

**D R A F T**

Agenda # 9517

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Carrier Oversight and Programs Branch**

**RESOLUTION T- 17279  
June 24, 2010**

**R E S O L U T I O N**

**Resolution T- 17279 Funding Approval for the Race Telecommunications (U-7060-C) Mojave Air and Space Port Project from the California Advanced Services Fund (CASF), Amounting to \$506,199.**

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**Summary**

This Resolution adopts funding for the Race Telecommunications, Inc. (Race) Mojave Air and Space Port project, amounting to \$506,199 from the California Advanced Services Fund (CASF). The amount granted represents 40% of the project cost to provide broadband service to unserved and underserved areas in accordance with Commission Resolution T-17143.

**Background**

Applicant's Background

On April 1, 2010, Race filed an application requesting CASF funding of \$506,199 for the unserved and underserved areas of the Mojave Air & Space Port, referred to here as the local region.

Race Telecommunications, Inc. has been certified by the Commission as a Competitive Local Exchange Carrier (CLEC), U-7060-C since 2008.

Race offers a wide range of communication products and services to residential and business customers throughout California. Race owns and operates a full-service voice, video, and Internet network in both Northern and Southern California.

CASF Program Background

On December 20, 2007, the Commission approved D.07-12-054 which established the two-year CASF program to provide matching funds of up to 40% of the total project costs for the

deployment of broadband infrastructure in underserved and underserved areas in California.<sup>1</sup> Resolution T-17143 approved on June 12, 2008, adopted application requirements, scoring criteria for the award of funds, and a prescribed timeline for other filings and notifications including a projected Commission Meeting date for final approval of award(s). Resolution T-17143 directed interested applicants seeking funding for unserved and underserved projects, to file their project proposals and funding requests beginning July 24, 2008 and August 25, 2008, respectively.

On July 9, 2009, the Commission issued D.09-07-020 establishing new schedules and plans for the filing, review and approval of an additional round of broadband project requests. This decision also provides the potential for the applicants to seek CASF program funding while pursuing funding for broadband deployment grants issued under the American Recovery and Reinvestment Act (Recovery Act).<sup>2</sup> Because the federal grants under the Recovery Act can fund up to 80% of the project, the Commission provided applicants in D.09-07-020 the opportunity to seek an additional 10% funding coverage from the CASF, leaving only 10% for the applicant to provide.

In line with the federal government's announcement of new filing deadlines for the Recovery Act second round, the Commission established April 1, 2010 as a new deadline for the filing of CASF funding requests. This new filing window is meant to accommodate separate funding requests for 40% CASF and 10% CASF matching fund requests for the second round.

As of May 20, 2010, the Commission has granted CASF funding of \$54.02 million for 37 projects covering 12,741 square miles, benefiting 97,760 potential households.<sup>3</sup>

- Unserved - \$12.75 million, 16 projects, 4,236 square miles, and 33,161 households
- Underserved - \$41.28 million, 21 projects, 8,505 square miles and 64,599 households

## **Notice/Protests**

On April 1, 2010, Race filed an application for the unserved and underserved areas of the Mojave Air & Space Port. The Census Block Group (CBG) for this project appeared by county on the Commission's CASF website page under "UNSERVED and UNDERSERVED areas proposed to be served as of April 1, 2009: Census Block Groups (CBGs)". Communications Division (CD) did not receive any challenges to Race's CBG. Nonetheless, CD still proceeded

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

<sup>2</sup> The American Recovery and Reinvestment Act (Recovery Act) appropriates \$7.2 billion for grants and loans to support broadband deployment on a national level. The Recovery Act offers a unique and ground breaking opportunity for California to partner with the federal government and other state agencies in advancing the goal of bridging the digital divide.

<sup>3</sup> The total amount of CASF grant awards in this resolution shows a decrease from that reflected in previous resolutions as a result of the adoption by the Commission of Res. T-17272 on May 20, 2010 rescinded contingent funding for seven projects in Resolutions T-17229, T-17241, T-17245, T-17234, T-17224, T-17246 and T-17239.

to review and analyze this project area to verify that it is indeed unserved and/or underserved as of the applicants' filing date.

## **Discussion**

### Summary

This resolution adopts funding of \$506,199 for the proposed Race Mojave Air and Space Port project in Kern County. This project is described in detail in Appendix A, page A-1. Maps of the proposed project can be found on pages A-2 and A-3 of Appendix A.

### Applicant's Prior CASF Experience

This application modified a previously submitted and approved application Race submitted for its last mile project on August 14, 2009 requesting 80% Recovery Act funds and 10% CASF funds. In Resolution (Res.) T-17241, approved on November 24, 2009, the Commission approved Recovery Act contingent funding for the Race Telecommunications Last Mile project.

On January 25, 2010 Race received a denial letter from National Telecommunications and Information Administration <sup>4</sup> for its broadband infrastructure project funded by the Recovery Act. Consequently, Race withdrew its original application and on April 1, 2010, Race submitted two new applications, one of which is for the Mojave Air and Space Port project in Kern County. Since the Commission's approval of the grant funding to Race in Res. T-17241 was contingent on the approval of Recovery Act funding, the Commission in Res. T-17272 rescinded Res. T-17241

### Proposal Project Overview

Race's Mojave Air & Space Port project proposes to deploy long-haul fiber from its Internet source at One Wilshire in Los Angeles to the local region. Once this is accomplished, Race will establish a regional central office and collocation facility, and build a regional optic backbone network to serve one market within Kern County. One local distribution ring will be built from the data center and central office to serve the residents and businesses in the designated markets of Mojave.

The total proposed project of 5.1 square miles surrounds unserved and underserved areas of 567 businesses. Race proposes to reserve some portions of its internet capacity for public benefit organizations such as fire and police departments, hospitals, and educational institutions which desire to have their own fiber optic network to improve community

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<sup>4</sup> The National Telecommunications Information Administration (NTIA) is responsible for \$4.15 billion for broadband deployment, adoption, and mapping, and another \$650 million related to the digital television transition through its Broadband Technology Opportunities Program (BTOP). BIP will extend loans and grants for broadband infrastructure projects in rural areas while BTOP will provide grants to fund broadband infrastructure, public computer centers and sustainable broadband adoption projects

services. Race estimates that the project would be completed within 24 months from the beginning of construction.

Race proposes to offer high-speed internet access service at speeds of up to 100 mbps download and up to 25 mbps upload. The following table outlines Race’s initial product and pricing service strategy. Race’s proposal includes a commitment to honor these prices for at least 24 months from initial service deployment, with no term commitments required of customers who subscribe to the entry broadband package.

**Race Telecommunications Inc., Product and Pricing Proposal**

Tier Designation	Advertised Speeds		Average Speeds		Pricing Plan \$ per Month
	Downstream mbps	Upstream mbps	Downstream mbps	Upstream mbps	
Business					
Entry Level	25	15	21	12.6	\$60.00
Maximum	100	25	84	21	\$200.00

Race asserts that the CBG in this proposal has been historically unserved and underserved by the region’s Local Exchange Carriers (LECs). Race describes Kern County as generally sparsely populated and somewhat remote, with investor-owned carriers prioritizing capital deployment to the more populated areas of Kern County, so that by serving these markets the LECs can yield greater returns for their investors. Race notes that it is ironic that Kern County is a center for renewable energy, soon to host what will be the largest wind farm in California, while also possessing an aeronautical research center and being home to both Edwards Air Force Base and the Mojave Airport, yet all of these facilities have limited broadband technology access. As a result, economic development in the local region suffers and where available, its residents pay some of the highest prices in the state for broadband services.

CD’s Analysis

CD reviewed Race’s application for compliance with applicable standards.

For purposes of the CASF program, the Commission has defined “unserved areas” as areas that are not served by any form of facilities-based broadband, or where Internet connectivity is available only through dial-up service or satellite and "underserved areas" as areas where broadband is available but no facilities-based provider offers service at speeds of at least 3 mega Bits per Second (mbps) download and 1 mbps upload. CD reviewed Race’s project eligibility by analyzing required data which the applicant submitted. These data include, but are not limited to: proof of Certificate of Public Convenience and Necessity (CPCN) registration; descriptions of current and proposed broadband infrastructure, Geographic Information System (GIS) formatted Shapefiles <sup>2</sup> mapping the subject areas; assertion that the area is underserved; potential size of the subscriber base and household incomes; project

construction schedule; project budget; proposed pricing and commitment period for new subscribers; and, financial qualifications of the applicant

CD did not receive any formal challenges for Race's proposed service area in CBG #60290059002. However, as part of its evaluation of Race's application, CD reviewed the Race Mojave Air and Space Port project to verify that the area proposed to be served by Race did not coincide with areas shown as served and not unserved or underserved on the updated California Broadband availability maps.

CD requested Race to provide documentation proving that the proposed area is unserved and underserved as defined in Res. T-17143. Race responded by submitting data along with testimonial letters from a number of businesses attesting to the lack of broadband facilities or their inability to gain broadband access. CD also contacted several Mojave Air and Space Port vendors, one of which is Mojave Air and Space Port's wireless service provider who confirmed the same. In addition, the proposed area had already been previously approved by the Commission under Res. T-17241 on November 24, 2009 for Race's original CASF application.

Based on its review, CD determined that the CBG covering the proposed area is qualified as unserved and underserved as defined in Resolution T-17143 and recommends the Race Mojave Air and Space Port project for approval and award of CASF funding.

#### Compliance Requirements

Race certified that it will fund 60% of the project cost from its existing capital budget, and therefore could be exempt from the performance bond requirement. The Commission observes, however, that Race has only three years of history as a licensed carrier, which is not a sufficient track record to warrant an exemption. Therefore, in accordance with Appendix A, IV.13, "Performance Bond Documentation" of Resolution T-17143, Race is required to post a performance bond equal to the total amount payable under this CASF award, or 40% of the project cost, and provide a copy of the bond to CD, in accordance with the existing CASF funding rules. Race Telecommunications, Inc. agrees to provide a copy of the executed bond within five business days after the completion of the California Environmental Quality Act (CEQA) review. The performance bond will only ensure completion of the project and does not extend to ensuring continued operations.

Race is required to comply with all the guidelines, requirements and conditions associated with the granting of CASF funds as specified in Resolution T-17143, including submitting Form 477 to the FCC. Race must provide a copy of the Form 477 to CD at the same time it is filed with the FCC. In addition, Race must complete CEQA review prior to any of the company's ground breaking activities, must identify any other special permit requirements, and must provide those with a cross-reference to the government agencies from which the permits will be or have been required for this project in compliance with all other guidelines, requirements, and conditions associated with the granting of CASF funds as specified in T-17143.

### **Payments to CASF Recipients**

Submission of invoices from and payments to Race shall be made in accordance with Section IX of Appendix A of Resolution T-17143 and according to the guidelines and supporting documentation required in Resolution T-17143.

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

<b>Event</b>	<b>Payment Cycle 1 (Day/Month)</b>	<b>Payment Cycle 2 (Day/Month)</b>
Invoices due from Race Telecommunications, Inc. to CD	5 <sup>th</sup> of Month 1	20 <sup>th</sup> of Month 1
Payment letters from CD to Information and Management Services Division (IMSD) <sup>5</sup>	On 19 <sup>th</sup> of Month 1	On 4 <sup>th</sup> of Month 2
Invoices submitted from IMSD to State Controller's Office (SCO) for payments	20 <sup>th</sup> through 26 <sup>th</sup> of Month 1	5 <sup>th</sup> through 13 <sup>th</sup> 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 the SCO receives requests.

### **Comments on Draft Resolution**

In compliance with PU Code § 311(g), CD e-mailed a notice letter on May 25, 2010, informing a) all CASF applicants filing for unserved and underserved areas, and b) parties on the service list of R.06-06-028 of the availability of the draft of this resolution for public comments at the

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<sup>5</sup> 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.

Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that the final conformed resolution adopted by the Commission will be posted and will be available at this same website.

## Findings

1. The Commission implemented the California Advanced Services Fund (CASF) by Decision (D.) 07-12-054. The CASF was established as a two-year program that will provide matching funds of up to 40% of the total project costs for the deployment of broadband infrastructure in unserved and underserved areas in California.
2. Resolution T-17143, approved on June 12, 2008, adopts the application requirements and scoring criteria for the award of funds, a prescribed timeline for other filings, and notifications including a projected Commission meeting date for final approval of award(s). T-17143 directed interested applicants seeking funding for unserved and underserved projects to file their project proposals and funding requests beginning July 24, 2008.
3. On July 9, 2009, the Commission issued D.09-07-020 approving a new CASF schedule and plan for an additional round of broadband projects that would complement broadband grants awarded under the federal government's American Recovery and Reinvestment Act (Recovery Act). While retaining the 40% matching grant process, the Commission in this Decision authorized providers an option of seeking a 10% grant from the CASF concurrent with efforts to seek an 80% grant from the ARRA fund.
4. On March 10, 2010, the Commission established April 1, 2010 as a new filing window for CASF applications to accommodate matching CASF funding requests for the Recovery Act's second funding round.
5. A list of census block groups (CBGs) appeared by county on the Commission's CASF website page under "UNSERVED and UNDERSERVED areas proposed to be served as of April 1, 2010: Census Block Groups (CBGs)". Communications Division (CD) conducted an independent review of the proposed area to verify that it was unserved and/or underserved as of the applicant's filing date.
6. Race Telecommunications, Inc. submitted its original CASF application on March 30, 2009 in conjunction with the Recovery Act.
7. Resolution T-17241 approved on November 24, 2009 adopted Recovery Act contingent funding for the Race Telecommunications Last Mile project.
8. On May 20, 2010, the Commission rescinded Res. T-17241, Funding Approval for the Race Telecommunications Last Mile project in Res. T-17272.
9. On January 25, 2010 Race received a denial letter for its broadband infrastructure project from the Recovery Act.

10. On April 1, 2010, Race submitted two new applications, one of which is for the Mojave Air and Space Port in Kern County.
11. Race's Telecommunications, Inc.'s Mojave Air and Space Port project proposes to deploy long-haul fiber from its Internet source at One Wilshire in Los Angeles to the local region.
12. Race will establish a regional central office and collocation facility and build a regional optic backbone network to serve one market within the Kern County. One local distribution ring will be built from the data center and central office to serve the residents and businesses in the designated markets of Mojave.
13. Race Telecommunications, Inc.'s project proposal includes a commitment to reserve a portion of its network capacity for public benefit organizations who desire to have their own fiber optic network to improve community services.
14. Unserved areas are defined as areas that are not served by any form of facilities-based broadband, or where Internet connectivity is available only through dial-up service or satellite. Underserved areas are defined areas where broadband is available but no facilities-based provider offers services at speeds of at least 3 mbps download and 1 mbps upload.
15. CD reviewed the Race Telecommunications, Inc., Last Mile project eligibility through the analysis of required data submitted. These data include, but are not limited to: proof of Certificate of Public Convenience and Necessity (CPCN) registration; descriptions of current and proposed broadband infrastructure; Geographic Information System (GIS) formatted Shapefiles mapping the subject areas; assertion that the area is underserved; potential subscriber size and household incomes; project construction schedule; project budget; proposed pricing and commitment period for new subscribers; and, financial qualifications of the applicant.
16. Shapefiles, which mapped the broadband deployment, were reviewed by CD using sources including, but not limited to, the United States 2000 Census data, the January, 2008, Broadband Task Force Report, and the revised August 10, 2009, California Broadband Task Force map, among others. These maps helped to verify the existence or non-existence of broadband service areas and broadband speeds, where available.
17. CD verified Race's project, and, requested that Race provide documentation proving that the proposed area is unserved and underserved as defined in Res. T-17143. Race responded by submitting data along with testimonial letters from a number of businesses attesting to the lack of broadband facilities or their inability to gain broadband access.
18. CD conducted an independent review and analysis of the Race Telecommunications, Inc. proposal, which included contacting several Mojave Air and Space Port vendors. In addition, the proposed area had already been previously approved by the Commission under Res. T-17241 on November 24, 2009 for Race's original CASF application.
19. After its review, CD determined the Race Mojave Air and Space Port project as eligible to receive CASF funding of \$506,199.
20. Race Telecommunications, Inc. should be required to post a performance bond equal to the total amount payable under this CASF award, or 40% of the project cost, and provide a

copy of the bond to CD within five business days after the completion of CEQA review. Failure to comply may result in voiding of the grant.

21. Race Telecommunications, Inc. should comply with all guidelines, requirements, and conditions associated with the granting of CASF funds as specified in Resolution T-17143 including but not limited to the submission of FCC Form 477. Race must provide a copy of the Form 477 to CD at the same time it is filed with the FCC.
22. Race cannot conduct ground breaking activities until the Commission has completed Environmental Quality Act (CEQA) review.
23. CD mailed a notice letter on May 25, 2010, informing a) all applicants filing for underserved and, b) parties on the service list of R.06-06-028 of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website.
24. The Commission finds CD's recommended CASF award of \$506,199 for the unserved and underserved area of the Mojave Air and Space Port in Kern County, as summarized in Appendix A of this Resolution, reasonable and consistent with Commission orders and should be adopted.

**THEREFORE, IT IS ORDERED that:**

1. Race Telecommunications Inc. is awarded funding in the amount of \$506,099 from the California Advanced Services Fund for its Mojave Air and Space Port project in Kern County.
2. Race Telecommunications, Inc. shall post a performance bond equal to the total amount payable under this CASF award, or 40% of the project cost, and provide a copy of the bond to CD in accordance with the existing CASF funding rules five days after the completion of CEQA review. Failure to comply may result in the voiding of the grant.
3. Race Telecommunications, Inc. shall comply with all guidelines, requirements, and conditions associated with the CASF funds award as specified in Resolution T-17143 and D.09-07-020 and the California Environmental Quality Act.
4. The program fund payment of \$506,099 for this Commission-approved unserved and underserved project shall be disbursed from the CASF fund in accordance with the guidelines adopted in Resolution T-17143 and D.09-07-020 and in conformance with the California Environmental Quality Act.
5. Payments to Race Telecommunications, Inc. shall be in accordance with Section IX of Appendix A of Resolution T-17143 and in accordance with the process defined in the "Payments to CASF Recipients" section of this resolution.

This Resolution is effective today.

I hereby certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on June 24, 2010. The following Commissioners approved it:

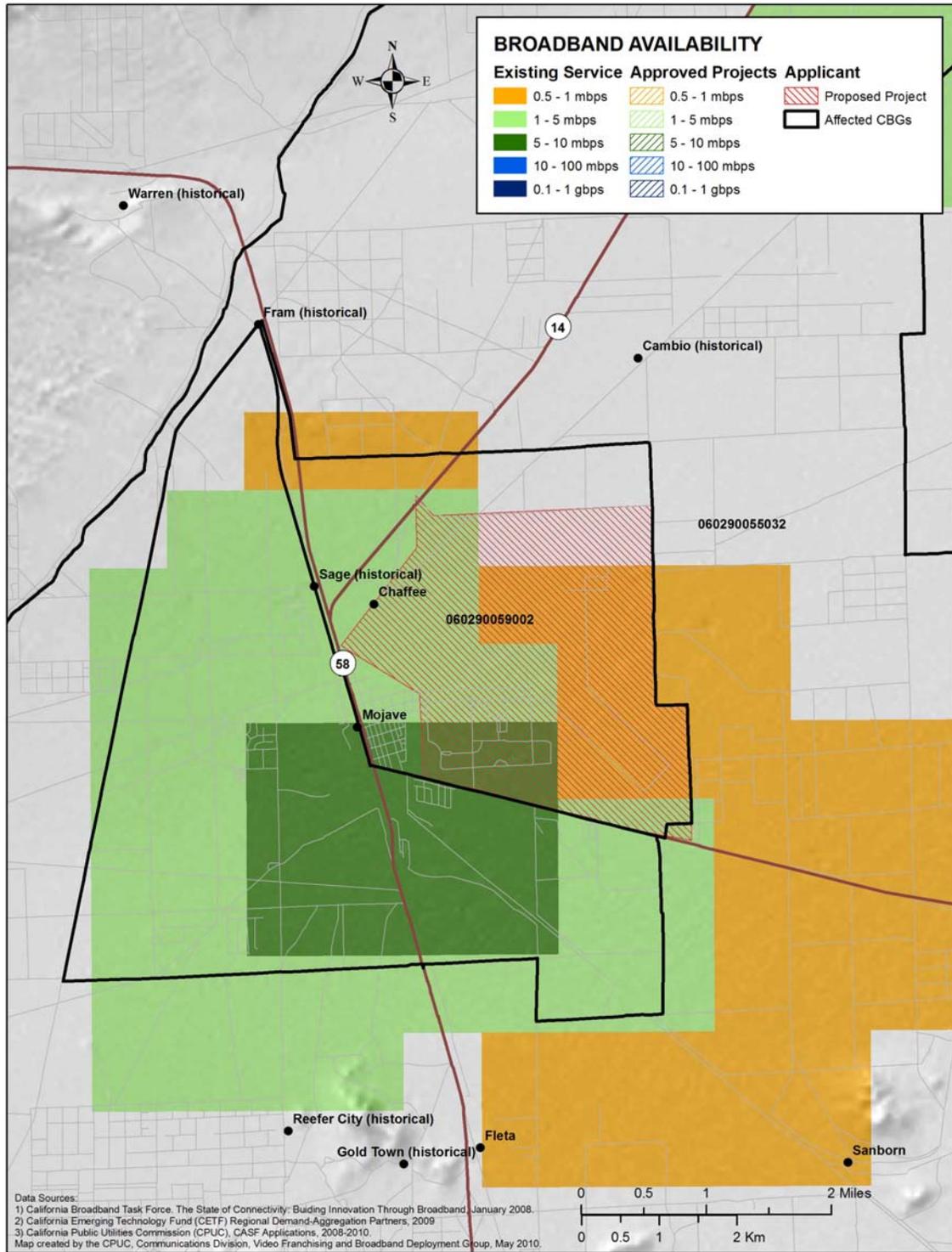
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PAUL CLANON  
Executive Director

**APPENDIX A**  
**Resolution T- 17279**  
**Race Telecommunications, Inc. Mojave Air and Space Port Project, Key Information**

<b>1</b>	<b>Project ID</b>	<b>338</b>	
<b>2</b>	<b>Project Name</b>	<b>Race Telecommunications, Inc., Last Mile</b>	
<b>3</b>	<b>Project Plan</b>	<b>Fiber-to-the-premise</b> network; deploy long-haul fiber from its Internet source at One Wilshire in Los Angeles to the local region; establish a regional central office and collocation facility and build a regional optic backbone network to serve one market within the Kern County.	
<b>4</b>	<b>Project Size (in square miles)</b>	<b>5.1</b>	
<b>5</b>	<b>Download speed</b>	up to 100 mbps	
<b>6</b>	<b>Upload speed</b>	Up to 15 mbps	
<b>7</b>	<b>Location</b>	Kern County	
<b>a)</b>	<b>Community Names</b>	Mojave Air and Space Port	
<b>b)</b>	<b>CBGs / Household Income</b>	<b>CBG</b>	
		60290059002	
<b>c)</b>	<b>ZIP Codes</b>	93501	
<b>8</b>	<b>Estimated Potential Subscriber Size</b>		
<b>a)</b>	<b>Businesses</b>	231	
<b>9</b>	<b>Deployment Schedule</b>	Completion within 24 months of resolution approval.	
<b>10</b>	<b>Proposed Project Budget</b>	<b>\$1,265,497</b>	
<b>a)</b>	<b>CASF (40%)</b>	<b>\$506,199</b>	
<b>b)</b>	<b>CIAC</b>	<b>(n/a)</b>	
<b>c)</b>	<b>Amount of CASF Funds Requested</b>	<b>\$506,199</b>	

APPENDIX A  
Resolution T- 17279  
Race Telecommunications, Inc. Mojave Air and Space Port Project Shapefile



**APPENDIX A**  
**Resolution T- 17279**  
**Statewide Map**



END OF APPENDIX A