

D R A F T

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T-17295
October 14, 2010**

R E S O L U T I O N

Resolution T-17295 Funding Approval for the Central Valley Independent Network, LLC and the Corporation for Educational Network Initiatives in California, from the California Advanced Services Fund (CASF), Amounting to \$6,659,967.

Summary

This Resolution adopts funding for the Central Valley Independent Network, LLC (CVIN) and Corporation for Educational Network Initiatives in California (CENIC) (hereinafter referred to as CVIN), amounting to \$6,659,967 from the California Advanced Services Fund (CASF). The amount granted represents 10% of the project costs to provide broadband service to unserved rural areas of Fresno, Tulare, Kings and Kern counties and 60 anchor institutions in 18 central valley counties in accordance with Commission Resolutions (Res.) T-17143 and T-17233 and Decision (D.) 09-07-020.

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

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

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

- Entities with CPCNs that qualify as “telephone corporations” as defined in § 234 of the Public Utilities Code (PU Code);
- Wireless carriers 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 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. While retaining the CASF 40% matching grant process, D.09-07-020 modified the CASF program and underlying requirements to extend 10% matching funds to the applicant provided the remaining 80% of the project cost is funded by the federal government’s American Recovery and Reinvestment Act (Recovery Act) ² and 10% is provided by the applicant.

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-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.

Notice/Protests

On June 23, 2010, the Census Block Group (CBG) list of 171³ CBG’s for CVIN’s project by county was posted on the Commission’s CASF website page under “(1) UNSERVED areas proposed to be served as of June 23, 2010: Census Block Groups (CBGs),” and (2) UNDERSERVED areas proposed to be served as of June 23, 2010: Census Block Groups (CBGs)”. No challenges were received.

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

³ One hundred eleven (111) last mile CBGs and 60 middle mile CBGs are eligible for CASF funding

Discussion

Project Overview

This Resolution adopts contingent funding of \$6,659,967 for the proposed CVIN project in the Central Valley. This project is described in detail in Appendix A, pages A-1 to A-6. Maps of the proposed project can be found in Appendix A, pages A-7 and A-8.

On April 1, 2010, CVIN submitted an application for CASF funds for a middle-mile project to match their Recovery Act request. The total project cost is estimated at \$66,599,668 of which 10%, or \$6,659,967, is being requested from CASF as a match to CVIN's 70% Recovery Act fund request.

CVIN, which was formed in 1995, has eight rural independent telephone company members: Sebastian, Ponderosa, Sierra, Calaveras, Volcano, Ducor, Cal-Ore, and Siskiyou. These rural independent telephone companies cover approximately 7,000 square miles providing over 63,000 access lines and 1700 miles of fiber.

CENIC, founded in 1997, has five members: the University of California (UC) System, the California State University (CSU) System, California Community Colleges, the K-12 System, and the private universities (USC, Stanford, Caltech). CENIC provides these members advanced networking serving nearly 10 million users.

CVIN proposes to build, operate and maintain a 1371 middle mile fiber-optics network infrastructure that will provide robust open access network capabilities to 18 Central Valley counties: Amador, Calaveras, Colusa, El Dorado, Fresno, Kings, Kern, Mariposa, Merced, Madera, Nevada, Placer, San Joaquin, Stanislaus, Tuolumne, Tulare, Sutter and Yuba. CVIN's new infrastructure project would link CVIN to CENIC's advanced statewide backbone and the worldwide Internet. CVIN also plans to construct a last mile WiMax wireless broadband network in the rural portions of Fresno, Tulare, Kings and Kern to provide broadband access to these unserved areas covering over 6,210 square miles that combined have 710,102 residents, 206,764 households and 20,502 businesses. CVIN plans to complete its project within 30 months.

The key goal of the project is to directly connect primary anchor institutions to this infrastructure via direct fiber or by a circuit at 1Gigabit (GE) to 10GE speeds. Initially, 60 anchor institutions will be connected directly by fiber: 11 community college districts and colleges, 19 county Offices of Education sites, three (3) CSU universities, 20 county and main libraries and 7 public safety sites.

CVIN's infrastructure will also assist public safety entities in the Central Valley to build an interoperable network for the purpose of better serving the community in a more cost effective way. CVIN's infrastructure will also assist the California Telehealth Network by offering to connect those facilities in the 18 county regions to CVIN's infrastructure.

CVIN plans to offer a three year price commitment period to its customers from the time the project is completed. Below is a table of CVIN’s proposed broadband services and pricing.

CVIN's Proposed Broadband Services and Pricing

Name of Service Tier	Advertised Speed		Pricing Plan
	Download	Upload	
Residential	Up to 14 mbps	Up to 5 mbps	\$33.95
Business	Up to 14 mbps	Up to 5 mbps	\$66.95

Middle Mile Services

Name of Service Offering	Pricing Plan Monthly/Yearly	Term
100 mbps	\$2,400/mo.	1 yr. term
100 mbps	\$3,000/mo.	route protected/1 yr. term
GigE	\$6,500/mo.	1 yr. term
GigE	\$8,000/mo.	route protected/1 yr. term
10 GigE	\$14,000/mo.	1 yr. term
10 GigE	\$16,000/mo.	route protected/1 yr. term
100 mbps	\$1,900/mo.	5 yr. term
100 mbps	\$2,200/mo.	route protected/5 yr. term
GigE	\$3,500/mo.	5 yr. term
GigE	\$5,000/mo.	route protected/5 yr. term
10 GigE	\$6,000/mo.	5 yr. term
10 GigE	\$8,000/mo.	route protected/5 yr. term
Dark Fiber Lease	\$.41 per foot/yr.	

Project Qualification

CVIN’s submission covered 2,385 CBGs in the Central Valley area. Although CD staff determined that most of these CBG’s are already served by other broadband providers offering download speeds of at least 3 mbps and upload speeds of 1 mbps, CD staff found 111 last mile CBGs and 60 middle mile CBGs that are eligible for CASF funding.

The CASF program typically funds projects covering areas that are not already considered served. Hence, projects covering areas already receiving broadband above the minimum 3/1 mbps speeds would normally be subject to an adjustment to remove those non-qualifying areas. However, in D.09-07-020, the Commission revised certain CASF application requirements for projects also seeking Recovery Act funding in order to better leverage federal and state funds and more efficiently maximize the reach of broadband deployment within California. In D.09-07-020, the Commission stated that,

“[f]or all projects seeking both CASF and ARRA Funds, we shall generally apply the eligibility criteria adopted by the NTIA.”⁴ D.09-07-020 at 12 (mimeo). In addition, the Commission specified that “ARRA projects eligible for matching CASF funds will include those for ‘middle-mile projects.” D.09-07-020 at 14. Accordingly, CD staff has reviewed NTIA’s guidelines, which define an underserved area for middle mile project as follows:

“A proposed funded service area may qualify as *underserved for Middle Mile projects* if one interconnection point terminates in a proposed funded service area that qualifies as unserved or underserved for Last Mile projects.” Federal Register/Vol. 74, No. 130, July 9, 2009, III. Definitions, page 33109.

The maps provided by CVIN show that the middle mile infrastructure will be needed to serve not only the anchor institutions but is also required to reach the last mile project areas of 111 CBG’s. Thus, per D.09-07-020 and NTIA’s definition of underserved areas, CD staff finds that CVIN meets the middle mile definition and therefore qualifies for matching CASF funding.

Moreover, the CVIN project was ultimately successful in its efforts to seek Recovery Act funding. On August 18, 2010, CVIN received a federal Recovery Act grant award of \$46,619,757 for its broadband infrastructure project to preserve and create jobs, and promote economic benefits and recovery. As of September 1, 2010, CVIN is one of six Recovery Act grants for broadband deployment that will benefit Californians.

Since CVIN project qualifies for CASF funding and since funding it would support the Commission’s goal of leveraging federal funding for broadband deployment in California, CD, therefore, recommends that the Commission grant CASF funding of \$6,659,967 to CVIN.

Funding Conditions

The CVIN project is subject to the California Environmental Quality Act (CEQA) review. The Commission cannot authorize the disbursement of funds and CVIN cannot conduct ground breaking activities until completion of CEQA review. CVIN, prior to the first 25% payment, must identify any other special permit requirements and will provide those with a cross-reference to the government agencies from which the permits will be or have been required for this project.

CVIN is required, and agrees to, comply with all the guidelines, requirements, and terms and conditions associated with the granting of CASF funds for non-licensed broadband providers as specified in the ordering paragraphs of Res. T-17233, such as 1) the requirement to post a performance bond equal to the total amount payable under this CASF award, or 10% of the project costs; 2) the requirement to submit the

⁴ ARRA refers to The American Recovery and Reinvestment Act while NTIA refers to The National Telecommunications Information Administration.

information sheets in Appendices 1 and 2 of Res. T-17233 within 10 business days from the effective date of this resolution; 3) the condition that all applicants must agree in writing to allow the Commission to inspect the applicant's accounts, book, papers, and documents related to the application and award of CASF funds; and 4) the requirement to comply with all the guidelines, requirements and conditions associated with the granting of CASF funds as specified in Res. T-17143, including, but not limited to, the submission of Form 477 annually to the Federal Communications Commission. Failure to comply may result in the voiding of the grant.

The receipt of the CASF grant is contingent on CVIN's compliance with the requirements in Res. T-17233 and Res. T-17143.

Payments to CASF Recipients

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

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

Event	Payment Cycle 1 (Day/Month)	Payment Cycle 2 (Day/Month)
Invoices due from CVIN to CD	5 th of Month 1	20 th of Month 1
Payment letters from CD to Information and Management Services Division (IMSD) ⁵	On 19 th of Month 1	On 4 th of Month 2
Invoices submitted from IMSD to State Controller's Office (SCO) for payments	20 th through 26 th of Month 1	5 th through 13 th of Month 2

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

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

⁵ The above schedule is contingent on the CASF recipient submitting clear, complete, and error-free invoices to CD. Additional time to process payments may be necessary if CD finds problems with the submitted invoices.

Comments on Draft Resolution

In compliance with PU Code § 311(g), a notice letter was emailed on September 9, 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.

No comments were received for this resolution.

Findings

1. 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).
3. On July 9, 2009, the Commission issued D.09-07-020 approving a new CASF schedule and plans 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.
4. On July 29, 2009, Governor Schwarzenegger signed AB 1555 (Chapter 24, Statutes of 2009), amending Section 281 of the Public Utilities 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 of CASF funding.
5. On October 29, 2009, the Commission approved Resolution T-17233, which addresses the requirements for non-certificated or non-licensed broadband providers applying for CASF grant money in conjunction with their Recovery Act funding request.
6. A list of census block groups (CBGs) appeared by county for CVIN's project was posted on the Commission's CASF website page on June 23, 2010, under "UNSERVED areas proposed to be served as of June 23, 2010: Census Block Groups (CBGs)", and "UNDERSERVED areas proposed to be served as of June 23, 2010: Census Block Groups (CBGs)." CD proceeded with its independent review and analysis of this project area to verify that it was unserved and/or underserved as of the applicant's filing date.

7. On April 1, 2010 CVIN filed a project proposal requesting for CASF matching funds to its federal Recovery Act grant request.
8. CVIN's project proposes to build, operate and maintain a 1371 middle mile fiber-optics network infrastructure that will provide robust open access network capabilities to 18 Central Valley counties.
9. CVIN also proposes to construct a last mile WiMax wireless broadband network in the rural portions of Fresno, Tulare, Kings and Kern counties.
10. CVIN's proposed network will directly connect 60 primary anchor institutions via direct fiber or by a circuit at 1GE to 10GE speeds.
11. CVIN's infrastructure will assist public safety entities and the California Telehealth Network by offering to connect those facilities in the 18 county regions to CVIN's infrastructure.
12. CD reviewed CVIN's project proposal using the updated CBTF map. This map helped to verify the existence or non-existence of broadband service areas and broadband speeds, where available.
13. After its review, CD determined that under the D. 09-07-020, 111 last mile CBGs and 60 middle mile CBGs are eligible for CASF funding.
14. CVIN's project is subject to the California Environmental Quality Act (CEQA). The Commission must complete CEQA review prior to disbursing CASF funds for construction activities.
15. CVIN is required to post a performance bond equal to the total amount payable under this CASF award, or 10% of the project cost, and provide a copy of the bond to the Executive Director and to the Director of the Communications Division within five business days after the completion of the CEQA review, in accordance with existing CASF funding rules. Failure to comply with this requirement may result in voiding of the grant.
16. CVIN should comply with all guidelines, requirements, and conditions associated with the granting of CASF funds as specified in the ordering paragraphs of D. 09-07-020 and Res. (s) T-17233 and T-17143 including but not limited to the submission of FCC Form 477 and Commission auditing requirements.
17. A notice letter was emailed on September 9, 2010, informing a) all applicants filing for unserved and underserved areas and, b) parties on the service list of R.06-06-028 of the availability of the draft of this Resolution for public comments at the 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.
18. The Commission did not receive any comments for this resolution.

19. The Commission finds CD's recommended CASF award to \$6,659,967 to CVIN, for its middle mile project as discussed in this resolution and summarized in Appendix A, to be reasonable and consistent with Commission orders and should be adopted.

THEREFORE, IT IS ORDERED that:

1. The Commission shall award funding of \$6,659,967 from the California Advanced Services Fund to Central Valley Independent Network, LLC and Corporation for Educational Network Initiatives in California (CVIN) for its middle mile which will provide open access network capabilities to 18 Central Valley counties.
2. CVIN shall post a performance bond equal to the total amount payable under this CASF award, or 10% of the project cost, and provide a copy of the bond to the Executive Director and to the Director of the Communications Division within five business days after the completion of the CEQA review, in accordance with the existing CASF funding rules.
3. CVIN shall comply with all guidelines, requirements, and conditions associated with the CASF funds award as specified in Resolutions T-17233 including but not limited to 1) the requirement to post a performance bond equal to the total amount payable under this CASF award, or 10% of the project costs; 2) the requirement to submit the information sheets in Appendices 1 and 2 of Res. T-17233 within 10 business days from the effective date of this resolution; 3) the condition that all applicants must agree in writing to allow the Commission to inspect the applicant's accounts, book, papers, and documents related to the application and award of CASF funds; and 4) the requirement to comply with all the guidelines, requirements and conditions associated with the
4. CVIN shall comply with all guidelines, requirements, and conditions associated with the CASF funds award as specified in Res. T-17143 including but not limited to a filing with the Commission FCC Form 477.
5. The program fund payment of \$6,659,967 for this Commission-approved middle-mile project shall be paid out of the CASF fund in accordance with the guidelines adopted in Resolutions T-17233, T-17143 and D.09-07-020.
6. Payments to CVIN shall be in accordance with Section IX of Appendix A of Resolution T-17143 and in accordance with the process defined in the "Payments to CASF Recipients" section of this resolution.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 14, 2010. The following Commissioners approved it:

PAUL CLANON
Executive Director

APPENDIX A
California Valley Broadband, LLC
California Valley Broadband - Project
Key Information

1	<i>Project ID</i>		
2	<i>Project Name</i>	CVIN	
3	<i>Project Plan</i>	Build, operate and maintain a 1371 middle mile fiber optics network infrastructure that will provide robust open access network capabilities for 18 Central Valley counties.	
4	<i>Project Size (in square miles)</i>	approximately 1,371 miles (Middle Mile)	
		approximately 1,252 sq. miles (Last Mile)	
5	<i>Download speed</i>	<u>Last Mile</u>	<u>Middle Mile</u>
		Up to 14 mbps	Up 10 GigE
6	<i>Upload speed</i>	Up to 5 mbps	
7	<i>Location</i>	Amador, Calaveras, Colusa, El Dorado, Fresno, Kings, Kern, Mariposa, Merced, Madera, Nevada, Placer, San Joaquin, Stanislaus, Tuolumne, Tulare, Sutter & Yuba	
b)	<i>CBGs</i>	<u>Last Mile</u>	<u>Middle Mile</u>
		060190059025	060050003023
		060190063001	060090001103
		060190063002	060090003001
		060190064033	060110005001
		060190064034	060170309022
		060190064035	060170310004
		060190065001	060190001002
		060190069003	060190006003
		060190074001	060190035003
		060190074002	060190054081
		060190077001	060190066015
		060190077004	060290008001
		060190078001	060290009102
		060190078002	060290016001
		060290001015	060290016002
		060290037003	060290028061
		060290038031	060310004025
		060290038041	060310009005
		060290039001	060310010012
		060290039002	060310011004
		060290042001	060390005081
		060290043011	060390008002

	060290043012	060430001004
	060290045002	060470010021
	060290046021	060470013012
	060290046022	060470013022
	060290046023	060470015022
	060290047001	060570005012
	060290048004	060570008021
	060290050003	060610203002
	060290051031	060770001005
	060290052016	060770031112
	060310001002	060770038033
	060310001003	060990006021
	060310001004	060990018002
	060310002001	060990039093
	060310002003	061010502011
	060310003001	061010505012
	060310004021	061070010062
	060310004023	061070012001
	060310004025	061070020021
	060310012001	061070020072
	060310012002	061070022021
	060310012003	061070038022
	060310013001	061070041021
	060310013002	061070044002
	060310016011	061090011003
	060310016012	061090012003
	060310016013	061090021004
	060310016016	061150401001
	060310016017	061150401006
	060310016021	061150403001
	061070001002	
	061070001003	
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	061070003021	
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	061070008003	

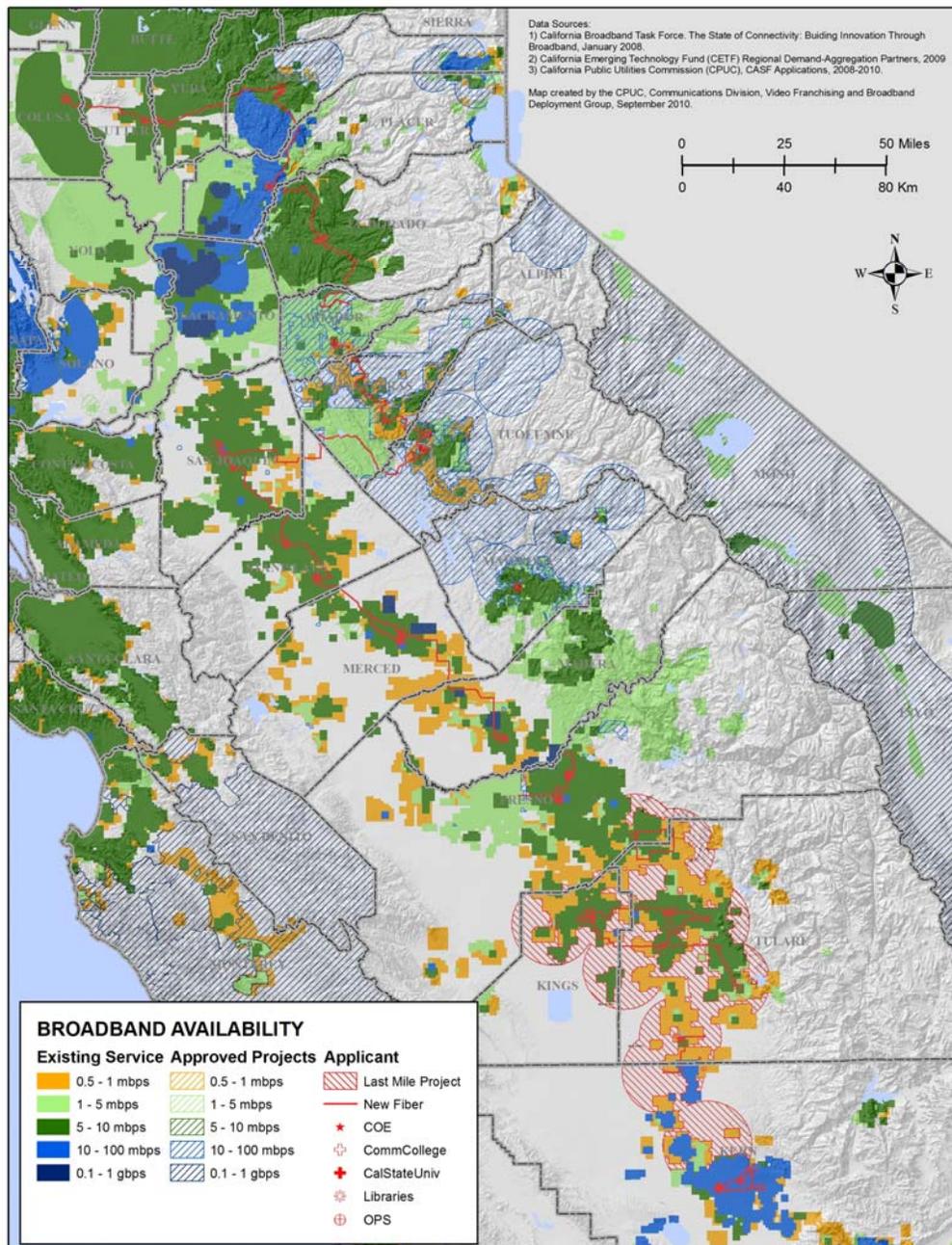
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		061070034005	
		061070035001	
		061070039021	
		061070042001	
		061070042004	
		061070043001	
		061070043002	
		061070043003	
		061070045001	
c)	<i>ZIP Codes</i>	<i>Last Mile</i>	<i>Middle Mile</i>

		93201	93219
		93206	93230
		93212	93245
		93215	93257
		93218	93274
		93219	93277
		93221	93278
		93230	93291
		93234	93301
		93242	93306
		93244	93311
		93245	93637
		93247	93638
		93250	93654
		93256	93721
		93257	93740
		93261	93741
		93263	95202
		93265	95206
		93266	95207
		93267	95221
		93270	95249
		93272	95338
		93274	95340
		93277	95341
		93280	95348
		93282	95352
		93286	95354
		93291	95370
		93292	95382
		93308	95603
		93312	95642
		93615	95667
		93618	95901
		93624	95932
		93631	95959
		93646	95993
		93647	93219
		93648	93230
		93654	93245
		93656	93257
		93657	93274
		93662	93277
		93673	93278
		93675	93291
		93201	93301

		93206	93306
		93212	93311
		93215	93637
		93218	93638
		93219	93654
		93221	93721
		93230	93740
		93234	93741
		93242	95202
		93244	95206
		93245	95207
		93247	95221
		93250	95249
		93256	95338
		93257	95340
		93261	95341
		93263	95348
		93265	95352
		93266	95354
		93267	95370
		93270	95382
		93272	95603
		93274	95642
		93277	95667
		93280	95901
		93282	95932
		93286	95959
		93291	95993
		93292	
		93308	
		93312	
		93615	
		93618	
		93624	
		93631	
		93646	
		93647	
		93648	
		93654	
		93656	
		93657	
		93662	
		93673	
		93675	
8	<i>Estimated Potential Subscriber Size</i>		

<i>a)</i>	<i>Households</i>	206,764	
	<i>Businesses</i>	20,502	
	<i>Anchor Institutions</i>	60	
<i>9</i>	<i>Deployment Schedule (from Commission approval)</i>	30 months	
<i>10</i>	<i>Proposed Project Budget</i>	\$66,599,668	
	<i>CASF (10%)</i>	\$6,659,967	
	<i>Recovery Act</i>	\$46,619,767	
	<i>Amount of CASF Funds Requested</i>	<u>\$6,659,967</u>	

APPENDIX A Resolution T-17295 CVIN Shapefile



APPENDIX A Resolution T-17295 CVIN Statewide Map



(End of Appendix A)