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D R A F T

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division **RESOLUTION T-17233**
Carrier Oversight and Programs Branch * **October 29, 2009**

R E S O L U T I O N

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

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Summary

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

Background

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

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

Resolution directed interested applicants seeking funding for unserved projects to file their project proposals and funding requests beginning July 24, 2008.

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

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

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

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

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

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

[4] Federal Register, Volume 74, No. 130, Department of Commerce, Rural Utilities Service (RUS) and National Telecommunications and Information Administration NTIA) Broadband Initiatives Program; Broadband Technology Opportunities Program, Notice of Funding Availability, Section V, provides: "**Eligibility Information for BIP and BTOP** *A. In General* Applicants must satisfy the following eligibility requirements to qualify for funding. *B. Eligible Entities* 1. Applicant Organization. The following entities are eligible to apply for assistance: a. States, local governments, or any agency, subdivision, instrumentality, or political subdivision thereof; b. The District of Columbia; c. A territory or possession of the United States; d. An Indian tribe (as defined in section 4 of the Indian

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

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

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

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

Discussion

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

Self-Determination and Education Assistance Act (25 U.S.C. 450b)); e. A native Hawaiian organization; f. A non-profit foundation, a nonprofit corporation, a non-profit institution, or a non-profit association; g. Other non-profit entities; h. For-profit corporations; i. Limited liability companies; and j. Cooperative or mutual organizations."

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

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

> "13. CASF funding shall be limited to entities with a certificate of public convenience and necessity (CPCN) that qualify as a "telephone corporation" as defined under Pub. Util. Code § 234, except that wireless carriers registered with the Commission need not obtain a CPCN to qualify for CASF funding.
>
> 14. If an entity has an application pending for approval of a CPCN application to provide service as a "telephone corporation," the entity may submit a request for a CASF award subject to subsequent approval of the CPCN to provide service as a "telephone corporation.
>
> 15. CASF funding may be provided to a consortium as long as the lead financial agent for the consortium is an entity with a CPCN."

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

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

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

A. Qualifications Background Check

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

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

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

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

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

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

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

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

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

B. Financial and Performance Audit

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

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

C. Performance Bond

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

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

Performance Bond Documentation[6]

A. For CPCN or WIR holders

- A copy of the executed bond, equal to the total amount payable under the CASF award, should be addressed to the Executive Director and to the Director of Communications Division within five business days after the completion of the CEQA review[6]. An applicant who certifies that 60% of the total project costs they are providing comes from their capital budget and is not obtained from outside financing sources is not required to post a performance bond. The performance bond should be callable for failure to complete the CASF funded broadband project.

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

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

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

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

13. Agreement to Post Performance Bond If awarded CASF Funds
    - ☐ A. If applicant has a CPCN or WIR
      If matching funds are not from applicant's capital budget, applicant must provide certification indicating the funding source (as opposed to outside funding sources).
    - ☐ B. If applicant does not have a CPCN or WIR

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

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

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

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

Comments on Draft Resolution

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

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

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

A. <u>Background Check Procedures Proposed in the Draft Resolution are Flawed</u>

Parties Comments:

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

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

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

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

CCSF raised the following points in its opening comments:

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

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

Discussion:

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

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

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

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

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

B. Eligibility, Scoring Criteria and Ranking Processes

Parties Comments:

In general, TURN commented that the Draft Resolution:

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

In reply comments, DRA:

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

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

Discussion:

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

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

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

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

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

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

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

CASF staff strictly adheres to this process.

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

C. Definition of ARRA and CASF Projects

CCSF in its opening comments:

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

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

Discussion:

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

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

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

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

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

D. Application Requirements

Parties Comments:

CCSF raised concerns on the following:

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

Discussion:

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

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

Findings

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

2. Resolution T-17143, approved on June 12, 2008, adopts the application requirements and scoring criteria for the award of funds, a prescribed timeline for other filings, and notifications including a projected Commission Meeting date for final approval of award(s). T-17143 directed interested applicants seeking funding for unserved projects to file their project proposals and funding requests beginning July 24, 2008.

3. On July 9, 2009, the Commission issued Decision (D.)09-07-020 approving a new CASF schedule and plan for an additional round of broadband projects that would complement broadband grants awarded under the federal government's American Recovery and Reinvestment Act (ARRA). While retaining the CASF 40% matching grant process, D.09-07-020 also modified the CASF grant to 10% matching funds from the applicant provided the remaining 80% of the project costs is funded by ARRA.

4. D.09-07-020, in Conclusion of Law No. 8, provides that if State legislation is passed allowing broadband providers/applicants other than holders of CPCNs and registered wireless providers to participate in the CASF program, the Commission should consider whether, and if so, how to amend its rules.

5. On July 29, 2009, Governor Schwarzenegger signed AB 1555 (Chapter 24, Statutes of 2009), amending Section 281 of the Public Utilities Code (PU Code) expanding CASF eligibility to any entity applying for CASF funding in conjunction with their ARRA funding request provided that entity satisfied the eligibility requirement for CASF funding.

6. In limiting CASF funding to CPCN and WIR holders, the Commission was guided by its fiscal responsibility role to ensure that funds are used for the purpose for which they were intended.

7. The Commission must have some means of verifying that entities that seek CASF funding have the technical, management and financial capability to build, operate and manage the broadband infrastructure.

8. The Commission has an obligation to oversee not only those it has regulatory authority over but also any organization who will benefit from ratepayer monies.

9. The Commission should impose the same type of diligence and prudence in examining the qualification of anyone who comes before the Commission requesting financial assistance. Thus, the application requirements currently imposed on CPCN applicants should also be made applicable to all non-licensed applicants requesting CASF funding.

10. Additional information should be supplied by the non-licensed applicants as shown in Appendix 1. In addition to the certificate of good standing to be submitted by the applicant, an applicant should provide the following information to enable the Commission to undertake a background check, as appropriate: whether any individuals associated with or employed by the applicant as an affiliate, director, partner or owner of more than 10% of the company, or any person acting as director or officer of the applicant, whether or not formally appointed, have been associated with any company that:

    a) filed for bankruptcy;
    b) was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order;
    c) Was found either criminally or civilly liable by a court of appropriate jurisdiction for a violation of § 17000 et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, or is currently under investigation for similar violations.

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

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

13. Any other non-licensed applicant who will request for CASF funding for 10% CASF and 80% ARRA after the approval of this resolution should submit the form in Appendices 1 and 2 together with the requirements listed in Appendix A of Resolution T-17143.

14. As a condition of the grant of funds, all applicants who are non-CPCN and non-WIR holders must agree in writing to allow the Commission to inspect the applicant's accounts, books, papers, and documents related to the application and award of CASF funds.

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

16. Page A-4, Appendix A.IV.13. of Resolution T-17143 should be amended to read as follows:

Performance Bond Documentation

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

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

17. Appendix B , CASF Application Checklist, #13, Resolution T-17143 should be revised to reflect the following:

13. Agreement to Post Performance Bond If awarded CASF Funds
☐ A. If applicant has a CPCN or WIR

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

☐ B. If applicant does not have a CPCN or WIR

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

18. All other CASF requirements as specified in Resolution T-17143, and as modified herein, should apply to the non-CPCN or non-WIR CASF applicant.

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

20. A notice letter was emailed on September 29, 2009, informing parties on the service list of R.06-06-028 and CASF Non- Licensed Applicants who are also applying for American Recovery and Reinvestment Act (ARRA) funding of the availability of the draft of this Resolution for public comments at the Commission's website http://www.cpuc.ca.gov/static/documents/index.htm. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website.

21. Opening and reply comments filed by the Division of Ratepayers Advocates, The Utility Reform Network and The City and County of San Francisco are addressed in this resolution.

THEREFORE, IT IS ORDERED that:

1. The Commission shall impose the same type of diligence and prudence in examining the qualification of non-CPUC certificated entities who comes before the Commission requesting for 10% CASF matching funds in conjunction with a request for funding under the American Recovery and Reinvestment Act (ARRA).

2. The Commission shall apply the application requirements currently imposed on applicants for Certificate of Public Convenience and Necessity (CPCN) and Wireless Identification Number (WIR) for non-certificated applicants who are requesting for 10% CASF funding in conjunction with an 80% ARRA request for funding.

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

    a. filed for bankruptcy;
    b. was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order;
    c. was found either criminally or civilly liable by a court of appropriate jurisdiction for a violation of § 17000 et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, or is currently under investigation for similar violations.

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

5. As set forth this Resolution, applicants who do not have a Certificate of Public Convenience and Necessity (CPCN) and who have not been issued a Wireless Identification Number (WIR), and who have requested for CASF funding by virtue of Assembly Bill (AB) 1555, from July 17, 2009 through August 14, 2009 and prior to the approval of this resolution, shall submit the attached form in Appendices 1 and 2 to supplement their submission within 10 business days form the effective date of this resolution.

6. Applicants who will apply for 10% CASF funding in conjunction with their ARRA application after the approval of this resolution shall submit the forms attached as Appendices 1 and 2 as part of their application.

7. The performance bond requirement shall be mandatory for non-certificated entities who are granted 10% CASF funding as a match for the ARRA 80% funding. The Commission shall require non-certificated entities to post a performance bond to ensure completion of the project, compliance with the terms and conditions of the CASF grant, and access to the books of the applicant by the Commission.

8. As a condition of the grant of funds, all applicants who are non-CPCN and non-WIR holders shall agree in writing to allow the Commission (including the Commissioners and all people employed by the Commission) to inspect the applicant's accounts, books, papers, and documents related to the application and award of CASF funds.

9. The performance bond shall be submitted within five business days after completion of the California Environmental Quality Act review.

10. Page A-4, Appendix A.IV.13., of Resolution T-17143 is amended to read as follows:

Performance Bond Documentation

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

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

11. Appendix B, CASF Application Checklist, #13, is revised to reflect the following:

13. Agreement to Post Performance Bond If awarded CASF Funds
☐ A. If applicant has a CPCN or WIR
If matching funds are not from applicant's capital budget, applicant must provide certification indicating the funding source (as opposed to outside funding sources).
☐ B. If applicant does not have a CPCN or WIR
Performance bond is required to ensure completion of the project, ensure compliance by the recipient with the terms and conditions of

the CASF award and access to the books of the applicant by the Commission.

12. Non-licensed applicants requesting for 10% CASF funding in conjunction with their request for 80% ARRA funding, shall be required to conform with these additional requirements.

13. All other requirements adopted in Resolution T-17143, and as modified herein, shall remain in force.

14. To ensure that compliance by non-licensed applicants with these new requirements as discussed in this resolution, and for ease of implementation, Appendix B of Resolution T-17143, the CASF Application Checklist, is hereby revised as shown in Appendix 3 of this resolution. This revised checklist is to be used by both licensed and non-licensed CASF applicants upon adoption of this resolution.

This Resolution is effective today.

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

_____

PAUL CLANON
Executive Director

APPENDIX - 1

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

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

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

3 Legal domicile of applicant is:	California	☐
	Other (identify):	☐
(Check only one; see instruction 3.)		

4 Applicant is a:	State political subdivision	☐
	Local government	☐
	Non-profit foundation, corporation or entity	☐
	For-profit organization	☐
	Limited liability companies	☐
	Cooperative or mutual organization	☐
	(Check only one; see instruction 4.)	

5 Applicant will provide service:	In specific portions only (attach description and map)	☐
	(Check only one; see instruction 5.)	

6 Applicant will provide: broadband service only	True	☐
	Not true	☐
	(Check only one; see instruction 6.)	

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

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

9 Applicant has the required financial capability and technical	True	☐
	Not true	☐
expertise to build a broadband infrastructure and operate and maintain a broadband service.		

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

Signed:

Name:
Title:
Dated:

Street Address

Telephone No.
Fax No.

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

Street Address
City
State
ZIP Code
Telephone No.

Instructions:

1. Enter the legal name of applicant exactly as it appears on its articles or certificate of corporation or similar charter document.

2. Good standing certificates are available from the office of the Secretary of State of the State of California and should be dated of a date not more than 60 days prior to the date of filing the application. An original certificate must be attached to the manually signed copy of the application. An affiliated entity is any entity under common control with applicant. Common control exists if the same individuals or entities have the direct or indirect power to determine the action of applicant and such entity through the right to vote shares, by contract or agreement, or otherwise. Note whether any such entity is a reporting company for purposes of the Securities Exchange Act of 1934, as amended.

3. For individuals, domicile is the place of legal residence; for entities, it is the state of incorporation or organization.

4. Specify the type of applicants' organization.

5. Specify the exact area for which authority is requested, i.e., Community and County.

6. Indicate whether the applicant will be providing broadband service only.

7. Items 2, 7 and 8 are subject to confirmation by the Commission through the conduct of background check(s).

8. Indicate whether any affiliate, officer, director, partner, nor owner of more than 10% of applicant, or any person acting in such capacity whether or not formally appointed, has been sanctioned by the Federal Communications Commission, or any state regulatory agency for failure to comply with any regulatory statute, rule or order, or convicted by any court for any criminal activity.

9. Attach audited balance sheet for the most recent fiscal year and an unaudited balance sheet as of the most recent fiscal quarter, a bank statement as of the month prior to the date of filing the application, or a third-party undertaking to provide the required amounts on behalf of applicant. If the balance sheet shows current liabilities in excess of current assets or negative equity, explain how applicant will be able to maintain sufficient liquidity for its first year of operations.

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

APPENDIX - 2

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

Name of Carrier/Company _____

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

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

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

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

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

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

_____
Signature and title

_____
Type or print name and title

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

Notary Public In and For the State of _____

My Commission expires: _____

APPENDIX - 3

CASF APPLICATION CHECKLIST

(Required for ***EACH*** proposed project)

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

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

- [ ] Average advertised download speed per CBG
- [ ] Average advertised upload speed per ZIP Code
- [ ] Average advertised download speed per ZIP Code

7. Proposed Broadband Project Location

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

8. Proposed Broadband Project Location Shapefile

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

9. Assertion that area being proposed is Unserved or Underserved Area. This includes figures, in MBPS, of the current:

- [ ] (a) average upload speed by CBG
- [ ] (b) average download speed by CBG
- [ ] (c) average upload speed by ZIP Code
- [ ] (c) average download speed by ZIP Code

10. Estimated Potential Subscriber Size for Each CBG and ZIP Code

- [ ] Estimated number of potential broadband households and subscribers in proposed project location by CBG
- [ ] Estimated number of potential broadband households and subscribers in proposed project location by ZIP Code
- [ ] Documentation of assumptions and data sources used to compile estimates

11. Deployment Schedule (include major prerequisite, construction, and other verifiable milestone(s)

- [ ] Milestone Start and Ending Date
- [ ] Milestone Description
- [ ] Milestone Comments
- [ ] Milestone Risks

12. Proposed Project Budget

- [ ] Detailed breakdown of cost elements;
- [ ] Amount of cost elements;
- [ ] Availability of matching funds to be supplied by applicant;
- [ ] Amount of available funds from each individual funding source; and
- [ ] Amount of CASF funds requested

13. Agreement to Post Performance Bond if Awarded CASF Funds (if matching funds are *not* from applicant's capital budget)

- [ ] **A**. If applicant has a CPCN or WIR
  If matching funds are not from applicant's capital budget, applicant must provide certification indicating the funding source (as opposed to outside funding sources).
- [ ] **B.** If applicant does not have a CPCN or WIR
  Performance bond is required to ensure completion of the project, ensure compliance by the recipient with the terms and conditions of the CASF award, and access to the books of the applicant by the Commission.

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

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

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