

Date of Issuance: 5/21/2010

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T- 17272
May 20, 2010**

R E S O L U T I O N

Resolution T- 17272 Implements Resolutions T- 17229, T-17241, T-17245, T-17234, T-17224, T-17246 and T-17239 by Releasing California Advanced Services Fund Grant Awards for Other Applications

Summary

This Resolution recognizes that seven California Advanced Services Fund (CASF) projects approved by Resolutions T- 17229, T-17241, T-17245, T-17234, T-17224, T-17246 and T-17239, will not be receiving federal funding through the American Reinvestment & Recovery Act (Recovery Act). Since the Commission previously awarded contingent grants to these seven projects from the CASF program that were subject to applicants securing matching Recovery Act funding, this resolution implements the contingency term in the above identified resolutions. As a result, this Resolution effectively (1) rescinds past CASF resolutions and grant awards for these seven projects, (2) disencumbers the corresponding CASF matching funds approved, and (3) makes available to new applicants the Census Block Groups (CBGs) that had been approved in those projects.

Background

CASF Program

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 unserved and underserved areas in California.¹ Resolution T-17143, approved on June 12, 2008, adopted application requirements, scoring

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

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).

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

- Entities with a Certificate of Public Convenience and Necessity (CPCN) that qualify as “telephone corporations” as defined in § 234 of the Public Utilities Code (PU Code);
- Wireless carriers registered with the Commission that have been granted a Wireless Identification Number (WIR);
- Entities who have pending applications for a CPCN; and
- A consortium with a member holding a CPCN or a WIR who will serve as the fiscal agent of the consortium (D.07-12-054 at pgs. 33-35, mimeo).

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 Recovery Act.² Also, because federal grants under Recovery Act can fund up to 80% of the project cost, D.09-07-020 allowed applicants to seek an additional 10% funding coverage from the CASF, leaving only 10% of the project cost for the applicant to provide.

On July 29, 2009, Governor Schwarzenegger signed Assembly Bill (AB) 1555 (Chapter 24, Statutes of 2009), amending Section 281 of the PU Code to expand CASF eligibility to any entity applying for CASF funding in conjunction with their Recovery Act funding request, provided that entity satisfies the eligibility requirement for CASF funding. AB 1555 also provides that the Commission establish requirements and guidelines for non-certificated applicants.

On October 29, 2009, the Commission approved Resolution T-17233 establishing application requirements and guidelines for non-CPUC certificated applicants and broadband providers applying for CASF grant money, in conjunction with an application for Recovery Act funding, to develop and deploy broadband infrastructure.

As of May 5, 2010, the Commission has granted CASF funding of \$91.37 million for 44 projects covering 29,287 square miles, benefiting 313,283 potential households. \$12.04 million has been approved for 17 unserved area projects covering 4,303 square miles to benefit 33,327 households, while \$79.33 million has been approved for 27 underserved areas covering 24,984 square miles, to benefit 279,956 households.

² The American Recovery and Reinvestment Act (Recovery Act) appropriates \$7.2 billion for grants and loans to support national broadband deployment. 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.

Of the 44 projects approved for CASF funding, 14 projects totaling \$66.96 million have been granted conditional approval (i.e., approval is dependent on the applicants' securing Recovery Act funding for 80% of the broadband project's cost).

Recovery Act

On February 17, 2009, President Obama signed the Pub. Law No. 111-5, the American Recovery and Reinvestment Act, appropriating \$7.2 billion for the expansion of Broadband access to unserved and underserved communities across the U.S., increase jobs, spur investments in technology and infrastructure, and provide long-term economic benefits.

The Rural Utility Service (RUS) is responsible for \$2.5 billion for loans, loan guarantees, and grants through its the Broadband Initiatives Program (BIP). 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.

NTIA and RUS have established two application rounds for filing Recovery Funds requests. The first round of applications was received on August 20, 2009 and NTI and RUS have completed their reviews and announced awards by sending sent out notices to both funded and non-funded applicants. NTIA and RUS have announced Notices of Funding for the second application round, with March 26 and 29 set as deadlines for the submission of applications for BTOP Comprehensive Community Infrastructure projects and BIP infrastructure projects, respectively.

In the first application round, the California Governor submitted a priority list of projects recommended for funding to NTIA and RUS. Unfortunately, only two CASF funded projects have been approved for funding under the Recovery Act's first round. CASF applicants who have been approved for 10% matching funds but have not submitted funding requests to NTIA or RUS have the opportunity to do so during the second application round and those who have been rejected during in the first application round have an opportunity to revise their application to conform with the new guidelines in the second round.

Discussion

The Commission issued many contingent CASF grant awards in 2009 and 2010, which were dependent on the applicant's receipt of matching Recovery Act funding. This Resolution

effectively rescinds seven Resolutions with contingent CASF awards. These resolutions are rescinded for the following reasons:

- Applicants did not secure Recovery Act funding during the first round and did not apply for funding in the second round;
- Applicants decided not to pursue Recovery Act funding, whether for the first or second rounds; and/or
- Applicants decided to forgo the CASF funding and pursue the projects through other financing means.

The Communications Division (CD) communicated with the concerned parties to confirm and obtain documentation on the status of their Recovery Act application.

By rescinding these resolutions, the Commission revokes the corresponding CASF grant, and the funds earmarked for these projects can now be made available to other applicants/grants. Likewise, the Commission will return the Census Block Groups (CBGs) allocated for these projects into the pool of unserved and underserved areas.

Resolution T-17229 approved October 29, 2009

Resolution T-17229 authorized contingent funding of \$ 2,247,308 for the Inyo Networks' Last Mile Broadband Project in Mono, Inyo and Kern Counties. The amount granted represents 10% of the project costs plus cost for Contribution in Aid of Construction (CIAC) to provide broadband service to underserved areas in accordance with Commission Resolution T-17143 and Decision (D.) 09-07-020. Inyo Networks, then, planned to request Recovery Act funding in the second round.

On March 25, 2010, Inyo Networks sent an email informing CD staff that Inyo Networks will no longer pursue Recovery Act funding for the Last Mile Project.

Resolution T-17241 approved November 20, 2010

Resolution T-17241 adopted \$9,500,864 CASF contingent funding for the Race Telecommunications (U-7060-C) Last Mile Project in Kern County. The amount granted represents 10% of the project cost in accordance with Resolution T-17143 and D.09-07-020.

On January 26, 2010, Race Communications informed CASF that their Recovery Act funding request for the project has been denied. Race also informed CASF staff that they will reconfigure their project to fit the Recovery Act's funding guidelines as provided for in the NTIA and RUS second round Notice of Funds Availability.

On April 1, 2010, Race Communications submitted two applications for CASF funding, one for 10% funding under Race Communications, Inc. and the other for 40% funding under Race Telecommunications, Inc, a Commission CPCN registered

telephone company. Because these new applications are filed by two different entities, cover a relatively smaller area, and involve two different financing requests, CD considers these applications as a substantial change from the previously approved Last Mile Project in Kern County. As such, CD recommends the rescission of Resolution T-17241, revocation of the corresponding CASF funding, and release of the applicable CBGs. CD will review and process the new applications for potential Commission approved grants.

Resolution T-17245 approved January 21, 2010

This Resolution adopted \$7,893,700 CASF contingent funding for the California Valley Broadband (CVB) project, in seven county region of the Central Valley, which includes Sacramento, Solano, San Joaquin, Stanislaus, Merced, Madera, and Fresno counties. The amount granted represents 10% of the project costs to provide broadband service to unserved and underserved areas in accordance with Commission Resolution (Res.) T- 17143, T-17233 and Decision (D.) 09-07-020.

On March 31, 2010, CVB sent a letter informing CD staff that they have been disapproved for funding under the Recovery Act and are not resubmitting their application for funding for the project under the Recovery Act's second application round.

Resolution T-17224 approved September 24, 2009

This Resolution approved contingent funding of \$50,707 from the CASF for Frontier's Lookout unserved broadband project in Modoc County.

This project, however, was not submitted for funding under the Recovery Act's first application round. The applicant has advised CD staff that it will not pursue funding under the second application round and will not pursue the project using alternative means of financing.

Resolution T-17224 approved October 20, 2009

This Resolution adopted contingent funding of \$225,918 from the CASF fund for the Frontier Alturas Middle Mile Fiber broadband project in unserved and underserved areas in Lassen and Modoc Counties.

On January 12, 2010, Frontier sent a letter to the CD Director, informing him that Frontier is withdrawing plans to collect the approved CASF matching grant. Frontier no longer intends to seek Recovery Act funding, but it will complete the proposed broadband project using alternative means of financing.

Resolution T-17246 approved December 17, 2009

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This Resolution adopted contingent funding of \$166,911 for the proposed Plumas-Sierra Telecommunications (PST) underserved Last Mile project in Lassen County. This grant was conditioned on receiving Recovery Act funding.

On April 12, 2010, PST confirmed that the PST Last Mile Application submitted in round one was not approved and PST did not re-submit the Last Mile Project in round 2.

Resolution T-17239 approved January 21, 2010

This Resolution adopted CASF contingent funding of \$18,012,964 for Broadband Associates International, Inc.'s (BBA) Northeastern California project in the Butte, Colusa, Glenn, Lake, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Tehama, and Yuba Counties. The amount granted represents 10% of the project costs to provide broadband service to unserved and underserved areas in accordance with Commission Resolution T-17143 and Decision (D.) 09-07-020.

On April 13, 2010, BBA confirmed that their Northeastern California project submitted in the Recovery Act's round one application was not approved and BBA did not re-apply for funding under the second round.

Based on the Commission's contingent approval of the CASF funding for these projects, the Commission hereby rescinds these Resolutions pertaining to the CASF funding awards as discussed above. The CASF funds allocated to these projects are hereby unencumbered, and the CBGs for the above projects, except for Frontier's Alturas projects which will be constructed using alternative financing means, will be returned to the pool of unserved and underserved areas for reallocation to other applicants/grants. A summary of the funds disencumbered is shown in the table below:

Resolution #	Applicant	Project	Amount
T-17229	Inyo Networks	Last Mile Project	\$2,247,308
T-17241	Race Telecommunications	Last Mile Project	\$9,500,864
T-17245	California Valley Broadband	Middle Mile	\$7,893,700
T-17234	Frontier	Alturas	\$225,918
T-17224	Frontier	Lookout	\$50,707
T-17246	Plumas Sierra	Last Mile Project	\$166,911
T-17239	Broadband Associates	Northeastern California Project	\$18,012,964
TOTAL FUNDING RESCINDED			\$38,098,372.00

The list of CBGs made available for new CASF project proposals is shown in Appendix A.

As a result of rescinding these 7 resolutions, the Commission modifies the total approved CASF funding level from \$91.37 to \$53.28 million.

Comments on Draft Resolution

In compliance with PU Code § 311(g), a notice letter was emailed on April 20, 2010 informing a) all CASF applicants filing under D.09-07-020, 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 will be available at this same website.

On May 4, 2010, the Division of Ratepayer Advocates filed comments on Resolution T-17272 fully supporting Resolution T-17272.

Findings

1. The California Advanced Services Fund (CASF) was adopted in Decision (D.) 07-12-054.
2. 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 underserved and underserved areas in California.
3. 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 underserved projects to file their project proposals and funding requests beginning July 24, 2008.
4. On July 29, 2009, Governor Schwarzenegger signed Assembly Bill (AB) 1555 (Chapter 24, Statutes of 2009), amending Section 281 of the PU Code to expand CASF eligibility to any entity applying for CASF funding in conjunction with their Recovery Act funding request
5. 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 Recovery Act fund.

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6. As of May 5, 2010, the Commission has granted CASF funding of \$91.37 million for 44 projects covering 29,287 square miles, benefiting 313,283 potential households. \$12.04 million has been approved for 17 unserved area projects covering 4,303 square miles to benefit 33,327 households, while \$79.33 million has been approved for 27 underserved areas covering 24,984 square miles, to benefit 279,956 households.
7. 14 of the 44 projects totaling \$66.92 million have been granted conditional approval (i.e., approval is dependent on the applicants' securing Recovery Act funding for 80% of the broadband project's cost).
8. The Communications Division (CD) communicated with the concerned parties to confirm and obtain documentation on the status of their Recovery Act application.
9. Seven of the projects approved through the Commission's resolution process for CASF matching fund awards should be rescinded for the following reasons:
 - Applicants did not secure Recovery Act funding during the first round and did not apply for funding in the second round;
 - Applicants decided not to pursue Recovery Act funding, whether for the first or second rounds; and/or
 - Applicants decided to forgo the CASF funding and pursue the projects through other financing means.
10. Resolutions T- 17229, T-17241, 17245, T-17234, T-17224, T-17246 and T-17239 should be rescinded, the corresponding funding disencumbered and the appropriate Census Block Groups, except for the CBGs pertaining to Frontier's Alturas projects which will be constructed using alternative means of financing, be made available to other applicants/grants.
11. The amount of \$38,098,372 allocated to seven projects should be disencumbered and made available to other applicants as follows:

Resolution #	Applicant	Project	Amount
T-17229	Inyo Networks	Last Mile Project	\$2,247,308
T-17241	Race Telecommunications	Last Mile Project	\$9,500,864
T-17245	California Valley Broadband	Middle Mile	\$7,893,700
T-17234	Frontier	Alturas	\$225,918
T-17224	Frontier	Lookout	\$50,707
T-17246	Plumas Sierra	Last Mile Project	\$166,911

T-17239	Broadband Associates	Northeastern California Project	\$18,012,964
TOTAL FUNDING RESCINDED			\$38,098,372.00

12. A notice letter was emailed on April 20, 2010, informing a) all applicants filing for CASF funding 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.
13. On May 4, 2010, the Division of Ratepayer Advocates filed comments on Resolution T-17272 fully supporting Resolution T-17272.

THEREFORE, IT IS ORDERED that:

1. Resolutions T- 17229, T-17241, 17245, T-17234, T-17224, T-17246 and T-17239 are rescinded, and Census Block Groups listed in Appendix A are made available to other applicants/grants.
2. The amount of \$38,098,372 allocated to these seven Resolutions is disencumbered and made available to other applicants.

Resolution #	Applicant	Project	Amount
T-17229	Inyo Networks	Last Mile Project	\$2,247,308
T-17241	Race Telecommunications	Last Mile Project	\$9,500,864
T-17245	California Valley Broadband	Middle Mile	\$7,893,700
T-17234	Frontier	Alturas	\$225,918
T-17224	Frontier	Lookout	\$50,707
T-17246	Plumas Sierra	Last Mile Project	\$166,911
T-17239	Broadband Associates	Northeastern California Project	\$18,012,964
TOTAL FUNDING RESCINDED			\$38,098,372.00

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Resolution T-17245 CBGs		
<u>Unservd</u>	<u>Underserved</u>	
060190015002	060190008009	060952529031
060190016001	060190015002	060952529033
060190016002	060190016001	060952529034
060190017004	060190016002	060952531016
060190018003	060190017004	060952532011
060190019001	060190018001	060952532014
060190019003	060190018003	060952533001
060190038033	060190019001	060952533002
060190039002	060190019002	060952534015
060190039003	060190019003	060952534024
060190039004	060190038031	060952534025
060190041001	060190038033	060952535001
060190059042	060190039002	060952535004
060190063001	060190039003	060990001011
060190063002	060190039004	060990001012
060190064012	060190039005	060990001013
060190064014	060190041001	060990001014
060190064015	060190042071	060990001021
060190064016	060190043011	060990001023
060190064021	060190055032	060990002011
060190064022	060190055111	060990002012
060190064025	060190055112	060990002022
060190064031	060190055151	060990005012
060190064032	060190055152	060990005081
060190064033	060190059022	060990005082
060190064034	060190059024	060990028011
060190064035	060190059042	060990028013
060190065001	060190061005	060990028023
060190069003	060190063001	060990028024
060190073001	060190064011	060990029011
060190073003	060190064012	060990029012
060190073005	060190064013	060990029013
060190074001	060190064014	060990029014
060190074002	060190064015	060990029015
060190075001	060190064016	060990029024
060190075003	060190064021	060990030021
060190076001	060190064022	060990031001
060190076002	060190064023	060990031005
060190076003	060190064024	060990033004
060190077001	060190064025	060990034001
060190077004	060190064026	060990034002
060190078001	060190064033	060990035002
060190078002	060190064034	060990035004
060190079001	060190065001	060990036031
060190079002	060190065002	060990036033
060190080001	060190065003	060990036034

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060190080003	060190065004	060990036035
<u>Unservd</u>	<u>Underserved</u>	
060190082001	060190065005	060990036041
060190082003	060190068011	060990036043
060190082006	060190068021	060990036044
060190083022	060190068022	
060190083023	060190069001	
060190084015	060190069002	
060190084021	060190069003	
060190084022	060190070041	
060390001021	060190071003	
060390001023	060190072011	
060390001031	060190072015	
060390001051	060190072022	
060390001052	060190073001	
060390001053	060190073002	
060390001055	060190073003	
060390002002	060190073004	
060390002003	060190073005	
060390002004	060190074001	
060390004001	060190074002	
060390004002	060190074003	
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060390005032	060190075002	
060390005033	060190075003	
060390005061	060190075004	
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060470004003	060190082003	
060470004004	060190082006	
060470004005	060190083013	
060470004006	060190083021	
060470005032	060190083022	
060470005051	060190083023	
060470009011	060190084013	

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060470009012	060190084015	
<u>Unservd</u>		<u>Underserved</u>
060470009013	060190084016	
060470009031	060390001021	
060470019011	060390001022	
060470019022	060390001023	
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060470021002	060390001052	
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060470024004	060390002003	
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060670094032	060390004001	
060670094041	060390004002	
060670094042	060390005031	
060670094053	060390005032	
060670094061	060390005033	
060670094062	060390005061	
060670095011	060390005072	
060670096041	060390005073	
060670096042	060390005081	
060670096051	060390005083	
060670096182	060390005091	
060670097001	060390007003	
060670097002	060390010001	
060670097004	060390010002	
060670098001	060390010003	
060770031061	060390010004	
060770031081	060470001001	
060770031141	060470002002	
060770032151	060470002003	
060770038032	060470002005	
060770038034	060470002006	
060770039001	060470003012	
060770039002	060470003013	
060770040011	060470003031	
060770040012	060470003032	
060770040021	060470003041	
060770041031	060470004002	
060770041033	060470004003	
060770041041	060470004004	
060770046001	060470004005	
060770046002	060470004006	
060770046004	060470005031	
060770047011	060470005032	
060770047021	060470005051	

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060770047022	060470007021	
<u>Unserved</u>		<u>Underserved</u>
060770047023	060470009011	
060770047024	060470009012	
060770048001	060470009013	
060770048002	060470018021	
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060770055002	060470022023	
060770055003	060470023011	
060952508001	060470023021	
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060952521022	060670086003	
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060952529031	060670093152	
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060952533001	060670094042	
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060952535004	060670094053	
060990001011	060670094061	
060990001012	060670094062	
060990001013	060670095011	
060990001014	060670096041	
060990001023	060670096042	
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060990005083	060670097002	
060990005084	060670097003	
060990015005	060670097004	
060990028011	060670098001	
060990028013	060770037002	
060990028024	060770038034	

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060990029011	060770039001	
<u>Unservd</u>		<u>Underserved</u>
060990031001	060770039002	
060990031003	060770040011	
060990031004	060770040012	
060990031005	060770041023	
060990032022	060770041031	
060990032023	060770041032	
060990033001	060770041033	
060990033002	060770041041	
060990033003	060770046001	
060990033004	060770046002	
060990034001	060770046003	
060990034002	060770046004	
060990035004	060770047011	
060990036031	060770047021	
060990036032	060770047022	
060990036034	060770047023	
060990036035	060770047024	
060990036044	060770047026	
060990037003	060770048001	
	060770048002	
	060770048003	
	060770048005	
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	060770055002	
	060770055003	
	060952508001	
	060952517012	
	060952517021	
	060952518031	
	060952521021	
	060952521022	

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CD/GVC

	060952522022	
	060952523051	
	060952523092	
	060952527025	
Resolution T-17239 CBGs		
<u>Unserved</u>		<u>Underserved</u>
060110003001	060070024001	060350401001
060110004002	060070024002	060350401002
060210103001	060330001002	060350401003
060330001001	060330003001	060350402001
060330005003	060330003002	060350403011
060330005006	060330003003	060350406002
060330006001	060330004001	060490002002
060330010001	060330004002	060570009001
060330013002	060330004003	060630001001
060350403012	060330004004	060630001002
060350406001	060330004005	060630004001
060630002011	060330005001	060630004003
060630002021	060330005002	060630005001
060630004002	060330005004	060630005002
060890126011	060330005005	060890126012
060910100003	060330006002	060890126013
	060330006003	060890126021
	060330007001	060890127011
	060330007002	060890127012
	060330007003	060890127013
	060330007004	060890127014
	060330007005	060890127021
	060330007006	060890127022
	060330008001	060890127023
	060330008002	060910100005
	060330008003	060910100006
	060330008004	060910100007
	060330008005	061030001001
	060330009001	061030001002
	060330009002	061150411001
	060330009003	
	060330010002	
	060330010003	
	060330010004	
	060330010005	
	060330011001	
	060330011002	
	060330012001	
	060330012002	
	060330012003	
	060330013001	
	060330013003	

Resolution T- 17272
CD/GVC