be committing itself to any particular course of action. Applicants will provide the Commission with census block group (CBG) and geographic spatial map information that display areas that have yet to benefit from advanced telecommunications services and demonstrate the potential extent of deployment of broadband services to these areas. Requiring more specific, project-level details at this time would be overly speculative and would likely harm competition for CASF funds by discouraging otherwise eligible applicants.

As explained above, payment to CASF recipients will be on a progress billing basis with the first 25% to be made upon the proponent’s submission to the Commission staff of a progress report showing that 25% of the project has been completed. Before applicants eligible for CASF funding can receive payments from the Commission, CEQA compliance must be demonstrated. As a basis to ensure CEQA compliance and the timely disbursement of CASF money, applicants should submit a Proponent’s Environmental Assessment (PEA) soon after specific, project-level details become known and, at the latest, before the first scheduled 25% payment.²⁸ The PEA should conform to the guidelines and standards as outlined in the Commission’s environmental information requirements, which can be found at:

<http://www.cpuc.ca.gov/PUC/energy/electric/Environment/infocrit.htm>

In addition, the PEA submission should include information on any land crossing sites requiring discretionary or mandatory permits or environmental review pursuant to CEQA (include the type of permit required, the name of the permitting agency/agencies and the Lead Agency if an environmental review is required). The applicant should also identify any other special permits required with a cross reference to the government agencies from which the permits will be required for the project. Depending on the extent to which CEQA requirements may apply, the timeline for approval and/or disbursement of CASF money may take longer than is reflected in our adopted timetable.

²⁷ Public Resources Code § 21065; CEQA Guidelines, Cal. Code Regs., tit. 14, §§ 15352(a), 15378.

²⁸ Rule 2.4 of the Commission’s Rules of Practice and Procedure.

Comments

In compliance with PU Code § 311 (g), on April 29, 2008, a notice of availability was e-mailed to the parties of record in R.06-06-028 informing these parties that this draft resolution is available at the Commission's website <http://www.cpuc.ca.gov/puc/> and is available for public comments. In addition, the Communications Division (CD) informed these parties of the availability of the conformed resolution at the same website.

Opening comments were filed on May 14, 2008 by AT&T, Verizon, Comcast, COX, DRA, TURN, LIF and Sierra Economic Development Corporation (SEDCorp); reply comments were filed on May 19, 2008 by AT&T, Verizon, DRA, TURN, and COX.

A discussion of issues raised in both the opening and reply comments follows.

Guaranteed Pricing Period

In its opening comments, Verizon asserted that applicants should be allowed to include promotions or discounts in their calculations of the initial one-year price commitment.

In its reply comments, TURN rejected Verizon's suggestion, noting that promotions may not be available to all customers, and are often linked to the purchasing of bundles, which may complicate Staff's ability to appropriately compare projects.

The Commission maintains that the proposed recurring price should be exclusive of any promotions or discounts, etc. since it is uncertain whether all and how long customers would continue to enjoy these benefits.

AT&T, TURN, DRA and LIF filed the following opening comments regarding the guaranteed pricing period requirement:

- AT&T stated that the draft resolution's reference to "the period of commitment on a per customer basis" somewhat contradicts following language that the price guarantee is "not for an entire year."
- AT&T further stated that Appendix A in the draft resolution did not align with the pricing section and the checklist in its reference to "other recurring rates" and "other non-recurring charges."
- TURN asserted that clarification is needed regarding the specific date on which the one-year period for the initial price offering begins.
- DRA also filed comments reflecting this concern, and further suggested that CASF carriers should be required to define what date(s) will trigger the beginning of the time period for the price commitment.

- LIF reasserted their previous statements that prices should not be allowed to increase more than the general rate of inflation for three years.

TURN filed reply comments asserting that, for the limited pricing commitment period, terms and conditions should only be changed with the Commission's approval.

The Commission clarifies that the minimum price guarantee period for any new customer is from the first day that the CASF carrier begins service. For example, if the period of offering is from July 1, 2009 through June 30, 2010, then the price holds for this period to any subscriber who signs up during this period. If the price increases or decreases effective July 1, 2010, all subscribers who signed up during the period July 1, 2009 through June 30, 2010 and who continue the service will be adjusted for the new rate. If a customer orders service on the 364th day (i.e. at the end of the one-year carrier commitment), that customer is entitled to 30 days of service at the sign-up price, assuming that the carrier bills on a monthly basis.

Appendix A has been revised to reflect the discrepancy noted by AT&T regarding "other recurring rates" and "other non-recurring charges."

The Commission reaffirms that the one-year period begins when the CASF carrier begins service. We further clarify that, in terms of when the CASF carrier "begins service," the clock starts when the service becomes available to a customer. We will require CASF applicants to disclose whether they intend to roll out services incrementally and if so, the dates when service will be available to different areas.

The Commission maintains that a one-year commitment to provide service is sufficient for subscribers to find value in the offered broadband service. The Commission does not regulate broadband service or its pricing, and this resolution does not propose to regulate or otherwise monitor marketing campaigns conducted by CASF recipients.

The Commission agrees that any requirements that the customer must meet in order to receive service, as listed in item 14 of Appendix B (checklist), should not be changed without the Commission's approval.

Submission of Form 477

COX, AT&T and Comcast filed opening comments regarding applicants' submission of FCC Form 477 data, as follows:

- COX asserted that FCC Form 477 submissions should not be required since this does not help the Commission validate successful completion of a project.

- AT&T and Comcast asserted that CASF recipients should submit their FCC Form 477 information to the Commission under General Order 66-C, and that the Commission accordingly treat this information confidentially.

The Commission maintains this FCC Form 477 submission requirement as a means to assess speeds after projects have been completed. The Commission agrees with AT&T and Comcast and assures CASF recipients that information provided in FCC Form 477 submissions will be kept confidential as to specific applicant information pursuant to General Order 66-C.

Reduction in Payment for Failure to Meet the 24 month Timeline or Inform the Commission of Delays in Project Implementation or Construction

AT&T filed opening comments objecting to reductions in payment for failure to meet the 24-month deadline or for failure to notify the Commission of any delays in project construction or implementation.

The Commission retains discretion to exercise this option, since we expect that CASF recipients should be able to inform Commission staff of any foreseeable delays.

Submission of Income Data

Verizon and AT&T filed the following opening comments:

- Verizon suggested that, in order to minimize outliers, the Commission should use median household income instead of average income for its “Low Income Areas” scoring criterion.
- AT&T filed comments pointing out that the formula indicates “average income” while the checklist asks for per capita income.

The Commission agrees with Verizon’s suggestion for minimizing the effects of outliers; the formula for the “Low Income Areas” scoring criterion and the checklist are revised to reflect this modification from per capita income to median household income.

Proponents Environmental Assessment

In its opening comments, AT&T noted that the checklist asks applicants to submit their PEA at the time of application, and asserted that applicants should not be required to submit this information until after their project proposals are approved and submitted prior to the first 25% payment invoice.

The Commission confirms this discrepancy; the checklist is revised to require that PEAs be submitted prior to the first 25% payment.

Proposed Project Budget

Verizon noted in their opening comments that:

- The requirement to submit the “source and amount of funds available for each cost element” is unnecessary, and that funding sources should instead be identified based on total project costs.
- Until a determination is made that CASF grants are not taxable, the Income Tax Component (ITC) on Contributions in Aid of Construction (CIAC) should be permitted as a component of project costs.

The Commission agrees with the suggestion that listing the source of funds for each cost element is unnecessary, and that an itemized showing of funding sources that is at least equal to the total project cost is sufficient. The requirements for the proposed project budget are revised accordingly.

The Commission will allow project applicants to include the ITC on CIAC as a cost element in their proposed project budgets, until CASF grants are deemed not taxable to the carrier.

Scoring Criterion: Price

TURN filed reply comments reasserting its view that the scoring criterion for the proposed price should be weighted more highly such that applicants that offer the lowest price or make longer minimum pricing commitments receive more than the 10 points allocated to the Price criterion. Likewise, in its opening comments, LIF stated that the pricing criterion should be given 20 points.

In its opening comments, AT&T stated that pricing terms and conditions cannot be predicted considering that the implementation will be three years from the application date. It asserts that broadband providers have to be able to modify terms and conditions of service as use of the Internet and use of the service they provide changes, and as the law changes. Requiring applicants to predict and commit to the needed terms and conditions of service could dissuade potential subscribers from participating in CASF because it deprives them of the necessary legal protections. If the draft resolution intended only disclosure of the terms and conditions of getting one price versus a different price, then this requirement makes sense.

The Commission agrees with AT&T that overall terms and conditions should not be formed so far in advance of service provision. Therefore, applicants should provide any

fundamental requirements for broadband service that customers need to meet, such as purchase or leasing of equipment, installation, set term contract length, early termination fee, etc.

The Commission maintains that 10 points is sufficient for the pricing criterion as increasing points for this criterion will dilute the importance of all other criteria.

Who May Apply

Sierra Economic Development Corporation (SEDCorp) proposed the expansion of the eligibility criteria to make SEDCorp eligible to receive CASF funds for the purpose of extending debt financing to broadband service providers throughout the seven California Emerging Technology Fund (CETF) regions. COX, in its reply comments, urged rejection of this proposal. TURN, in its reply comments, supported SEDCorp's proposal and reiterated its support for the extension of CASF funds to entities other than "telephone corporations."

The Commission finds SEDCorp's proposal, while intriguing, premature at this time. SEDCorp's proposal requires a thorough evaluation of the legal and regulatory impacts of their involvement as a financial conduit for Commission monies. The Commission, however, may consider the expansion of CASF eligibility to "entities other than telephone corporations" in the near future on its own motion, should the CASF program as originally rolled out leave CASF funds remaining. The Commission emphasizes it remains open minded about more creative and non traditional ways to achieve broadband access to unserved areas after this initial round is completed. CASF funds will, therefore, remain limited to entities specified in Appendix A.III of this resolution.

Determination of Unserved and Underserved Areas

Verizon commented that no high burden of proof should be required from applicants on transit portions of the applications as this may lead to disputes on the suitability of engineering or technology choices. The Commission concurs with Verizon's comments and recognizes that upgrades to "middle mile" facilities may be required to reach unserved areas. Thus, we require that the applicant clearly explain the need for upgrading adjacent areas, allocate the costs to unserved and already served area (if the upgrade will affect both areas), and prorate the costs accordingly, as discussed in item 4 of the Discussion section of this resolution.

In determining whether an area is unserved or underserved, COX recommended in their comments that Staff use information sources other than the Broadband Task Force Report and cited CD's recent web-based database that provides a tool for customers in finding voice and broadband service providers. We agree with COX's comments and

direct CD to consider all publicly available data sources to verify whether or not an area being proposed is indeed unserved or underserved. We recognize that the unserved and underserved areas may not be complete or have changed since the maps were produced by the California Broadband Task Force. Staff should excuse good faith errors on the part of applicants as to what areas are unserved and underserved given that we believe the existing data about what exact areas are unserved and underserved to be less than 100% accurate. We emphasize our desire for a collaborative working relationship between applicants and our staff to ensure the most positive outcome of this program.

Application Timeline

In its opening comments, AT&T recommended that the Commission first award funds to unserved projects and, if funds are still available, then consider adjusting the CASF rules to further reach unserved areas by increasing the 40% match or allowing recovery of operating costs, and consider pilot projects for unserved areas, using modified parameters to ensure the feasibility of the project. AT&T suggested that these courses of action be undertaken by the Commission before it considers applications for underserved areas.

Verizon recommended delaying the application deadlines since the initial deadline is too close to the Resolution adoption date. Verizon recommended a delay of at least one month to enable applicants to coordinate the CETF development and quantification of demand aggregation opportunities with the CASF application process. TURN pointed out that there is an overlap in the submission deadlines, in the sense that applications for underserved areas will be submitted before funding approval is made for unserved areas.

COX pointed out in its opening comments that the Commission omitted a means by which notification can be made to the Commission that a proposed area is neither unserved nor underserved. In its reply comments, COX supported the modification of the timeline as recommended by TURN, Verizon and AT&T to ensure that unserved area applications be awarded first before the submission of applications for underserved areas.

In reply comments, AT& T concurred with Verizon's proposal and pointed out an inconsistency between the draft resolution timeline of 22 days and the timeline of 45 days provided for in D.07-12-054 with respect to the time provided for the submission of counter proposals. Further, AT&T concurred with COX's observation that the timeline omitted a date by which challenges to an applicant's contention that an area is unserved or underserved can be made.

The Commission agrees with AT&T's position that unserved area applications should be considered first, but concurs with COX's position that changing the rules to allow more applicants to qualify for funding, after the initial awards have been made, would encourage prospective applicants to not submit their proposals in the first round. Further, we will not change the eligibility criteria, after awards have been made to early filers because it reflects ineffective project management and will punish early filers²⁹.

The Commission finds merit in parties' recommendation to extend deadlines and has adjusted the timeline accordingly to give applicants time to submit counter proposals, challenges to an applicant's claim that an area is unserved or underserved, and to synchronize the timelines provided in D.07-12-054 as much as possible.

Basic Service

TURN, in its opening comments, opined that since the CASF does not require applicants to provide basic service, there is no need for the Commission to redefine it. Therefore, CASF applicants are authorized to offer service which does not meet the definition of basic service. In reply comments, DRA agreed with TURN's position that basic service need not be redefined. Verizon, likewise, opined that the resolution's approach to basic service is reasonable and should remain.

The Commission reiterates that basic service is not a requirement of CASF. However, applicants must ensure that if voice service (other than basic) is provided, compliance with the FCC's E911 and battery backup requirements is met as discussed infra.

Speed Requirement

The following recommendations were proposed by parties on the speed requirement:

- In its opening comments, Verizon stated that the requirement to state average download and upload speeds should be deleted. Instead, the applicant should be required to provide advertised speeds only.
- In its opening comments, COX stated that the Commission should confirm that the specified speeds serve the majority of customers in the proposed service area and that a standard proxy server from a specified site, not available to the public, and available only to CASF applicants, be utilized to confirm the speeds for all applicants through testing and audits administered by the Commission.

²⁹ Having said that, the Commission notes that it always has the ability to evaluate and modify a program in ways that will serve the goals of the program.

- In its opening comments, TURN stated that monitoring of speed should be part of an overall CASF monitoring program to ensure that ratepayer monies are being used for the purposes for which they are intended.
- In its opening comments, DRA stated that the Commission should remove language that: a) concludes that an advertised speed is a sufficient proxy for the actual broadband speed that a recipient will provide over a network partially funded by the CASF; b) references existing laws regarding the prevention of fraud in advertising in a manner that is inappropriate and irrelevant; c) disclaims responsibility for monitoring whether an applicant ultimately meets its broadband speed commitments. Further, DRA proposed that the resolution include language, in its discussion of broadband speeds, that requires applicants to identify methodologies for testing the broadband speeds of their proposed networks.
- In its reply comments, AT&T stated that DRA's and TURN's criticisms of reliance on advertised speeds and urging future measurements of speeds are mistaken. Further, AT&T stated that DRA's and TURN's calls for some alternative way to measure and monitor actual speed ignores the difficulties of such a task and ignores how relying on advertised speed solves the problem of how to both measure and monitor broadband speed. AT&T concurred with Verizon's opening comment that average speed should be deleted and that the advertised speeds for the area, or reference to the Governor's Broadband Task Force's speed findings, should be sufficient. AT&T found Comcast's proposal to use a "standard proxy server" procedurally improper and too superficial to be adopted.
- In its reply comments, Verizon stated that the draft resolution is correct in recognizing that advertised speed is commonly recognized by consumers, regulators, and industry participants, and that adequate enforcement mechanisms are already available in the event fraud or misrepresentation occurs. Recipients' own speed data submitted on a per CBG and ZIP Code basis in the final completion report, as well as the required FCC Form 477 data, are sufficient for speed validation.
- In its reply comments, TURN stated that in addition to TURN, DRA and Comcast also supported the need for the Commission to validate the actual speed of broadband offerings by CASF recipients. TURN finds COX's opposition to the submission of FCC Form 477 data puzzling as FCC Form 477 data will be produced by COX regardless of whether or not the Commission requires its submission, thus, there is no additional regulatory burden on COX. However, while the Commission should have access to the Form 477 data, it is insufficient by itself to assess broadband speeds. Thus, the Commission should develop a

consistent methodology that assesses actual, not advertised, speeds and apply this approach to all CASF recipients.

- In its reply comments, DRA stated that as TURN and DRA have repeatedly noted, the broadband speeds that carriers advertise do not guarantee, and are not intended to guarantee, actual speeds. DRA pointed out the following in their comments:
 - The draft resolution fails to address the Commission's obligation and role regarding the monitoring of speed. As TURN argued, "monitoring of speed should be part of an overall monitoring program to ensure that ratepayer monies are being used for the purposes to which they are intended". Though the Commission requires that CASF recipients provide data on actual broadband speeds prior to receiving final reimbursement payments, it is insufficient to ensure that end-users will indeed experience broadband service at the promised speeds.
 - The Commission should ensure that the methodology for testing broadband speeds is clearly articulated and accounts for peak and off-peak variations.

The Commission agrees with Verizon and AT&T that advertised speeds are sufficient, but notes that it is possible for one project to serve different speeds to different areas within a single CBG. We therefore revise the speed requirement to be average advertised speeds for each project by CBG and ZIP Code. With respect to the concerns raised by Comcast, TURN, and DRA on the monitoring of speeds offered by applicants, the Commission does not believe a proxy server is necessary at this time. However, the Commission notes that it has the right to audit applicants at any time. We fully expect that if we were to use any other measure in evaluating applications that we would receive similar legal caveats and conditions found on the broadband advertisements of providers, effectively making any other measure the same as simply using the advertised speeds. In addition, false advertising penalties are far greater than the CASF funds under consideration. Accordingly, we believe that relying on the advertised speeds is an effective measure for CASF purposes. Finally, we concur with both Verizon and TURN that FCC Form 477 data should provide sufficient information to the Commission that speed commitments in the application are complied with.

Scoring Criterion: Speed

In its opening comments, TURN stated that there may be an inconsistency between the speed ranking formula that appears in Appendix A and the calculations that underlie the example provided in Appendix D. TURN's review of the formula in Appendix A indicates that there can be cases where more than 20 points will be awarded to the

"winning" applicant. TURN requested that the Commission make the calculations associated with the application of the speed formula more transparent.

We disagree with TURN's analysis of the speed formula. We do not find any inconsistency between the formula and the example provided. Furthermore, it is impossible for more than 20 points to be awarded. An item in a list divided by the largest number in that same list and multiplied by 20 can never equal more than 20. Lastly, we believe that the formula cannot be made more transparent than it already is - all calculations are shown and all variables are defined.

Scoring Criterion: Low Income

The following comments were submitted by parties on the Low Income scoring criterion:

- In its opening comments, LIF asserted that the low income criterion should receive a minimum of 10 points.
- In its reply comments, DRA supported LIF's position.
- TURN stated that in the draft resolution, DRA and Latino Issues Forum are singled out as advocating for low-income customers. TURN notes that it addressed low-income issues on pages 8, 9 and 16 of its February 19, 2008 post-workshop comments. TURN requested that the draft resolution's omission of TURN's advocacy for low-income customers be corrected so that TURN's concerns regarding low income issues can be correctly reflected.
- In its reply comments, TURN continued to recommend that applicants with the lowest price receive 25 points (holdback from the Funds Requested per Potential Customer criterion). In addition, applicants committing to increase broadband prices at a rate no more than the rate of CPI-U inflation for a period of three years should receive 10 points. Applicants committing to rate increases of no more than CPI-U for a period of 24 months should receive 5 points. TURN asserted that its overall approach to pricing appropriately identifies the importance of price in the adoption of broadband services, including the proportionally greater impact price will have on low-income households.

The Commission believes that the weight of 5 for the low income criterion is appropriate, and that weighting it higher would dilute the importance of all other criteria. The Commission encourages applicants to attempt to bring broadband service to all unserved area customers, regardless of socioeconomic status. In low income areas, access to broadband can bring significant benefits to the community for improvement of educational opportunities for K-12 students and adult education, in addition to providing information for job searches and health care. The Commission further notes active efforts by CETF to aggregate demand by schools, colleges, libraries, local

governments, local businesses, agriculture, public safety, and others in 35 counties of these very rural areas of the state.

The Commission notes TURN's comments and has reflected its advocacy for low-income customers in this resolution.

The Commission maintains that the weights for all criteria as shown in Section VII of Appendix A are appropriate, and that weighting any differently would be detrimental to the goals of the CASF.

Scoring Criterion: Guaranteed Pricing Period

In its opening comments, LIF stated that the guaranteed pricing period criterion should be given a minimum of 10 points.

The Commission maintains that the weight of 5 for the guaranteed pricing period criterion is appropriate, and that weighting it higher would dilute the importance of all other criteria for all the reasons stated in this resolution and our prior decision.

Findings

1. The Commission, in Decision (D.) 07-12-054, established the California Advanced Services Fund (CASF), a two year program that provides matching funds of up to 40% of the total project cost for the deployment of broadband infrastructure in unserved and underserved areas in California.
2. D.07-12-054 allocates \$100 million, to be funded by a 0.25% surcharge on end-users' intrastate bills effective January 1, 2008, for CASF qualifying projects.
3. Priority in funding will be for unserved areas, defined as areas that are not served by any form of facilities-based broadband, or where Internet connectivity is available only through dial-up service or satellite. If funds are still available, CASF funding will be extended to underserved areas, defined as areas where broadband is available but no facilities-based provider offers service at speeds of at least 3 Mega Bits Per Second (MBPS) download or 1 MBPS upload.
4. In Ordering Paragraph (OP) 11 of D.07-12-054, the Communications Division staff (CD) was directed to convene a technical workshop to afford parties an opportunity to give input on the scoring criteria to be used in evaluating projects for CASF funding.

5. In compliance with OP 11 of D.07-12-054 and OP 1 of the January 23, 2008 Assigned Commissioner's Ruling, CD conducted a workshop on February 7, 2008 to discuss a draft template (straw man) for applicants in submitting CASF proposals, and the scoring system to be used in comparing and ranking CASF proposals for funding.
6. CD distributed a preliminary draft workshop report on February 25, 2008 to workshop participants for them to offer input to CD staff as to the accuracy of the workshop report by March 3, 2008. Based on input from parties, CD revised and submitted the final workshop report to the Assigned Commissioner on March 7, 2008. An ACR Releasing the Final Workshop Report on the CASF was issued and served to parties in the R.06-06-028 proceeding on March 13, 2008.
7. In OP 12 of D.07-12-054, the Commission ruled that the final criteria and project proposal template to be used to evaluate and award CASF funds will be approved by the Commission in a resolution.
8. The comments of parties both during the workshop and in post-workshop comments submissions have been reviewed.
9. There is merit in some of the comments filed, including: the inclusion of a low-income area criterion in the scoring criteria, the reallocation of weights among the scoring criterion, the addition of the phrase "to the best of my knowledge" in the Affidavit, and refinement of the timelines for submission of CASF applications.
10. Clarifications on some issues raised by participants such as the 3 MBPS download and 1 MBPS upload speed requirement, application information available to the public, determination of the number of subscribers, and submission of performance bond have been made in this resolution.
11. Participants also pointed out an error in the hypothetical scoring criteria worksheet distributed to the participants after the workshop. CD has made the correction.
12. Compliance with the California Environmental Quality Act (CEQA) has been included as an additional submission requirement for CASF funding requests.
13. The application information packet, including the Application Requirements and Guidelines (Appendix A), Application Checklist (Appendix B), Affidavit (Appendix C), and the hypothetical scoring criteria worksheet (Appendix D) have been modified from the Workshop Report, to reflect the changes and clarifications needed.

14. In compliance with PU Code § 311 (g), on April 29, 2008, a notice of availability was e-mailed to the parties of record in R.06-06-028 informing these parties that this draft resolution is available at the Commission's website <http://www.cpuc.ca.gov/puc/> and is available for public comments. In addition, the Communications Division (CD) informed these parties of the availability of the conformed resolution at the same website.
15. Opening comments on the draft resolution were filed by AT&T, Verizon, Comcast, COX, DRA, TURN, LIF and Sierra Economic Development Corporation (SEDCorp) on May 14, 2008. Reply comments were filed on May 19, 2008 by AT&T, Verizon, DRA, TURN, and COX.
16. The Commission reviewed the comments filed and finds the following comments reasonable and revised this resolution and the affected Appendices accordingly:
 - use of average advertised speed
 - correction of the discrepancy in the use of "other recurring rates" and "other non-recurring charges"
 - treatment of the submission of Form 477 as confidential and filed under G.O. 66-C
 - use of median household income for the Low Income Criterion;
 - submission of the Proponent's Environmental Assessment prior to presentation of the first 25% invoice
 - identification of project funding sources based on total project cost
 - revision of the timeline to (1) include a period to receive challenges to applicants' contention that a proposed area is unserved or underserved, (2) provide more time for the submission of counter proposals, and (3) to synchronize the timeline with that in D.07-12-054 as much as possible
 - substitution of pricing "terms and conditions" with requirements that customers must meet to receive broadband service such as purchase or leasing of equipment, installation, etc.,
 - deletion of per capita income in Appendix A-3, and
 - reflecting TURN as an advocate for low-income customers.
17. The Commission rejects comments on increasing weight allocation to price, low income, and guaranteed pricing period criteria as doing this would dilute the importance of other scoring criteria.
18. The Commission finds SEDCorp's proposal premature and outside the scope of this resolution. The Commission may consider the expansion of CASF eligibility to "entities other than telephone corporations" in the future.

THEREFORE, IT IS ORDERED that:

1. As set forth in Appendices A through C of this resolution, the application requirements and guidelines for the submission of applications, as well as criteria for the scoring formulas, selection processes, and funding provisions that the Commission will apply in reviewing CASF proposals, are adopted.
2. Applicants proposing broadband projects for funding by CASF shall conform to the CASF requirements and guidelines, as discussed and adopted in this resolution, in submitting their proposals to the Commission.
3. Applicants submitting applications shall adhere to the timelines for submission of their proposals. These timelines are identified in Section V of Appendix A in this resolution.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 12, 2008. The following Commissioners approved it:

/s/ Paul Clanon

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX A

Application Requirements and Guidelines

I. Background

The California Advanced Services Fund (CASF), a two year program established by the Commission on December 20, 2007, under D.07-12-054, provides matching funding for the deployment of broadband infrastructure in unserved and underserved areas of California to qualifying applicants. The funding will be used for projects that will first provide broadband services to areas currently without broadband access or with access only to dial-up service or satellite; and then second, build out facilities in underserved areas if funds are still available. Applications for CASF funding will be considered beginning July 24, 2008.³⁰

\$100 million in funding is available for qualifying projects over a two year period.

II. Definitions

An “unserved” area is an area that is not served by any form of facilities-based broadband, such that Internet connectivity is available only through dial-up service or satellite.

An “underserved” area is an area where broadband is available, but no facilities-based provider offers service at speeds of at least 3 MBPS download and 1 MBPS upload.

III. Who May Apply

CASF funding is limited to entities with a Certificate of Public Convenience and Necessity (CPCN) that qualify as a “telephone corporation” as defined under Public Utilities Code §234 or wireless carriers who are registered with the Commission. Wireless carriers need not obtain a CPCN to qualify for CASF funding. An entity who has a pending CPCN application to provide service as a “telephone corporation” may submit a request for CASF funding subject to approval of its CPCN. CASF funding is also available to a consortium as long as the lead financial agent for the consortium is an entity holding a CPCN or a wireless carrier registered with the CPUC.

Applicants are also encouraged to offer basic voice service to customers within the service area of the broadband deployment subject to the CASF award. Any such voice service offering must, at a minimum, meet FCC standards for E-911 service and battery back-up supply.³¹ For purposes of the CASF, “basic service” is defined to include any form of voice-grade service including that offered through a wireless or VOIP service.³²

³⁰ This revision supersedes the June 2, 2008 deadline for submission of applications as set forth in D.07-12-054

³¹ D.07-12-054, OP 16, pp. 62-63, mimeo

³² D.07-12-054, COL 13, p. 59, mimeo

IV. Information Required From Applicants

Applicants are required to submit the following information to the Commission for each proposed broadband project (each "broadband project" is defined as deployment encompassing a single contiguous group of Census Block Groups (CBGs)).

Each item will be listed and submitted as a document, unless otherwise specified, and in some cases also as data entered directly.

1. CPCN / U-Number / CPUC Registration Proof:

(As a single document)

- Applicant's U-Number and/or
Proof of applicant's Certificate of Public Convenience and Necessity (CPCN)
- In the absence of a CPCN -
Proof of CPCN application pending approval, or
CPCN application number.
- Wireless Carriers -
CPUC Registration Number

2. CASF Key Contact Information:

- First Name
- Last Name
- Address Line1
- Address Line2
- City
- State
- ZIP
- Email
- Phone

3. Key Company Officers (list up to 5):

- Position Title
- First Name
- Last Name
- Email
- Phone Number

4. Current Broadband Infrastructure Description:

- Description of the provider’s current broadband infrastructure and/or telephone service area within 5 miles of the proposed project, if applicable.

5. Current Broadband Infrastructure Shapefile:

- Shapefile (.shp) ³³ of current service area. ³⁴

6. Proposed Broadband Project Description:

- Description of proposed broadband project plan for which CASF funding is being requested, including:
- Project size (in square miles)
- Download speed capabilities of proposed facilities
- Upload speed capabilities of proposed facilities

The proposed broadband description should include a description of the type of technology to be provided in the proposed service areas.

The Commission established benchmark speed standards of 3 MBPS download and 1 MBPS upload. Applicants may propose lower speeds; speed will be a criteria considered in evaluating the applications with higher speeds being preferable.

7. Proposed Broadband Project Location:

- Geographic locations by CBG(s) where broadband facilities will be deployed:
- List of CBG(s),
- Median household income for each CBG that intersects the proposed project, to be based on most current Census data available, and
- List of ZIP Code(s) that intersect the proposed project.

8. Proposed Broadband Project Location Shapefile:

- Shapefile (.shp) showing boundaries of the specific area to be served by the project.

9. Assertion of Unserved or Underserved Area:

- An explanation of the basis for asserting (i.e. reference to the California Broadband Task Force Report or other published reports) that, to the best of the applicant’s knowledge, the area is unserved or underserved.
This includes figures, in MBPS, of the current:

- (a) average download speed by CBG(s);
- (b) average download speed by ZIP Code(s);

³³ This file format is compatible with ArcGIS software used by the Commission.

³⁴ Pursuant to D.07-12-054: All information other than the location of the proposed project shall be kept confidential.

- (c) average upload speed by CBG(s); and
- (d) average upload speed by ZIP Code(s).

10. Estimated Potential Subscriber Size:

- Estimated number of potential broadband households (i.e. total occupied housing units) in proposed project location.
- Estimated number of potential broadband subscribers (i.e. total population) in proposed project location.
- Documentation of all assumptions and data sources used to compile estimates.

11. Deployment Schedule:

- Delineated schedule for deployment with commitment to complete build out within 24 months of the approval of the application. The schedule shall identify major prerequisite(s), construction, and any other milestones that can be verified by Commission staff. Milestones will be listed using the following format:
 - Milestone Start and Ending Date
 - Milestone Description
 - Milestone Comments
 - Milestone Risks
- In the event that you are unable to complete the proposed project within the 24-month timeframe, you must notify the CPUC as soon as you become aware of this prospect. Payment may be reduced for failure to satisfy this requirement.

12. Proposed Project Budget:

- Proposed budget for the project including:
 - a detailed breakdown of cost elements;
 - amount of cost elements;
 - availability of matching funds to be supplied by applicant;
 - amount of available funds from each individual funding source; and
 - the amount of CASF funds requested.

Note: At least 60% matching funds must be supplied by applicant.

13. Performance Bond Documentation:

- A copy of the executed bond, equal to the total amount payable under the CASF award, should be addressed to the Executive Director and to the Director of the Communications Division within five business days after effective date of the project award. An applicant that certifies that the 60% of the total project costs they are providing comes from their capital budget and

is *not* obtained from outside financing sources is not required to post a performance bond.

14. Proposed Pricing:

Proposed (initial year) monthly subscription fee for applicant's proposed broadband service(s). The monthly subscription fee should be the sum of all recurring rates and non-recurring charges the customer must pay to receive service during the initial year of service, expressed as a monthly average. All services upon which the monthly subscription fee is based should be clearly itemized. The monthly subscription fee should not include discounts or any other promotional offerings. The monthly subscription fee should represent the maximum amount that customers will pay, on average, for the duration that this price is committed (according to Item 15).

Also indicate, if any: service restrictions; option to bundle with other services; commitments; any requirements that customers must meet, or equipment that they must purchase or lease, in order to receive the service.

For each type and/or bundle of services that you propose to offer (or for each monthly subscription fee, if you propose to commit to more than one), provide the following:

- Proposed (initial year) monthly subscription fee for applicant's proposed broadband service(s).
- Initial service connection charges, if any;
- Other recurring rates;
- Other non-recurring charges;
- All services and equipment upon which the monthly subscription fee is based;
- Service restrictions; option to bundle with other services;
- Any commitments and/or requirements that customers must meet, or equipment they must purchase or lease, in order to receive service.

15. Price Commitment Period:

- The required Period of Commitment to which the initial price (listed in Item 14) is applicable for all households within the service area of the project. Minimum price guarantee period for each customer is one year;
- If you propose to require customer commitments to more than one monthly subscription fee (i.e., one amount for six months and a different amount for the next six months), list the duration and amount of each price guarantee separately (Note: you must make a separate showing for each amount in Item 14).

16. Financials - Financial Qualifications to Meet Commitments:

- Company Balance sheet as of latest available date

- Income statement covering the close of last year for which an annual report has been filed with the Commission up to the date of the balance sheet attached to the application (i.e. first bullet above).

17. If Providing Voice Service:

- Availability of voice service that meets FCC standards for E-911 service and battery back-up;
- Listing of types of voice services offered;
- Timeframe of voice offering(s).

18. CEQA Compliance:

- Agreement to provide, prior to the first 25% payment, Proponent's Environmental Assessment (PEA). The PEA submission should include information on any land crossing sites requiring discretionary or mandatory permits or environmental review pursuant to CEQA (include the type of permit required, the name of the permitting agency/agencies and the Lead Agency if an environmental review is required). Also agree to identify, prior to the first 25% payment, any other special permits required with a cross reference to the government agencies from which the permits will be required for the project.

19. Affidavit of Application's Accuracy

Applicants are required to submit an affidavit, under penalty of perjury, that to the best of their knowledge all the statements and representations made in the application information submitted is true and correct (Appendix C).³⁵

Applicants are encouraged to reference the Final Report of the California Broadband Task Force, January 2008, which is available at www.calink.ca.gov/taskforcereport/.

V. Submission and Timelines

Completed applications should be filed electronically at <http://www.cpuc.ca.gov/puc/> and a copy mailed separately to the Communications Division, Attn: California Advanced Services Fund. Since applications are not filed with the Commission's Docket Office, they will not be assigned proceeding number(s). The timeline for application submission and evaluation is as follows:

³⁵ Rule 1.1 of the Commission's Rule of Practice and Procedure.

<u>TIMELINE FOR SUBMISSION AND EVALUATION</u>		
From	To	Description
I. For Unserved Areas		
7/24/2008		Initial deadline to submit funding requests for unserved areas
7/31/2008		Areas applied for, by CBG's and shapefile, will be posted on the Commission's CASF website
8/14/2008		Deadline for submitting letter challenges and letters of intent to submit a counter proposal in areas where applications have been received (refer to website posting)
8/15/2008	9/3/2008 (28 business days from receipt of application)	Evaluation of proposals <i>without</i> challenges and <i>without</i> counter proposals
9/5/2008 (30 business days from receipt of application)		CD responds to funding requests <i>without</i> challenges and <i>without</i> counter proposals (through letter to applicant informing the applicant that application has been evaluated and that the project qualifies for CASF funding; however, Final Approval will be by Commission resolution)
9/26/2008		Deadline for submitting counter proposals in areas where applications have been received (refer to website posting)
9/29/2008	11/6/2008 (28 business days from receipt of counter proposal application)	Evaluation of proposals <i>with</i> counter proposals
11/10/2008 (30 business days from receipt of counter proposal application)		CD responds to funding requests received <i>with</i> counter proposal (through letter to applicant informing the applicant that application has been evaluated and that the project qualifies for CASF funding; however, Final Approval will be by Commission resolution)
11/21/2008		Resolution(s) adopted by Commission approving funding application(s) <i>without</i> counter proposals
1/22/2009 (Tentative date; final date to be determined upon release of 2009 Commission Meeting schedule)		Resolution(s) adopted by Commission approving funding application(s) <i>with</i> counter proposals

<u>TIMELINE FOR SUBMISSION AND EVALUATION</u>		
From	To	Description
II. For Underserved Areas		
8/25/2008		Initial deadline to submit funding requests for underserved areas
9/2/2008		Areas applied for, by CBG's and shapefile, will be posted on the Commission's CASF website
9/16/2008		Deadline for submitting letter challenges and letters of intent to submit a counter proposal in areas where applications have been received (refer to website posting)
9/17/2008	10/3/2008 (28 business days from receipt of application)	Evaluation of proposals <i>without</i> challenges and <i>without</i> counter proposals
10/7/2008 (30 business days from receipt of application)		CD responds to funding request <i>without</i> challenges and <i>without</i> counter proposals (through letter to applicant informing the applicant that application has been evaluated and that the project qualifies for CASF funding; however, Final Approval will be by Commission resolution)
10/29/2008		Deadline for submitting counter proposals in areas where applications have been received (refer to website posting)
10/30/2008	12/11/2008 (28 business days from receipt of counter proposal application)	Evaluation of proposals <i>with</i> counter proposals
12/15/2008 (30 business days from receipt of counter proposal application)		CD responds to funding request <i>with</i> a counter proposal (through letter to applicant informing the applicant that application has been evaluated and that the project qualifies for CASF funding; however, Final Approval will be by Commission resolution)
2/19/2009 (Tentative date; final date to be determined upon release of 2009 Commission Meeting schedule)		Resolution(s) adopted by Commission approving funding application(s) <i>without</i> counter proposals
3/5/2009 (Tentative date; final date to be determined upon release of 2009 Commission Meeting schedule)		Resolution(s) adopted by Commission approving funding application(s) <i>with</i> counter proposals

CASF funding requests submitted after July 24, 2008, will be accepted but will be reviewed under a lower priority. Funding requests received between July 25, 2008 and August 25, 2008 will be treated as submitted at the same time. If necessary, a subsequent filing period between August 26, 2008 and October 2, 2008 will occur and all applications received in that period will be considered submitted at the same time. Subsequent filing periods, not to exceed three months, may be created by CD if applications do not exceed the available funds. After considering all of the unserved applications received by the initial deadlines, through October 2, 2008, and if funds are still available, underserved area applications will be considered. These proposals will be reviewed and funded subject to the availability of remaining CASF funds.

VI. Proposal Checklist

The CASF Application Checklist Form (Appendix B) must be completed and attached to *each* project proposal.

VII. Scoring Criteria

This section describes the method by which applicants will be objectively evaluated on how well they meet the goals of the CASF program outlined in D.07-12-054. Judgment will be rendered in the form of a numerical score. Once applicants are assigned a score, they will be ranked in order from highest to lowest, with CASF money being allocated following this order until the entire fund has been allocated.

An evaluation team comprised of Commission staff will assess applications in each of the following areas: (i) Funds Requested per Potential Customer, (ii) Speed, (iii) Service Area, (iv) Timeliness of Completion of Project, (v) Pricing, (vi) Guaranteed Pricing Period, and (vii) Low-Income Areas by applying the corresponding formula and assigning weights. Points will be awarded based on consensus of the evaluation team.

The following table summarizes the adopted scoring criteria and weights:

Scoring Criteria	
<u>Criterion</u>	<u>Weight (Points)</u>
i) Funds Requested per Potential Customers	40
ii) Speed	20
iii) Service Area	15
iv) Timeliness of Completion of Project	5
v) Pricing	10
vi) Guaranteed Pricing Period	5
vii) Low-Income Areas	5
TOTAL:	<hr style="width: 100%; border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> 100

Applicants will be scored based on seven criteria with each criterion scored relative to the best offer (highest amount or lowest, where applicable (Max/Min). Relative scoring measures an applicant’s performance by how well they do compared to all other applications. The application that does the “best” for each criterion is awarded more points and sets the standard for comparison with all other applications. Using points in the scoring formulas sets a limit on the effect each criterion will have on the total score and ensures that the optimum mix of CASF features sought by the Commission is made available by applicants.

Each criterion has a formula associated with it that determines its value and is scored accordingly. Applicants’ data as reflected in their submission is entered in the formula for each criterion to generate the points for each criterion. Corresponding points for each of the criterion will be added together to determine each application’s total score.

Example:

Among three applicants, each proposes to serve 100, 75, and 50 square miles respectively. The highest value is 100, therefore, each applicant will be scored relative to that. Thus, the first applicant’s score for this factor would be $(100/100)*15 = 15$; the second applicant’s would be $(75/100)*15 = 11.25$; and, the third applicant’s would be $(50/100)* 15 = 7.5$.

i) Funds Requested per Potential Customers

This will be determined based on the number of customers the applicant will be able to serve divided by the funding amount asked for from the CASF should their proposal be accepted. Points will be determined based on the following formula:

$$\text{Min}(a) / a_i * 40$$

Where “a” is the funding amount (\$) requested from the CASF divided by the number (#) of potential customers for the specific project being scored and Min(a) is the lowest funding amount (\$) requested from the CASF divided by the number (#) of potential customers among all the eligible projects submitted.

$$a = \text{Funds Requested} / \text{Potential Customers}$$

Customers is defined as households and defined in California Public Utilities Code, §5890(j)(3). Data on households can be obtained from the U.S. Census Bureau.

ii) Speed

This criterion represents the difference between the current average advertised speed per customer available and the average advertised speed per customer available after the proposal is complete in the proposed areas. Applicants are encouraged to offer a minimum of 3 MBPS download and 1MBPS upload. Points will be determined based on the following formula:

$$b_i / \text{Max}(b) * 20$$

Where “b” is the sum of the square roots of the differences in upload and download speeds (MB) between pre- and post-project for the specific project being scored and Max(b) is the highest sum of the square roots of the differences in upload and download speeds among all the eligible projects submitted.

$$b = \sqrt{\sum_{p=1}^n \frac{NSUp - OSUp}{n}} + \sqrt{\sum_{p=1}^n \frac{NSDp - OSDp}{n}}$$

The square root of the average advertised speed increase is used to express the diminishing return to value associated with increasing speed. This encourages speed increases that are more noticeable and therefore valuable to the customer, but still rewards those who offer speeds far above the preferred 3 MBPS download and 1 MBPS upload.

Where:

NSU = New Speed Upload

Average advertised upload speed (MB) per customer post-proposal in the proposed areas.

OSU = Old Speed Upload

Average advertised upload speed (MB) per customer pre-proposal in the proposed areas.

NSD = New Speed Download

Average advertised download speed (MB) per customer post-proposal in the proposed areas.

OSD = Old Speed Download

Average advertised download speed (MB) per customer pre-proposal in the proposed areas.

iii) Service Area

Service area is the applicant's proposed area coverage including a list of CBGs and ZIP Codes, the total square miles, and any other appropriate geographical information. Points will be determined based on the following formula:

$$c_i / \text{Max}(c) * 15$$

Where "c" is the amount of area (Sq. Mi.) for the specific project being scored and Max(c) is the highest amount of area among all the eligible projects submitted.

iv) Timeliness of Completion of Project

This criterion measures the number of months the applicant will complete its proposal ahead of the 24 month cut-off date. Points will be determined based on the following formula:

$$d_i / \text{Max}(d) * 5$$

Where "d" is the number of months (Mo.) ahead of schedule for the specific project being scored and Max(d) is the highest number of months ahead of schedule among all the eligible projects submitted.

$$d = 24 - TT$$

where:

TT = Total Time (Mo.) to complete

The total amount of time the proposal will take to complete. Total Time may not exceed 24-months.

v) Pricing

This factor measures the price applicants will charge, on average, per Megabit. Points will be determined based on the following formula:

$$\text{Min}(e) / e_i * 10$$

Where “e” is the price (\$/MB) of service for the specific project being scored and Min(e) is the lowest price of service among all the eligible projects submitted.

vi) Guaranteed Pricing Period

This measures the amount of time the applicant can guarantee the price of service beyond the mandatory year. Note: applicants must guarantee the initial price of their services in the proposed areas for at least one year. Points will be determined based on the following formula:

$$f_i / \text{Max}(f) * 5$$

Where “f” is the length (Mo.) of price guarantee for the specific project being scored and Max(f) is the highest length (Mo.) of price guarantee among all the eligible projects submitted.

$$f = \text{Months Guaranteed} - 12$$

vii) Low Income Areas

This will be determined based on the median household income of the potential customers in the applicant’s proposed area. Points will be determined based on the following formula:

$$\text{Min}(g) / g_i * 5$$

Where “g” is the median household income (\$) of the potential customers for the specific project being scored and Min(g) is the lowest median household income (\$) of the potential customers among all the eligible projects submitted.

* Data on population and median household income per CBG can be obtained from the U.S. Census Bureau.

VIII. Selection

Projects that receive the highest number of points based on the scoring criteria described above will be granted CASF funding. Individual awards for CASF funding will be authorized by the Commission in a separate Commission resolution.

IX. Payment

Payment to the CASF recipient will be on a progress billing basis with the first 25% to be made upon the proponent's submission to the Commission staff of a progress report showing that 25% of the total project has been completed. Subsequent payments shall be made on 25% increments showing completion at 50%, 75%, and 100%. A project completion report will be required before full payment. Progress reports shall use both the schedule for deployment; major construction milestones and costs submitted in the proposals and indicate the actual date of completion of each task/milestone as well as problems/issues encountered, and the actions taken to resolve these issues/problems during project implementation and construction. Recipients shall also include test results on the download speed and upload speed on a per CBG and per ZIP Code basis in the final completion report. The progress report will be submitted and certified under penalty of perjury.

CASF recipients shall notify the Commission as soon as they become aware that they may not be able to meet the 24-month timeline. Payment will be reduced if applicants are unable to meet the 24-month timeline, and if they fail to notify the Commission of any delays in project construction or implementation.

Payment will be based upon receipt and approval of invoices/other supporting documents showing the expenditures incurred for the project in accordance with the CASF funding submitted by the CASF recipient in their application.

Payment will be made in accordance with, and within the time specified in, California Government Code commencing with Section 927.

The Commission has the right to conduct any necessary audit, verification, and discovery during project implementation/construction to ensure that CASF funds are spent in accordance with Commission approval.

The recipient's invoices will be subject to a financial audit by the Commission at any time within three (3) years of completion of the work.

X. Execution and Performance

Project start date shall be determined by the Commission and the CASF recipient after all approvals have been obtained. Should the recipient or Contractor fail to commence work at the agreed upon time, the Commission, upon five (5) days written notice to the CASF recipient, reserves the right to terminate the award.

In the event that the CASF recipient fails to complete the project, in accordance with the terms of approval granted by the Commission, the CASF recipient will be required to reimburse some or all of the CASF funds that it has received.

All performance under the award shall be completed on or before the termination date of the award.

APPENDIX B

CASF APPLICATION CHECKLIST
(Required for EACH proposed project)

To assist the Commission in verifying the completeness of your proposal, mark the box to the left of each item submitted.

<input type="checkbox"/>	1. CPCN / U-Number / CPUC Registration Proof (ONE of the following is required)
<input type="checkbox"/>	Applicant's U-Number and/or Proof of applicant's Certificate of Public Convenience and Necessity (CPCN)
<input type="checkbox"/>	Proof of CPCN application pending approval, or CPCN Application Number (in the absence of a CPCN)
<input type="checkbox"/>	CPUC Registration Number (wireless carriers)
<input type="checkbox"/>	2. CASF Key Contact Information
<input type="checkbox"/>	First Name
<input type="checkbox"/>	Last Name
<input type="checkbox"/>	Address Line1
<input type="checkbox"/>	Address Line2
<input type="checkbox"/>	City
<input type="checkbox"/>	State
<input type="checkbox"/>	ZIP Code
<input type="checkbox"/>	Email
<input type="checkbox"/>	Phone
<input type="checkbox"/>	3. Key Company Officers (list up to 5)
<input type="checkbox"/>	Position title
<input type="checkbox"/>	First Name
<input type="checkbox"/>	Last Name
<input type="checkbox"/>	Email
<input type="checkbox"/>	Phone Number
<input type="checkbox"/>	4. Current Broadband Infrastructure Description
<input type="checkbox"/>	Description of the provider's current broadband infrastructure and/or telephone service area within 5 miles of the proposed project
<input type="checkbox"/>	5. Current Broadband Infrastructure
<input type="checkbox"/>	Shapefile (.shp) of current service area
<input type="checkbox"/>	List showing number of households per CBG and per ZIP Code.
<input type="checkbox"/>	6. Proposed Broadband Project Description
<input type="checkbox"/>	Description of proposed broadband project plan for which CASF funding is being requested, including the type of technology to be employed to provide broadband
<input type="checkbox"/>	Project size (in square miles)
<input type="checkbox"/>	Average advertised upload speed per CBG

	Average advertised download speed per CBG
	Average advertised upload speed per ZIP Code
	Average advertised download speed per ZIP Code
	7. Proposed Broadband Project Location
	Geographic locations by CBG(s) where broadband facilities will be deployed
	List of CBG(s) that intersect the proposed project
	Median income for each CBG that intersects the proposed project, to be based on most current U.S. Census Bureau data available
	List of ZIP Code(s) that intersect the proposed project
	8. Proposed Broadband Project Location Shapefile
	Shapefile (.shp) showing boundaries of the specific area to be served by the project
	9. Assertion that area being proposed is Unserved or Underserved Area. This includes figures, in MBPS, of the current:
	(a) average upload speed by CBG
	(b) average download speed by CBG
	(c) average upload speed by ZIP Code
	(c) average download speed by ZIP Code
	10. Estimated Potential Subscriber Size for Each CBG and ZIP Code
	Estimated number of potential broadband households and subscribers in proposed project location by CBG
	Estimated number of potential broadband households and subscribers in proposed project location by ZIP Code
	Documentation of assumptions and data sources used to compile estimates
	11. Deployment Schedule (include major prerequisite, construction, and other verifiable milestone(s))
	Milestone Start and Ending Date
	Milestone Description
	Milestone Comments
	Milestone Risks
	12. Proposed Project Budget
	Detailed breakdown of cost elements;
	Amount of cost elements;
	Availability of matching funds to be supplied by applicant;
	Amount of available funds from each individual funding source; and
	Amount of CASF funds requested
	13. Agreement to Post Performance Bond if Awarded CASF Funds (if matching funds are <u>not</u> from applicant's capital budget)
	If matching funds are from applicant's capital budget, applicant must provide certification indicating this funding source (as opposed to outside funding sources).

- | | |
|--------------------------|---|
| <input type="checkbox"/> | 14. Proposed Pricing |
| <input type="checkbox"/> | Proposed (initial year) monthly subscription fee for applicant's proposed broadband service(s). |
| <input type="checkbox"/> | List of all services (e.g., initial service connection charges, other recurring rates and non-recurring charges) upon which monthly subscription fee(s) is/are based |
| <input type="checkbox"/> | Service restrictions; option to bundle with other services (if any) |
| <input type="checkbox"/> | Commitments, requirements that customers must meet, and/or equipment that they must purchase or lease, in order to receive the proposed service(s) (if any) |
| <input type="checkbox"/> | 15. Price Commitment Period to Offer Broadband Service to All Households at Proposed Subscription Rate(s) |
| <input type="checkbox"/> | 16. Financials |
| <input type="checkbox"/> | Company Balance sheet as of latest available date |
| <input type="checkbox"/> | Income statement (covering the close of last year for which an annual report has been filed with the Commission up to the date of the balance sheet attached to the application) |
| <input type="checkbox"/> | 17. If Providing Voice Service |
| <input type="checkbox"/> | Availability of voice service that meets FCC standards for E-911 service and battery back-up, including: |
| <input type="checkbox"/> | Listing of types of voice services offered |
| <input type="checkbox"/> | Timeframe of voice service offering(s) |
| <input type="checkbox"/> | 18. CEQA Compliance |
| <input type="checkbox"/> | Agreement to provide, prior to the first 25% payment, Proponent's Environmental Assessment (PEA) |
| <input type="checkbox"/> | Agreement to provide, prior to the first 25% payment, identification of any other special permits required with a cross reference to the government agencies from which the permits will be required for the project. |
| <input type="checkbox"/> | 19. Notarized Affidavit (see Appendix C) |

Applications will be considered beginning: July 24, 2008
Submit completed applications online at <http://www.cpuc.ca.gov/puc/>
with a hard copy mailed separately to:

Communications Division
Attn: California Advanced Services Fund
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102

APPENDIX C

AFFIDAVIT

Name of Carrier/Company _____

Utility Identification Number _____ or _____ check here if Application for CPCN is pending and the CPUC assigned application no., if available.

My name is _____. I am _____(Title) of _____ (Company). My personal knowledge of the facts stated herein has been derived from my employment with _____ (Company)

I swear or affirm that I have personal knowledge of the facts stated in this Application for the California Advanced Services Fund, I am competent to testify to them, and I have the authority to make this Application on behalf of and to bind the Company.

I further swear or affirm that _____ [Name of Carrier/Company] agrees to comply with all federal and state statutes, rules, and regulations, covering broadband services and state contractual rules and regulations, if granted funding from the California Advanced Services Fund.

I swear or affirm, under penalty of perjury, and under Rule 1.1 of the California Public Utilities Commission's Rules of Practice and Procedure, that, to the best of my knowledge, all of the statements and representations made in this Application are true and correct.

Signature and title

Type or print name and title

SUBSCRIBED AND SWORN to before me on the ____ day of ____, 20__.

Notary Public In and For the State of _____

My Commission expires: _____

APPENDIX D

CASF Scoring - Scenario Analysis for 7 Hypothetical Proposed Projects -- For Illustrative Purposes Only

Raw Values

	Applicant A	Applicant B	Applicant C	Applicant D	Applicant E	Applicant F	Applicant G
No. of Potential Customers	200	25	30	45	10	100	75
Funds requested (\$)	100,000	50,000	50,000	60,000	20,000	50,000	45,000
a Funds requested per potential customer (\$)	<i>500</i>	<i>2000</i>	<i>1667</i>	<i>1333</i>	<i>2000</i>	<i>500</i>	<i>600</i>
Current average download speed	4.500	8.200	3.500	1.000	3.100	3.100	5.300
Proposed average download speed	5.484	12.484	10	1.032	4.8	5.226	12.226
square root of difference_download	0.375	0.782	0.964	0.068	0.493	0.551	0.995
Current average upload speed	0.500	1.000	0.400	0.500	0.500	0.500	3.000
Proposed average upload speed	0.984	4.284	6.500	1.000	1.700	2.126	6.926
Square root of difference_upload	0.263	0.685	0.934	0.267	0.414	0.482	0.749
b Speed (MBPS)	<i>0.638</i>	<i>1.467</i>	<i>1.897</i>	<i>0.335</i>	<i>0.907</i>	<i>1.033</i>	<i>1.744</i>
c Service Area (square miles)	<i>100</i>	<i>75</i>	<i>50</i>	<i>500</i>	<i>175</i>	<i>750</i>	<i>750</i>
Total time to complete	24	23	18	19	20	20	19
d Timeliness of Completion of Project (mo.)	<i>0</i>	<i>1</i>	<i>6</i>	<i>5</i>	<i>4</i>	<i>4</i>	<i>5</i>
e Pricing (\$ / MBPS)	<i>5</i>	<i>10</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>10</i>	<i>5</i>
Total months guaranteed	60	24	12	36	48	24	60
f Guaranteed Pricing Period (mo.)	<i>48</i>	<i>12</i>	<i>0</i>	<i>24</i>	<i>36</i>	<i>12</i>	<i>48</i>
g Low-Income Areas (median household income - median of all CBGs)	<i>20,000</i>	<i>30,000</i>	<i>40,000</i>	<i>20,000</i>	<i>25,000</i>	<i>50,000</i>	<i>30,000</i>

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Weighted Scores										
	Maximum Weight	Applicant A	Applicant B	Applicant C	Applicant D	Applicant E	Applicant F	Applicant G		
a	Funds Requested per Potential Customer	40	40	10	12	15	10	40	33	
		highest					highest			
b	Speed	20	7	15	20	4	10	11	18	
		highest								
c	Service Area	15	2	2	1	10	4	15	15	
							highest		highest	
d	Timeliness of Completion of Project	5	0	1	5	4	3	3	4	
		highest								
e	Pricing	10	10	5	10	8	7	5	10	
		highest		highest					highest	
f	Guaranteed Pricing Period	5	5	1	0	3	4	1	5	
		highest							highest	
g	Low-Income Areas	5	5	3.3333333	3	2.5	5	4	2	3.3333333
		highest		highest						highest
Total scores			68.7	37.4	50.5	48.5	41.3	77.5	89.2	
									highest	
Winning bid									45,000	
			Applicant A	Applicant B	Applicant C	Applicant D	Applicant E	Applicant F	Applicant G	

APPENDIX B
Resolution T-17233

Date of Issuance: 11/2/09

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T-17233
October 29, 2009**

R E S O L U T I O N

Resolution T- 17233 Approval of the California Advanced Services Fund (CASF) Application Requirements for Broadband Providers / Applicants Other than Holders of Telecommunications Certificate of Public Convenience and Necessity and Registered Wireless Providers

Summary

This Resolution adopts application requirements and guidelines for non-licensed broadband providers applying for California Advanced Services Fund (CASF) grant money in conjunction with an application for American Recovery and Reinvestment Act funding to support broadband infrastructure.

Background

On December 20, 2007, the Commission approved Decision (D.) 07-12-054 which established the two-year CASF program to provide matching funds of up to 40% of the total project costs for the deployment of broadband infrastructure in unserved and underserved areas in California.¹ The total grant money authorized and allocated for broadband infrastructure projects is \$100 million and is funded by a 0.25% surcharge on end-users' telecommunications intrastate bills, effective January 1, 2008. Resolution T-17143, approved on June 12, 2008, adopted the application requirements, scoring criteria for the award of funds, and a prescribed timeline for other filings and notifications including a projected Commission Meeting date for final approval of award(s). This same Resolution directed interested applicants seeking funding for unserved projects to file their project proposals and funding requests beginning July 24, 2008.

D.07-12-054 limited the extension of CASF funding to the following:

¹ SB 1193 (Chapter 393, Stats. of 2008) established the California Advanced Services Fund as a new public purpose program.

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- Entities with CPCNs that qualify as “telephone corporations” as defined in § 234 of the Public Utilities Code;
- Wireless carriers were also allowed to apply for CASF funding but must have been registered with the Commission and have been granted a Wireless Identification Number (WIR);
- Entities who have pending applications for a CPCN; and
- A consortium with a member of the consortium that is a CPCN or a WIR license holder and the CPCN and WIR licensed member serving as the fiscal agent for the consortium (D.07-12-054 at pgs. 33-35, mimeo).

On February 17, 2009, President Obama signed the American Reinvestment and Recovery Act (ARRA) (Pub. Law No. 111-5), a supplemental appropriation from the federal government designed to provide stimulus to the economy by preserving and creating jobs and promoting investments in infrastructure. The ARRA included \$7.2 billion in federal funds for broadband infrastructure and subscribership/adoption programs to be administered by the National Telecommunications and Information Administration (NTIA) for Broadband Technology Opportunities Program (BTOP)² and the Rural Utilities Service (RUS) for the Broadband Initiatives Program (BIP).³ The \$7.2 million allocation for broadband projects is available to all utilities including non-telecommunication companies.⁴ The NTIA and RUS funding is limited to 80% of the total project cost with the applicant providing 20% matching funds.

² \$4.7 billion in funding to stimulate demand and greater use of broadband, job creation and economic growth. This includes:

- \$350 million –Broadband Data Improvement Act – national map of broadband availability
- \$4.3 billion for broadband grants with:
 - ◇ At least \$200 million for expanding computer center capacity, including community colleges;
 - ◇ At least \$250 million for sustainable broadband adoption projects;
 - ◇ \$10 million for audits and oversight of projects (Inspector General); and
 - ◇ \$650 million for digital TV converter box program (90 million goes to education outreach to vulnerable communities)

³ \$2.5 billion for distance learning, telemedicine and broadband funding

⁴ Federal Register, Volume 74, No. 130, Department of Commerce, Rural Utilities Service (RUS) and National Telecommunications and Information Administration (NTIA) Broadband Initiatives Program; Broadband Technology Opportunities Program, Notice of Funding Availability, Section V, provides: “**Eligibility Information for BIP and BTOP** A. *In General* Applicants must satisfy the following eligibility requirements to qualify for funding. B. *Eligible Entities* 1. Applicant Organization. The following entities are eligible to apply for assistance: a. States, local governments, or any agency, subdivision, instrumentality, or political subdivision thereof; b. The District of Columbia; c. A territory or possession of the United States; d. An Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)); e. A native Hawaiian organization; f. A non-profit foundation, a nonprofit corporation, a non-profit institution, or a non-profit association; g. Other non-profit entities; h. For-profit corporations; i. Limited liability companies; and j. Cooperative or mutual organizations.”

On July 9, 2009, the Commission issued D.09-07-020 (Decision) approving a new CASF schedule and plan for an additional round of broadband projects that would complement broadband grants awarded under ARRA. The Decision set July 17 through August 14, 2009 as the filing dates for the submission of both unserved and underserved applications.⁵ While retaining the CASF 40% matching grant process, the Decision also modified the CASF grant to 10% matching funds from the applicant provided the remaining 80% of the project costs is funded by ARRA. Noting that ARRA funds are available to entities other than licensed telephone corporations, D.09-07-020, in Conclusion of Law No. 8, provides that if State legislation is passed allowing broadband providers/applicants other than holders of CPCNs and registered wireless providers to participate in the CASF program, the Commission should consider whether, and if so, how to amend its rules.

On July 29, 2009, Governor Schwarzenegger signed AB 1555 (Chapter 24, Statutes of 2009), amending Section 281 of the Public Utilities Code (PU Code) expanding CASF eligibility to any entity eligible for applying for funding pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA). This new law allows an ARRA applicant to be eligible to participate in the CASF program administered by the Commission if that entity satisfies the eligibility requirement for CASF funding.

Since D.09-07-020 was issued, the Commission has received a total of 24 applications seeking for CASF funding, 18 of which are for 10% CASF matching funds. Of these 18 applications, 2 were filed by an applicant whose application for a CPCN is pending and 8 were filed by non-CPCN or non-WIR holders.

As of September 24, 2009, the Commission has approved total CASF funding of \$12.6 million for 28 unserved and underserved applications. The sum of \$11.6 million has been approved for 16 unserved area projects covering 4,284 sq. mi. to benefit 32,284 households while \$1 million has been approved for 12 underserved area projects covering 34 sq. mi. to benefit 659 households.

Discussion

This resolution prescribes guidelines and requirements to non-CPCN or non-WIR holders applying for CASF funding in conjunction with their request for ARRA funding.

In setting up the CASF program originally in D.07-12-054, the Commission in Ordering paragraphs 13, 14 and 15 states:

⁵ Applications submitted by July 17, 2009 that were not challenged were placed on the Commission's agenda by the second meeting in September 2009. Applications submitted between July 18 and August 14, 2009, will receive second priority for approval.

“13. CASF funding shall be limited to entities with a certificate of public convenience and necessity (CPCN) that qualify as a “telephone corporation” as defined under Pub. Util. Code § 234, except that wireless carriers registered with the Commission need not obtain a CPCN to qualify for CASF funding.

14. If an entity has an application pending for approval of a CPCN application to provide service as a “telephone corporation,” the entity may submit a request for a CASF award subject to subsequent approval of the CPCN to provide service as a “telephone corporation.

15. CASF funding may be provided to a consortium as long as the lead financial agent for the consortium is an entity with a CPCN.”

On page 13 of D.09-07-020 (mimeo), the Commission states that

if legislation is enacted to lift the CPCN restriction and extend CASF eligibility to all eligible entities on a technology-neutral basis, we will promptly consider whether, and if so, how to conform our CASF review and selection criteria accordingly. Expanding the range of entities eligible to receive CASF money beyond certificated or registered telecommunications carriers raises issues concerning the fitness and technical capabilities of entities that we do not regulate. Appropriate safeguards must be employed to ensure that any non-certificated entities are financially and technically qualified to carry out their obligations as a condition of being awarded CASF money. We will consider how to ensure appropriate enforcement of the conditions on any grants of CASF money to entities that may not be subject to Commission jurisdiction as a telecommunications carrier. In any event, to address concerns about the potential for waste, fraud, and abuse in the administration of the CASF program, applicants who are not certificated or registered by the Commission should still be required to meet eligibility standards, just as required by certificated applicants, such as providing maps, financial and technical information, etc., as warranted to justify their CASF request. These projects, if approved, would be subject to audits, similar to the requirements that will be enacted by NTIA for the BTOP grants.

To that end, the following additional information and requirements are required from non-licensed (those without a CPCN or a WIR) applicants requesting 10% CASF funding as a supplement to their ARRA applications, to ensure that the Commission applies the same qualifications check and standards applicable to CPCN and WIR holders.

A. Qualifications Background Check

The application requirements currently imposed on CPCN applicants are hereby made applicable to all non-CPCN and non-WIR holders requesting CASF funding, for the reasons set forth below.

The existing CPCN application process requires the applicant to demonstrate its financial, technical and managerial competence by submitting information such as the company's balance sheets proving its liquidity and biographical information on its management team demonstrating sufficient management experience and expertise to operate as a telecommunications provider. The applicant is also required to comply with the California Environmental Quality Act (CEQA). The Commission cannot disburse CASF funds until the CEQA review is complete. CPCN applicants are also required to submit a good standing certificate issued by the Office of the Secretary of State of the State of California dated not more than 60 days prior to the date of filing the application. In addition to the certificate of good standing, CPCN applicants are also required to submit information relative to background considerations on the business, its principal owners, and managers to enable the Commission to conduct a background check.

The Commission has an obligation to oversee not only those it has regulatory authority over but also any over any organization who will benefit from ratepayer monies. Thus, the Commission should impose the same type of diligence and prudence in examining the qualification of anyone who comes before the Commission requesting financial assistance. Thus, the application requirements currently imposed on CPCN applicants should also be made applicable to all non-CPCN or WIR holders requesting for CASF funding. The additional information to be supplied by the non-CPCN or WIR applicant is shown in Appendix A.

In addition to the certificate of good standing to be submitted by the applicant, an applicant should provide the following information to enable the Commission to undertake a background check, as appropriate: whether any individuals associated with or employed by the applicant as an affiliate, director, partner or owner of more than 10% of the company, or any person acting as director or officer of the applicant, whether or not formally appointed, have been associated with any company that:

- filed for bankruptcy;
- was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order;
- was found either criminally or civilly liable by a court of appropriate jurisdiction for a violation of § 17000 et seq. of the California Business and

Professions Code, or for any actions which involved misrepresentations to consumers, or is currently under investigation for similar violations.

Non-licensed applicants shall also comply with Rule 1.1, 1.11 and 2.2 of the Commission's Rules of Practice and Procedure. Thus, Appendix C, of Resolution T-17143, Affidavit, is revised to reflect adherence to these three rules by non-licensed applicants. The revised affidavit is shown as Appendix 2 of this resolution.

Non-licensed applicants who submitted applications for 10% CASF funding to supplement their ARRA application from July 17, 2009 through August 14, 2009 and thereafter, but prior to the approval of this resolution, should submit the supplemental information attached as Appendices 1 and 2 to CASF, 10 business days after the approval of this resolution, to enable Commission staff to complete the evaluation of their applications.

Thereafter, and upon approval of this resolution, any other non-licensed applicant requesting for 10% CASF funding in conjunction with their 80% ARRA request, should submit the information sheet in Appendices 1 and 2 together with the requirements listed in Appendix A of Resolution T-17143.

B. Financial and Performance Audit

Pursuant to AB 1555, the Commission is required to conduct both a financial audit and a performance audit of the implementation and effectiveness of the CASF to ensure that funds have been expended in accordance with the approved terms of the CASF grant. Therefore, as a condition of the grant of funds, all applicants who are non-CPCN and non-WIR holders must agree in writing to allow the Commission to inspect the applicant's accounts, books, papers, and documents related to the application and award of CASF funds.

To ensure compliance by non-licensed applicants, this requirement is made part of the performance bond. Failure on the part of the applicant to allow the Commission to inspect the applicant's accounts, books, papers, and documents related to the application and award of CASF funds makes the performance bond callable.

C. Performance Bond

Under Resolution T-17143, a performance bond is intended to ensure project completion. The performance bond guarantees continued operations or compliance with the approved pricing terms and conditions and pricing commitment period. As recipients of CASF monies under Resolution T-17143 are under the regulatory purview of the Commission, the Commission can exercise any punitive measure authorized under the Commission's rules on any recipient violating the terms of the CASF award, in addition to calling on the

performance bond. The Commission cannot do the same for CASF recipients who are not CPCN or WIR holders. Thus, the performance bond requirement under Appendix A.IV.13, Resolution T-17143 is hereby mandatory for non-CPCN or non-WIR holders and callable in case of non-completion, non-compliance with the terms and conditions of the CASF award, and failure to open its books to the Commission for inspection. Thus, the performance bond documentation in Appendix A.IV.13, page A-4, should be amended to read as follows:

Performance Bond Documentation⁶

A. For CPCN or WIR holders

- A copy of the executed bond, equal to the total amount payable under the CASF award, should be addressed to the Executive Director and to the Director of Communications Division within five business days after the completion of the CEQA review⁶. An applicant who certifies that 60% of the total project costs they are providing comes from their capital budget and is not obtained from outside financing sources is not required to post a performance bond. The performance bond should be callable for failure to complete the CASF funded broadband project.

B. For Non-Licensed Applicants who are also applying for ARRA

- A copy of the executed bond, equal to the total amount payable under the CASF award, should be addressed to the Executive Director and to the Director of Communications Division within five business days after the completion of the CEQA review. The bond should be callable for failure to complete the CASF funded project, non-compliance by the recipient with the terms and conditions of the CASF award, and failure to open its books to the Commission for inspection (see Section B above).

Payments to recipients will not be made until the performance bond requirement is met, if applicable.

Appendix B, CASF Application Checklist, #13, of Resolution T-17143 should be revised as follows:

13. Agreement to Post Performance Bond If awarded CASF Funds

A. If applicant has a CPCN or WIR

If matching funds are not from applicant's capital budget, applicant must provide certification indicating the funding source (as opposed to outside funding sources).

B. If applicant does not have a CPCN or WIR

⁶ This revises Page A-4, Appendix A, IV. 13 of Resolution T-17143.

Performance bond is required to ensure completion of the project, ensure compliance by the recipient with the terms and conditions of the CASF award, and access to the books of the applicant by the Commission.

All other CASF requirements as specified in Resolution T-17143 should apply to the non-licensed applicant.

To ensure that non-licensed applicants meet the additional requirements for CASF as discussed in this resolution and for ease in implementation, Appendix B of Resolution T-17143, the CASF Application Checklist, is revised. The new CASF Application Checklist is shown as Appendix 3 of this resolution. Upon adoption of this resolution, this revised checklist is to be used by both licensed and non-licensed CASF applicants.

Comments on Draft Resolution

In compliance with PU Code § 311(g), a notice letter was emailed on September 29, 2009, informing parties on the service list of R.06-06-028 and Non-Licensed CASF applicants who are also applying for ARRA funding of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and will be available at this same website.

On October 14, the following parties filed opening comments on the draft resolution: City and County of San Francisco (CCSF), The Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN). Reply Comments were filed on October 19 by DRA and TURN.

The comments filed and responses to these comments are discussed below.

A. Background Check Procedures Proposed in the Draft Resolution are Flawed

Parties Comments:

DRA raised a concern that the level of scrutiny proposed in this Draft Resolution is not sufficient and consequently would jeopardize achievement of the goals of both the CASF and ARRA to make broadband available in unserved and underserved areas. DRA raised the following issues:

- The proposed three forms, which are intended to replace a CPCN application that non-certificated applicants are required to complete and submit, are inadequate to ensure that CASF funding recipients have the skills, financial wherewithal and integrity to receive such funding and

provide affordable, high quality service to their customers. DRA found the issuance of the Draft Resolution premature and should be put on hold until the issues the Commission is examining in R.09-07-009 are resolved. At a minimum, the Draft Resolution should either 1) incorporate changes to the foregoing form to reflect comments filed in R.09-07-009, or 2) state in the final Resolution that applicants must use the current NDIEC registration form, so that if the Commission approves an updated form, CASF applicants must use that version.

- Alternatively, DRA recommended that the Commission either revise the NDIEC Registration form and process to correct their inadequacies, as the record of R.09-07-009 demonstrates, or withdraw the Resolution pending action in that proceeding revising the Registration procedures. At a minimum, the Commission should state in this Draft Resolution that any revision to the NDIEC Registration forms and process – as a result of R.09-07-009 – will also be made to the forms used by CASF applicants.

CCSF raised the following points in its opening comments:

- the Commission should eliminate requirements that a governmental agency applicant do all of the following: (i) demonstrate its “financial” competence; (ii) provide certificate of good standing; and (iii) provide certain information with respect to a person who owns 10% of the company. CCSF noted that none of these requirements apply to a governmental agency. With respect to “technical and managerial competence”, the Commission should only require a governmental agency to identify those persons who will manage the project.

In its reply comments, DRA agreed with CCSF that there are "substantial differences between governmental agency applicants and private entity applicants that are not regulated by the Commission. However, certain requirements regarding managerial competence should apply to governmental entities as they do to private applicants. While DRA agreed with CCSF's argument that the Commission should not require the following of governmental entities: (i) demonstrate its “financial” competence; (ii) provide certificate of good standing”; and (iii) provide certain information with respect to a person who is a 10% owner, DRA disagreed that governmental entities should not be required to demonstrate "technical and managerial competence" in order to receive CASF funding. DRA further stated that any recipient of CASF funding – governmental or private – must have the ability to manage the funding properly and for the intended purpose and that such management requires technical and managerial competence.

Resolution T-17233
CD/GVC

Discussion:

The Commission shares DRA's view that there is a risk of fraud and a corresponding need for the Commission to undertake background checks than for NDIECs since CASF applicants potentially can receive millions of dollars in funding. It is for this reason that this Resolution proposes the submission of additional forms by non-certificated applicants to enable the Commission to apply the same degree of diligence and scrutiny to non-certificated applicants as it does to applicants applying for CPCN, WIR, or registration as an NDIEC.

We also acknowledge DRA's observation that the form is a variant of the NDIEC registration form. We believe that the form captures as much information as is necessary at this time to serve the CASF purpose of collecting critical and important information on non-certificated applicants with respect not only to their legal status, financial and managerial competence but to potentially relevant issues such as felony convictions involving embezzlement by any of its officers or sanctions imposed on the applicant or any of its affiliated companies by any state, federal or local government. We are instituting these safeguards before the Commission allows any entity to avail itself of ratepayer funds.

We recognize that the NDIEC process as well as the form is the subject of review in R. 09-07-009. However, we understand that this rulemaking may not be concluded until the early part of next year, at which time the timeline for submission of applications to ARRA/RUS will have lapsed. Likewise, by the time R.09-07-009 is concluded, the CASF may not have any funds left to grant to non-certificated applicants. While as of September 24, 2009, \$12.6 million has been awarded for broadband projects, there are draft resolutions that are scheduled for adoption in the Commission's October 29 and November meetings that would potentially increase this award to a total approaching the \$50-\$60 million range. As stated earlier, there are 8 applications submitted by non-certificated applicants. Two of these 8 applications are scheduled for the November 20, 2009 Commission meeting with the CASF funding award contingent on the applicants' compliance with CASF funding application requirements applicable to non-certificated entities as proposed in this Resolution. The suggestion that we delay instituting any requirements for ARRA applicants until the conclusion of R. 09-07-009 would have the effect of making AB 1555 meaningless. We disagree with those that would have us invalidate the clear intent of the Legislature.

While the Commission agrees that the same level of scrutiny should be different for local or governmental agencies, we find no reason for revising the forms or making a categorical exemption to government agencies. Certainly, there are governmental agencies that are not in a position financially to provide the 10% match required, nor the technical expertise to build, operate and manage the broadband infrastructure. These governmental agencies

would necessarily have to partner with other entities that can provide the expertise that is required for the project. The governmental agency, by itself, may not warrant a background check, but the individuals, experts and financiers, who are affiliated with the applicant governmental agency have to undergo these checks. We, therefore, agree with DRA that "technical and managerial competence" should be demonstrated by any recipient of CASF funding, whether the recipient is a governmental or private entity.

B. Eligibility, Scoring Criteria and Ranking Processes

Parties Comments:

In general, TURN commented that the Draft Resolution:

- failed to address the totality of Eligibility, Scoring Criteria and Ranking Processes issues; TURN opined that the Draft Resolution does not provide any guidance as to how the eligibility, scoring and ranking processes for CASF and ARRA will be reconciled contrary to the stated intention of the Commission in D.09-07-020. Likewise, TURN raised questions such as: as far as the NTIA scoring criteria is concerned, what factors go into determining whether an application receives 25 out of a possible 25 points, or 15 out of a possible 25 points? Will a CASF formula be used to make such decisions? If so, has this process been reviewed and approved by the National Telecommunications and Information Administration (NTIA) and the Rural Utilities Service (RUS)?

In reply comments, DRA:

- agreed with TURN that the Commission should revise the Draft Resolution to reconcile the CASF and ARRA proposal scoring criteria; contrary to the Commission's statement in D.09-07-020 that it would revise the criteria, the Commission has not done so;
- reiterated earlier comments that the scoring process must contain much more specific and detailed information in order to effectuate a successful CASF program. The scoring criteria should be explicit, clear, and consistently applied to all applications. The Commission should also explain how it applies the scoring criteria in practice;
- contended that competition for CASF projects/areas has not materialized;
- opined that CASF funds are granted simply because so much money remains in the fund or there are no other competing applications;
- believed that CASF/ARRA joint applications are scored without reference to how projects score relative to the other submitted proposals; and
- opined that each application should be required to meet a minimum absolute score in order to be eligible for 40% CASF funding or 10% CASF

matching funding in order to ensure that projects do not waste public funds.

Discussion:

The eligibility, scoring criteria and ranking processes are not the subject of this resolution. If the parties wish to have D.09-07-020 and Resolution T-17143 eligibility, scoring criteria and ranking processes clarified or modified, parties should file a Petition to Modify or Application for Rehearing. The Commission, however, stresses that the demonstration of the issues being raised by DRA and TURN as far as eligibility, scoring criteria and ranking processes have all been vetted through the proper fora. Parties will recall that a technical workshop was conducted on February 7, 2008 precisely to have the public participate in the formulation of application guidelines, requirements, and evaluation of CASF requests, including the scoring criteria proposed to be used in evaluating these applications. Following the workshop, parties were, in fact, given another opportunity to submit written comments which were considered by the Commission in Resolution T-17143. Parties were likewise given an opportunity to comment on Draft Resolution T-17143 before the Commission finally adopted said resolution on June 12, 2008.

We have found that it is not necessary to strictly apply the scoring criteria to rank CASF projects, especially when only one party applies for a project area; the scoring criteria is applied in cases where there are competing applications for the same area, as in Resolution T-17197.

With respect to the NTIA/RUS scoring criteria, which was attached as Appendix 2 of D.09-07-020, these scoring criteria were adopted by NTIA/RUS and attached to the Decision to provide an overview of the NTIA/RUS process and was included in the Decision for informational purposes only. NTIA/RUS performs the final evaluation and scoring for all projects that are submitted to them for funding. In the Notice of Funding Availability (NOFA) issued by NTIA and RUS on July 1, 2009, the Application and Selection Process as well as the states' role was clearly spelled out, i.e., to provide a list and prioritize recommended projects with an explanation of why the selected projects meets the greatest needs of the state. The Governor's Office, through the CIO, is tasked with prioritizing California ARRA projects. The Commission was not involved in developing and approving the NTIA/RUS criteria.

Further, NTIA/RUS makes the final determination on which projects receive funding. Any questions on methodology for scoring, evaluating and ranking of projects, specifically on how an ARRA proposed project merits 25 or 15 out of a possible 25 points, for example, should be addressed to NTIA/RUS.

TURN and DRA comments seem to miss the overriding goal of the CASF program - that is to provide broadband service to areas where there is none or to improve the quality of broadband service to areas that currently suffer from unreliable, spotty and inferior speeds not geared towards the present economic and business need. It was not the intent of the Commission to set a ceiling or an absolute minimum that applicants need to meet in order to qualify for funding. As the Commission has stated in several CASF resolutions adopting funding for projects, "low speed is better than no speed". Likewise, the areas that are being funded and will be funded by CASF are areas that have no broadband precisely because these are high cost area that are characterized by rugged terrain and low population density, which would not otherwise be economically viable or make business sense for private entities to invest in without CASF funding assistance.

We disagree with parties comments that the projects are approved based solely on the fact that there is no competing application and that projects are approved simply because there is enough funds in CASF to distribute. All applications are evaluated, as stated in all CASF funding resolutions, based on the following:

"CD reviewed this project's eligibility through analysis of the required submitted data. These data include, but are not limited to: proof of Certificate of Public Convenience and Necessity (CPCN) registration; descriptions of current and proposed broadband infrastructure; Geographic Information System (GIS) formatted Shapefiles mapping the subject areas; assertion that the area is unserved or underserved; potential subscriber size and household incomes; project construction schedule; project budget; proposed pricing and commitment period for new subscribers; and, financial qualifications of the applicant. In addition, CD reviewed the Shapefiles submitted which mapped the broadband deployment proposed using United States 2000 Census data, the January, 2008, Broadband Task Force Report (BBTF) including its on-line maps, and the revised August 10, 2009, California Broadband Task Force (CBTF) maps, among others."

CASF staff strictly adheres to this process.

We also take exception to the statement of parties that there is no competition. Under existing rules, CBGs and Zip Codes are posted on the CASF webpage 7 days after an application is received. Any party who wishes to submit a competing application may do so by submitting a letter of intent to submit a counter-proposal and / or submit a counter-proposal directly within the prescribed timelines as stated in Resolution T-17143 and D.09-07-020. As Resolution T-17197 and draft Resolution T-17225 demonstrate, competition does exist.

C. Definition of ARRA and CASF Projects

CCSF in its opening comments:

- expressed concern on the Commission's failure to address the differences between the types of projects eligible for ARRA grants and the types that are eligible for CASF grants; and
- believed that the Commission should use NTIA's definitions of underserved and unserved areas for CASF applications, as stated in D.09-07-020.

TURN, in its reply comments, supported CCSF's position in so far as applying the NTIA definitions of "unserved" and "underserved" to CASF applications.

Discussion:

Ordering Paragraphs 5 and 6 of D.09-07-020 state:

- "5. The California Public Utilities Commission's existing definitions of unserved and underserved areas used to screen California Advanced Services Fund filings will continue to be used for screening applications eligible for California Advanced Services Fund support in conjunction with a request for American Recovery and Reinvestment Act funding.
6. Except in the applicability of unserved and underserved definitions, and matching fund limits, the California Public Utilities Commission will otherwise apply the federal American Recovery and reinvestment Act eligibility criteria in selecting, ranking, and awarding funds for applicants seeking both California Advanced Services Fund and American Recovery and Reinvestment Act funding, to the extent consistent with state law."

It is clear from Ordering Paragraph 5, that the intent of the Commission is to maintain the unserved and underserved definitions adopted in Resolution T-17143.

While the Commission addressed the issues surrounding CASF application and CASF application requesting for both CASF and ARRA funding in the Discussion section of D.09-07-020, the final governing implementing rules/procedures are stated in the Ordering Paragraphs.

Again, the purpose of this resolution is to establish eligibility requirements for non-certificated applicants seeking CASF funding. Any modifications to existing CASF eligibility requirements, guidelines, evaluation and scoring criteria should be done through Petition to Modify or Application for Rehearing in accordance with existing Commission rules.

D. Application Requirements

Parties Comments:

CCSF raised concerns on the following:

- failure to take into account the differences between governmental agencies and the unregulated private entities that might file applications for CASF and ARRA grants. CCSF pointed out that some of the application requirements simply are not necessary when the applicant is a governmental agency, such as the submission of the three forms; and
- the performance bond requirement should not be applied to governmental agencies as these entities will likely use their own funds for the remaining 10% of the project. It is highly unlikely that they will rely on “outside funding sources.”

Discussion:

There should not be any distinction between governmental and private entities for the reasons stated in section A of the Comments regarding Background Check Procedures.

Irrespective of the amount of funding required from the CASF, whether 40% or 10% of total project cost, the purpose of requiring a performance bond has not changed. Primarily geared towards ensuring completion of the project under Resolution T-17143, the performance bond’s purpose as stated in this Draft Resolution has been expanded to ensure that the non-certificated CASF recipient is able to complete the CASF funded project, comply with the terms and conditions of the CASF award, and will open its books to the Commission for inspection. Further, the Commission has not required a performance bond for all CASF funded projects and it is likely that a government agency would meet the conditions that have been used previously to waive that requirement. The determination of a need for a performance bond is done by staff on a case by case basis and we are not persuaded that we need to change that evaluation process in this resolution.

Findings

1. The California Advanced Services Fund (CASF) was implemented by Decision (D.) 07-12-054. The CASF was established as a two-year program that will provide matching funds of up to 40% of the total project costs for the deployment of broadband infrastructure in unserved and underserved areas in California.

Resolution T-17233
CD/GVC

2. Resolution T-17143, approved on June 12, 2008, adopts the application requirements and scoring criteria for the award of funds, a prescribed timeline for other filings, and notifications including a projected Commission Meeting date for final approval of award(s). T-17143 directed interested applicants seeking funding for unserved projects to file their project proposals and funding requests beginning July 24, 2008.
3. On July 9, 2009, the Commission issued Decision (D.)09-07-020 approving a new CASF schedule and plan for an additional round of broadband projects that would complement broadband grants awarded under the federal government's American Recovery and Reinvestment Act (ARRA). While retaining the CASF 40% matching grant process, D.09-07-020 also modified the CASF grant to 10% matching funds from the applicant provided the remaining 80% of the project costs is funded by ARRA.
4. D.09-07-020, in Conclusion of Law No. 8, provides that if State legislation is passed allowing broadband providers/applicants other than holders of CPCNs and registered wireless providers to participate in the CASF program, the Commission should consider whether, and if so, how to amend its rules.
5. On July 29, 2009, Governor Schwarzenegger signed AB 1555 (Chapter 24, Statutes of 2009), amending Section 281 of the Public Utilities Code (PU Code) expanding CASF eligibility to any entity applying for CASF funding in conjunction with their ARRA funding request provided that entity satisfied the eligibility requirement for CASF funding.
6. In limiting CASF funding to CPCN and WIR holders, the Commission was guided by its fiscal responsibility role to ensure that funds are used for the purpose for which they were intended.
7. The Commission must have some means of verifying that entities that seek CASF funding have the technical, management and financial capability to build, operate and manage the broadband infrastructure.
8. The Commission has an obligation to oversee not only those it has regulatory authority over but also any organization who will benefit from ratepayer monies.
9. The Commission should impose the same type of diligence and prudence in examining the qualification of anyone who comes before the Commission requesting financial assistance. Thus, the application requirements currently imposed on CPCN applicants should also be made applicable to all non-licensed applicants requesting CASF funding.

10. Additional information should be supplied by the non-licensed applicants as shown in Appendix 1. In addition to the certificate of good standing to be submitted by the applicant, an applicant should provide the following information to enable the Commission to undertake a background check, as appropriate: whether any individuals associated with or employed by the applicant as an affiliate, director, partner or owner of more than 10% of the company, or any person acting as director or officer of the applicant, whether or not formally appointed, have been associated with any company that:
 - a) filed for bankruptcy;
 - b) was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order;
 - c) Was found either criminally or civilly liable by a court of appropriate jurisdiction for a violation of § 17000 et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, or is currently under investigation for similar violations.
11. Non-licensed applicants shall also comply with Rule 1.1, 1.11 and 2.2 of the Commission's Rules of Practice and Procedure. Thus, Appendix C, of Resolution T-17143 is revised to reflect adherence to these three rules by non-licensed applicants. The revised affidavit is shown as Appendix 2 of this resolution.
12. Applicants who submitted applications for 10% CASF funding to supplement their ARRA application from July 17, 2009 through August 14, 2009 and thereafter, but prior to the approval of this resolution, should submit the supplemental information attached as Appendices 1 and 2 to CASF, 10 business days after the approval of this resolution, to enable Commission staff to complete the evaluation of their applications.
13. Any other non-licensed applicant who will request for CASF funding for 10% CASF and 80% ARRA after the approval of this resolution should submit the form in Appendices 1 and 2 together with the requirements listed in Appendix A of Resolution T-17143.
14. As a condition of the grant of funds, all applicants who are non-CPCN and non-WIR holders must agree in writing to allow the Commission to inspect the applicant's accounts, books, papers, and documents related to the application and award of CASF funds.

15. As recipients of CASF monies under Resolution T-17143 are under the regulatory purview of the Commission, the Commission can exercise any punitive measure authorized under the Commission's rules on any recipient violating the terms of the CASF award, other than calling on the performance bond. The Commission cannot do the same for CASF recipients who are not CPCN or WIR holders. Thus, the Commission should make the performance bond requirement under 171743 Appendix A.IV.13 Resolution T-171743 mandatory for non-CPCN or WIR holders and callable in case of non-completion, non-compliance with the terms and conditions of the CASF award, and failure to open its books to the Commission for inspection.
16. Page A-4, Appendix A.IV.13. of Resolution T-17143 should be amended to read as follows:

Performance Bond Documentation

A. For CPCN or WIR holders

A copy of the executed bond, equal to the total amount payable under the CASF award, should be addressed to the Executive Director and to the Director of Communications Division within five business days after the completion of the CEQA review. An applicant who certifies that 60% of the total project costs they are providing comes from their capital budget and is not obtained from outside financing sources is not required to post a performance bond. The performance bond should be callable for failure to complete the CASF funded broadband project.

B. For Non-Licensed Applicants who are also applying for ARRA

A copy of the executed bond, equal to the total amount payable under the CASF award, should be addressed to the Executive Director and to the Director of Communications Division within five business days after the completion of the CEQA review. The bond should be callable for failure to complete the CASF funded project, non-compliance by the recipient with the terms and conditions of the CASF award, and failure to open its books to the Commission for inspection.

17. Appendix B , CASF Application Checklist, #13, Resolution T-17143 should be revised to reflect the following:
 13. Agreement to Post Performance Bond If awarded CASF Funds
 - A. If applicant has a CPCN or WIR

If matching funds are not from applicant's capital budget, applicant must provide certification indicating the funding source (as opposed to outside funding sources).

B. If applicant does not have a CPCN or WIR

Performance bond is required to ensure completion of the project, ensure compliance by the recipient with the terms and conditions of the CASF award, and access to the books of the applicant by the Commission.

18. All other CASF requirements as specified in Resolution T-17143, and as modified herein, should apply to the non-CPCN or non-WIR CASF applicant.
19. To ensure that non-licensed applicants meet the additional requirements for CASF as discussed in this resolution and for ease in implementation, Appendix B of Resolution T-17143, the CASF Application Checklist, should be revised. The new CASF Application Checklist is shown as Appendix 3 of this resolution. Upon adoption of this resolution, this revised checklist should be used by both licensed and non-licensed CASF applicants.
20. A notice letter was emailed on September 29, 2009, informing parties on the service list of R.06-06-028 and CASF Non- Licensed Applicants who are also applying for American Recovery and Reinvestment Act (ARRA) funding of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website.
21. Opening and reply comments filed by the Division of Ratepayers Advocates, The Utility Reform Network and The City and County of San Francisco are addressed in this resolution.

THEREFORE, IT IS ORDERED that:

1. The Commission shall impose the same type of diligence and prudence in examining the qualification of non-CPUC certificated entities who comes before the Commission requesting for 10% CASF matching funds in conjunction with a request for funding under the American Recovery and Reinvestment Act (ARRA).
2. The Commission shall apply the application requirements currently imposed on applicants for Certificate of Public Convenience and Necessity (CPCN) and Wireless Identification Number (WIR) for non-certificated applicants who are requesting for 10% CASF funding in conjunction with an 80% ARRA request for funding.

3. In addition to the certificate of good standing to be submitted by the applicant, an applicant shall provide the following information to enable the Commission to undertake a background check, as appropriate: whether any individuals associated with or employed by the applicant as an affiliate, director, partner or owner of more than 10% of the company, or any person acting as director or officer of the applicant, whether or not formally appointed, have been associated with any company that:
 - a. filed for bankruptcy;
 - b. was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order;
 - c. was found either criminally or civilly liable by a court of appropriate jurisdiction for a violation of § 17000 et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, or is currently under investigation for similar violations.
4. Non-licensed applicants shall also comply with Rule 1.1, 1.11 and 2.2 of the Commission's Rules of Practice and Procedure. Thus, Appendix C, of Resolution T-17143 is revised to reflect adherence to these three rules by non-licensed applicants. The revised affidavit is shown as Appendix 2 of this resolution.
5. As set forth this Resolution, applicants who do not have a Certificate of Public Convenience and Necessity (CPCN) and who have not been issued a Wireless Identification Number (WIR), and who have requested for CASF funding by virtue of Assembly Bill (AB) 1555, from July 17, 2009 through August 14, 2009 and prior to the approval of this resolution, shall submit the attached form in Appendices 1 and 2 to supplement their submission within 10 business days from the effective date of this resolution.
6. Applicants who will apply for 10% CASF funding in conjunction with their ARRA application after the approval of this resolution shall submit the forms attached as Appendices 1 and 2 as part of their application.
7. The performance bond requirement shall be mandatory for non-certificated entities who are granted 10% CASF funding as a match for the ARRA 80% funding. The Commission shall require non-certificated entities to post a performance bond to ensure completion of the project, compliance with the terms and conditions of the CASF grant, and access to the books of the applicant by the Commission.

8. As a condition of the grant of funds, all applicants who are non-CPCN and non-WIR holders shall agree in writing to allow the Commission (including the Commissioners and all people employed by the Commission) to inspect the applicant's accounts, books, papers, and documents related to the application and award of CASF funds.
9. The performance bond shall be submitted within five business days after completion of the California Environmental Quality Act review.
10. Page A-4, Appendix A.IV.13., of Resolution T-17143 is amended to read as follows:

Performance Bond Documentation

A. For CPCN or WIR holders

A copy of the executed bond, equal to the total amount payable under the CASF award, should be addressed to the Executive Director and to the Director of Communications Division within five business days after the completion of the CEQA review. An applicant who certifies that 60% of the total project costs they are providing comes from their capital budget and is not obtained from outside financing sources is not required to post a performance bond. The performance bond should be callable for failure to complete the CASF funded broadband project.

B. For Non-Licensed Applicants who are also applying for ARRA

A copy of the executed bond, equal to the total amount payable under the CASF award, should be addressed to the Executive Director and to the Director of Communications Division within five business days after the completion of the CEQA review. The bond should be callable for failure to complete the CASF funded project, non-compliance by the recipient with the terms and conditions of the CASF award, and failure to open its books to the Commission for inspection.

11. Appendix B, CASF Application Checklist, #13 of Resolution T-17143, is revised to reflect the following:

13. Agreement to Post Performance Bond If awarded CASF Funds

A. If applicant has a CPCN or WIR

If matching funds are not from applicant's capital budget, applicant must provide certification indicating the funding source (as opposed to outside funding sources).

B. If applicant does not have a CPCN or WIR

Performance bond is required to ensure completion of the project, ensure compliance by the recipient with the terms and conditions of the CASF award and access to the books of the applicant by the Commission.

12. Non-licensed applicants requesting for 10% CASF funding in conjunction with their request for 80% ARRA funding, shall be required to conform with these additional requirements.
13. All other requirements adopted in Resolution T-17143, and as modified herein, shall remain in force.
14. To ensure that compliance by non-licensed applicants with these new requirements as discussed in this resolution, and for ease of implementation, Appendix B of Resolution T-17143, the CASF Application Checklist, is hereby revised as shown in Appendix 3 of this resolution. This revised checklist is to be used by both licensed and non-licensed CASF applicants upon adoption of this resolution.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 29, 2009. The following Commissioners approved it:

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON

Resolution T-17233
CD/GVC

Commissioners

APPENDIX - 1

**Information Sheet for Non-CPCN or WIR Applicant Requesting for 10% CASF in
 Conjunction with 80% ARRA Funding**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

1 Application of:	
Name of Applicant	
for CASF Funding pursuant to Resolution T - 17233	
(Insert the full legal name of applicant in blank above; see instruction 1; attach fictitious names, if any)	
Street address:	
Telephone: ()	Fax No.: ()
E-Mail:	

2 Applicant is: (Check only one; see instruction 2.)	A corporation (attach good standing certificate) <input type="checkbox"/>
	A limited partnership (attach good standing certificate) <input type="checkbox"/>
	A limited partnership (attach good standing certificate) <input type="checkbox"/>
	A limited liability company (attach good standing certificate) <input type="checkbox"/>
	A general partnership <input type="checkbox"/>
	A sole proprietor <input type="checkbox"/>
	A trust <input type="checkbox"/>
	Other (describe) <input type="checkbox"/>
	Attach name, street address, and telephone number of applicant's registered agent for service of process Attach list of the names, titles, and street addresses of all officers and directors, general partners, trustees, members, or other persons authorized to conduct the business of applicant at a similar level <i>Attach list of all affiliated entities (see instruction 2)</i>

3 Legal domicile of applicant is:	California <input type="checkbox"/>
	Other (identify): <input type="checkbox"/>
<i>(Check only one; see instruction 3.)</i>	

Resolution T-17233
CD/GVC

4 Applicant is a:	State political subdivision	<input type="checkbox"/>
	Local government	<input type="checkbox"/>
	Non-profit foundation, corporation or entity	<input type="checkbox"/>
	For-profit organization	<input type="checkbox"/>
	Limited liability companies	<input type="checkbox"/>
	Cooperative or mutual organization	<input type="checkbox"/>
<i>(Check only one; see instruction 4.)</i>		

5 Applicant will provide service:	In specific portions only (attach description and map)	<input type="checkbox"/>
<i>(Check only one; see instruction 5.)</i>		

6 Applicant will provide: broadband service only	True	<input type="checkbox"/>
	Not true	<input type="checkbox"/>
<i>(Check only one; see instruction 6.)</i>		

7 No affiliate, officer, director, general partner, or person owning more than 10% of applicant, or anyone acting in such a capacity whether or not formally appointed, held one of these positions with any company that filed for bankruptcy or has been found either criminally or civilly liable by a court of appropriate jurisdiction for a violation of § 17000 et seq. of the California Business and Professions Code or for any actions which involved misrepresentations to consumers, and to the best of applicant's knowledge, is not currently under investigation for similar violations.	True	<input type="checkbox"/>
	Not true	<input type="checkbox"/>
<i>(Check only one; see instruction 2.)</i>		

8 To the best of applicant's knowledge, neither applicant, any affiliate, officer, director, partner, nor owner of more than 10% of applicant, or any person acting in such capacity whether or not formally appointed, has been sanctioned by the Federal Communications Commission, or any state regulatory agency for failure to comply with any regulatory statute, rule or order, or convicted by any court for any criminal activity.	True	<input type="checkbox"/>
	Not true	<input type="checkbox"/>

9 Applicant has the required financial capability and technical expertise to build a broadband infrastructure and operate and maintain a broadband service.	True	<input type="checkbox"/>
	Not true	<input type="checkbox"/>

Resolution T-17233
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I hereby declare under penalty of perjury under the laws of the State of California that the forgoing information, and all attachments, are true, correct, and complete to the best of my knowledge and belief after due inquiry, and that I am authorized to make this application on behalf of the applicant named above.

Signed:

Name: _____
Title:
Dated:

**Street
Address**

**Telephone No.
Fax No.**

Principal Place of Business (if different from address on page 1).

**Street Address
City
State
ZIP Code
Telephone No.**

Instructions:

1. Enter the legal name of applicant exactly as it appears on its articles or certificate of corporation or similar charter document.
2. Good standing certificates are available from the office of the Secretary of State of the State of California and should be dated of a date not more than 60 days prior to the date of filing the application. An original certificate must be attached to the manually signed copy of the application. An affiliated entity is any entity under common control with applicant. Common control exists if the same individuals or entities have the direct or indirect power to determine the action of applicant and such entity through the right to vote shares, by contract or agreement, or otherwise. Note whether any such entity is a reporting company for purposes of the Securities Exchange Act of 1934, as amended.
3. For individuals, domicile is the place of legal residence; for entities, it is the state of incorporation or organization.
4. Specify the type of applicants' organization.
5. Specify the exact area for which authority is requested, i.e., Community and County.
6. Indicate whether the applicant will be providing broadband service only.
7. Items 2, 7 and 8 are subject to confirmation by the Commission through the conduct of background check(s).
8. Indicate whether any affiliate, officer, director, partner, nor owner of more than 10% of applicant, or any person acting in such capacity whether or not formally appointed, has been sanctioned by the Federal Communications Commission, or any state regulatory agency for failure to comply with any regulatory statute, rule or order, or convicted by any court for any criminal activity.
9. Attach audited balance sheet for the most recent fiscal year and an unaudited balance sheet as of the most recent fiscal quarter, a bank statement as of the month prior to the date of filing the application, or a third-party undertaking to provide the required amounts on behalf of applicant. If the balance sheet shows current liabilities in excess of current assets or negative equity, explain how applicant will be able to maintain sufficient liquidity for its first year of operations.

Material changes in the entries for this application , such as discontinuing operation or bankruptcy, or change of name (DBA), change of address, telephone, fax number or E-mail address should be reported by a letter to the CPUC, Director of the Communications Division, 505 Van Ness Avenue, San Francisco, CA 94102.

APPENDIX - 2

**AFFIDAVIT
(To be submitted by Non-CPCN or Non-WIR holders)**

Name of Carrier/Company _____

Utility Identification Number _____ or _____ check here if Application for CPCN is pending and the CPUC assigned application no., if available.

My name is _____. I am _____ (Title) of _____ (Company). My personal knowledge of the facts stated herein has been derived from my employment with _____ (Company)

I swear or affirm that I have personal knowledge of the facts stated in this Application for the California Advanced Services Fund, I am competent to testify to them, and I have the authority to make this Application on behalf of and to bind the Company.

I further swear or affirm that _____ [Name of Carrier/Company] agrees to comply with all federal and state statutes, rules, and regulations, covering broadband services and state contractual rules and regulations, if granted funding from the California Advanced Services Fund.

I swear and affirm that I agree to comply with Rules 1.11 and 2.2 of the California Public Utilities Commission's rules of practice and Procedure.

I swear or affirm, under penalty of perjury, and under Rule 1.1 of the California Public Utilities Commission's Rules of Practice and Procedure, that, to the best of my knowledge, all of the statements and representations made in this Application are true and correct.

Signature and title

Type or print name and title

SUBSCRIBED AND SWORN to before me on the ____ day of ____, 20__.

Notary Public In and For the State of _____

My Commission expires: _____

APPENDIX - 3

CASF APPLICATION CHECKLIST

(Required for EACH proposed project)

To assist the Commission in verifying the completeness of your proposal, mark the box to the left of each item submitted.

<input type="checkbox"/>	1. CPCN / U-Number / CPUC Registration Proof (ONE of the following is required)
<input type="checkbox"/>	Applicant's U-Number and/or Proof of applicant's Certificate of Public Convenience and Necessity (CPCN)
<input type="checkbox"/>	Proof of CPCN application pending approval, or CPCN Application Number (in the absence of a CPCN)
<input type="checkbox"/>	CPUC Registration Number (wireless carriers)
<input type="checkbox"/>	Non-licensed applicant (no CPCN or WIR) – should submit Information sheet shown in Appendix 1 of Resolution T - 17233
<input type="checkbox"/>	2. CASF Key Contact Information
<input type="checkbox"/>	First Name
<input type="checkbox"/>	Last Name
<input type="checkbox"/>	Address Line1
<input type="checkbox"/>	Address Line2
<input type="checkbox"/>	City
<input type="checkbox"/>	State
<input type="checkbox"/>	ZIP Code
<input type="checkbox"/>	Email
<input type="checkbox"/>	Phone
<input type="checkbox"/>	3. Key Company Officers (list up to 5)
<input type="checkbox"/>	Position title
<input type="checkbox"/>	First Name
<input type="checkbox"/>	Last Name
<input type="checkbox"/>	Email
<input type="checkbox"/>	Phone Number
<input type="checkbox"/>	4. Current Broadband Infrastructure Description
<input type="checkbox"/>	Description of the provider's current broadband infrastructure and/or telephone service area within 5 miles of the proposed project
<input type="checkbox"/>	5. Current Broadband Infrastructure
<input type="checkbox"/>	Shapefile (.shp) of current service area
<input type="checkbox"/>	List showing number of households per CBG and per ZIP Code.
<input type="checkbox"/>	6. Proposed Broadband Project Description
<input type="checkbox"/>	Description of proposed broadband project plan for which CASF funding is being requested, including the type of technology to be employed to provide broadband
<input type="checkbox"/>	Project size (in square miles)
<input type="checkbox"/>	Average advertised upload speed per CBG

		Average advertised download speed per CBG
		Average advertised upload speed per ZIP Code
		Average advertised download speed per ZIP Code
		7. Proposed Broadband Project Location
		Geographic locations by CBG(s) where broadband facilities will be deployed
		List of CBG(s) that intersect the proposed project
		Median income for each CBG that intersects the proposed project, to be based on most current U.S. Census Bureau data available
		List of ZIP Code(s) that intersect the proposed project
		8. Proposed Broadband Project Location Shapefile
		Shapefile (.shp) showing boundaries of the specific area to be served by the project
		9. Assertion that area being proposed is Unserved or Underserved Area. This includes figures, in MBPS, of the current:
		(a) average upload speed by CBG
		(b) average download speed by CBG
		(c) average upload speed by ZIP Code
		(c) average download speed by ZIP Code
		10. Estimated Potential Subscriber Size for Each CBG and ZIP Code
		Estimated number of potential broadband households and subscribers in proposed project location by CBG
		Estimated number of potential broadband households and subscribers in proposed project location by ZIP Code
		Documentation of assumptions and data sources used to compile estimates
		11. Deployment Schedule (include major prerequisite, construction, and other verifiable milestone(s))
		Milestone Start and Ending Date
		Milestone Description
		Milestone Comments
		Milestone Risks
		12. Proposed Project Budget
		Detailed breakdown of cost elements;
		Amount of cost elements;
		Availability of matching funds to be supplied by applicant;
		Amount of available funds from each individual funding source; and
		Amount of CASF funds requested
		13. Agreement to Post Performance Bond if Awarded CASF Funds (if matching funds are <u>not</u> from applicant's capital budget)
		A. If applicant has a CPCN or WIR If matching funds are not from applicant's capital budget, applicant must provide certification indicating the funding source (as opposed to outside funding sources).
		B. If applicant does not have a CPCN or WIR Performance bond is required to ensure completion of the project, ensure compliance by the recipient with the terms and conditions of the CASF award, and access to the books of the applicant by the Commission.

- | | |
|--|---|
| | 14. Proposed Pricing |
| | Proposed (initial year) monthly subscription fee for applicant's proposed broadband service(s). |
| | List of all services (e.g., initial service connection charges, other recurring rates and non-recurring charges) upon which monthly subscription fee(s) is/are based |
| | Service restrictions; option to bundle with other services (if any) |
| | Commitments, requirements that customers must meet, and/or equipment that they must purchase or lease, in order to receive the proposed service(s) (if any) |
| | 15. Price Commitment Period to Offer Broadband Service to All Households at Proposed Subscription Rate(s) |
| | 16. Financials |
| | Company Balance sheet as of latest available date |
| | Income statement (covering the close of last year for which an annual report has been filed with the Commission up to the date of the balance sheet attached to the application) |
| | 17. If Providing Voice Service |
| | Availability of voice service that meets FCC standards for E-911 service and battery back-up, including: |
| | - Listing of types of voice services offered |
| | - Timeframe of voice service offering(s) |
| | 18. CEQA Compliance |
| | Agreement to provide, prior to the first 25% payment, Proponent's Environmental Assessment (PEA) |
| | Agreement to provide, prior to the first 25% payment, identification of any other special permits required with a cross reference to the government agencies from which the permits will be required for the project. |
| | 19. Notarized Affidavit (Appendix C of Resolution T-17143 for CPCN and WIR holders and Appendix- 2 of Resolution T-17233 for Non-CPCN and WIR holders) |

Submit completed applications online at <http://www.cpuc.ca.gov/puc/>
with a hard copy mailed separately to:

Communications Division
Attn: California Advanced Services Fund
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102

APPENDIX C
Senate Bill 1193

Senate Bill No. 1193

CHAPTER 393

An act to amend Section 270 of, and to amend, renumber, add, and repeal Section 281 of, the Public Utilities Code, relating to telecommunications, and making an appropriation therefor.

[Approved by Governor September 27, 2008. Filed with
Secretary of State September 27, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1193, Padilla. Telecommunications: universal service: California Advanced Services Fund.

The existing federal Telecommunications Act of 1996 establishes a program for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. The universal service principles include the principle that consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law authorizes the commission to supervise and regulate every public utility and to do all things necessary and convenient in the exercise of its power and jurisdiction. Existing law establishes the California High-Cost Fund-A Administrative Committee Fund (CHCF-A Fund), the California High-Cost Fund-B Administrative Committee Fund, the Universal Lifeline Telephone Service Trust Administrative Committee Fund, the Deaf and Disabled Telecommunications Program Administrative Committee Fund, the Payphone Service Providers Committee Fund, and the California Teleconnect Fund Administrative Committee Fund in the State Treasury, and requires that moneys in the funds are the proceeds of rates and are held in trust for the benefit of ratepayers and to compensate telephone corporations for their costs of providing universal service and may be expended only to accomplish specified telecommunications universal service programs, upon appropriation in the annual Budget Act or upon supplemental appropriation.

In Decision 07-12-054, pursuant to its authority to do all things necessary and convenient in the exercise of its power and jurisdiction, the commission imposed a surcharge beginning January 1, 2008, collected through retail

telecommunications customers' bills, to fund the California Advanced Services Fund (CASF), for the purpose of encouraging deployment of broadband facilities for use in provisioning advanced telecommunications and voice service in unserved and underserved areas. Decision 07-12-054 further ordered that prior to any CASF disbursements, the commission would seek statutory authority to add the CASF as one of the funds authorized for handling by the State Treasury and to seek statutory authority for specific direction to telephone corporations for remitting CASF collections and for use of the funds by the commission.

This bill would, until January 1, 2013, establish the CASF in the State Treasury, subject to the conditions and restrictions applicable to the 6 existing universal service funds described above. The bill would require that moneys collected by the surcharge authorized by the commission to fund the CASF, whether collected before or after the operative date of the bill, be transmitted to the commission pursuant to a schedule established by the commission. The bill would require the commission to transfer the moneys received to the Controller for deposit in the fund. The bill would prohibit the commission from collecting those moneys in an amount that exceeds a total amount of \$100,000,000. The bill would specify that any moneys appropriated from the CASF to the commission may only be expended for limited purposes.

The bill would require the commission to develop, implement, and administer the CASF to provide for transfer payments to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and substantial social benefits of advanced information and communications technologies, as provided in commission Decision 07-12-054. The bill would require the commission to conduct both a financial audit and a performance audit of the implementation and effectiveness of the CASF to ensure that moneys have been expended in accordance with (a) the approved terms of the winning bids, and (b) the requirements of the bill. The bill would require the commission to report its findings to the Legislature by December 31, 2010. The bill would appropriate \$25,000,000 to the commission from the fund, to be expended in the 2008–09 fiscal year, and would require the commission to report on its expenditures pursuant to this appropriation, as provided.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The emergence of advanced high capacity communication networks, often defined as broadband, based on high-speed interactive networks designed for voice, data, and video communications, have opened up tremendous opportunities for communication.

(b) Advanced communications services are important for our state's economic growth and can increase democratic and civic participation, improve the delivery of health care, education, job training, public safety, and other vital services.

(c) Those who do not have access to advanced communications services will be isolated from information, services, products, and means of entrepreneurship, ultimately weakening our competitiveness in the global economy.

(d) Existing law provides for various universal service programs relating to telephone corporations to be administered by the Public Utilities Commission, and paid for through program end-user surcharges authorized by the commission.

(e) In order to promote the widespread availability of high-quality telecommunications, emerging technologies, and information services to all Californians, the commission shall develop, implement, and administer a California Advanced Services Fund.

(f) The purpose of the California Advanced Services Fund program will be to spur deployment of broadband infrastructure in unserved and underserved areas within the state, in both rural and urban areas, and encourage the existing statewide policy to promote broadband throughout the state.

SEC. 2. Section 270 of the Public Utilities Code is amended to read:

270. (a) The following funds are hereby created in the State Treasury:

(1) The California High-Cost Fund-A Administrative Committee Fund.

(2) The California High-Cost Fund-B Administrative Committee Fund.

(3) The Universal Lifeline Telephone Service Trust Administrative Committee Fund.

(4) The Deaf and Disabled Telecommunications Program Administrative Committee Fund.

(5) The Payphone Service Providers Committee Fund.

(6) The California Teleconnect Fund Administrative Committee Fund.

(7) The California Advanced Services Fund.

(b) Moneys in the funds are the proceeds of rates and are held in trust for the benefit of ratepayers and to compensate telephone corporations for their costs of providing universal service. Moneys in the funds may only be expended pursuant to this chapter and upon appropriation in the annual Budget Act or upon supplemental appropriation.

(c) Moneys in each fund may not be appropriated, or in any other manner transferred or otherwise diverted, to any other fund or entity, except as provided in Sections 19325 and 19325.1 of the Education Code.

SEC. 3. Section 281 of the Public Utilities Code is amended and renumbered to read:

282. Any revenues that are deposited in funds created pursuant to this chapter shall not be used by the state for any purpose other than as specified in this chapter.

SEC. 4. Section 281 is added to the Public Utilities Code, to read:

281. (a) The commission shall develop, implement, and administer the California Advanced Services Fund to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies, as provided in Decision 07-12-054.

(b) (1) All moneys collected by the surcharge authorized by the commission pursuant to that decision, whether collected before or after the operative date of this section, shall be transmitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California Advanced Services Fund.

(2) All interest earned on moneys in the fund shall be deposited in the fund.

(3) The commission may not collect moneys, by imposing the surcharge described in paragraph (1) for deposit in the fund, in an amount that exceeds a total amount of one hundred million dollars (\$100,000,000).

(c) Any moneys appropriated from the California Advanced Services Fund to the commission may only be expended for the program administered by the commission pursuant to subdivision (a), including the costs incurred by the commission in developing, implementing, and administering the program and the fund.

(d) The commission shall conduct both a financial audit and a performance audit of the implementation and effectiveness of the California Advanced Services Fund to ensure that funds have been expended in accordance with the approved terms of the winning bids and this section. The commission shall report its findings to the Legislature by December 31, 2010. The report shall also include an update to the maps in the final report of the California Broadband Task Force.

(e) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 5. (a) The sum of twenty-five million dollars (\$25,000,000) is hereby appropriated to the Public Utilities Commission from moneys which will be deposited into the California Advanced Services Fund, pursuant to Section 281 of the Public Utilities Code, on the effective date of this act for purposes of Section 281 of the Public Utilities Code, to be expended in the 2008–09 fiscal year. All unexpended moneys shall be returned to the California Advanced Services Fund.

(b) The Public Utilities Commission shall report to the Assembly and Senate Committees on Budget and the appropriate Senate and Assembly policy committees by May 15, 2009, detailing all of the following:

(1) A description of the projects approved with the moneys appropriated by this section, including the name of the applicant, the area to be served, and the criteria used to score the application.

(2) The amount of funding committed to each approved project.

(3) The status of those approved projects.

- (4) The amount of funds expended up to the date of the report.
- (5) The anticipated expenditures for the 2009–10 fiscal year.

O

APPENDIX D
Assembly Bill 1555

Assembly Bill No. 1555

CHAPTER 24

An act to amend Section 281 of the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 2009. Filed with
Secretary of State July 29, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1555, V. Manuel Perez. Telecommunications: California Advanced Services Fund.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law authorizes the commission to supervise and regulate every public utility and do all things necessary and convenient in the exercise of its power and jurisdiction.

Existing law, until January 1, 2013, establishes the California Advanced Services Fund (CASF) in the State Treasury, and requires a surcharge, which is imposed by the commission and collected through retail telecommunications customers' bills, to be deposited in that fund, for the purpose of encouraging the deployment of advanced communications services, as provided in a specified order of the commission. Pursuant to that order, which establishes a program providing matching funds to build broadband infrastructure in unserved and underserved areas, eligible applicants for these funds are telephone corporations having a specified certificate from the commission and wireless carriers subject to registration with the commission.

This bill would, for the sole purpose of providing matching funds pursuant to the federal American Recovery and Reinvestment Act of 2009, make any entity eligible for funding pursuant to that act eligible to apply for participation in the matching funds program if that entity otherwise satisfies the eligibility requirements under the program.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 281 of the Public Utilities Code, as added by Section 4 of Chapter 393 of the Statutes of 2008, is amended to read:

281. (a) The commission shall develop, implement, and administer the California Advanced Services Fund to encourage deployment of high-quality

advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies, as provided in Decision 07-12-054.

(b) (1) All moneys collected by the surcharge authorized by the commission pursuant to that decision, whether collected before or after January 1, 2009, shall be transmitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California Advanced Services Fund.

(2) All interest earned on moneys in the fund shall be deposited in the fund.

(3) The commission may not collect moneys, by imposing the surcharge described in paragraph (1) for deposit in the fund, in an amount that exceeds a total amount of one hundred million dollars (\$100,000,000).

(c) (1) Any moneys appropriated from the California Advanced Services Fund to the commission may only be expended for the program administered by the commission pursuant to subdivision (a), including the costs incurred by the commission in developing, implementing, and administering the program and the fund.

(2) Notwithstanding any other law and for the sole purpose of providing matching funds pursuant to the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), any entity eligible for funding pursuant to that act shall be eligible to apply to participate in the program administered by the commission pursuant to subdivision (a), if that entity otherwise satisfies the eligibility requirements under that program. Nothing in this section shall impede the ability of an incumbent local exchange carrier, as defined by subsection (h) of Section 251 of Title 47 of the United States Code, that is regulated under a rate of return regulatory structure, to recover, in rate base, California infrastructure investment not provided through federal or state grant funds for facilities that provide broadband service and California intrastate voice service.

(d) The commission shall conduct both a financial audit and a performance audit of the implementation and effectiveness of the California Advanced Services Fund to ensure that funds have been expended in accordance with the approved terms of the winning bids and this section. The commission shall report its findings to the Legislature by December 31, 2010. The report shall also include an update to the maps in the final report of the California Broadband Task Force.

(e) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the use of federal matching funds for broadband programs, made available pursuant to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), at the earliest possible time, it is necessary that this act take effect immediately.

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APPENDIX E
Senate Bill 1040

Senate Bill No. 1040

CHAPTER 317

An act to amend Section 281 of the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2010. Filed with
Secretary of State September 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1040, Padilla. Telecommunications universal service programs: California Advanced Services Fund.

The existing federal Telecommunications Act of 1996 establishes a program for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. The universal service principles include the principle that consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, as defined. Existing law, until January 1, 2013, establishes the California Advanced Services Fund (CASF) in the State Treasury, and requires a surcharge, which is imposed by the commission and collected through retail telecommunications customers' bills, to be deposited in that fund. Existing law prohibits the commission from collecting more than \$100,000,000 through the surcharge. Existing law requires the commission to develop, implement, and administer the CASF to provide for transfer payments to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and substantial social benefits of advanced information and communications technologies, as provided in a specified decision of the commission. Existing law requires the commission to conduct both a financial audit and a performance audit on the implementation and effectiveness of CASF and to report its findings to the Legislature by December 31, 2010.

This bill would extend the operation of these provisions indefinitely, and would prohibit the commission from collecting more than \$225,000,000 through the CASF surcharge pursuant to a specified schedule. The bill would

establish 3 accounts within the fund and allocate a portion of the additional \$125,000,000 that the bill authorizes to be collected, to be deposited into each of the accounts, for specified uses. The bill would require the commission to conduct an interim and final financial audit and interim and final performance audit on the implementation and effectiveness of CASF and to report to the Legislature its interim findings by April 1, 2011, and its final findings by April 1, 2017. The bill would require the commission to annually provide a report to the Legislature, until January 1, 2016, relating to the CASF and containing specified information.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 281 of the Public Utilities Code is amended to read:

281. (a) The commission shall develop, implement, and administer the California Advanced Services Fund to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies, as provided in Decision 07-12-054 and Decision 09-07-020 and this section. The commission shall establish the following accounts within the fund:

- (1) The Broadband Infrastructure Grant Account.
- (2) The Rural and Urban Regional Broadband Consortia Grant Account.
- (3) The Broadband Infrastructure Revolving Loan Account.

(b) (1) All moneys collected by the surcharge authorized by the commission pursuant to Decision 07-12-054, whether collected before or after January 1, 2009, shall be transmitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California Advanced Services Fund. Moneys collected after January 1, 2011, shall be deposited in the following amounts in the following accounts:

(A) One hundred million dollars (\$100,000,000) into the Broadband Infrastructure Grant Account.

(B) Ten million dollars (\$10,000,000) into the Rural and Urban Regional Broadband Consortia Grant Account.

(C) Fifteen million dollars (\$15,000,000) into the Broadband Infrastructure Revolving Loan Account.

(2) All interest earned on moneys in the fund shall be deposited in the fund.

(3) The commission shall not collect moneys, by imposing the surcharge described in paragraph (1) for deposit in the fund, in an amount that exceeds one hundred million dollars (\$100,000,000) before January 1, 2011. After January 1, 2011, the commission may collect an additional sum not to exceed one hundred twenty-five million dollars (\$125,000,000), for a sum total of

moneys collected by imposing the surcharge described in paragraph (1) not to exceed two hundred twenty-five million dollars (\$225,000,000). The commission may collect the additional sum beginning with the calendar year starting on January 1, 2011, and continuing through the 2015 calendar year, in an amount not to exceed twenty-five million dollars (\$25,000,000) per year, unless the commission determines that collecting a higher amount in any year will not result in an increase in the total amount of all surcharges collected from telephone customers that year.

(c) (1) All moneys in the California Advanced Services Fund shall be available, upon appropriation by the Legislature, to the commission for the program administered by the commission pursuant to this section, including the costs incurred by the commission in developing, implementing, and administering the program and the fund.

(2) Notwithstanding any other law and for the sole purpose of providing matching funds pursuant to the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), any entity eligible for funding pursuant to that act shall be eligible to apply to participate in the program administered by the commission pursuant to this section, if that entity otherwise satisfies the eligibility requirements under that program. Nothing in this section shall impede the ability of an incumbent local exchange carrier, as defined by subsection (h) of Section 251 of Title 47 of the United States Code, that is regulated under a rate of return regulatory structure, to recover, in rate base, California infrastructure investment not provided through federal or state grant funds for facilities that provide broadband service and California intrastate voice service.

(d) Moneys in the Rural and Urban Regional Broadband Consortia Grant Account shall be available for grants to eligible consortia to fund the cost of broadband deployment activities other than the capital cost of facilities, as specified by the commission. An eligible consortium may include, as specified by the commission, representatives of organizations, including, but not limited to, local and regional government, public safety, K-12 education, health care, libraries, higher education, community-based organizations, tourism, parks and recreation, agricultural, and business, and is not required to have as its lead fiscal agent an entity with a certificate of public convenience and necessity.

(e) Moneys in the Broadband Infrastructure Revolving Loan Account shall be available to finance capital costs of broadband facilities not funded by a grant from the Broadband Infrastructure Grant Account. The commission shall periodically set interest rates on the loans based on surveys of existing financial markets.

(f) (1) The commission shall conduct an interim and final financial audit and an interim and final performance audit of the implementation and effectiveness of the California Advanced Services Fund to ensure that funds have been expended in accordance with the approved terms of the grant awards and loan agreements and this section. The commission shall report its interim findings to the Legislature by April 1, 2011. The commission shall report its final findings to the Legislature by April 1, 2017. The reports

shall also include an update to the maps in the final report of the California Broadband Task Force and data on the types and numbers of jobs created as a result of the program administered by the commission pursuant to this section.

(2) (A) The requirement for submitting a report imposed under paragraph (1) is inoperative on January 1, 2018, pursuant to Section 10231.5 of the Government Code.

(B) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(g) (1) Beginning on January 1, 2012, and annually thereafter, the commission shall provide a report to the Legislature that includes all of the following information:

(A) The amount of funds expended from the California Advanced Services Fund in the prior year.

(B) The recipients of funds expended from the California Advanced Services Fund in the prior year.

(C) The geographic regions of the state affected by funds expended from the California Advanced Services Fund in the prior year.

(D) The expected benefits to be derived from the funds expended from the California Advanced Services Fund in the prior year.

(E) Actual broadband adoption levels from the funds expended from the California Advanced Services Fund in the prior year.

(F) The amount of funds expended from the California Advanced Services Fund used to match federal funds.

(G) An update on the expenditures from California Advanced Services Fund and broadband adoption levels, and an accounting of remaining unserved and underserved areas of the state.

(2) (A) The requirement for submitting a report imposed under paragraph (1) is inoperative on January 1, 2016, pursuant to Section 10231.5 of the Government Code.

(B) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Numerous grant applications with merit have been filed seeking funding through the California Advanced Services Fund, many of these applications also seeking funding through the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and these grant applications threaten to exceed the existing financial limits of the fund. In order to relieve financial pressure on the fund, enable meritorious projects to go forward, and to prevent a potential disruptive effect on the grant process, it is necessary that this act take effect immediately.