

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Broadband, Policy and Analysis Branch**

**RESOLUTION T-17416
October 31, 2013**

R E S O L U T I O N

Resolution T- 17416 Approval of Funding for the Grant Application of Race Telecommunications Inc. (U-7060-C), from the California Advanced Services Fund (CASF) in the Amount of \$3,426,357 for the Kern County City of Boron Underserved Broadband Project.

I. Summary

This Resolution approves funding in the amount of \$3,426,357¹ from the California Advanced Services Fund (CASF) for the CASF grant application of Race Telecommunications Inc. (Race) for its Kern County City of Boron Underserved Broadband Project (Kern County City of Boron Project). The Kern County City of Boron Project will extend high-speed internet service to 42.26 square miles covering City of Boron in Kern County.

II. Background

On December 20, 2007, the California Public Utilities Commission (Commission) in Decision (D.) 07-12-054 established the CASF program as a two-year program to provide funds for the deployment of broadband infrastructure in unserved and underserved areas in California.

On September 25, 2010, Governor Schwarzenegger signed Senate Bill (SB) 1040² which codified the CASF program and expanded it to include three accounts: (1) the Infrastructure Grant Account, (2) the Consortia Grant Account, and (3) the Revolving Loan Account. The latter two accounts are intended to address the needs that were unmet under the original CASF program. Specifically, the purpose of the Revolving Loan Account is “to finance capital costs of broadband facilities not funded by a grant

¹ This funding amount includes up to \$539,788 in Contribution In Aid of Construction (CIAC). The CIAC represents potential funding in the event that the CASF grant award is subject to federal and/or state income taxes.

² Stats. 2010, c. 317, codified at Public Utilities (P.U.) Code § 281.

from the Broadband Infrastructure Grant Account.”³ SB 1040 also expanded the CASF fund from \$100 million to \$225 million with the addition of \$100 million to the Infrastructure Grant Account, and allocation of \$10 million and \$15 million to the Consortia Grant Account and the Revolving Loan Account, respectively.⁴

On February 1, 2012, the Commission approved D.12-02-015 to implement new guidelines for the Infrastructure Grant and Revolving Loan Accounts. Key provisions of the Decision include:

- A maximum CASF grant award of 70 percent of project costs for unserved areas and 60 percent for underserved areas;
- A definition of an underserved 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;” and
- A Revolving Loan Program to provide supplemental financing for projects also applying for CASF grant funding (up to 20% of projects costs, with a maximum of \$500,000), utilizing the same project and applicant eligibility requirements as the Infrastructure Grant Program.

Consequently, on May 10, 2012, the Commission approved Resolution T-17362 which established the application deadlines for the CASF Broadband Infrastructure Grant Account and the Revolving Loan Account as follows:

- October 1, 2012, for unserved areas;
- February 1, 2013, for underserved areas not previously funded by the CASF and hybrid projects that cover both unserved and underserved areas; and,
- A date to be determined for projects in underserved areas where the existing broadband infrastructure was partially funded by a CASF grant.

On February 1, 2013, Race, a California Local Exchange Carrier (CLEC), submitted an application for CASF funding in the underserved area Kern County City of Boron.

³ P.U. Code § 281(e).

⁴ P.U. Code § 281(b)(1).

III. Notice/Protests

Communications Division (CD) staff posted the proposed area project map, census block groups (CBGs) and zip codes lists by county for the Kern County City of Boron Project on the Commission's CASF website page under "Pending New CASF Applications to Offer Broadband as of February 11, 2013." CD received two challenges, as described below, to the proposed project areas.

IV. Discussion

This Resolution adopts CD's recommended CASF funding award of \$3,426,357 for the Kern County City of Boron Project. This grant amount includes \$539,788 for Contribution In Aid of Construction (CIAC), and \$2,886,569 which represents 60% of the total project cost of \$4,810,948. Key project information and maps are shown on pages A-1 through A-3 of Appendix A.

A. Project Overview

Race has a Certificate of Public Convenience and Necessity (CPCN) (U-7060-C) and has been a fiber-based CLEC provider of next generation Voice Over Internet Protocol (VoIP)/Digital telephone, video, IPTV as well as traditional cable/satellite television for the past 10 years.

The proposed Kern County City of Boron Project area is an underserved area that currently does not have access to wireline broadband service at served speeds and where wireless broadband speeds are less than 6 Mbps download and 1.5 Mbps upload. When completed, the project will provide broadband access to households at speeds of 1 Gigabits per second (Gbps) download and 100 Mbps upload.

The Kern County City of Boron Project is intended to extend high-speed internet service over a 42.26 square mile area through the expansion of fiber-to-the-premises (FTTP) Last Mile network deployment into this area of Kern County. This expansion will bring high speed internet access to 892 households in the Kern County City of Boron. The CBGs impacted by the project are: 60290056001, 60290056002, 60710116003, and 60710116001.

Race has targeted these areas for broadband deployment because of the existence of customer demand and because it determined the project to be economically feasible with the assistance of a CASF grant of \$3,426,357 to match Race's funding of \$1,924,379. Race's CASF grant amount includes \$539,788 for CIAC, which is intended to fund any federal and/or state income taxes that may apply on the CASF grant award. The applicant will not receive the CIAC if the CASF grant is not taxed. CD staff will contact the federal and

state taxing authorities to obtain confirmation regarding the applicability of CIAC on CASF grant awards and will notify the applicant of the outcome.

Race will build the network by deploying long haul fiber from Digital 395 to the local region and then establishing a regional central office and collocation facility and subsequently building a regional backbone in order to establish a local fiber ring. The network will be entirely standards-based and will be designed upon Open Systems Interconnection (OSI) standards which enable any vendors' equipment using OSI standards, to interconnect seamlessly and operate compatibly with other OSI network elements.

Race has committed to a two-year broadband pricing plan starting from the initial date of service under the following terms:

	Monthly Recurring Rate
Residential	
Entry Level Speed 25 Mbps Down and 15 Mbps Up	\$25
Mid-Level Speed 100 Mbps Down and 50 Mbps Up	\$100
Max Level Speed 1000 Mbps Down and 100 Mbps Up	\$150
Other Optional Tier Speed 50 Mbps Down and 25 Mbps Up	\$65
Business	
Entry Level Speed 25 Mbps Down and 15 Mbps Up	\$60
Mid-Level Speed 100 Mbps Down and 50 Mbps Up	\$200

Race's proposed pricing for residential broadband service in the proposed project area is affordable compared to most other provider offerings and is lower than its own current metropolitan area rates. According to Race, the pricing for business broadband service is more expensive than residential broadband service to account for a greater level of customer service support to businesses. Though higher than the residential rates, the proposed business broadband service rates are the same as the Race's Mojave Air and Space Port Project that the Commission awarded in June 2010.

B. Project Qualification

To qualify under the CASF program, the applicant is required to submit proof that the area is unserved or underserved by submitting shapefiles of the proposed project. CD reviews the submitted shapefiles by comparing them with United States 2010 Census data and the California Broadband Availability Map, which contains broadband availability data as of June 30, 2012. Once CD determines that the area is eligible either as an unserved or underserved area, CD staff evaluates all other information submitted by the applicant to determine if the project meets the requirements as outlined in D.12-02-015. Other information CD review includes: proof of a CPCN from the Commission; descriptions of current and proposed broadband infrastructure; number of potential subscriber

households and average incomes; project construction schedule; project budget; proposed pricing and commitment period for new subscribers; and financial viability of the applicant.

As an initial step in the review of Race's application, CD checked the CBGs as submitted in the project application and corrected the CBGs as submitted to conform to the 12-digit format and the 2010 Census. Race agreed with these adjustments. Additionally, CD checked the CBGs submitted in the project application to determine that the project was indeed underserved. In doing so, CD found broadband availability at served speeds by Satellite providers such as Skycasters, and ViaSat. However, as adopted in D.12-02-015, the Commission does not consider satellite broadband service in CASF project evaluation, unless the satellite project in an area was previously funded by the CASF.⁵ Race submitted an updated proposed project budget and deployment schedule. Race slightly changed the proposed project budget to take into account the latest cost of the equipment and labor which resulted in the requested amount of CASF funds of \$3,426,357.

The proposed project area was challenged by Charter Communications and CD staff determined through the California Interactive Broadband Map that Charter is providing broadband availability at served speeds in the North Edwards (CBGs 060290057001 and 060290065001) of the project areas. CD staff further examined the project area to help determine if Charter Communications offers broadband service at served levels outside of North Edwards. Even though the California Broadband Availability Map indicates that Charter Communications provides broadband service at served levels in the City of Boron, Charter Communications clarified to staff that the company in fact does not offer broadband service in the area. The remaining Census Blocks 60290056001, 60290056002, 60710116003, and 60710116001 are eligible for funding. Race Telecommunications agreed to remove the served areas of North Edwards from its proposal and submitted the revised project area on April 4, 2013.

On March 11, 2013, Verizon California, Inc. (Verizon) challenged the application stating that wireless carriers continue to build-out their 4G LTE networks. Verizon's challenge was very vague and did not contain information sufficient to determine if Verizon was challenging the entire project proposal or just a specific area of the project. On March 27, 2013, CD staff requested that Verizon clearly identify what areas of the project, by census block, it was challenging and to provide CD with the following information: number of subscribers by census block and speed tier, speed tests with a description on how the speed tests were conducted and what tools were used, and the addresses of the locations

⁵ This determination was based on the limited speed capabilities of satellite services, the cost to the consumer, high latency, and unreliability known at the time of the decision, D. 12-02-015 at 13-15. Since that time, like other technologies, satellite services have improved.

where the speed tests were performed to help determine if in fact the area is served. Verizon did not provide a response or any further information on the challenge and therefore CD staff considers Verizon's challenge unsubstantiated. On April 2, 2013, CD staff e-mailed Verizon confirming that Verizon did not provide a response and informed Verizon that CD will continue to consider the majority of the project as eligible for CASF funding.

The California Broadband Availability Map shows that Verizon is primarily providing broadband availability at underserved speeds of less than 6 Mbps download or 1 Mbps upload to the remaining part of the project area. Race provided staff sample tests results that were performed in census block groups 60290056001 and 60290056002 using the Commission's CalSPEED mobile test application that further confirms broadband availability at underserved speeds.

Since Race's submission of its CASF project application, Round 7 broadband data as of December 31, 2012, show maximum advertised mobile broadband availability from Verizon at speeds greater than 6 Mbps download and 1.5 Mbps upload in the proposed project area.⁶ However, CD has not been able to validate the maximum advertised mobile broadband speeds in the area. CD validates advertised speeds by conducting drive tests at 1,200 points within the state. There is one test point in the remaining eligible project area where actual speed test results during the fall 2012 mobile broadband drive test are less than 6 Mbps download and 1.5 Mbps upload. CD inputs these tests into an interpolation model to predict speeds in areas outside of the drive tested points. Where the predicted speeds are slower than the advertised speeds, the model shows that speeds in that area are not validated. The spring 2013 speed test conducted recently on the same test point show speeds greater than 6 Mbps download and 1.5 Mbps upload. However, as discussed above, since the test results provided by Race, which it performed on August 15, 2013, show speeds of less than 6 Mbps download or 1.5 Mbps upload and Race's test points are close in proximity to the mobile drive test performed by CD, it is unclear whether Verizon serves the area. The one test point that CD performed is not located near the population center and housing units. The tests that were performed by Race are in the areas where homes are present. Additionally, Verizon did not provide a response or any further specific information when CD staff requested more details on the challenge in March 2013. For these reasons, CD staff considers the challenge unsubstantiated. Therefore, CD staff concludes that the remaining communities in the application are underserved at this time and eligible for CASF funding.

In addition, while the Commission in D.12-02-015 did not include broadband performance measures other than download and upload speeds, the wireless broadband service offerings include data caps and pricing that are more restrictive than the proposed

⁶ The California Interactive Broadband Map will reflect Round 7 data in the near future.

project's service offering which has lower prices and no explicit data caps. Although the mobile broadband advertised speeds have not been validated in the project area, for comparison, Appendix B indicates wireless and satellite broadband service data caps and prices advertised in the project area, which are generally higher than Race's proposed pricing plans.

C. Project Evaluation and Recommendation for Funding

CD evaluated the application with respect to the scoring criteria defined in D.12-02-015, Appendix 1, Section VIII (Scoring Criteria). The Scoring Criteria includes: (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. In addition, five (5) bonus points are added to the score of an applicant that is able to submit local government and community endorsements or letters of support.

Staff recommends this project for funding, because it has an above average overall score relative to other projects. It scored high in the areas of funds requested per customer, total number of households in the proposed area and speeds offered. This project requested \$3,841 per potential customer household with a total of 892 potential customer households in its project area. Additionally, it is offering maximum advertised speeds of 1 Gigabits per second (Gbps) download and 100 mbps upload. The project also encompasses over six anchor institutions which may benefit from the deployment of high-speed Internet access in the area. The fiber network will pass all the anchor institutions in the project area and will give them access to broadband services.

The Eastern Sierra Connect Regional Broadband Consortium, the Mojave Air and Space Port, Terra-Gen Operating Company LLG, Tehachapi Police Department, California City, Code 3 IT and System Integration, and other businesses submitted letters supporting Race's Kern County City of Boron Project. These letters state that this broadband project will serve the rural and business communities and it helps to close the digital divide in the area.

CD found that the Kern County City of Boron Project meets CASF funding requirements with respect to the following factors:

- Speed - the proposed speed offering of 1 Gbps download and 100 mbps upload complies with the benchmark set by the Commission
- Service area- is determined to be underserved and covers 42.26 square miles
- Matching Funds of 40% of project cost - the applicant has certified that the matching funds will come from their capital budget; the submitted balance sheet, income and cash flow statements show that the applicant is financially viable and has the financial capability to match the funds

- Price commitment period- the applicant has committed to a pricing plan of two years as required
- Deployment schedule – the project will be completed within 12 months, within the 24 month period construction timeline required

Based on its review, CD determined that Race’s grant application qualifies for funding as an underserved area and meets the requirements of D.12-02-015. CD recommends Commission approval of CASF funding for Race’s Kern County City of Boron Project.

CD staff finds that funding the Race’s Kern County City of Boron Project aligns with CASF’s goal to encourage the deployment of high-quality advanced information and communications technologies to all Californians to promote economic growth, job creation, and substantial social benefits.

D. Safety Impact

The culmination of this project will improve connectivity to the surrounding areas and a number of anchor institutions. The high speed Internet connections facilitate the transmission of data and communications amongst first responders and to the public. There are a number of community anchor institutions in the project area such as the sheriff’s office, fire department, schools, library, and ambulance services that will potentially benefit from the broadband project. The following lists these anchor institutions:

- Muroc School District:
 - Elementary School
 - JR/SR High School
- Hall Ambulance
- Kern County Sheriff’s Office
- Kern County Fire Department
- Kern County Library

V. Compliance Requirements

Race should comply with all the guidelines, requirements, and conditions associated with the granting of CASF funds as specified in D.12-02-015. Such compliance includes, but is not limited to:

A. California Environmental Quality Act (CEQA)

All CASF grants are subject to CEQA requirements unless the project is statutorily or categorically exempt pursuant to the CEQA Guidelines.

Race has provided the Commission with construction plans for the Kern County City of Boron Project area. In order to deliver last mile service to households in the area, Race will build the network by deploying long haul fiber from Digital 395 to the local region and then establishing a regional central office and collocation facility and subsequently building a regional backbone in order to establish local fiber ring. The Network will be entirely standards-based and will be designed upon Open Systems Interconnection (OSI) standards which enable any vendors' equipment using OSI standards, to interconnect seamlessly and operate compatibly with other OSI network elements.

The regional backbone fiber will be Corning or equivalent 48-144 count Single Mode OSP, and the distribution inner-city backbone fiber will be Corning or equivalent 48-96 Single Mode OSP. Race will use 50 miles of Digital Dark Fiber to connect to existing data center. Race will use 2 Calix ODC-1000 FTTP Pedestal Cabinets and 3 Clearfield 864 Panel Pedestal Cabinets. Race estimates 7 miles of regional fiber backbone and 6 miles of local fiber distribution for inner-city backbone.

Race proposes to conduct all work in already disturbed land, active right of ways and on and in existing infrastructures with no forest, agricultural land or landmarks disturbed. Race included the following measures to ensure that cultural or archeological sites are not disturbed during trenching activities: Race will hire an archeologist prior to final engineering in order to ensure that cultural resources are avoided; and RACE will perform a records search at the Southern San Joaquin Valley Information Center at California State University Bakersfield, archival research to identify any areas with high potential for buried historical-period archeological sites, geoarcheological research to identify areas with high potential for buried prehistoric archeological sites, and prepare a report to be submitted to Commission staff documenting the study results. Race will use the study results in designing the final project to avoid cultural resources by either rerouting planned trenching or delivering the fiber aurally instead of trenching.

Based on the above information, the project qualifies for the following categorical exemptions from CEQA: CEQA Guidelines Section 15303 - New Construction or Conversion of Small Structures, involving construction, installation, and/or conversion of limited numbers of new and/or existing facilities/structures, and CEQA Guidelines Section 15304 - Minor Alterations to Land, involving minor trenching and backfilling where the surface is restored.

B. Deployment Schedule

The Commission expects Race to complete the project in 12 months from the start date. If the applicant is unable to complete the proposed project within the 12-month timeframe identified in its application, Race must notify CD's Director as soon as it becomes aware of

this prospect. The Commission may reduce payment for failure to notify CD's Director and timely complete the project. In D.12-02-015, the Commission required complete build-out of a CASF-funded project within 24 months from approval of the application.

C. 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.

D. Performance Bond

The Commission does not require a Performance Bond if the applicant certifies that the percentage of the total project costs it is providing comes from their capital budget and is not obtained from outside financing. In its application, Race certified that the percentage of the total project costs it is providing will come from its existing capital budget. Therefore, a performance bond is not required for this project.

E. Price Commitment Period

The minimum required price commitment period for broadband service to all households within the project area is two years. Race guarantees the price of service offered in the project area for two years.

F. Project Audit

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

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

G. Providing Voice Service

If the grantee is providing voice service in the project area, it must meet the Federal Communications Commission (FCC) standards for E-911 service and utilize battery backup Power.

H. Reporting

Grantees must submit quarterly progress reports on the status of the project irrespective of whether grantees request reimbursement or payment. Before full payment of the project, the CASF recipient must submit a project completion report. Progress reports shall use both the schedule for deployment; major construction milestones and costs submitted in the proposals, indicate the actual date of completion of each task/milestone as well as problems and issues encountered, and the actions taken to resolve these problems and issues during project implementation and construction; and identify future risks to the project. 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.

I. Submission of Form 477

The FCC currently requires broadband providers to submit Form 477 biannually and include speed data. While there is an imperfect match between the current reporting areas for the Form 477 and CASF, Form 477 information will be useful in documenting CASF deployment for the specific new service area(s) of the carrier. CASF recipients shall submit a copy of their Form 477 data directly to the Commission, under General Order 66-C, when they submit this data to the FCC for a five year period after completion of the project.⁷

VI. Payments to CASF Recipients

Submission of invoices from and payments to Race shall be made in accordance with Section XI of Appendix 1 of D.12-02-015 and according to the guidelines and supporting documentation required in that decision.

Payment to Race shall essentially follow the process adopted for funds created under P. U. Code § 270. The following table describes the timeline for processing CASF payments.

⁷ *Approval of the California Advanced Services Fund (CASF) Application Requirements and Scoring Criteria for Awarding CASF Funds* (2008) Cal. P.U.C. Res. No. T-17143 at 4.

Event	Payment Cycle 1 (Day/Month)	Payment Cycle 2 (Day/Month)
Invoices due from Race to CD	5 th of Month 1	20 th of Month 1
Payment letters from CD to Administrative Services ⁸	On 19 th of Month 1	On 4 th of Month 2
Invoices submitted from Administrative Services to State Controller’s Office (SCO) for payments	20 th through 26 th of Month 1	5 th through 13 th of Month 2

Race may submit its invoices under Payment Cycle 1 or 2.

If any date in this payment schedule falls on a weekend or holiday, that date will be advanced to the next business day but the remaining dates in the payment schedule will remain unchanged. The State Controller’s Office (SCO) requires 14 to 21 days to issue payment from the day that requests are received by SCO.

VII. Comments on Draft Resolution

In compliance with P.U. Code § 311(g), a notice letter was emailed on September 24, 2013, informing all applicants filing for CASF funding and parties on the service list of R.06-06-028, and the CASF distribution list of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/PUC/documents/>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and will be available at this same website.

The Commission received opening comments from Verizon on October 9, 2013 and reply comments from Race and the Eastern Sierra Connect Regional Broadband Consortium (ESCRBC) on October 11, 2013.

In its opening comments, Verizon states that “[it] did not challenge that application per se” but instead, called for staff’s attention to the fact that “the widespread availability of 4G LTE calls into question the underserved nature of the project.” As a result, Verizon recommends two changes to the draft resolution:

⁸ The above schedule is contingent on the CASF recipient submitting clear, complete, and error-free invoices to CD. Additional time to process payments may be necessary if CD finds problems with the submitted invoices.

1. The Commission should modify the draft resolution to show that there is wireless broadband in Boron at served levels based on the recent Round 8 broadband availability data and the Round 3 mobile field test results performed in spring 2013.
2. The discussion relating to price should be deleted "as the price of existing broadband service is not a factor in determining the availability of broadband."

In its reply comments, Race questions the validity of the information presented in Verizon's comments noting that Verizon incorrectly referenced "Race Technologies" rather than "Race Telecommunications" as the applicant. Race also contends that Verizon's assertion that there is widespread availability of wireless broadband in Boron is inaccurate and cites the speed tests it performed on August 15, 2013 (a month and a half after the submittal deadline for Round 8 data) at seven locations within the project area showing results to be at speeds less than 6 Mbps download or 1.5 Mbps upload. Race further notes that one of the test points Verizon references in its opening comments for the "Round 3" mobile field test results is not in Race's proposed project area.

ESCRBC's reply comments express support for the Race City of Boron project proposal and further stress that there is no widespread fixed broadband availability in Boron and only mobile broadband is available. ESCRBC contends that it is "unlikely that Verizon is able to provide coverage in the entire area based on the technology they are using. Verizon wireless coverage and performance claims predict substantial coverage where there actually may not be due to 'black out' areas or for reasons of penetration loss". Additionally, ESCRBC states that pricing is a "valid criterion to consider for any Broadband deployment. Broadband needs to be affordable to residents, especially in Boron" where there is a low per capita income.

In response to Verizon's comments, the Commission reminds Verizon that for all CASF project proposals, a challenge window and deadline is set up for submitting challenges on pending applications. In particular, for the Kern County City of Boron Project, the deadline provided to submit challenges was March 4, 2013; 21 days after the web-posting of the project summary information and map. Verizon submitted its challenge past the official deadline because CD staff allowed Verizon to have an extension of time to submit its challenge. Even with such extension, Verizon did not provide in its challenge enough information for staff to determine if the area is in fact served by mobile broadband. As CD staff discussed on a call with Verizon on March 15, 2013, as well as noted in email correspondence dated March 27, 2013, the challenger must clearly identify what area of the project it is challenging and provide data such as: the number of subscribers by census block and speed tier, speed tests with a description on how the speed tests were conducted with information on what tools were used, and addresses of the locations of where the speed tests were performed. Verizon did not provide any of this information. CD staff also reminds Verizon that Round 8 broadband availability data is not yet available or

validated for CASF staff to use in its analysis of the project proposal; hence, the importance to provide the necessary information on a challenge as discussed above.

CD staff provided Verizon with reasonable opportunities to provide the necessary information to prove if in fact the proposed project area is served by mobile broadband. As discussed on page 6 of the resolution, there is only one test point in the remaining eligible project area where the Commission conducted a mobile broadband drive test. The spring 2013 test result shows speeds of greater than 6 Mbps download and 1.5 Mbps upload. However, Race conducted their own mobile tests using the Commission's CalSPEED app at a total of seven test points where results show speeds of less than 6 Mbps download and 1.5 Mbps upload. Verizon cites two Round 3 mobile field test results (row 8696 and 9625 in excel file of the test results posted on the CPUC website) showing served speeds, but as Race correctly notes, one of these points (i.e., test id 2118, row 9625) is outside the project's amended proposed area as discussed in the Project Qualification section of this resolution. CD staff continues to conclude that the remaining communities in the project proposal are underserved and eligible for CASF funding.

With regards to the discussion relating to price of existing broadband service in the area, CD staff clarifies that the price of mobile broadband in the area is not the basis for considering the area as not served. The discussion on price clearly states that the Commission in D.12-02-015 did not include broadband performance measures other than download and upload speeds but simply states the fact that wireless broadband service offerings include data caps and pricing that are more restrictive than the proposed project's service offering which has lower prices and no explicit data caps. CD staff agrees with Race that Verizon's request to delete the discussion relating to price does not have merit. Race cites Resolution T-17350 as an example where the Commission in the past has discussed existing pricing of broadband service in a proposed project area. In conclusion, the Commission agrees with CD staff's recommendation to fund Race's City of Boron project proposal. As noted by ESCRBC, the project will serve the broadband needs of the rural community of Boron, and help close the Digital Divide in California.

VIII. Findings

1. On May 10, 2012, the Commission approved Resolution T-17362 which established the application deadlines for the CASF Broadband Infrastructure Grant Account and the Revolving Loan Account as follows: October 1, 2012, for unserved areas; February 1, 2013, for underserved areas not previously funded by the CASF and hybrid projects that cover both unserved and underserved areas; and, a date to be determined for projects in underserved areas where the existing broadband infrastructure was partially funded by a CASF grant.
2. Race filed an application for CASF funding for its Kern County City of Boron Project on February 1, 2013. The Kern County City of Boron Project is intended to extend high-speed internet service over a 42.26 square mile area through the expansion of fiber-to-the-premises (FTTP) Last Mile network deployment into the remote area of Race rural exchanges. This expansion will bring high speed internet access to 892 households in the Kern County City of Boron. The CBGs impacted by the project are: 60290056001, 60290056002, 60710116003, and 60710116001.
4. CD posted the map, CBGs and zip codes lists by county for the Race Kern County City of Boron Project on the Commission's CASF website page under "Pending New CASF Applications to Offer Broadband as of February 11, 2013." Communications Division received challenges from Charter and Verizon Wireless to the proposed project areas. Verizon Wireless asserted that it provides Internet service in this area at served speeds. However, Verizon did not respond to CD staff inquiries to validate its challenge, and neither CD staff's mobile drive tests nor the interpolation model based on these tests validated Verizon's maximum advertised speed in the project area; therefore CD staff considers the challenge unsubstantiated.
5. CD reviewed and analyzed data submitted for the Race Kern County City of Boron Project CASF grant application to determine the project's eligibility for CASF funding. This data includes, but is not limited to: proof of a CPCN from the Commission; descriptions of current and proposed broadband infrastructure; geographic information system (GIS) formatted shapefiles mapping the subject areas; assertion that the area is underserved; number of potential subscriber households and average incomes; project construction schedule; project budget; proposed pricing and commitment period for new subscribers; and financial viability of the applicant.
6. CD reviewed the submitted shapefiles which mapped the proposed broadband deployment using United States 2010, Census data and the California Broadband Availability Map, which contains broadband availability data as of June 30, 2012. This helped to verify the existence or non-existence of broadband service areas and broadband speeds, where available.

7. Based on its review, CD determined that the project qualifies for funding under D.12-02-015 and recommends Commission approval of CASF funding for Race Kern County City of Boron Project.
8. Race is not required to post a performance bond because 40% of the total project cost will be financed through Race's existing capital budget.
9. Race is required to comply with all guidelines, requirements, and conditions associated with the granting of CASF funds as specified in D.12-02-015 and must submit the FCC Form 477, as specified in Resolution T-17143.
10. Race proposes to conduct all work in already disturbed land, active right of ways and on and in existing infrastructures with no forest, agricultural land or landmarks disturbed. Race will carry out avoidance measure described in this Resolution and prepare a report documenting the study results of the area. The report will be submitted to Commission staff and Race will use the study results in designing the final project to avoid cultural resources by either rerouting planned trenching or delivering the fiber aerially instead of trenching.
11. This project is categorically exempt from CEQA review pursuant to CEQA Guidelines Sections 15303 - New Construction or Conversion of Small Structures and 15304 - Minor Alterations to Land.
12. Race included funds for Contribution in Aid of Construction (CIAC) in its CASF grant request to pay for federal and/or state income taxes that may apply on the CASF grant award. The applicant will not receive the CIAC, if the CASF grant is not taxed. CD staff will be contacting the federal and state taxing authorities to obtain confirmation regarding the applicability of CIAC on CASF grant awards and will notify the applicant of the outcome.
13. A notice letter was emailed on September 24, 2013, informing all applicants filing for CASF funding, parties on the service list of R.06-06-028, and the CASF distribution list of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/PUC/documents/>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website.

14. Verizon submitted opening comments on October 9, 2013. Race and ESCRBC submitted reply comments on October 11, 2013. Responses to these comments are discussed in Section VII of this resolution.
15. The Commission finds CD's recommendation to fund the Kern County City of Boron Project of Race as summarized in Appendix A to be reasonable and consistent with Commission orders and, therefore, adopts such recommendation.

THEREFORE, IT IS ORDERED that:

1. The Commission shall award from the CASF to Race up to \$3,426,357 for the Kern County City of Boron underserved area broadband project as described herein and summarized in Appendix A of this Resolution.
2. The program fund payment of up to \$3,426,357 for this underserved project shall be paid out of the CASF fund in accordance with the guidelines adopted in D.12-02-015 and in accordance with the compliance of avoidance measures described in this Resolution. This total CASF grant amount will be reduced by up to \$539,788 of Contribution in Aid to Construction if the CASF grant award is not subject to federal and/or state income taxes.
3. Payments to the CASF recipient shall be in accordance with Section XI of Appendix 1 of D.12-02-015 and in accordance with the process defined in the "Payments to CASF Recipients" section of this Resolution.
4. The CASF fund recipient, Race, shall comply with all guidelines, requirements and conditions associated with the CASF funds award as specified in D.12-02-015 and must submit the FCC Form 477, as specified in Resolution T-17143.

APPENDIX A
Resolution T- 17416
Race Telecommunication, Inc. Kern County City of Boron Project
Key Information

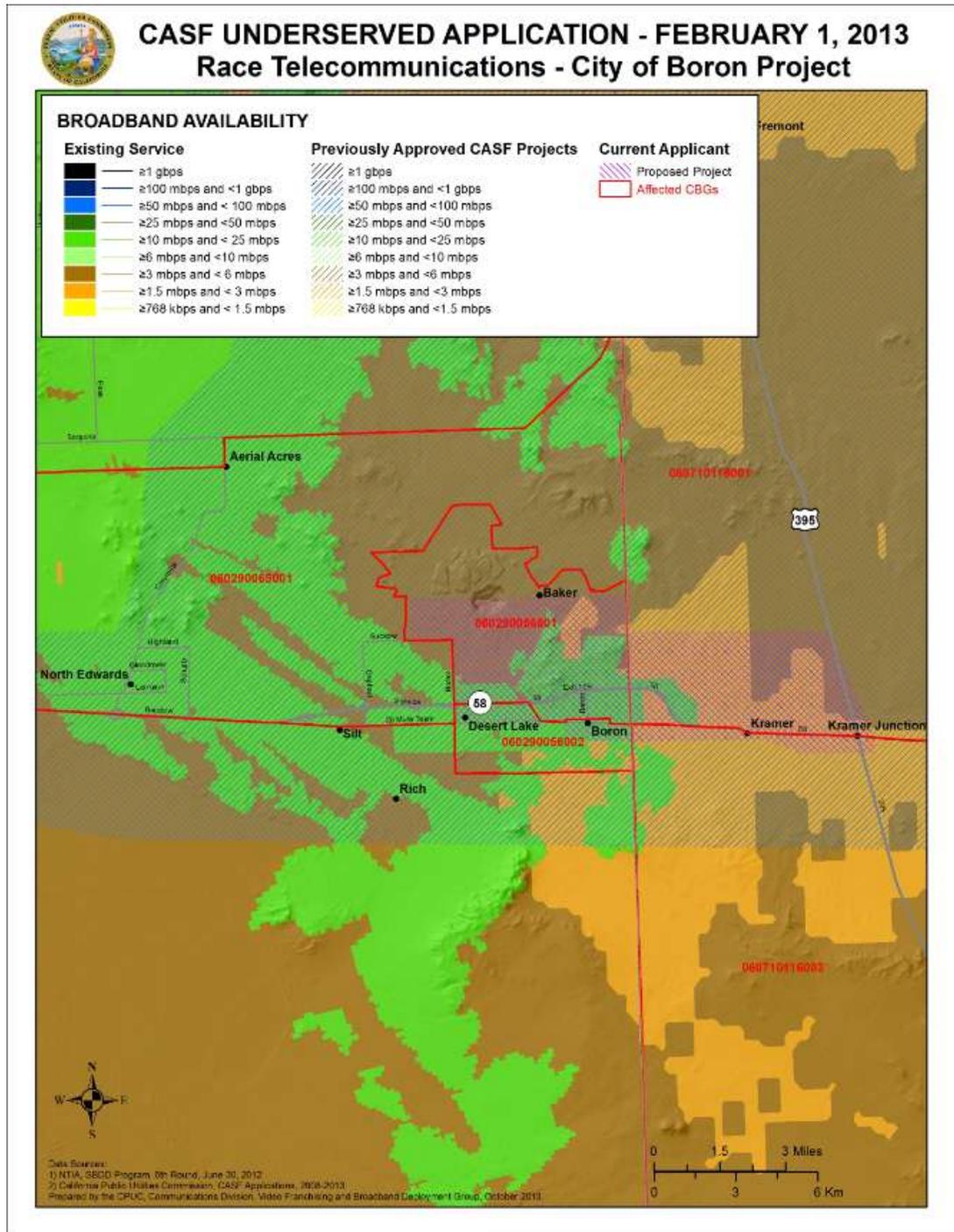
Project Name		Race Telecommunication, Inc. Kern County City of Boron Project	
Project Plan		To deploy a fiber-to-the-premises (FTTP) Last Mile network to serve 100% of the homes	
Project Size (in square miles)		42.26	
Download / upload speed (in Mbps)		1Gbps/100 Mbps	
Location		Kern County City of Boron	
Community Name		City of Boron	
CBGs / Household Income		60290056001	\$32,870
		60290056002	\$52,222
		60710116003	\$0
		60710116001	\$0
ZIP Codes		93516	
Estimated Potential Subscriber Size Households / Subscribers		892	
Deployment Schedule (from Commission approval date)		12 months	
Proposed Project Budget			
Total (without CIAC)		\$4,810,948	
Amount of CASF Funds Requested (60%)		\$2,886,569	
Internally funded (40%)		\$1,924,379	
CIAC (18.7% of CASF Funds Requested)		\$539,788	
Net Total Project Budget (includes CIAC)		\$5,350,736	
Total Amount of CASF Award (includes CIAC)		\$3,426,357	

APPENDIX A
Resolution T-17416

Race Telecommunications Inc., Kern County City of Boron Project Regional



APPENDIX A
Resolution T- 17416
Race Telecommunications Inc., Kern County City of Boron Project Shapefiles



END OF APPENDIX A

APPENDIX B
Resolution T-17416
Mobile Wireless and Satellite Data Caps and Pricing

Verizon’s HomeFusion Broadband Plans (Speeds: 5 - 12 Mbps download and 2 - 5 Mbps upload)

Monthly Data Allowance	Monthly Price
10GB	\$60
20GB	\$90
30GB	\$120

Verizon’s Smartphone Share Everything Plans

Monthly Data Allowance	Monthly Price
6GB	\$80
10GB	\$100
20GB	\$150
30GB	\$225

Satellite Provider plans in the area at served speeds

Company	Speeds	Monthly Data Allowance	Monthly Price
Skycasters	6 Mbps download/ 1.5 Mbps upload	15 GB (12 GB down / 3 GB up)	\$999
ViaSat (Exede)	12 Mbps download/ 3 Mbps upload	Unlimited Access for Email & Web Pages only. 5 GB for everything else	\$65

Resolution T-17416
CD/SIM

	12 Mbps download/ 3 Mbps upload	10 GB	\$50
	12 Mbps download/ 3 Mbps upload	15 GB	\$80
	12 Mbps download/ 3 Mbps upload	25 GB	\$130

END OF APPENDIX B