

Decision 12-02-015 February 1, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider Modifications to the California Advanced Services Fund Including Those Necessary to Implement Loan Program and Other Provisions of Recent Legislation.

Rulemaking 10-12-008
(Filed December 16, 2010)

**DECISION IMPLEMENTING BROADBAND GRANT
AND REVOLVING LOAN PROGRAM PROVISIONS**

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APPENDIX 1 - Broadband Infrastructure Grant Account - Revised to
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APPENDIX 2 - Broadband Infrastructure Revolving Loan Account -
Application Requirements and Guidelines

DECISION IMPLEMENTING BROADBAND GRANT AND REVOLVING LOAN PROGRAM PROVISIONS

1. Introduction

In this decision, we continue to implement California Advanced Services Fund (CASF) program measures. We first implemented the CASF in Decision (D.) 07-12-054, which inaugurated a program to award grants to support deployment of broadband¹ infrastructure projects offering advanced communications services.

Specifically, in this decision, we implement provisions of Senate Bill (SB) 1040 relating to the Broadband Infrastructure Grant Account (Grant Account) and Revolving Loan (Loan Account) Programs, as explained below.² We adopt updated rules for administering the CASF Grant Account program set forth as Appendix 1. We also adopt initial rules for administering the CASF Revolving Loan Account as set forth as Appendix 2 of this decision.

¹ Broadband refers to the width of frequency bands used to transmit data or voice communications over the Internet. Depending on the width of the frequency band, information can be sent on many different frequencies or channels with broadband concurrently, allowing for advanced services, including video, to be transmitted at much faster speeds than would otherwise be available over a dial-up telephone connection to the Internet.

² SB 1040 is codified at California Public Utilities (Pub .Util.) Code § 281.

As noted in D.07-12-054, promoting the widespread availability of advanced services through deployment of broadband holds tremendous opportunities for consumers, technology providers, and content providers. By encouraging the deployment of advanced communications services in unserved and underserved regions of California, we promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies.³ The CASF program thereby advances universal service policies aimed at bridging the “digital divide” as articulated in Pub. Util. Code § 709(c) and (d).⁴ We emphasize that the ultimate goal of the CASF program is to increase the adoption of broadband.

The Commission first implemented the CASF program in D.07-12-054, establishing procedures to award grants of financial assistance to qualifying broadband deployment projects. The Commission subsequently approved funding for a significant number of qualifying broadband projects under the CASF program.

Prior to SB 1040, the CASF was scheduled to sunset on January 1, 2013. SB 1040 repealed the CASF sunset provision, however, and expanded the program significantly, increasing the CASF fund capacity from \$100 million to \$225 million. The additional funds will be collected in annual \$25 million increments from 2011 through 2015. SB 1040 also created two new accounts, the Rural and Urban Regional Broadband Consortia Grant and the Broadband

³ See Pub. Util. Code § 281.

⁴ The California Emerging Technology Fund (CETF) has set a goal of broadband access for at least 98% of households and 80% adoption by 2015 and 90% by 2020. Both CETF and CASF are promoting broadband deployment in areas of California and aim at bridging digital divide.

Infrastructure Revolving Loan accounts. SB 1040 allocated funds as follows to three accounts now established under the CASF:

- The Broadband Infrastructure Grant Account (\$100 million);
- The Rural and Urban Regional Broadband Consortia Grant Account (\$10 million) ; and
- The Broadband Infrastructure Revolving Loan Account (\$15 million).⁵

The purpose of the Loan Account is to finance capital costs of broadband facilities not funded by a grant from the Broadband Infrastructure Grant Account. The Commission views the CASF Loan Account as an additional option for applicants to use as supplemental funding to the Grant Account so that a project can more likely be financially feasible and move forward. Research of existing loan programs has also shown that applicants typically do not just apply for a loan if an award is available in the form of combined grant/loan funds. Therefore, the Commission hereby sets up the Loan Account within the CASF program as a supplemental funding venue for qualified projects and applicants under the Grant Account and not as a sole source of funding to a project.

2. Procedural Background

We opened this Order Instituting Rulemaking (OIR) to implement the expanded California Advanced Services Fund (CASF) funding provisions resulting from SB 1040 and to address other possible changes to the CASF program, including changes suggested in a petition by the Commission's

⁵ See *id.* §§ 281(a), (b)(1).

Division of Ratepayer Advocates (DRA) to modify Decision (D.) 07-12-054.⁶ Opening comments on issues identified in the OIR were filed January 21, 2011, with reply comments filed February 14, 2011. The assigned Commissioner issued a Scoping Memo on April 19, 2011, determining that no evidentiary hearings were necessary. The record for this rulemaking has been developed through the filing of comments on designated issues.

The first phase of this proceeding focused on implementing the Consortia Grant Account. By D.11-06-038, we implemented measures to receive funding applications and to grant awards from the Consortia Grant Account. In this second phase of the OIR (which is the subject of this decision), we implement revisions to the existing CASF infrastructure grant program and implement the new CASF revolving loan program.

By ruling dated August 15, 2011, the assigned Commissioner issued a draft proposal for revisions to the existing CASF Infrastructure grant program and for initial rules for administering the CASF revolving loan account program. The Commission's Communications Division (CD) formulated the draft proposals, taking into account the comments on the OIR previously filed by parties in this proceeding.

Comments on the draft proposal were filed on September 12, 2011, with reply comments on September 26, 2011. Our adopted rules have been further refined in response to comments.

⁶ DRA filed its Petition to Modify D.07-12-054 in R.06-06-028, which is now a closed proceeding. We now resolve the DRA Petition to Modify in this decision.

Parties filing comments included telephone corporations, cable companies, consumer groups, the California Emerging Technology Fund regional partners, and other regional and community groups focused on broadband adoption and deployment.⁷ We have further refined the updated adopted rules in Appendix 1 and 2 of this decision in response to parties' comments.

3. Revisions to the CASF Broadband Infrastructure Grant Program

⁷ Telephone corporations offering comments included: Pacific Bell Telephone Company dba AT&T California and its affiliates (AT&T), Verizon California Inc. (Verizon), Frontier Communications of California and its affiliates (Frontier), and the Small Local Exchange Carriers (LECs), consisting of Calaveras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Foresthill Telephone Co, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Co, The Ponderosa Telephone Company, Sierra Telephone Company, The Siskiyou Telephone Company, Volcano Telephone Company and Winterhaven Telephone Company, and DTS of CA, Inc. (DTS), a satellite-based provider that has sought authority to be a Small ILEC in all of the unserved areas of California.

The cable companies offering comments included: Cox Communications and Comcast Phone of California, LLC.

The consumer groups offering comments included: DRA, The Utility Reform Network (TURN), and Greenlining Institute.

Comments were also filed by regional groups associated with the CETF, including: the California Partnership for the San Joaquin Valley, the Sierra Economic Development Corporation, the Amador-Tuolumne Community Action Agency, Shepherds Crook Enterprises, the Contra Costa Council, California State University-Monterey Bay, Valley Vision, and the California Center for Rural Policy.

Other regional and community groups offering comments included: the Corporation for Education Network Initiatives in California (CENIC), the Regional Council of Rural Counties, Spiral Internet/Nevada County Connected, and Camino Fiber Network Cooperative, Inc.

In this decision, we adopt revisions to the existing CASF Broadband Infrastructure Grant program, as summarized below. Our updated adopted guidelines for CASF grant applications are set forth in Appendix 1.

3.1. Grant Funding Caps Per Application

The CASF currently provides matching funds of up to 40% of project costs for new broadband infrastructure in unserved and underserved areas, as defined in Resolution (Res.) T-17143. The applicant is responsible for the remaining 60%.

In this decision, we revise the currently applicable CASF funding cap of 40% of project cost, recognizing that some applicants have been unable to secure the 60% matching funds and that funds from the American Recovery and Reinvestment Act (Recovery Act) are no longer available. Existing CASF rules limit funding to broadband infrastructure for areas determined to be unserved or underserved. An area is considered “unserved” if it offers no form of facilities-based broadband, such that Internet connectivity is available only through dial-up service or satellite. An area is considered “underserved” where broadband is available, but no facilities-based provider offers service meeting the benchmark speeds of at least three megabits per second (mbps) download and at least one mbps upload.

3.1.1. Parties’ Comments

Most parties support modifying the limits on CASF funding provided. Frontier argues that increasing grants for projects in unserved locations to 70% of total project costs may not be sufficient to justify building broadband infrastructure in extremely rural and high cost areas. Verizon proposes increasing funding in unserved areas to 80% of the estimated costs while reducing funding in underserved areas to 25%. Frontier, AT&T and

CENIC support prioritizing unserved areas. AT&T proposes that the Commission avoid allowing competitors to compete with those already providing high speed internet services in underserved areas, arguing that providing grants and loans for applicants to build duplicative and unnecessary facilities in underserved areas is an inefficient and unfair use of CASF monies.

Camino Fiber Network Cooperative (Camino Fiber) recommends a single grant limit of 65% of project costs for all applicants regardless of whether loan funds are requested. Camino Fiber also proposes a “start up” category, with a maximum cap of 85% of project costs for projects with total costs not exceeding \$5,000,000. Applicants securing the 85% grant funding would be ineligible to concurrently apply for loan funding for the same project.

DRA argues the Commission should not raise the funding cap at this time, but that any increase should be tied to additional requirements designed to reduce prices, increase speed commitments and encourage adoption, including requirements to waive installation fees and to cap rates for a number of years. DRA cautions that increased CASF funding without sufficient oversight provides a temptation for utilities to replace their own capital assets and working cash with a different form of ratepayer-provided funding. DRA expresses concern that CASF applications thus far may have been “cream-skimming” the less-costly or easier upgrades as projects.

Sierra Economic Development Corporation (SEDCorp) argues that a 70% grant *alone* is sufficient incentive even if the applicants must seek debt financing for the remaining 30% of project costs.

CENIC suggests that the Commission consider focusing priority specifically on middle-mile projects for unserved areas and that the Commission

consider funding all qualified middle-mile projects before funding other First or Middle Mile projects in underserved areas.

San Joaquin Valley supports increasing the matching grant to 80% for unserved areas and 70% for underserved, since many projects in rural and high cost areas cannot be financially justified under the recommended 70% funding cap because of the significant up front investment required to deploy the infrastructure and facilities.

3.1.2. Discussion

We shall increase the CASF grant funding limits up to a maximum of 70% for unserved areas and 60% for underserved areas. We emphasize that the CASF funding limits are *only up* to a 60% maximum for underserved and a 70% maximum for unserved areas. That means that applicants are expected to seek only the funding percentage needed to make the project viable, which may amount to less than the 60% or 70% limits. CD Staff is authorized to request additional information and/or data to support an applicant’s requested CASF funding amounts. These higher matching grant limits will better promote our goal of making broadband services available to all areas and households within California. The table below shows the percentage of funds that the applicant must supply, assuming CASF funding up to maximum limits, and depending on whether the applicant also utilizes funds from a matching CASF revolving loan (as discussed further in Section 4 below):

| | Infrastructure Grant (% of total project cost) | Broadband Infrastructure Revolving Loan Account (% of total project cost) | Applicant(s) Funds (% of total project cost) |
|------------------------|---|--|---|
| A. With Loan | | | |
| Unserved Areas | 70% | 20% | 10% |
| Underserved areas | 60% | 20% | 20% |
| B. Without Loan | | | |

| | | | |
|-------------------|-----|----|-----|
| Unserved Areas | 70% | 0% | 30% |
| Underserved areas | 60% | 0% | 40% |

The different funding limits between unserved and underserved areas reflect our priority focus on increasing CASF project funding in unserved areas. Increasing the funding percentages beyond these limits, as suggested by certain parties, would unjustly prejudice underserved areas.

We recognize parties’ concerns that the small difference in the funding level between unserved and underserved areas may result in duplicative and unnecessary facilities in underserved areas. We will, therefore, only approve grants to areas already funded by CASF (at whatever level between 10% or 40%) three years after the start of broadband service of the first CASF funded project in order to give the grantee(s) time to realize returns on their investment.

3.2. Funding of Middle-Mile and Backhaul Projects

3.2.1. Parties’ Comments

Amador Tuolumne Community Action Agency and Valley Vision both argue that eligible infrastructure projects should include backhaul and backbone networks. Amador Tuolumne Community Action Agency also urges the Commission to identify “target areas” consisting of historically and chronically-unserved communities that would be unlikely to attract future broadband deployment investment interest, and to award points to proposals that specifically service these target areas with cost-effective broadband Internet access.

Verizon asserts that mobile wireless broadband be considered for the purpose of determining whether an area is served, unserved, or underserved, including 3G wireless and 4G services. DRA argues that wireless broadband is not a substitute for hardwired internet connectivity, given the limitations of

mobile devices. AT&T opines that funding middle-mile projects would contribute to overbuilding which is an inefficient use of CASF funds.

Both TURN and CENIC support funding middle-mile projects. TURN supports requiring middle-mile project applicants to provide a plan detailing who will connect to their networks. DRA and TURN both request clarification that construction projects related to and necessary for last-mile deployment are eligible for CASF funds.

3.2.2. Discussion

Our adopted revisions to the Infrastructure Grant program do not eliminate funding for projects involving middle-mile, backbone and backhaul. The funding of construction of middle-mile, backbone and backhaul projects is addressed in Resolution T-17143, at 6 and 7. In a scenario where infrastructure may have to transit both an unserved and underserved area to reach a remote unserved or underserved area, the Commission has agreed that applicants should be allowed to pro-rate costs when projects include facilities in unserved and underserved -- and even served -- areas. Middle-mile facilities are crucial to extending broadband to unserved areas, but the Commission should not be funding "the middle-mile to nowhere."

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. Applicants for middle-mile projects are required to submit all documentary requirements and will be evaluated based on their compliance with the guidelines and the evaluation criteria applicable to last mile unserved and underserved projects, including submission of proof that the backhaul or backbone construction is an indispensable part of their plan to reach unserved and/or underserved communities and submit a pro-ration of construction cost

per Resolution T-17143. We expect applicants to target areas that are unserved and underserved based on the latest available information. Short of listing or specifying these areas, the most current Broadband Availability map, i.e., the California Interactive map on the CASF web site, will provide information to assist the applicant(s) in identifying these areas.

3.3. Definition of Unserved Areas

In this decision, we consider whether to revise the CASF definitions of unserved and underserved areas to conform to the National Telecommunications and Information Administration/Rural Utilities Service definitions.

Alternatively, we consider whether these definitions should be revised based on the goals set forth in the 2008 report of the California Broadband Task Force.

Where there is only one application for an area, the Commission has approved funding for a project that would fall short of the benchmark speeds. (See Res. T-17143 at 3-4, Res. T-17233 at 12, Res. T-17195 at 6.) The Assigned Commissioner's Ruling dated August 15, 2011, (ACR), proposed an increase in the benchmark to a combined speed of 10 mbps to conform to the Federal Communications Commission's Sixth Broadband Deployment Report, which endorsed the minimum speed component of the national broadband availability target of actual speeds of 4 mbps download and 1 mbps upload proposed in the National Broadband Plan.

We reject parties' recommendations that the definitions of "unserved" and "underserved" areas be changed to an area served by an incumbent carrier's wire center where at least one occupied premise in the Incumbent Local Exchange Carriers (ILEC) wire center's service area is not served by any form of facilities-based broadband and Internet connectivity is available only through dial-up service or satellite. We find that adopting this definition will result in a

duplication of broadband infrastructure and investments in an area or census block group (CBG) that is already served except for that one household.

We will modify the definition of an unserved area as previously adopted in D.07-12-054 as an area that is not served by any form of wireline or wireless facilities-based broadband,⁸ such that Internet connectivity is available only through dial-up service. In Resolution T-17143, satellite service was included in the definition of unserved areas, putting it on the same footing as dial-up service.

At that time, we determined that satellite based broadband was more akin to dial-up than to the 3/1 minimum level of service that the Commission wanted to see deployed. The January 2008 California Broadband Task Force CBTF report data showed that broadband downstream speed for satellite ranged from 512 through 2 mbps. Other factors that the Commission considered at that time included the cost to consumers to access satellite service, and the unpredictability of the service.

While there has been some improvement in satellite service, the costs to the consumer still ranges from \$60 to \$90 per month (depending on service options and speed plus the cost of the equipment, and in some cases, an activation fee of about \$100); has high latency⁹ problems; is unreliable (drop-outs

⁸ Wireless broadband is defined to mean a fixed or mobile wireless high-speed internet access or connection provided to households, businesses and/or anchor institutions that meet the speeds and program guidelines set forth in this decision.

⁹ A High latency problem is due to the signal having to travel to an altitude of 35,786 kilometers (22,236 mi) as above sea level (from the equator) out into space to a satellite in geostationary orbit and back to Earth again. The signal delay can be as much as 500 milliseconds to 900 milliseconds, which makes this service unsuitable for applications requiring real-time user input such as online games. Additionally, some

Footnote continued on next page

are common during travel, inclement weather, and during sunspot activity); requires precise equipment positioning, (the narrow-beam highly directional antenna must be accurately pointed to the satellite orbiting overhead); and uses very large and heavy equipment.

In Federal Communications Commission (FCC) OBI Technical Paper No. 1 - Broadband Availability Gap, the FCC noted that broadband-over-satellite is a cost-effective solution for providing broadband services in low-density areas. Next generation satellites which are expected to be launched in 2011 are projected to be able to meet the National Broadband Plan benchmark of 4 mbps downstream and 1 mbps upstream. In fact, some satellite operators, notably Via SAT and Hughes Network Systems, LLC, plan to launch high-throughput satellites in 2011 and 2012, and offer 2-10 mbps upload and 5-25 mbps download speeds, respectively. The paper points out, however, that in spite of these improvements, problems in latency associated with satellite would still affect the performance of applications requiring real-time user input, such as Voice over Internet Protocol (VoIP) and gaming.

Further, the Recovery Act rules recognized the importance of satellite in the provision of broadband by excluding satellite service in determining whether an area is unserved or underserved but allowing satellite providers to apply for Recovery Act funding.

Based on these current developments in satellite broadband service, we will now consider applications from satellite providers that are certificated as further discussed in Section 3.5 Eligibility to Apply for Grants in this Decision.

satellite Internet providers do not support Virtual Private Network due to latency issues.

However, we will not consider as served those areas that have satellite broadband service unless those satellite projects are CASF funded.

3.4. Definitions of Underserved Areas

Under our existing rules, an underserved area is defined as 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. The assigned Commissioner's draft proposal sought comments on revising the definition of an "underserved" area to be where broadband is available, but where no facilities-based provider offers service at combined speeds of at least 10 mbps.

3.4.1. Parties' Position

Verizon, AT&T and Frontier recommend not changing the speed threshold. AT&T argues that a 10 mbps speed threshold can impede broadband growth. Verizon argues that increasing the speed threshold would reclassify as "underserved" many areas that currently have a broadband provider offering 3/1 mbps speeds, thereby introducing subsidies to markets that are already served at the expense of funding unserved areas.

TURN, DRA and Spiral Net/Nevada County Connected support the proposed new speeds, however, arguing that the benchmark speeds better reflect the capabilities of broadband networks. Frontier supports a 4 mbps download and 1 mbps upload benchmark, but cautions that some areas may be at risk of not receiving grant applications due to the higher costs to comply with this higher benchmark, unless the grant level increases. Frontier argues that raising the speed requirement may mean the difference between a project being economically feasible or unfeasible.

Small local exchange carriers (LECs) support the use of a combined speed for identifying underserved areas, but argue the benchmark speed should

not be based on advertised speeds. Otherwise, an area defined as underserved may be defined as such even if the network infrastructure exists to supply a speed that meets or exceeds the designated threshold. Small LECs argue that the Commission should rely on information from broadband providers about the actual speed capabilities of their networks. If disputes arise regarding the difference between the listed speeds and the speeds that customers actually experience, these issues could be resolved in the context of individual applications.

To ensure that CASF grants do not fund projects where sufficient broadband capabilities already exist, Small LECs propose use of a combined actual upload and download speed of 5 mbps for defining underserved areas, not an advertised threshold of 10 mbps.

Based on data that DRA has gathered, there is a wide variation in costs per household associated with a range of speeds. Thus, DRA urges adoption of a requirement of a minimum speed commitment associated with a per-household cost ceiling in order to better monitor the use of public funds.

AT&T and Verizon propose that mobile wireless broadband be considered for the purpose of determining whether an area is served, unserved or underserved. Small LECs counters that if advanced wireless broadband services are allowed (Verizon's proposal to include 3G and 4G) to test whether an area is "underserved," these advanced wireless services should meet the speed threshold and provide ubiquitous coverage to prove that an area is already served. Small LECs contend that the existence of limited wireless broadband coverage in more populous sectors is not sufficient to make the whole area "served."

Camino Fiber urges the Commission to continue limiting CASF funding to facilities-based services designed to serve fixed premise locations, as mobile wireless internet is a separate and distinct service. Camino Fiber believes that mobile wireless should remain merely a temporary stopgap in areas served by ILEC wire centers until wireline infrastructure is available to serve to all customer premises with facilities-based broadband and can provide adequate carrying capacity.

3.4.2. Discussion

We adopt a revised speed threshold for underserved areas to require a 6 mbps download and 1.5 mbps upload. This revised speed threshold is an improvement of one tier from the 3 mbps download and 1 mbps upload benchmark in the current program. We also adopt separate thresholds for download and upload speeds, as the existing information on current available speeds distinguishes the download and upload speed.

We had previously considered combined speed of 10 mbps with the intent of approximating the 4 mbps download and 1 mbps upload benchmark target in the National Broadband Plan. This is because actual speeds at that time only delivered approximately 45 – 50% of the advertised speed. However, based on recent findings by the FCC Office of Engineering and Technology and Consumer and Governmental Affairs Measuring Broadband America report, the actual speed delivered exceeds 80% of the advertised speed, i.e., during peak periods, Digital Subscriber Line (DSL)-based services delivered 82% of advertised speed, cable-based-services delivered 93% of advertised speeds, and fiber-to-the-home delivered 114% of advertised speeds.

We adopt advertised speeds of 6 mbps download and 1.5 mbps upload as the benchmark speeds. At this time, maximum advertised speed is the

best metric by which the Commission can determine if an area is served or underserved. Carriers provide maximum advertised speed data to the Commission. Further, standard measurements of actual speeds have not yet been established. Finally, in its Connect America Funding (CAF) ruling, the FCC intends for broadband providers to meet these benchmark speeds in later years of CAF Phase 2. Given the increased speeds, our analysis shows how the number of households served/underserved/unserved changes, assuming speed tier combinations of at least 6 mbps download/1.5 mbps upload. Using current availability data and the 2010 census numbers at the block level for the calculations, the results for the percentage in each of the three categories show that with speeds increased to 6 mbps down and 1.5 mbps up, the underserved category would increase from .5% to 8.7%, and correspondingly, the served category decreases from 97.3% to 89%, as summarized below:¹⁰

| | 3 mbps download/1 mbps upload | | 6 mbps download/1.5 mbps upload | |
|------------------|-------------------------------|-------|---------------------------------|-------|
| | Number | % | Number | % |
| Available | 12,237,906 | 97.3 | 11,198,121 | 89.0 |
| Underserved | 62,887 | 0.5 | 1,099,883 | 8.7 |
| Unserved | 276,705 | 2.2 | 279,494 | 2.2 |
| Total Households | 12,577,498 | 100.0 | 12,577,498 | 100.0 |

Adopting this threshold as the line between served and underserved moves the bar up one tier in both directions. Thus, we modify the definition of an underserved area as:

¹⁰ Based on analysis from the Center for Economic Development, California State University, Chico. The broadband availability data is available at <http://www.broadbandmap.gov/data-download>.

An “underserved” area is an area where broadband is available, but no wireline or wireless facilities-based provider offers service at advertised speeds of at least 6 mbps download and 1.5 mbps upload.

3.5. Eligibility to Apply for Grants

In this decision, we also consider whether to revise the eligibility criteria to apply for grants or loans. The Commission, in establishing the CASF in D.07-12-054, limited eligibility for CASF grants to a “telephone corporation” as defined under Pub. Util. Code § 234.¹¹ CASF funding is thus currently limited to telephone corporations, i.e., entities with a Certificate of Public Convenience and Necessity (CPCN) or wireless carriers who are registered with the Commission, i.e., with Wireless Identification Registration (WIR).

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 Commission.

For projects that received funds under the Recovery Act, the CASF provided matching funds of 10% to non-certificated entities as authorized under Assembly Bill (AB) 1555 and D.09-07-020. Roughly 80% of the matching funds are sourced from the Recovery Act, and the applicant is responsible for 10%.

With the Recovery Act funds now fully allocated, entities that are neither holders of a CPCN nor registered wireless carriers are no longer eligible for grants under the CASF. (*See* Pub. Util. Code § 281(c)(2).) Accordingly, in this

¹¹ Telephone corporations are defined to mean those entities that are CPCN holders or WIR holders.

decision, we address whether non-CPCN holders, i.e., entities that are not certificated by or registered with the Commission, should be eligible recipients under the Broadband Infrastructure Revolving Loan and/or Grant Account.¹²

3.5.1. Parties' Comments

Several parties argue requiring CASF applicants to obtain a CPCN certificate will create an unnecessary obstacle, thereby limiting the applicant pool, especially reducing the number of smaller providers, and reducing overall the number of viable projects the Commission may fund. One recommendation is to permit any California-registered organization (i.e., nonprofit, government, public company, private company, school system, etc.) to apply for CASF funding because the most logical project applicant to achieve cost-effective deployment of broadband infrastructure in a region may not have a CPCN or be a registered wireless carrier. Amador Tuolumne Community Action Agency and Valley Vision suggest the Commission could require non-carrier applicants to submit an affidavit similar to that utilized for CASF Regional Consortia applicants. Small LECs, however, argue that even if these entities submit affidavits that they will comply with CASF rules, the Commission will have little legal recourse if these entities do not fulfill grant obligations.

Small LECs argue that the Commission should require that grant recipients be subject to Commission jurisdiction, and agree that non-CPCN or non-WIR holders could partner with a regulated entity.

TURN and DRA suggest that non-CPCN holders be given the opportunity to solicit CASF funding provided that such entities demonstrate the

¹² Hereafter, we use the term non-CPCN holders to include entities that do not hold CPCNs or wireless carriers who are not registered with the Commission, i.e., with WIR.

financial, technical and operational capability to successfully construct, operate and maintain a local or regional broadband system and repay any loans received to support the project. However, DRA is concerned that the Commission's jurisdiction may not extend to non-CPCN entities, and has concerns about the associated risks to ratepayers. DRA notes that the application requirements are much more stringent for loan applicants than grant applicants, for example. DRA proposes a Commission review of relevant operational experience and any track record of success by non-CPCN applicants. However, DRA supports extending CASF award eligibility to certain non-CPCN holders only if the Commission adopts more stringent application requirements and transparency provisions.

3.5.2. Discussion

We conclude that existing eligibility requirements restricting CASF grants only to telephone corporations should continue to apply. AB 1555 limited the availability of CASF funding to non-CPCN holders only if these entities were also seeking Recovery Act funding. Since the broadband funding under the Recovery Act has been fully allocated, the opportunity for non-CPCN/non-CPUC registered entities has lapsed. If the CASF program was open from its establishment to non-telephone corporations, there would not have been a need for the Legislature to enact a separate bill allowing non-CPCN holders to avail themselves of CASF funding in conjunction with their Recovery Act funding.

Our staff's experience with non-CPCN holders has been challenging, with substantial staff time being devoted to help the applicant and/or grantee negotiate the application/grant processes and comply with the conditions attendant to the grant award. However, in spite of the guidance and assistance provided by staff, three applicants decided not to pursue their applications while

three approved grants were rescinded as the grantees were unable to secure Recovery Act funding. Given this past experience, we conclude that non-CPCN holders should not be eligible for CASF grants.

In our revision of the CASF Infrastructure Grant program, we introduce new requirements in the application process to identify and eliminate “bad actors” and to ensure that entities that are granted ratepayer monies have the financial and managerial capabilities to construct the broadband infrastructure and operate the facility on a long term basis. Likewise, as most of the CPCN holders also participate in other universal service programs administered by the Commission, it is in their best interest to comply with the conditions attendant to the CASF funding.

On the other hand, if an entity that is not a telephone corporation receives a grant and fails to complete the project as awarded, the Commission may not have a regulatory mechanism to enforce its resolution awarding the grant. As previously discussed in resolution T-17143, 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.

3.6. Mapping Information Required from Applicants

As set forth in the August 15, 2011 ACR,¹³ the CASF website will post the most current Broadband Availability maps identifying unserved and underserved areas. The most current Broadband Availability map that the applicant can use in preparing its applications is the CA Broadband Interactive Map on the CASF webpage showing the areas currently served; the existing providers; the technology available in a particular area, up to street level; the speeds in the areas served; as well as the population in these areas.

3.6.1. Parties' Comments

Sierra Economic Development Corporation (SEDCorp) contends that mapping data resolution to the CBG or even census block (CB) level will likely be insufficient to evaluate competing or challenged proposals in a fair manner. SEDCorp thus encourages using greater detail regarding the availability of mapping data (specifically, the designation of served or underserved areas). It requests clarification as to how that data will be used to evaluate project proposals to avoid confusion, frustration, and delay, as was experienced with the earlier program regarding whether a single service in a given area (census block group, census block, etc.) results in that entire area being designated as "served." SEDCorp recommends that the Commission allow applicants to receive appropriate credit for submitting locally collected data at a finer resolution than census block or street segment in order to "make their case" regarding the new or improved service they propose.

SEDCorp also recommends that applicants submit their assertion of unserved or underserved areas by lists of addresses that are readily mapped

¹³ See ACR Attachment 3, Summary of Changes to the Infrastructure Grant, #5.

with such tools as Google Maps. As stated at the Census Service website, neither the Census Service nor the Postal Service provide cross references between CBGs/CBs and ZIP codes. SEDCorp therefore cautions that such cross references provided by third party vendors may not be accurate due to continual changes to postal routes, etc.

3.6.2. Discussion

We recognize that available broadband maps may not precisely reflect the unserved and underserved areas. That is, areas shown as served that are on the fringes of a wire center may not be served at the speeds indicated in the map due to signal degradation and distance from the wire center, as in the case of DSL. However, part of the applicant's submission includes a justification or proof that the area is unserved and underserved. Some grantees under the existing Infrastructure Grant program were able to prove that the area(s) they propose to serve are unserved or underserved by submitting updated maps and/or letters from city/county officials, households and anchor institutions attesting to the lack of broadband service in the proposed area(s) or the low download and upload internet speeds in the area(s), contrary to the information reflected in the Broadband Availability Maps.

We will continue to require applicants to submit shapefiles of their proposed projects so that the proposed area map can be posted on the CASF webpage.

3.7. Estimated Potential Subscriber Size/ Adoption/Affordability Plans and Outreach

3.7.1. Parties' Comments

DRA proposes requiring applicants to submit adoption plans detailing how their proposals will increase broadband adoption and affordability in the areas they propose to serve. DRA recommends the Commission require

applicants to explain the steps, discount programs, or other means they will undertake to ensure their estimates are achieved, including marketing and outreach plans. TURN agrees with DRA that addressing affordability and adoption are particularly important. For middle-mile projects, TURN supports requiring applicants to provide a detailed plan showing who will be connecting to their networks, arguing that middle-mile facilities are crucial to extending broadband to unserved areas, but the Commission should not be funding “the middle-mile to nowhere.”

Verizon opposes the proposals from DRA and TURN, arguing that neither provides new compelling rationale to impose such obligations on program applicants. Verizon argues that the Commission should increase incentives to attract more bidders, not saddle the program with unnecessary burdens.

3.7.2. Discussion

We conclude that the applicant should include a plan to encourage adoption and sustainability of the broadband service in the proposed area. We agree with DRA that the plan should include not only an estimate of the number of customers that the applicant projects will sign-up for service, but also the method of attracting households to sign-up for the service (e.g., marketing plan, outreach, discount programs).

While the consortia participating in the CASF’s Rural and Urban Regional Consortia program potentially can contribute to adoption and sustainability efforts, the applicant should also be able to come up with its own plans towards adoption and sustainability through such avenues as its marketing plan and pricing structures. The consortia can both (a) identify areas where there is no broadband service or where service is available but where broadband speed

is less than the benchmark, and (b) assist the grantee in disseminating information on the proposed project and assist applicants in formulating outreach and marketing activities.

We hereby require the submission of an adoption plan as set forth in the adopted guidelines for CASF grant applications in Appendix 1 of this decision.

3.8. Pricing Conditions

3.8.1. Parties' Comments

DRA supports an increase in the CASF funding cap only if the appropriate conditions are imposed on applicants. First, DRA proposes to cap monthly recurring charges for at least two years as a mandatory condition for receiving 40% CASF funding. DRA further proposes that if the Commission increases the funding cap, applicants seeking more than 40% funding should be required to cap monthly recurring charges for more than two years. To accomplish this, a sliding scale could be used with the two-year cap as a minimum standard, incrementally increasing the number of years an applicant's recurring charges are to be capped commensurate with the percentage of project funding requested. DRA believes the Commission should prohibit CASF funding recipients from assessing installation charges or initial service connection fees, regardless of the percentage of matching funds requested.

3.8.2. Discussion

Based on comments received, we will require that monthly recurring charges be fixed for two years since the CASF grant will increase from 40% to 60-70%. We will also require applicants to waive installation / initial service connection fees for two years. Thus, the Proposed Pricing conditions will now read:

Proposed Pricing. Proposed (two-years fixed) 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 (except installation and/or initial service connection fees) the customer must pay to receive service during the initial two years of service, expressed as a monthly average.

Appendix 1, Section V., 22 Price Commitment Period also provides that: "The required Period of Commitment to which the initial price (listed in Item 21) is applicable for all households within the service area of the project. Minimum price guarantee period for each customer is two years."

3.9. Financial Eligibility Requirements

It is the Commission's responsibility to safeguard the use of ratepayers' monies and to ensure that CASF grants will not result in the construction of an unutilized or uncompleted asset. Thus, to ensure that CASF grants are disbursed only to financially responsible entities, we have included the financial viability criterion in the CASF scoring criteria. The ACR draft proposal included requirements for applicants to submit various financial documents and data to demonstrate applicants' financial capability.

3.9.1. Parties' Comments

Frontier recommends that applicants be allowed to submit parent company financial statements since individual subsidiaries may not have audited financial statements. Verizon argues that the proposed financial reporting requirement will eliminate applications for smaller projects. Alternatively, Verizon proposes that this requirement not apply to projects that augment *existing* infrastructure by providing broadband to an underserved or unserved area. For example, Resolution T-17322, which approved a grant for

Frontier's expansion of DSL, is an example of a CASF project that Verizon believes should be exempt from this requirement.

Camino Fiber proposes exempting startups that do not have three years of financial statements. Similarly, SEDCorp supports allowing businesses to submit financial statements for as many years as the applicant operated, if it has done so for less than three years.

SEDCorp recommends allowing substitution of tax returns prepared by a licensed tax preparer especially for smaller ISPs that do not have CPAs or CPA-audited financial statements.

SEDCorp questions the purpose for requesting annual earnings before interest and taxes (EBIT) projections over five years, especially since complete pro forma income statements are required. SEDCorp, asserts that EBIT is not an effective metric by which to measure the health of a business.

3.9.2. Discussion

We adopt the financial eligibility reporting requirements as set forth in our attached guidelines with certain modifications from the draft version attached to the ACR, as noted below. We discuss the applicable financial documentation and eligibility reporting requirements in further detail in Section 4.2.2 below. Similar financial documentation shall be used to evaluate both loan and grant funding requests.¹⁴ To-date in the existing CASF program, the Commission has rescinded several approved projects for various reasons including the applicants' opting out of the project because updated forecasts showed the project to be unviable, the applicants' inability to secure funding for the required 60% match, and -- in the case of CASF/Recovery Act projects -- the

applicants' failure to secure Recovery Act funding. The financial requirements that we impose on applicants will hopefully prevent or mitigate this same outcome in the revised Infrastructure Grant program.

We will accept financial statements from parent companies in lieu of financial statements from subsidiaries that have no audited financial statements. As discussed further in Section 4.2.2., if a parent company financial statement is used to support an applicant's financial viability review, the parent company will be held financially responsible for compliance with the terms and conditions of funds awarded to the applicant. We also recognize that some companies may not have CPA audited statements but have CPA attested financial statements. We will accept CPA attested financial statements in lieu of CPA-audited statements, as reflected in the rules in Appendix 1.¹⁵

3.10. Provision for Basic Voice Service Offering

The Commission in D.07-12-054 stated that for purposes of the CASF, basic service is to include any form of voice-grade service, including that offered through a wireless or VoIP service. At a minimum, however, we required that any form of voice grade service offered to satisfy CASF requirements must at least meet FCC standards for E-911 service and battery back-up power supply. At present, we apply this definition of basic service only in the context of carriers seeking to qualify for CASF funding.

¹⁴ See Appendix 1, Attachment B for the CASF Application Checklist.

¹⁵ According to the Auditing Standard Board's Statement on Standards for Attestation Engagements, # 10, attestation standards apply to engagements in which a CPA in public practice is engaged to issue, or does issue, an examination, a review, an agreed-upon procedures report, or an assertion about subject matter that is the responsibility of another party. Attestation standards are an extension of generally accepted auditing standards.

The Commission, in Resolution T-17143, addressed the issue of basic service, as follows:

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 are met as discussed infra.

We see no reason for changing this condition.

3.11. Windows for Filing Applications

3.11.1. Parties' Comments

Parties commented on the ACR draft proposal to establish windows for the filing of CASF applications. AT&T supports the use of discreet application windows. Under the process established in Resolution T-17143, providers were required to monitor the Commission's CASF website daily to determine if new applications were posted, making it difficult to schedule the work required to evaluate applications, which had to be done in a very short timeframe (still proposed to be only 14 days). AT&T commends CD's proposal to remedy this problem by establishing transparent application windows for each round of funding. However, it proposes that when Staff review will exceed seven days, Staff should include a notation on the CASF website on Day 7 giving a certain date on which these additional applications will be posted. In this way, all parties will know when new applications will be available for review, and will know exactly when to submit any additional challenges.

Small LECs request more details regarding the application windows described in the ACR proposal, as to whether subsequent windows will commence immediately after the previous window expires.

SEDCorp argues that the disposition of proposals not funded during a given round is unclear. Consequently, it recommends the following re-wording of the Section:

Projects will be ranked by total score from highest to lowest and funded in rank order to the limit of funds available for that window. Those projects that fall below the funding line for a given window may be resubmitted to the next window for which the project is eligible at the request of the applicant with or without modification/enhancement by the applicant.

3.11.2. Discussion

We establish separate application window deadlines for unserved and underserved projects, as set forth below.

The first application window shall be for projects in unserved areas. The deadline for filing is May 15, 2012.¹⁶

The second application window is for projects in underserved areas with broadband service where the existing infrastructure or broadband infrastructure under construction was not partially funded by CASF and broadband speed is less than advertised speeds of 6 mbps download and 1.5 mbps upload. This window will also include hybrid projects covering unserved and underserved areas (not partially funded by CASF) encompassing a single contiguous group of CBGs. The deadline is September 11, 2012.

The third application window is for projects for underserved areas with broadband service where the existing infrastructure or broadband infrastructure under construction was partially funded by CASF and broadband

¹⁶ Applications requesting combined funding from the CASF grant and loan accounts will be processed contingent upon the implementation of the CASF loan program.

speed is less than advertised speeds of 6 mbps download and 1.5 mbps upload. Applications under this window will only be entertained three years after the start of broadband service of the original CASF funded project. CD is authorized to communicate the date of the third filing window deadline at a later date.

To illustrate: applications for unserved areas will be received up to May 15, 2012 and will be evaluated according to the criteria adopted. However, an application submitted after May 15, 2012, will be received but will not be evaluated at the same time as the May 15 submitted applications; it will be considered and evaluated together with applications for unserved areas that are submitted in the second round application window for unserved areas, if another round is opened. This same process will be followed for application windows 2 and 3. The dates specified are, therefore, absolute deadlines.

If an applicant submits an application for an unserved area within the deadline but the application is incomplete and the applicant fails to provide CASF staff with the required information or clarification needed in the evaluation of the project, or if the applicant fails to submit the required information or clarification in a timely manner, its application will be held and staff review will continue during the second round application window for projects in unserved areas. This process will be the same with respect to underserved applications where the applicants fail to timely provide the required documentation/clarification.

Applications submitted on the specified deadline dates will be evaluated, and funding approved based on the evaluation of their proposals in accordance with the schedule in the table on page 17 of Appendix 1, Sec. VI, "Submission and Timelines." The deadline for submit funding requests for each respective window period is identified in the Appendix 1 table as "Day 1."

We concur with AT&T's suggestion that in cases where application information cannot be posted within the seven days established in this decision because staff is waiting for clarification or needs further information from the applicant(s), staff will include a notation on the CASF website on Day 7 giving a certain date on which these additional applications will be posted.

3.12. Evaluation of Challenges

3.12.1. Parties' Comments

Frontier asks the Commission to provide sufficient information to an applicant in the event that its proposed project is challenged as not being in an unserved or underserved area. Frontier asserts that the applicant should be provided the name of the parties challenging the application and the opportunity to refute those parties' claims. Frontier's experience with the challenges is that the maps are not provided at a low enough level of granularity to provide sufficient information regarding another provider's coverage. When a challenge is made, the applicant should be given the opportunity to verify on its own if alternative coverage is available from another carrier.

SEDCorp supports the Commission's intent to process grant applications within little more than three months, but seeks greater clarification. If challenges to project proposals are to be allowed, SEDCorp strongly recommends that the Commission specify the process and criteria for submittal and evaluation of such challenges in substantial detail. Further, it strongly recommends that the challenger bear the burden of proof for any challenge.

3.12.2. Discussion

We will maintain the current process for challenging an application as to the area being unserved or underserved, as posted on the CASF website FAQ page. It states:

Q: How will challenges to unserved vs. underserved/served areas be reviewed?

A: Any party that challenges a CBG as being served or (for applications for unserved areas) underserved will have to provide documentation that the CBG is in fact already served (e.g., a copy of a customer bill). Commission Staff will then investigate this information, along with the applicant's documentation supporting its assertion that the CBG is unserved. Once Staff makes a final determination, we will notify the applicant of our determination.

If Commission staff determines the challenged CBG to be "served" (for applications for unserved areas) or not underserved (for applications for underserved areas) staff will reject the application. The applicant, however, has the option to submit a modified application in subsequent application rounds, either for the same area (provided that the parts of the CBG that are not "unserved" or underserved are omitted from project cost and budget considerations) or for only those parts of the CBG that are unserved or underserved.

Entities who challenged applications submitted in the existing program must submit maps of their service area(s) as well as addresses to enable CASF staff to verify that the area(s) are already served and not underserved.

We agree with Frontier's recommendation and the necessary clarification is now reflected in Appendix 1, Section VI – Submission and Timelines.

3.13. Fitness Requirements

The ACR draft proposal included an Information Sheet attesting to the fitness of the applicant. In order to receive funding, the applicant must aver that "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 FCC, 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.”

3.13.1. Parties' Comments

AT&T and Frontier claim that the proposed fitness disclosures are excessively restrictive and unnecessary. AT&T asserts that the language is too broad, and if taken literally, would exclude from the CASF program every telecommunication company that has ever been sanctioned by this Commission or the FCC.

DRA, however, argues that requiring CASF applicants to state whether they have been convicted of criminal activity or sanctioned by the FCC or a state regulatory agency for failing to comply with the law is not overly restrictive. DRA recommends that the application also instruct applicants to provide details of such sanctions or convictions in order to better assist the Commission in determining which applicants may be “bad actors” or otherwise untrustworthy.

SEDCorp argues that the Commission should adopt the financial industry standard for seeking such declarations and personal financial information, which targets those with a 20% or larger ownership position. The requirement for such data and assurances from those with only a 10% ownership position may become unnecessarily burdensome on both the applicant and the Commission.

Camino Fiber argues that the reference to “broadband only is vague and unclear, particularly given that multiple advanced telecommunications services are delivered via Internet protocol or what is popularly described as

“broadband.” In addition, this item directs applicants to “see instruction 6.” Such instructions are not contained in Appendix A.

3.13.2. Discussion

We shall retain the requirement that applicant must attest as to whether the applicant has ever been sanctioned by the FCC 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.

The public has a right to know whether an applicant has been convicted for any criminal activity or has failed to comply with any FCC or state statutes, rules, or orders. This information is relevant, in assessing fitness of an applicant. Thus, we require applicants to attest as to whether any such sanctions were imposed within the last 10 years. We adopt the 10% ownership position as a threshold for completing this attestation requirement. This is also the requirement for CPCN applicants. Appendix 1, Attachment A (Pages A-4 and A-5) includes the instructions for completing the information sheet.

3.14. Scoring of Applications

In Resolution T-17143, the Commission adopted criteria for (i) handling multiple competing applications covering the same area, and (ii) ranking projects to allocate the CASF funds if the total amount applied for exceeds \$100 million (the amount available from the CASF). We now address whether we should modify the scoring criteria or weights used to rank projects. We also address whether the criteria should include an industry standard cost and/or a ceiling cost per household, and if so, how they should be determined, and whether they should depend on the proposed technology.

3.14.1. Parties' Comments

While parties offer a wide range of recommendations to consider or exclude when evaluating, the suggestions share some common themes. Many participants expressed their desire to ensure that similar applicants be compared against each other so that the formula was not weighted in favor of certain types of projects (for example, rural, low-population density projects might be at a disadvantage). Small LECs suggest that the formula consider "household served" rather than pure geographic scope as the criterion. Amador Tuolumne Community Action Agency, Valley Vision and DRA each agree on the need to include cost effectiveness in comparing projects. Small LECs support including a measure of the projects financial viability. Amador Tuolumne Community Action Agency, Valley Vision and CENIC all propose rewarding applications that provide or improve Internet access to schools, libraries, hospitals and other anchor institutions.

3.14.2. Discussion

We see the merit in the Small LECs' suggestion and will use number of households in the service area in lieu of service area (in square miles) for scoring. The number of households reflected in the application should be the total households in the area, not the potential customers or households based on the take rate.

Because we recognize the important role broadband plays in anchor institutions such as schools and libraries, an additional five bonus points will be awarded to an applicant who is able to secure letters of endorsements from local government and community organizations.

Broadband as a social benefit is difficult to quantify and would require applicants to submit a cost-benefit analysis. Considering that we have

already imposed new requirements to ensure the viability of the project, we do not consider this a critical factor in the process. The fact that the Legislature directed the Commission to establish the CASF and that the Commission did so demonstrates the importance of broadband service in not only the economic but also the social environment.

In D.11-06-038, we did not include the evaluation of CASF applications as one of the functions of the Consortia Grant Account. We recognize the importance of the CASF consortia's informal role in working within their region to identify viable and cost effective projects in advance of submitting a CASF funding request, although the consortia have no formal role in advising the Commission as to the granting of awards for CASF applications. Staff, however, may ask the consortia to provide information for purposes of verifying applicants' declaration of the area as being served or underserved or for verifying data relating to the number of households, among others.

3.15. Confidentiality of Information/Transparency

Under the current process for handling CASF applications (established in Resolution T-17143), the Commission only posts CBGs and maps of proposed areas on the CASF website. This information gives the public and other carriers the opportunity to challenge the areas proposed for CASF funding and gives other qualified entities the opportunity to submit counterproposals. However, the identity of the applicant and the technology proposed are not posted. The Commission withholds this information to provide confidentiality for aspects of an application that may be competitively sensitive. (See D.09-07-020 at 9, footnote 6.) Only when staff issues the draft resolution for public comment are the full contents of the application -- i.e., identity of the applicant, the technology

proposed, and other information submitted pursuant to Resolution T-17143 -- made available.

3.15.1. Parties' Comments

AT&T and Frontier assert that all CASF application materials except the Information Sheet should be confidential. When applying for a loan or grant, CD requires applicants to disclose and make public sensitive business information including the proposed pricing of the broadband deployed; length of pricing commitment, and proposed project budgets. Because of the confidential nature of this information, applicants may be dissuaded from taking advantage of the CASF program. To prevent this unintended outcome, they argue that CD should disclose only the "Information Sheet," since that sheet does not contain any confidential information or trade secrets. The filed Information Sheet will provide information sufficient to allow broadband providers to decide whether to challenge a project, and will give the public constructive notice of proposed projects. Posting only the filed Information Sheet should satisfy CD's desires for openness and transparency, while at the same time preserving an applicant's need for confidentiality.

TURN supports the changes in the proposal that would require identification of the applicant's name as well as requiring Staff to disclose the information that drives the scoring and ultimate selection of grantees. TURN urges the Commission to continue to explore ways to make even more information available to the public, especially to those consumers and organizations residing within the contemplated area being considered for a CASF award.

DRA continues to propose a fully transparent process and recommends that the Commission adopt, in whole, the following procedures:

- Applicants should be required to serve their applications on the service list for this proceeding, and the Communications Division should use its “TD_AR” email list to forward applications more broadly; those served should be allowed to submit comments on applications in accordance with the Rule of Practice and Procedure 2.6 before the Communications Division issues its Draft Resolutions. Once an application is filed, the public should have written notice and an adequate opportunity to comment on the applicant’s identity and ability, plan, the type and location of the project, speeds, project cost, and projected rates;
- The CASF website should also contain information that is sufficiently detailed to allow an evaluation of whether a project should or should not be challenged. The website should reveal how projects were evaluated, scored and ranked by the state decision makers;
- The Commission should make audit data of each funding recipient available so that the public is allowed to comment on audit reporting; and
- Applicants should notify the community of the area where the applicants are seeking funds and inform the community that an application has been submitted to the Commission to provide broadband services in that area. Applicants should seek and encourage dialogue with the local government (and agencies) and the residents of the community. If the proposed scoring criteria are adopted, DRA supports the addition of “bonus points” for including letters of community support for the proposed project.
(At 5-6.)

The Small LECs request that the Commission further clarify the confidentiality standards for information in the application. The Small LECs agree with DRA’s perspective that the materials in CASF applications ought to

be public to the greatest extent possible without compromising sensitive competitive data. However, given the numerous additional items included in the proposed application, AT&T also raises valid concerns that some of the information requested is competitively sensitive. To provide clarity to the applicants, the Commission should make clear which specific types of items will be subject to public disclosure. The Small LECs agree with DRA that the public and potential providers affected by proposed projects should have “information sufficiently detailed to allow an evaluation of whether a project should or should not be challenged. The Small LECs further propose that the information include name of provider, technology employed, the specific areas claimed to be unserved or underserved, and the speed target the applicant proposes to meet.

3.15.2. Discussion

The posting of application information is meant to serve as a basis for interested parties to challenge the application as to the area being unserved or underserved. The Information Sheet in Appendix A of Attachment 2 of the ACR does not provide this data. We note that some information in the application appears to be confidential as it contains location of existing infrastructure and routes, which may pose security concerns, as well as marketing plans which may impact the applicants’ revenue stream.

On the other hand, we also recognize that the National Telecommunications and Information Administration’s (NTIA) and the Department of Agriculture’s Rural Utilities Service’s (RUS) disclosure of application information in their public website did not appear to discourage applications for Recovery Act funds.

Thus, we will adopt the information disclosed by the NTIA/RUS in addition to the information we currently disclose on the CASF webpage. The information available to the public will include:

- Applicant's name;
- Contact person;
- Project title;
- Proposed project and Location (Community/County);
- Project Type (Last Mile or Middle-Mile);
- CASF Funding requested (Amount of Grant/ Amount of Loan);
- Description of the Project;
- Map of the Proposed Project;
- List of Census Block Groups; and
- List of ZIP codes.

We will require applicants to submit this "project summary" with their application. The summary submitted by the applicant will be the information posted on the CASF webpage. Also, we direct applicants to send a notice of their application together with the "project summary" to interested parties in the CASF application distribution list. The CD is to create and maintain an interested party distribution list for matters relating to the CASF program, and to share that list with the parties to this proceeding. Having the applicant prepare the summary for posting removes the burden on staff of determining which portions of the application are deemed confidential. We expect the applicant to work closely with the local government units and community organizations to disseminate this information in the proposed area as

part of their marketing and outreach plans. The consortia in the area can also assist in this endeavor.

We will also require the applicant to submit applications as follows:

- Electronically to CASF;
- A hard copy of the application to be mailed to CASF;
and
- A hard copy of the application to be mailed to the
Division of Ratepayer Advocates.

Appendix 1, Section V includes a new item, the submission of a Project Summary. Section VI, Timeline and Submission, is revised to include the submission of a hard copy of the application to the DRA.

3.16. Open Access and Net Neutrality Requirements

3.16.1. Parties' Comments

TURN and DRA argue that the Commission should require that advanced networks constructed with public money be subject to net neutrality and open access requirements consistent with the requirements applied to infrastructure projects receiving funding from the Broadband Technology Opportunities Program. Camino Fiber concurs with this assessment. DRA notes that while it is unlikely that more than one provider will emerge to serve remote rural areas with few potential broadband customers, it both defies logic and is counter to the public interest for the Commission to forego the opportunity to require CASF recipients to share their networks where technically feasible. In addition, DRA expects providers to operate in a nondiscriminatory manner and manage the network with transparency.

Small LECs, AT&T and Verizon disagree with the position of TURN, DRA and Camino Fiber. AT&T and Verizon argue that the requirements TURN and DRA propose would saddle the program with unnecessary burdens and

discourage carriers from applying for CASF grants. Small LECs argue that even when a CASF grant has contributed to the cost of the facilities / infrastructure, the applicant still owns the facility once it is built. The facilities are not “public” in the sense that they will be owned and managed by the government, even if a government program may have contributed to its construction. Small LECs add that “net neutrality” is an issue that is still being addressed at the federal level, and refers more to a generic set of non-discriminatory commitments regarding the content traveling over broadband-capable facilities. To the extent that the Commission wishes to impose open access and net neutrality, it should be limited to the principles that were included in the recent Recovery Act grants.

3.16.2. Discussion

We decline to implement any open access rules at this time. One of the reasons for the broadband availability gap is service providers’ reluctance to provide service in an area because they cannot earn enough revenues to cover the cost of deployment. The CASF provides a portion of the infrastructure cost to reduce the capital costs to be provided by the service providers, thus enabling them to earn a reasonable return on their investment.

While the idea of network sharing may be attractive in theory, in reality it is a complex issue and a complicated undertaking. First, the CASF only provides infrastructure cost not operating or maintenance costs after construction. Opening the CASF-funded network to competitors would dilute the grantees’ revenue stream and possibly cause the CASF-funded project to fail. There is a complex administrative component as well: the Commission would be put in the position of regulating the rate service providers charge each other. Moreover, we note that the FCC is addressing broadband at the federal level.

While the Commission may revisit this issue in the future, we note that nothing prohibits a service provider from leasing its own network to another carrier.

3.17. Reduction of CASF Grant Disbursements

3.17.1. Parties' Comments

DRA seeks clarification on the sentence in the ACR "...If the applicant(s) is unable to complete the proposed project within the 24-month timeframe, it must notify the Commission as soon as it becomes aware of this prospect. Payment may be reduced for failure to satisfy this requirement." DRA argues that clarification is needed regarding which requirement is subject to the payment reduction – the requirement to complete within 24 months or the requirement to notify the Commission as soon as the applicant becomes aware that the deadline will not be met?

If it is the former, DRA believes this conflicts with statement on page 23 of the ACR, which says payment "will be" reduced if 24-month deadline is missed. DRA seeks clarification and details about the implications of projects that are not completed within 24 months, and as to the administrative mechanism by which awards will be reduced or terminated. Since project approval is granted by Commission Resolution, will it be necessary to go through the Resolution process in order to terminate or reduce previously awarded funding, or should the Commission delegate administrative authority to do so to the Director of the Communications Division?

3.17.2. Discussion

We require the applicant to inform the Communications Division if the project will not be completed within the completion date approved in the

funding resolution. We note that projects may be delayed due to permitting requirements outside the grantees' control.

We will modify Appendix 1, Section XI as it pertains to this issue as follows:

In the event that the recipient fails to notify Communications Division of any delays in the project completion and the project fails to meet the approved completion date, the Commission may impose penalties via a resolution.

4. CASF Revolving Loan Program

SB 1040 expanded the CASF to establish the Broadband Infrastructure Revolving Loan Account. Pursuant to Pub .Util. Code § 281(e), funds in the 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."

The Commission will disburse funds from the CASF Loan Account only as supplemental financing for projects that are also applying for funds from the CASF grant account. The CASF loan account will cover a percentage of the project's total costs that are not funded by the grant account. Funds in the loan account will not be used to finance stand-alone projects not funded by the grant account.

4.1. Loan Eligibility Requirements

As previously noted, the purpose of the Loan Account is to finance capital costs of broadband facilities not funded by a grant from the Grant Account. SB 1040 established the Loan Account as an additional option for funding supplemental to the Grant Account. Therefore, we hereby establish the Loan Account within the CASF Program as a supplemental funding venue for

qualified projects and applicants under the Grant Account and not as a sole source of funding to a project.

We adopt updated applicant and project eligibility criteria for the Grant Account for purposes of qualifying for the CASF loan account. Appendix 1 of this decision outlines the eligibility requirements.

Applicant and project eligibility requirements for the CASF infrastructure grant account and loan account will essentially be the same since both accounts are specifically used to finance capital costs of broadband facilities. Adopting one set of requirements for both accounts will provide an efficient and simplified way for applicants to submit an application and avoid complications in determining what is needed for each type of funding. The Commission will award funds from the Loan Account only as supplemental financing for projects also applying for funds from the Grant Account. The maximum percentages of project costs to be funded are set forth in Section 3.1.1 above.

4.2. Financial Statement Requirements

In setting up the financial eligibility criteria for applicants, it is the Commission's responsibility to lend to entities that are capable of repaying its loans. Applicants will be required to provide specific financial documents as listed below.

A. CPA-Audited Financial Statements for the last three years, to include:

- Balance Sheet
- Income Statement
- Statement of Cash Flows

B. Pro Forma Financial Forecast over the life term of the loan (i.e., 5 years) that includes a list of assumptions supporting the data. For projects applying for a grant only, the pro forma financial forecast will be over 5 years. Future projections must include the following financial statements:

- Balance Sheet
- Income Statement
- Statement of Cash Flows

C. Annual Earnings Before Income and Tax (EBIT) projection over 5 years.

D. Schedule of all outstanding and planned debt.

E. Collateral documentation, including depreciation schedule.

4.2.1. Parties' Comments

Frontier comments that for applicants that are part of a larger corporate entity, submission of parent company financial statements should be applicable since individual subsidiaries may not have audited financial statements.

Camino Fiber comments that requirement that the applicants provide CPA audited financial statements for the last three years should be dropped as it would be impractical for startup infrastructure providers. Instead, the requirements should be for current financial statements and, if available, for the prior two years.

Verizon states that the proposal to require financial reports and projections for all projects will likely eliminate applications for smaller projects. Verizon recommends that it be eliminated. They believe this requirement should not apply to projects that augment existing infrastructure to provide broadband to an underserved or unserved area (e.g., Resolution T-17322 which approved a

grant for Frontier's expansion of DSL is an example of a CASF project that should be exempt from this requirement).

SEDCorp questions the purpose of requiring annual EBIT projections over five years, especially since complete pro forma income statements must be submitted. SEDCorp claims the use of EBIT as a measure of the financial health can be misleading, especially for technology companies. SEDCorp recommends that applications simply be analyzed to determine their ability to repay debt and to demonstrate a minimum Debt Coverage Ratio of 1.5 for the life of the loan.

SEDCorp also claims that a requirement for 20% equity at the start of a project will not necessarily "ensure" the financial sustainment of an applicant. Cash flow services debt while equity secures the debt, and that greater focus should be placed on analyses of the income and cash flow statements. Camino Fiber believes that the 20% equity requirements should be sustained throughout the loan. AT&T agrees that the 20% equity requirement should be sustained throughout the term of the loan.

4.2.2. Discussion

We agree that if an applicant is a subsidiary without any audited financial statements, the applicant may submit audited financial statements for its parent company. If the financial statements of the parent company are used in the financial viability review of the subsidiary, however, the parent company will be named in the loan agreement and identified as a financially responsible party for the subsidiary. We acknowledge Camino Fiber comment with regard to start-ups and the availability of CPA-audited financial statements for the last three years. If a newly-formed or start-up entity is applying and does not have CPA-audited or attested financial statements for the last three years, the

applicant must provide CPA-audited or attested financial statements for as long as the applicant has been in business.

EBIT represent an applicant's ability to generate income on their operations which becomes important in determining the financial strength of the applicant and its ability to repay a CASF loan. We shall thus retain the requirement to report EBIT. The EBIT shows how much operating income (before interest and tax expenses) a company has in any given reporting period.

As a related measure of an applicant's ability to service its debt and to repay a CASF loan, we shall also evaluate its Times Interest Earned Ratio (TIER). The TIER is defined as: $EBIT / Interest\ Expense$. The TIER indicates how many times an applicant's earnings can cover its interest expense on a pre-tax basis. We shall require that the applicant to maintain a minimum 1.5 TIER through the life of the CASF loan.

We also impose a 20% equity requirement to help ensure that loans are made to financially viable companies that are capable of repaying the loaned amount in full.¹⁷ The applicant must demonstrate 20% equity requirement at the time of application and at loan closing. Many parties support retention of the 20% equity requirement. The applicant must sustain the 20% equity requirement throughout the life term of the loan; e.g. five years.

The 20% equity and 1.5 TIER requirements provide a high-level screening of an applicant's financial position and ability to manage the debt servicing of the loan. An applicant must meet the minimum TIER of 1.5 through the life term of the loan. As a general rule, when a company's time interest

¹⁷ Equity equals total assets minus total liabilities in the applicant's balance sheet.

earned ratio is lower than 1.5, a lender should question its ability to meet interest expenses. If the ratio falls below 1, the company is not producing earnings to cover its interest expenses.

The statement of cash flows combined with all other financial information provided will be used to conduct a detailed financial evaluation of the applicant's financial ability to repay a loan.

The Commission may also ask for documentation of the applicant's outstanding loans, including all loan agreements and security agreements.

The applicant must list and identify all assets used as collateral to secure the loan. The applicant must also include a depreciation schedule that shows the economic life of each asset, equipment, and or facility that is being used as collateral for the loan only.

If the financial evaluation requires more information from the applicant that will assist in determining their financial viability, the CD and/or the partnering agency servicing and underwriting the loan will request such additional information (e.g., tax returns).

4.3. Qualifying for Multiple Loans

We adopt parties' recommendation to allow an applicant who has an outstanding CASF loan to apply for a new loan as long as all outstanding CASF loans are current and in good standing. Applicants may have the resources and ability to carry out several projects at the same time.

The financial eligibility requirements set forth in this decision, such as the required TIER of 1.5, will naturally take into account any outstanding loans and therefore mitigate the risk of lending to parties that cannot manage their debt.

4.4. Loan Duration

Setting a fixed repayment period on the loan requires an understanding of the average life of broadband technology and a consensus on how long we ideally want to finance a loan. We set a loan repayment period of five years as a cap for the loan term since it provides a long enough term for repayment while remaining within range of the economic life of the equipment being funded.

4.4.1. Parties' Comments

DRA requests clarification on how Commission staff developed the proposed five-year repayment period.

SEDCorp. comments that in keeping up with financial industry standard practice, they recommend tying the repayment period for any loan to the intended purpose for those funds. It is possible that some loan applications can result in amortization periods of less than five years, and provision for such shorter terms should be made. SEDCorp. also comments that specification of the loan duration begs clarification of the intended life of the loan program. Though the term over which the fund will be initially capitalized is specified in SB 1040, the intended life of the loan program is not specified. They recommend the drafting of additional language that addresses the long-term intent for the loan fund and its consequential management. Much greater detail is needed in the loan guidelines in order to manage the relationships with applicants and borrowers over the entire life of each loan and the continued life of the revolving loan fund.

The Small LECs support DRA and state that the Commission should supply additional details regarding the loan duration and funding availability limitations.

4.4.2. Discussion

We set a maximum loan repayment term of five years since it provides a sufficiently long period for repayment while remaining within range of the economic life of the equipment being funded. Extending a repayment period to more than five years will deplete funds from the account due to a longer duration of repayment of those funds as well as a longer duration of accrued administrative costs to service the loan. A repayment period of more than five years will also constrain the available funds in the revolving account otherwise available for future lending; borrowers repaying the loan in a reasonable amount of time will allow for those funds to become available for lending to finance future projects.

In response to SEDCorp.'s inquiry on the duration of the loan program overall, we note that SB 1040 does not set a cutoff date for the CASF program. SB 1040 states that the collection period starts on January 1, 2011 and continues through 2015. SB 1040 states that "this bill would extend the operation of these provisions indefinitely." At this time, an awarded loan will have a loan duration term of five years. A borrower can repay without any pre-payment penalties if it decides to repay in full or at an accelerated rate during the loan term. The Loan Account is a revolving account and therefore monies in the account will become available for lending as outstanding loans principal and interest are paid. Appendix 2 sets forth the details of the loan account and guidelines to applicants.

4.5. Loan Amount Maximum and Minimum

Based on historical data, the minimum CASF grant approved by the Commission has been \$2,420 with a maximum grant approved for \$19,294,717. The range is wide and based on how much money a project requests. The Loan

Account is expected to collect a maximum of \$3,000,000 per year over five years, totaling \$15,000,000.

Taking these assumed set amounts into account, we shall require that no individual loan exceed 20% of the available funds in the CASF account. For example, if the loan account in year one has an available fund balance of \$2.5 million, 20% of \$2.5 million is \$500,000. A single loan cannot be greater than \$500,000. We do not adopt a minimum loan amount since our mission is to finance eligible broadband projects in California to expand broadband infrastructure to unserved and underserved areas.

DRA seeks clarification on how parties will know how much is left in the account in order to estimate whether their proposed project would be 20% or less of the entire revolving loan account, which is not to exceed \$15 million over five years. Rather than expecting applicants to calculate 20% of the available funds, we direct CD staff to periodically review and monitor the CASF loan account balance and communicate what the maximum loan amount for a single loan will be.

The current cap will allow for multiple applicants to access funds from the loan account and avoid the situation of one loan encumbering all available funds in the account. If and when the loan account grows, CD staff will revisit the currently set maximum loan amount and recommend its resetting as appropriate. The Commission will approve any increase in the maximum loan amount via resolution and post the revised maximum loan amount on the CASF website.

4.6. Loan Security

Collateral, such as equipment assets will be required as security for the loan. The loan will be 100% secured. As part of the application, the applicant

must include a collateral document that lists and identifies all assets that will secure the loan. The applicant must also submit a depreciation schedule that shows the economic life of each asset, equipment, and facility that are being used as collateral for the loan amount. The collateral identified as security for the CASF loan must not be used as collateral on any other outstanding or future loan. The Commission may require the borrower to execute a security agreement with the Commission.

4.6.1. Parties' Comments

The Small LECs comment that the Commission should not categorically forbid companies from offering assets that are used to secure other loans. This rule would likely prevent all of the Small LECs from participating in the loan aspect of the program, as most if not all of the Small LECs have already encumbered all of their assets with Commission approval as security for their RUS loans. Small LECs rely extensively on RUS loans for their debt needs, and the RUS requires that borrowers secure RUS loan with all of their telephone company assets. The value of the assets encumbered is not necessarily equal to the amounts borrowed from RUS, but the security is nevertheless a requirement of the RUS. The CASF rules should permit the partnering government financial agency to determine an appropriate security for CASF loan that takes into account all relevant outstanding loan obligations. The Commission shall permit second mortgages to be taken on assets used to secure RUS loans, as long as the total amount to be borrowed does not exceed the total value of the assets encumbered.

SEDCorp. in its reply comments support the Small LECs' observation that the assets of many of their members are already encumbered for

RUS loans. It argues that there is a clear need to reevaluate the requirements for the collateralization of CASF loans.

4.6.2. Discussion

As a general rule, the collateral identified as security for the CASF loan must not be used as collateral for any other outstanding or future loan. However, we acknowledge Small LECs' concern that they rely extensively on loans from the United States Department of Agriculture's RUS, and that RUS requires its borrowers to secure RUS loans with all of the borrower's telephone company assets. Therefore, we set forth this exception to the general rule above: we will allow CASF loan account applicants to use as collateral assets already used to secure a RUS loan or loans, as long as (1) the total amount borrowed/to be borrowed -- that is, the amount of the outstanding RUS loan(s) plus the amount of the potential CASF loan -- does not exceed the total value of the assets encumbered, and (2) the Commission is able to and does enter into an agreement with RUS where both RUS and the Commission have a first lien position on all identified collateral based on the amounts of each loan. We acknowledge the concern of the Small LECs that the U.S. Department of Agriculture's RUS may not accept a loan agreement where both RUS and the Commission have a first lien position on all identified collateral based on the amounts of each loan. Based on discussions with the Commission's CD, RUS has indicated that in the past, it has been able to accommodate other lenders and entered into a shared security arrangement. In the discussions with CD Staff, RUS expressed a willingness to enter into shared security arrangements where both RUS and CASF lenders have a first lien position on everything based on the pro-rated amounts of the outstanding loans. The depreciation schedule that shows the economic life of each asset, piece of equipment, and facility that is being used as collateral for the

CASF loan amount must show (1) the value of each asset that is used to secure the RUS loan(s) and (2) the value used to secure the potential CASF loan. We remind applicants that, as a general rule, the CASF loan can be secured by the assets purchased with the CASF loan funds as well as all other assets that are not used as collateral for other loans.

4.7. Loan Closing

Once a loan is offered and approved via a Resolution, the borrower must sign a loan agreement that contains all the terms and conditions of the loan. If the required parties do not sign a loan agreement, the Commission will not execute the loan and will revoke the loan offer. The borrower cannot withdraw funds without a signed loan agreement in place.

The loan agreement document to be signed by the borrower must include all the loan terms set forth in the decision; such as the amount of the loan, the interest rate, the loan duration, security, fund disbursement, repayment, late payment, and default. Just like any loan documents, the borrower will have the chance to read and review the loan agreement document before signing it.

4.8. Loan Fund Repayment

The ACR proposed repayment terms as follows. The borrower will make all payments on the loan as detailed in the signed loan agreement. Repayment can begin as soon as funds are withdrawn by the borrower. Interest will begin accruing when the first withdrawal of funds is made. It is yet to be determined if repayments will be made on a monthly, quarterly, or annual basis over the term of the loan. Repayments will include interest plus principal on withdrawn funds, amortized over the term of the loan. If repayments are not received as specified in the loan agreement within five business days after the due date, a late payment charge will be added to the amounts due under the

terms of the loan. A loan can be repaid in full at any time during the set loan term; no prepayment penalty will apply.

4.8.1. Parties' Comments

DRA recommends quarterly repayments. Monthly payments would create too much administrative expense, while annual repayment would be too risky, unless an escrow account process is set up for applicants to make incremental deposits and avoid falling short on their total annual payments.

SEDCorp. is unclear whether the proposed repayment process is intended to allow for deferment of payments during the construction period. Most, if not all, project proposals will be dependent on at least part of the revenues to be generated by the connections made as part of a new infrastructure expansion. SEDCorp. recommends clear wording be added to allow for this possibility. They further recommend specification of the "late payment charge" and the insertion of the words "in part or" before the words "in full" in the last sentence.

4.8.2. Discussion

We shall require that loan repayments be made on a monthly basis. Since each loan will be unique in its date of disbursement, a quarterly payment would differ for every loan and add to the cost of administering each repayment. A monthly repayment allows for simpler administration of all loans in that we will know exactly when all loans are due and when late fees apply. Also, a monthly repayment will allow for funds to revolve at a faster pace and become available for re-lending to future applicants.

Repayment on a loan will not allow for deferment of payments (such as payment on principal) during the construction period of the funded project. Repayment on a loan will begin the next immediate month following the

withdrawal of any funds. Repayment will include interest plus principal amortized over the term of the loan; i.e. five years. Any subsequent withdrawals will be added to the balance due of the loan and subsequently amortized over the remaining term of the loan. We further emphasize that a loan can be repaid in full or at an accelerated rate during the set loan terms and no prepayment penalty will apply.

With regard to comments on the late-payment charge, the decision adopts the concept of applying a late payment charge if a borrower is late on their monthly payment. The late payment charge amount will be part of the loan agreement document signed by the borrower.

4.9. Role of Loan Partnering Agency

The ACR draft proposal indicated the Commission would select a partnering government agency to assist in performing the financial eligibility review of applicants. The CD will conduct the technical project eligibility review of applicants but will require the partnering agency to perform the financial eligibility review and loan servicing piece. It is yet to be determined what the total cost to the applicant will be when filing a loan application. It is expected that a reasonable application fee will be charged to loan applicants. The fee could be a fixed amount or a small percentage of the loan amount that the applicant is seeking.

4.9.1. Parties' Comments

Camino Fiber comments that the role of the “partnering governmental agency” needs to be explained. The Small LECs inquire on which “partnering government financial agency” would be appropriate to review financial viability in connection with CASF loan applications. The Small LECs believe that choosing the right agency and developing clear guidelines to define

the relationship with the Commission will be critical to the success of this aspect of the program.

SEDCorp. comments that use of the word “government” implies the intended use of a public entity and begs the method and criteria by which such an entity has or will be selected. SEDCorp. recommends full disclosure as to the proposed approach to administration of the loan program including services to be provided, qualifications of the service provider, and cost and that a procedure be established to select the service provider from the private sector per a standard, open competitive process. Recognizing that the Commission is in the utility business rather than the financing business, this means that the Commission should turn to the best source of information and assistance for design and execution of a financial program, the private financial sector. SEDCorp. further supports the Small LECs’ and Camino Fiber Network’s call for greater clarity about the intended identity, responsibilities and authority of the “partnering government agency.”

SEDCorp. also comments that the brief treatment of the application fee is insufficient to gain a clear understanding of its purpose, use and amount. SEDCorp. strongly recommends that additional wording be added to clarify these points and what happens to the fee if an application is not approved.

4.9.2. Discussion

The Commission does not have an in-house loan servicing and underwriting unit. Thus, the Commission must find another entity with the staff and tools already in place to perform such services. We first look to other public entities consistent with Section 2.04 of the State Contracting Manual, which states that we should identify the need of the service and evaluate the contract alternatives. If we can obtain the services from the public sector, we will work to

partner with an existing public entity to assist in the underwriting and servicing of awarded loans. If we are unsuccessful in partnering with a public entity, we will explore additional options consistent with the State Contracting Manual, including the competitive bidding process.

Loan applicants will pay a reasonable application fee and/or other fees. The application fee could be a fixed amount or a small percentage of the loan amount the applicant is seeking. Fees associated with a loan application will be proposed and approved via a Commission resolution. If the Commission does not approve an application, the application fee for that loan will not be returned to the applicant.

5. Comments on Proposed Decision

The proposed decision of Commissioner Peevey in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on January 6, 2012, and reply comments were filed on January 13, 2012. We have reviewed the comments and taken them into account as appropriate in finalizing this decision.

6. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Thomas R. Pulsifer is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Pursuant to SB 1040, the Broadband Infrastructure Grant and Revolving Loan Accounts provide appropriations for grants and loans to cover the cost of broadband deployment activities as specified by the Commission.

2. Ubiquitous deployment of broadband holds tremendous opportunities for consumers, technology providers, and content providers, and is important to the continued health and economic development in California.

3. The Commission previously adopted measures in D.07-12-054 to implement the CASF infrastructure grant account program to promote advanced communications services within California.

4. In view of the expanded funding for broadband grants and new funding for revolving loans authorized by SB 1040, the Commission undertook to revise the applicable rules for the award and disbursement of CASF grants and to establish initial rules for the newly established CASF revolving loan program.

5. The rules set forth in Appendix 1 and Appendix 2 to this decision provide a fair and effective set of measures to implement the purposes of the expanded CASF program pursuant to SB 1040.

Conclusions of Law

1. The Commission is authorized to implement measures necessary to enable qualifying applicants to seek funding for grants and loans under the CASF program in accordance with the legislative provisions of SB 1040.

2. Consistent with the Commission's jurisdiction over public utilities, the Commission's authority to award grants and loans under the CASF program should be limited to entities classified as telephone corporations, as defined in § 234 of the Pub. Util. Code.

3. The Broadband Infrastructure Grant Account Application Requirements and Guidelines, and the Revolving Loan Account Requirements and Guidelines, attached hereto as Appendix 1 and Appendix 2, respectively, have been developed with appropriate input from parties and should be adopted for

purposes of implementing the revisions to the CASF program addressed in this decision.

O R D E R

IT IS ORDERED that:

1. The Broadband Infrastructure Grant Account Application Requirements and Guidelines, and the Revolving Loan Account Requirements and Guidelines, attached hereto as Appendix 1 and Appendix 2, respectively, are hereby adopted for purposes of the application and administration process for eligible applicants under the California Advanced Services Fund.

2. Eligible applicants are authorized to begin submitting applications for projects in unserved regions pursuant to the filing deadlines adopted in Appendix 1. Subsequent rounds of applications shall be accepted in accordance with the adopted schedule for additional filing windows.

3. Rulemaking 10-12-008 is closed.

This order is effective today.

Dated February 1, 2012, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners

Commissioner Michel Peter Florio, being necessarily absent, did not participate.

APPENDIX 1

Broadband Infrastructure Grant Account -
Revised to Application Requirements and Guidelines

*CASF - The Broadband Infrastructure Grant Account
--- Revised Application Requirements and Guidelines---*

*Date: January 2012
Version 6.0*

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*CASF - The Broadband Infrastructure Grant Account
--- Revised Application Requirements and Guidelines---*

*Date: January 2012
Version 6.0*

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 is 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. Matching funds of 40% of total project costs are available to successful CASF applicants with the applicant providing 60% of the projects costs either from their internally generated funds or from external sources.

On September 25, 2010, Governor Schwarzenegger signed SB 1040 (Stats. 2010, c.317, codified at California Public Utilities (P.U.) Code § 281), which expanded the CASF and 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 Revolving 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.

II. Amount Available for Grants

While revenues of \$20 million per year will be allocated to the Broadband Infrastructure Grant Account, the actual amount available for infrastructure grants will be \$19 million as the Commission must deduct costs for administering the program from this account.

The grant funding limits are as follows:

| | Infrastructure Grant (% of total project cost) | Broadband Infrastructure Revolving Loan Account (% of total project cost) | Applicant(s) Funds (% of total project cost) |
|-------------------|---|--|---|
| A. With Loan | | | |
| Unserved Areas | 70% | 20% | 10% |
| Underserved areas | 60% | 20% | 20% |
| B. Without Loan | | | |
| Unserved Areas | 70% | 0% | 30% |
| Underserved areas | 60% | 0% | 40% |

CASF - The Broadband Infrastructure Grant Account
--- Revised Application Requirements and Guidelines---

Date: January 2012

Version 6.0

Unserved areas are eligible for a 70% CASF matching grant amount as the Commission considers unserved areas as having the highest priority. Typically, these areas are totally devoid of broadband service, are sparsely populated, and are characterized by difficult terrain and geography -- with correspondingly high broadband infrastructure development costs and thus are not financially attractive to private investors. The Commission hopes that the higher CASF matching funds will attract private investments to these areas as the funds required from the private investor will only be 10-30%, (depending on whether the applicant also applies for and receives a loan from the Broadband Infrastructure revolving Loan Account).

Underserved areas are eligible for 60% CASF grants, 10% less than that allocated to unserved areas, as these areas already have broadband service and the funding from CASF will be used to construct broadband infrastructure projects geared towards increasing the broadband speed to at least 6 Megabits per second (mbps) download and 1.5 mbps upload.

An applicant who applies for both a grant and a loan, but who is deemed ineligible for the loan, will have to submit a new application if it intends to pursue the project and show how it will fund 30 - 40 % of the total project cost.

In areas where the Commission has already awarded a CASF grant, new CASF grant funding for broadband projects in the same area will be available only after 3 years from the start of broadband service of the first CASF- funded project in order to ensure that existing grantee(s) are able to realize returns on their investment.

III. Definitions

An "unserved" area is an area that is not served by any form of wireline or wireless¹⁸ facilities-based broadband, such that Internet connectivity is available only through dial-up service.

An "underserved" area is an area where broadband is available, but no wireline or wireless¹⁸ facilities-based provider offers service at advertised speeds of at least 6 mbps download and 1.5 mbps upload.

¹⁸ Wireless broadband means a wireless high-speed internet access or connection provided to households, businesses and/or anchor institutions that meet the speeds and program guidelines set forth in this decision. Wireless broadband can be mobile or fixed.

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The Commission will consider all CASF funded projects in the determination of unserved and underserved areas, irrespective of the CASF funded project's technology.

A California Interactive Broadband Map is posted on the CASF webpage to assist the applicant(s) in identifying areas that are still unserved and underserved. This map is based on the most current information collected as part of the federal broadband inventory mapping effort. Data used in this map were collected from California providers pursuant to a Recovery Act Broadband Mapping grant. Availability and maximum advertised speeds are shown by census block (for blocks 2 square miles or smaller), and by street segment (for larger blocks). The map will show the areas served, unserved or underserved, existing providers in areas where broadband service is available, the broadband technology offered in served areas, current speeds in the served areas, and population in the served and underserved areas.

Where a broadband infrastructure may have to pass or upgrade existing broadband facilities in already served, unserved or underserved areas to reach a remote unserved or underserved area, the project may be considered for funding. Applicants for middle-mile projects are required to submit all documentary requirements and will be evaluated based on their compliance with the guidelines and the evaluation criteria applicable to last mile unserved and underserved projects, including submission of proof that the backhaul or backbone construction is an indispensable part of their plan to reach unserved and / or underserved communities. The applicant will also have to pro-rate costs when projects include facilities in unserved, underserved, and "served" - areas, including a detailed explanation of the allocation of costs and a full accounting of that allocation at each funding phase of the project.

For example, if a project (for an unserved area and the applicant is requesting a CASF grant only) 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 \$1,575,000 in CASF funds (\$1,400,000 for construction in the unserved area, and \$175,000 in common costs allocated to the unserved area). The applicant should

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fully explain the total cost of the project and the allocation that was made to arrive at the figures used in the application.¹⁹

IV. 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 P.U. Code section 234 or wireless carriers who are registered with the Commission (i.e., hold a WIR). 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.

The Commission will consider applications from satellite service providers provided that the applicants are CPCN or WIR holders, are able to prove functionality, and are able to meet the speeds required.

The Commission also encourages applicants 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

-
- ¹⁹ a) Total Project Cost x 20% equals amount of facility improvements benefiting both Unserved and Served areas: ($\$2,500,000 \times 0.20 = \$500,000$),
- b) Equal proration of facility improvements: Unserved area = \$250,000 and Served area = \$250,000,
- c) Common cost funded by CASF for facility improvements: Unserved area equals $\$250,000 \times 0.70 = \$175,000$,
- 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 \$1,400,000 ($\$2,000,000 \times 0.70$),
- f) Thus, the applicant’s Total CASF funding request would be \$1,575,000 ($\$1,400,000 + \$175,000$).

battery back-up supply.²⁰ For purposes of the CASF, “basic service” is defined to include any form of voice-grade service including that offered through a wireless or Voice Over Internet Protocol (VoIP) service.

V. Information Required From Applicants

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

The application must be submitted online, with a hard copy sent to the CASF and the Division of Ratepayer Advocates. The applicant must submit each item as a document, unless otherwise specified, and in some cases also as data entered directly. The applicant must also fill out a checklist (attached as Attachment B) and include the completed checklist in hard copies of the proposal.

1. Project Summary

The applicant must submit a project summary which the Communications Division (CD) will post on the CASF webpage under Pending New Applications to Offer Broadband. The applicant must also submit the project summary to the CASF application distribution list²¹. The summary must include the following information:

- Applicant’s name
- Contact person
- Project title
- Proposed Project Area Location (Community / County)
- Project Type (Last Mile or Middle-Mile)
- CASF Funding Requested (Amount of Grant / Amount of Loan)
- Description of the Project
- Map of the Proposed Project
- List of Census Block Groups
- List of ZIP codes

²⁰ D.07-12-054, Ordering Paragraph 16, pp. 62-63

²¹ Communications Division will provide instructions on how to sign up for this distribution list to parties in the CASF rulemaking proceeding (R.10-12-008) and post these instructions on the Commission website as soon as practicable.

The applicant may also use this summary information in its adoption and outreach efforts, i.e., in soliciting local government and community support for the proposed project, in disseminating information to the proposed communities/areas.

2. Funding Requested

The applicant must indicate the funding requested, i.e., whether it is applying for a grant only or a combination of a grant and a loan.

3. Area applied for

Applicant must specify whether it is applying for an unserved or underserved area.

4. 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

5. Information sheet

Applicant must submit the information sheet attached as Attachment A together with all supporting documents required.

6. Organizational Chart and Background

The applicant must submit an organizational chart showing the parent organization, subsidiaries and affiliates.

The applicant must also submit a description of its readiness to construct and manage a broadband service network by listing all projects constructed and currently managed and operated.

7. CASF Key Contact Information

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

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

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

Resumes of each key company and management personnel must be submitted.

9. 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.

10. Current Broadband Infrastructure Shapefile

Shapefile (.shp)²² of current service area. A shapefile is not a single file, but a collection of seven files - .dbf, .prj, .sbn, .sbx, .shx, .shp, .xml. Without all of these, the data cannot be read.

The .shp format is compatible with the ArcGIS software used by the Commission.

11. Proposed Broadband Project Description

²² This file format is compatible with ArcGIS software used by the Commission.

- Description of proposed broadband project plan for which CASF funding is being requested, including the type of technology to be used
- 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 project description should provide enough construction detail to enable a preliminary indication of the need for a California Environmental Quality Act (CEQA) review. For example, when trenching is required, the applicant should so state and describe the manner in which the site is to be restored, post-trenching. The Commission established benchmark speed standards of advertised speeds of 6 mbps download and 1.5 mbps upload. Applicants may propose lower speeds; speed will be a criteria considered in evaluating the applications, with higher speeds being preferable.

12. Proposed Broadband Project Location

- Geographic locations by CBG(s) where broadband facilities will be deployed
- List of CBG(s),
- Number of households per CBG,
- 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.

CBGs and ZIP codes must be based on the 2010 census. CBGs must be in a twelve digit format as follows:

| <u>State CA</u> | <u>County</u> | <u>Tract</u> | <u>Block Group</u> |
|-----------------|---------------|--------------|--------------------|
| 2 digits | 3 digits | 6 digits | 1 digit |

For example: a CBG near the town of Alturas in Lassen County: Lassen County Tract 401, Block Group 1 would have the following CBG:

| <u>State CA</u> | <u>County</u> | <u>Tract</u> | <u>Block Group</u> |
|-----------------|---------------|--------------|--------------------|
| 06 | 035 | 401.00 | 1 |

State: California is always denoted as 06.

County: Refer to County Code List

Tract: Can be denoted as 1) a number with decimal followed by 2 digits; then fill in zeroes in front to make 6 digits; or 2) as 4-6 digits, fill "0s" as needed. Drop decimal.

For the example cited; this tract/block group in Lassen would be expressed as 06-035-040100-1. For CASF purposes, we use the standard expression: 060350401001

Applicants are expected to target areas that are still unserved and underserved based on the latest available information. The most current Broadband Availability map that the applicant can use in preparing their applications is the California Broadband Interactive Map on the CASF webpage which shows the areas current served, the provider, the technology available in a particular area up to street level, the speeds in the areas served, as well as the population in these areas.

13. Proposed Broadband Project Location Shapefile

Shapefile (.shp) showing boundaries of the specific area to be served by the project. A shapefile is not a single file, but a collection of seven files - .dbf, .prj, .sbn, .sbx, .shx, .shp, .xml. Without all of these, the data cannot be read.

The .shp format is compatible with the ArcGIS software used by the Commission.

14. Assertion of Unserved or Underserved Area

An explanation of the basis for asserting that, to the best of the applicant's knowledge, the area is unserved or underserved (i.e. a reference to the California Interactive Broadband Map or other published reports).

This includes figures, in mbps, of the current:

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

15. 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.
- Adoption / Sustainability plan

Applicants must submit a plan to encourage adoption of the broadband service in the proposed area(s). The plan should include the total number of households in the area,

the number of households the applicant estimates will sign up for the service (the take rate), the marketing or outreach plans the applicant will employ to attract households to sign up for the service.

16. 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 developing the schedule, applicant(s) must include the timeline required for the California Environmental Quality Act (CEQA) review.

If the applicant(s) is unable to complete the proposed project within the 24-month timeframe, it must notify the CPUC as soon as it becomes aware of this prospect. The Commission may reduce payment for failure to satisfy this requirement.

17. 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, broken down into grant and loan components, if applicable.

Note: See section II for the amounts required from the applicants.

18. Economic Life of all assets to be funded

The applicant must identify all the equipment to be funded by the CASF by category (buildings, outside plant, towers and poles, network and access equipment, operating equipment, customer premise equipment), the type of equipment (new building,

prefabricated building, rehab of existing building, new towers or poles, modification of existing towers and poles, broadband switching equipment, office furniture and fixture, etc.), and the estimated useful life (10, 15, 20, etc years).

19. Local Government and Community Support (optional)

The applicant may submit endorsements or letters of support from the local government, community groups, and anchor institutions supporting the deployment of the broadband infrastructure.

20. Performance Bond Documentation

The applicant must send an executed bond, equal to the total amount payable under the CASF award²³, to the Executive Director and to the Director of Communications Division within five business days after the completion of the CEQA review. An applicant is not required to post a performance bond if it certifies that the percentage of the total project costs it is providing comes from their capital budget and is not obtained from outside financing. The performance bond must be callable for failure to complete the CASF funded broadband project.

Applicants who will complete the project and front-end all the project costs before requesting for reimbursement may request exemption from the performance bond requirement.

21. Proposed Pricing

Proposed (two - years fixed) monthly subscription fee and waiver of installation and / or initial service connection fee for applicant's proposed broadband service(s). The monthly subscription fee should be the sum of all recurring rates and non-recurring charges (except the installation and/or initial service connection fees) the customer must pay to receive service during the initial two years 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 22).

²³ A CASF award includes both a grant and loan amounts.

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 (two- years) monthly subscription fee for applicant's proposed broadband service(s).
- Other 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.

22. Price Commitment Period

The required Period of Commitment to which the initial price (listed in Item 21) is applicable for all households within the service area of the project. Minimum price guarantee period for each customer is two years.

If the applicant proposes to require customer commitments to more than one monthly subscription fee (i.e., one amount for six months and a different amount for the six month intervals, thereafter), list the duration and amount of each price guarantee separately (Note: you must make a separate showing for each amount in Item 21).

The period of commitment is on a per customer basis, such that a customer who signs up within two years from the beginning date of service can expect the same price guarantee from the day they signed up for service, which may not be for the entire two years. To illustrate, a customer who signs up for service on day 730 will be entitled to the same price for one month as a subscriber who signs up for service on day 1. The difference between the two customers is that the former's price is valid for one month while the latter's price is valid for 24 months.

23. Financials - Financial Qualifications to Meet Commitments

A. CPA Audited / Attested Financial Statements for the last three years.

The statements are to include:

- ✓ Balance Sheet
- ✓ Income Statement
- ✓ Statement of Cash Flows

B. Pro Forma Financial Forecast over the life term of the loan (i.e. 5 years) that includes a list of assumptions supporting the data. For projects applying for a grant only, the pro forma financial forecast will be over 5 years. Future projections must include the following financial statements:

- ✓ Balance Sheet
- ✓ Income Statement
- ✓ Statement of Cash Flows

C. Annual EBIT (Earnings Before Income and Tax) projection over 5 years

D. Schedule of all outstanding and planned debt

E. Collateral Documentation

- i. Include Depreciation Schedule of Assets (applicable to an applicant applying for a grant / loan combination only).

The applicant must submit an analysis of the viability (B. above) of the project and the assumptions used in the analysis such as the funding sources, the adoption rates, subscriber data and adoption rates.

CPA Audited or Attested Financial Statements will be accepted from parent companies in lieu of financial statements from subsidiaries that have no audited or attested financial statements. If applicant has been in existence for less than three years, financial statements for as long as applicant has been in existence, e.g. one or two years, will be accepted.

24. 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).

25. CEQA Compliance

The applicants must provide the Proponent's Environmental Assessment (PEA) prior to the first 25% payment. 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.

Any application should state whether the project is statutorily or categorically exempt from CEQA requirements and cite the relevant authority, as applicable.

Applicants should include the CEQA review timeline in its construction timeline.

26. Affidavit of Application's Accuracy

Applicants must 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 (Attachment C).

VI. Submission and Timelines

Applicants should electronically file their completed applications at <http://www.cpuc.ca.gov/puc/> and mail a separate hard copy to the Communications Division, Attn: California Advanced Services Fund, and mail another hard copy to the Division of Ratepayers Advocates. Since applications are not filed with the Commission's Docket Office, they will not be assigned proceeding number(s).

There will be three application windows in the initial round, as follows:

- First application window - for unserved projects
- Second application window - for underserved projects in areas with broadband service and where the existing infrastructure or broadband infrastructure under construction was not partially funded by CASF and broadband speed is less than advertised speeds of 6 mbps download and 1.5 mbps upload. This deadline will also include hybrid broadband

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projects²⁴ covering unserved and underserved areas (not partially funded by CASF).

- Third application window – in underserved areas with broadband service and where the existing infrastructure or broadband infrastructure under construction was partially funded by CASF and broadband speed is less than advertised speeds of 6 mbps download and 1.5 mbps upload. The third application window will also be open to other viable projects the Commission deems appropriate. CD is authorized to communicate the deadline for filing at a later time.

As specified in Section II, the Commission will evaluate new CASF applications in areas where CASF funding has been provided 3 years after the start of broadband service of the CASF funded project in order to ensure that grantee(s) are able to realize returns on their investment.

If funds are still available, CD will open a second round, open up three application windows, and set new deadlines for submission of applications.

Applications submitted on the specified deadline dates will be evaluated and funding approved based on the evaluation and ranking of the proposals.

Applications for unserved areas will receive priority in funding. Applications received up to the deadline date will be evaluated and ranked according to the criteria adopted. CD will consider in the next application round applications submitted after the deadline as well as applications that were not funded during the first round application window(s) for the following reasons: submission of an incomplete application, failure to provide additional information as required by CD staff, and failure to provide additional information / clarification by the date set by CD staff. In the second and third application window, CD will consider only applications specified for those windows.

To illustrate, if the drop-dead deadline for unserved applications is May 15, 2012, CD will review and evaluate applications that are compliant with the requirements. CD will review and evaluate an application for unserved areas submitted after the May 15, 2012 deadline only after a second round is opened and will review and evaluate that post-May 15 application together with the applications submitted during the second

²⁴ As referenced in section V, each “broadband project” is defined as deployment encompassing a single contiguous group of Census Block Groups (CBGs).

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round application window for unserved areas. This is true for applications for underserved areas submitted during the second and third application windows.

Any applicant whose application in any application window is held for a) late submittal, non-submittal of information requested or 3) additional information submitted late may withdraw its application and resubmit a new application when a second application round is opened.

The estimated timeline for application submission and evaluation is as follows:

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| <u>ESTIMATED TIMELINE FOR SUBMISSION AND EVALUATION</u> | | |
|--|---|---|
| Start date | # of days | Description |
| For Unserved and Underserved Areas | | |
| Day 1 | | Deadline to submit funding requests |
| Day 7 | 7 days after submission of applications | Areas applied for, by Applicant Name, CBG's and shapefile, will be posted on the Commission's CASF website |
| Day 22 | 14 days after web posting of CBGS, zip codes and maps | Deadline for submitting letter challenges |
| Day 40 | 40 days from receipt of application | Evaluation of proposals <i>without</i> challenges ²⁵ |
| Day 42 | 42 days from receipt of application | CD responds to funding requests <i>without</i> challenges (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) |
| Day 64 | 42 days after submission of letter challenges | CD responds to funding requests <i>with</i> challenges (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) |

²⁵ The evaluation period may be longer for applicants applying for a loan as the evaluation will include financial eligibility review which may be performed by an external government financial institution.

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| | | |
|--|--|--|
| Day 84 or earliest Commission date after 84 days | 84 days from date of submission of application | Resolution(s) adopted by Commission approving funding application(s) <u>without</u> challenges |
| Day 106 or earliest Commission date after 106 days | 106 days from submission of application | Resolution(s) adopted by Commission approving funding application(s) <u>with</u> challenges |

CD may create subsequent filing periods if applications do not exceed the available funds. After considering all of the applications for unserved areas received by the initial deadline for the first application window and if funds are still available, CD will consider applications for underserved areas subject to the availability of remaining CASF funds.

Any party that challenges a proposed area or CBG as already served or not underserved must provide documentation that the area or CBG is in fact already served and not underserved (e.g., maps or a copy of a customer bill). CD will then investigate this information, along with the applicant’s documentation supporting its assertion that the CBG is unserved or underserved. CD will inform the applicant of the challenges filed on its application and provide the challenger’s name and all information submitted. Once CD makes a final determination, it will notify the applicant of its determination.

If the challenged CBG is determined to be “served” or not underserved, the application cannot be considered and will be rejected. The applicant, however, has the option to submit a modified application in subsequent rounds of proposals, either for the same area (provided that the parts of the CBG that are not “unserved” are omitted from project cost and budget considerations) or for only those parts of the CBG that are unserved

Entities who challenged applications submitted must submit maps of their service area(s) and addresses of households in their service area(s) to enable staff to verify the challengers’ allegation that the area(s) are already served and not underserved.

VII. Proposal Checklist

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An applicant must complete the CASF Application Checklist Form (Attachment B and attach it to *each* project proposal.

VIII. Scoring Criteria

This section describes the method by which CD will evaluate applicants on how well they meet the goals of the CASF program outlined in D.07-12-054. CD will present its evaluation in the form of a numerical score. Once CD assigns applicants a score, CD will rank them 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) Financial Viability, (iv) Pricing, (v) Total Number of Households in the Proposed Area, (vi) Timeliness of Completion of Project, (vii) Guaranteed Pricing Period, and (viii) Low-Income Areas, by applying the corresponding formula and assigning weights. Points will be awarded based on consensus of the evaluation team.

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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 | 35 |
| ii) Speed | 20 |
| iii) Financial Viability | 15 |
| iv) Pricing | 10 |
| v) Total Number of Households in the Proposed Area(s) | 5 |
| iv) Timeliness of Completion of Project | 5 |
| vii) Guaranteed Pricing Period | 5 |
| viii) Low-Income Areas | 5 |
| TOTAL: | <hr style="width: 100%; border: 0.5px solid black;"/> 100 |

Applicants will be scored based on eight criterion with each criterion scored relative to the best offer, i.e., highest amount (Max) or lowest (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, with total number of households in the proposed area(s) at 100, 75, and 50 households 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

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$(100/100)*5 = 5$; the second applicant's would be $(75/100)* 5 = 3.75$; and, the third applicant's would be $(50/100)* 5 = 2.5$.

Attachment D shows a sample scoring - scenario analysis for seven (7) - hypothetical proposed projects.

i) Funds Requested per Potential Customers

Funds requested per potential customers is calculated based on the number of customers the applicant will be able to serve divided by the CASF grant funding amount requested. Points will be determined based on the following formula:

$$\text{Min}(a) / a_i * 35$$

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 P.U. Code, section 5890(j)(3). Applicants can obtain data on households 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 at least advertised speeds of 6 mbps download and 1.5 mbps 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.

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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 benchmark speed of at least advertised speeds of 6 mbps download and 1.5 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) Financial Viability

The average projected EBIT (Earnings Before Interest and Tax) over 5 years will be used as the measure of the applicant's financial position. Points will be determined based on the following formula:

$$h_i / \text{Max}(h) * 15$$

Where "h" is the average projected EBIT amount over five years for the specific project being scored ((EBIT Year 1 + EBIT Year 2 + EBIT Year 3 + EBIT Year 4 + EBIT Year 5)/5) and Max(h) is the highest projected EBIT amount among all the eligible projects submitted.

iv) 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.

v) Total Number of Households in the Proposed Service Area

The total number of households in the applicants’ proposed areas is the number of households passed. Points will be determined based on the following formula:

$$c_i / \text{Max}(c) * 5$$

Where “c” is the number of households for the specific project being scored and Max(c) is the highest number of households among all the eligible projects submitted.

vi) 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.

vii) Guaranteed Pricing Period

This measures the amount of time the applicant can guarantee the price of service beyond the mandatory two years. Note: applicants must guarantee the price of their services in the proposed areas for at least two years. 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.

$$f = \text{Months Guaranteed} - 24$$

viii) 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.

Five (5) bonus points will be added to the score of an applicant who is able to submit local government and community support endorsements or letters of support.

IX. Selection

The Commission will award CASF grant funding to projects that receive the highest number of points based on the scoring criteria described above. The Commission will authorize individual awards for CASF grant funding via resolution.

X. Reporting

Grantees must submit quarterly progress reports on the status of the project irrespective of whether grantees request reimbursement or payment.

XI. 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%. The CASF recipient must submit a project completion report 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. Recipients must certify that each progress report is true and correct 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. In the event that the recipient fails to notify Communications Division of any delays in the project completion and the project fails to meet the approved completion date, the Commission may impose penalties to be adopted in a Commission resolution.

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.

Grantees shall submit final requests for payment 90 days after completion of the project.

Payment will be made in accordance with, and within the time specified in California Government Code section 927 *et seq.*

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.

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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.

XII. Execution and Performance

CD staff and the CASF grant recipient shall determine a project start date after the CASF grant recipient has obtained all approvals. 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 must reimburse some or all of the CASF funds that it has received.

The CASF grant recipient must complete all performance under the award on or before the termination date of the award.

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ATTACHMENT A

**Information Sheet to be submitted by Applicants Requesting for CASF Funding
 BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

| | |
|--|-----------------|
| 1 Application of: | |
| Name of Applicant | |
| | |
| for CASF Funding pursuant to Decision_____ | |
| (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.) | <table style="width: 100%; border-collapse: collapse;"> <tr> <td>A corporation (attach good standing certificate)</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>A general partnership (attach good standing certificate)</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>A limited liability partnership (attach good standing certificate)</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>A limited liability company (attach good standing certificate)</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>A general partnership</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>A sole proprietor</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>A trust</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Other (describe)</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> </table> | A corporation (attach good standing certificate) | <input type="checkbox"/> | A general partnership (attach good standing certificate) | <input type="checkbox"/> | A limited liability 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"/> |
| A corporation (attach good standing certificate) | <input type="checkbox"/> | | | | | | | | | | | | | | | | |
| A general partnership (attach good standing certificate) | <input type="checkbox"/> | | | | | | | | | | | | | | | | |
| A limited liability 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"/> | | | | | | | | | | | | | | | | |
| | <p>Attach name, street address, and telephone number of applicant's registered agent for service of process</p> <p>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</p> <p><i>Attach list of all affiliated entities (see instruction 2)</i></p> | | | | | | | | | | | | | | | | |

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

| | | |
|-----------------------------------|--|--------------------------|
| 4 Applicant will provide service: | In specific portions only (attach description and map) <input type="checkbox"/> <i>(Check only one; see instruction 5.)</i> | <input type="checkbox"/> |
|-----------------------------------|--|--------------------------|

| | | |
|--|---|--|
| 5. Applicant will provide broadband service only | True <input type="checkbox"/> Not true <input type="checkbox"/> <i>(Check only one; see instruction 6.)</i> | <input type="checkbox"/> <input type="checkbox"/> |
|--|---|--|

| | | |
|--|--|--|
| 6. For the past 10 years, no affiliate, officer, director, general partner, or | True <input type="checkbox"/> Not true <input type="checkbox"/> 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. <i>(Check only one; see instruction 2.)</i> | <input type="checkbox"/> <input type="checkbox"/> |
|--|--|--|

| | | |
|--|---|--|
| 7. To the best of applicant's knowledge, neither | True <input type="checkbox"/> Not true <input type="checkbox"/> 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 for the past 10 years. | <input type="checkbox"/> <input type="checkbox"/> |
|--|---|--|

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| | | |
|--|--|--|
| 8. 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"/> | |
|--|--|--|

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.**

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Instructions:

1. Enter the legal name of applicant exactly as it appears on its articles or certificate of corporation or similar charter document.
2. Specify the type of applicant's organization. Applicant must provide Good Standing Certificate is 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 exact area for which authority is requested, i.e., Community and County.
5. Indicate whether the applicant will be providing broadband service only.

Items 2, 6 and 7 are subject to confirmation by the Commission through the conduct of background check(s). For numbers 6 and 7, attach detailed description, if applicable.

6. Detailed information should be provided for the past 10 years, if applicable.
7. Detailed Information should be provided for the past 10 years, if applicable.
8. 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. Attach detailed summary, if applicable.

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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.

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ATTACHMENT 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.

| | |
|--------------------------|---|
| | 1. Project Summary |
| | 2. Type of Funds Requested (Check one only): |
| <input type="checkbox"/> | Grant |
| <input type="checkbox"/> | Grant Amount: _____ |
| <input type="checkbox"/> | Grant/Loan Combination |
| <input type="checkbox"/> | Grant Amount: _____ |
| <input type="checkbox"/> | Loan Amount: _____ |
| | 3. Area Applied for |
| <input type="checkbox"/> | Unserved |
| <input type="checkbox"/> | Underserved, with existing broadband service below advertised speed of 6 mbps download and 1.5 mbps upload, Broadband infrastructure whether existing or ongoing construction not CASF funded |
| <input type="checkbox"/> | Underserved, with existing broadband service below advertised speed of 6 mbps download and 1.5 mbps upload, Broadband infrastructure whether existing or ongoing construction CASF funded |
| | 4. CPCN / U-Number / CPUC Registration Proof (As a single document) |
| <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) |
| | 5. Information Sheet with a Certificate of Good Standing issued by the CA Secretary of State attached |
| | 6. Organizational Chart, Company History and Readiness to Build, Manage and Operate Broadband |
| <input type="checkbox"/> | Organizational Chart |
| <input type="checkbox"/> | Company History |

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| | |
|--|---|
| | Readiness to Build, Manage and Operate Broadband |
| 7. CASF Key Contact Information | |
| | First Name |
| | Last Name |
| | Address Line1 |
| | Address Line2 |
| | City |
| | State |
| | Zip |
| | Email |
| | Phone |
| 8. Key Company Officers (list up to 5) | |
| | Title |
| | First Name |
| | Last Name |
| | Email |
| | Phone Number |
| | Resumes of key officers and management personnel |
| 9. Current Broadband Infrastructure Description | |
| | Description of the provider's current broadband infrastructure within 5 miles of the proposed project, if applicable. |
| | List showing number of households per CBG and Zip Code |
| 10. Current Broadband Infrastructure | |
| | Shapefile (.shp) of current service area. |
| 11. Proposed Broadband Project Description | |
| | Description of proposed broadband project plan for which CASF funding is being requested, including the type of technology to be deployed |
| | Project size (in square miles) |
| | Download speed capabilities of proposed facilities |
| | Upload speed capabilities of proposed facilities |
| 12. Proposed Broadband Project Location | |
| | Geographic locations by CBG(s) where broadband facilities will be deployed: |
| | List of CBG(s) and, |

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| | |
|--|---|
| | ZIP Codes that intersect the proposed project. |
| 13. Proposed Broadband Project Location Shapefile | |
| | Shapefile (.shp) showing boundaries of the specific area to be served by the project. |
| 14. Assertion that area being proposed is Unserved or Underserved Area. This includes figures, in mbps, of the current: | |
| | (a) average download speed by CBG(s); |
| | (b) average download speed by ZIP Code(s); |
| | (c) average upload speed by CBG(s) and; |
| | (d) average upload speed by ZIP Code(s). |
| 15. Estimated Potential Subscriber Size | |
| | Estimated number of potential broadband households in proposed project location. |
| | Estimated number of potential broadband subscribers in proposed project location. |
| | Documentation of assumptions and data sources used to compile estimates. |
| | Adoption Plan |
| 16. Deployment Schedule | |
| | Milestone Start and Ending Date |
| | Milestone Description |
| | Milestone Comments |
| | Milestone Risks |
| 17. Proposed Project Budget | |
| | a detailed breakdown of cost elements; |
| | the source of cost elements; |
| | amount of cost elements; |
| | availability of matching funds to be supplied by applicant; and |
| | the CASF funds requested. |
| 18. Economic Life of Assets to be Funded | |
| 19. Local Government and Community Support (optional) | |
| 20. Performance Bond Documentation (to be submitted after project award) | |
| 21. Proposed Pricing | |
| | Proposed recurring retail price per MBPS for applicant's proposed broadband service(s). |

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| | |
|--|--|
| | Initial service connection charges, if any and any bundling of equipment in the proposed pricing. |
| | Other recurring costs |
| | Other non-recurring costs |
| 22. Price Commitment Period | |
| 23. Financials | |
| a) CPA Audited / Attested Financial Statements for the last three years (if applicant has been in existence for less than three years, provide financial statements for as long as applicant has been in existence, e.g. one or two years) | |
| | Balance Sheet |
| | Income Statement |
| | Statement of Cash Flows |
| b) Pro Forma Financial Forecast over 5 years | |
| | Balance Sheet |
| | Income Statement |
| | Statement of Cash Flows |
| c) Annual EBIT (Earnings Before Income and Tax) projection over 5 years | |
| d) Schedule of all outstanding and planned debt | |
| e) Collateral Documentation (include depreciation schedule of assets) | |
| f) Equity Requirement of 20% of the loan amount (For Grant / Loan Combination only) Equity requirement of 20% should be sustained throughout the life of the loan: 5 years | |
| g) Minimum TIER Requirement of 1.5 (For Grant / Loan Combination only) The Minimum TIER Requirement of 1.5 should be sustained throughout the life term of the loan: 5 years | |
| 24. Proof of Voice Service | |
| | Availability of basic voice service that meets FCC standards for E-911 service and battery, including: |
| | Listing of types of services offered; |
| | Timeframe of offering. |
| 25. CEQA Compliance | |
| | Proponent's Environmental Assessment (PEA) |
| 26. Notarized Affidavit | |

Applications will be considered beginning: _____

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

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

Division of Ratepayer Advocates
Re: California Advanced Services Fund
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102

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**ATTACHMENT C
NOTARIZED 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 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 _____

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My Commission expires: _____

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ATTACHMENT D

| CASF Scoring - Scenario Analysis for 7 - Hypothetical Proposed Projects | | | | | | | |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Raw Values | Applicant A | Applicant B | Applicant C | Applicant D | Applicant E | Applicant F | Applicant G |
| a 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 |
| Funds requested per potential customer (\$) | 500 | 2000 | 1667 | 1333 | 2000 | 500 | 600 |
| b Speed (Mbps) | | | | | | | |
| Current avg. download speed | 4.50 | 8.20 | 3.50 | 1.00 | 3.10 | 3.10 | 5.30 |
| Proposed avg. download speed | 5.48 | 12.48 | 10.00 | 1.03 | 4.80 | 5.23 | 12.23 |
| Square root of difference | 0.99 | 2.07 | 2.55 | 0.18 | 1.30 | 1.46 | 2.63 |
| Current avg. upload speed | 0.50 | 1.00 | 0.40 | 0.50 | 0.50 | 0.50 | 3.00 |
| Proposed avg. upload speed | 0.98 | 4.28 | 6.50 | 1.00 | 1.70 | 2.13 | 6.93 |
| Square root of difference | 0.70 | 1.81 | 2.47 | 0.71 | 1.10 | 1.28 | 1.98 |
| Sum of square roots | 1.69 | 3.88 | 5.02 | 0.89 | 2.40 | 2.73 | 4.61 |
| c Financial Viability (5 year avg. earnings) (k\$) | 100 | 200 | 300 | 400 | 500 | 600 | 700 |
| d Price per Megabit (\$ / Mbps) | 5 | 10 | 5 | 6 | 7 | 10 | 5 |
| e Total Number of Households in the proposed Area(s) | 100 | 75 | 50 | 500 | 175 | 750 | 750 |
| f Time to complete project (mo.) | 24 | 23 | 18 | 19 | 20 | 20 | 19 |
| Time saved | 0 | 1 | 6 | 5 | 4 | 4 | 5 |
| g Guaranteed Pricing Period (mo.) | 60 | 24 | 12 | 36 | 48 | 24 | 60 |
| Extra time | 48 | 12 | 0 | 24 | 36 | 12 | 48 |
| h Low-Income Areas (median household income) | 20,000 | 30,000 | 40,000 | 20,000 | 25,000 | 50,000 | 30,000 |

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| Weighted Scores | | Weight | Applicant A | Applicant B | Applicant C | Applicant D | Applicant E | Applicant F | Applicant G |
|---------------------------------|--|---------------|----------------------|--------------------|----------------------|---------------------|--------------------|----------------------|------------------------|
| a | Funds Requested | 35 | 35 <i>highest</i> | 9 | 11 | 13 | 9 | 35 <i>highest</i> | 29 |
| b | Speed | 20 | 7 | 15 | 20 <i>highest</i> | 4 | 10 | 11 | 18 |
| c | Financial Viability | 15 | 2 | 4 | 6 | 9 | 11 | 13 | 15 <i>highest</i> |
| d | Pricing | 10 | 10 <i>highest</i> | 5 | 10 <i>highest</i> | 8 | 7 | 5 | 10 <i>highest</i> |
| e | Total Number of Households in the proposed Area(s) | 5 | 1 | 1 | 0 | 3 | 1 | 5 <i>highest</i> | 5 <i>highest</i> |
| f | Timeliness | 5 | 0 | 1 | 5 <i>highest</i> | 4 | 3 | 3 | 4 |
| g | Pricing Period | 5 | 5 <i>highest</i> | 1 | 0 | 3 | 4 | 1 | 5 <i>highest</i> |
| h | Low-Income Areas | 5 | 5 <i>highest</i> | 3 | 3 | 5 <i>highest</i> | 4 | 2 | 3 |
| Total Scores | | | 64.5 | 39.4 | 54.8 | 48.6 | 48.4 | 75.3 | 90.0 <i>highest</i> |
| Rank | | | 3 | 7 | 4 | 5 | 6 | 2 | 1 |
| Winning bid >>> | | | | | | | | | 45,000 |

| | | | | | | |
|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Applicant A | Applicant B | Applicant C | Applicant D | Applicant E | Applicant F | Applicant G |
|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|

(END OF APPENDIX 1)

APPENDIX 2

Broadband Infrastructure Revolving Loan Account –
Application Requirements and Guidelines.

[D1202015 APPENDIX 2 Peeveye](#)