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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division **RESOLUTION T-17143**
Program Management and Implementation Branch * **June 12, 2008**

R E S O L U T I O N

Resolution T-17143. Approval of the California Advanced Services Fund (CASF) Application Requirements and Scoring Criteria for Awarding CASF Funds

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Summary

This resolution adopts the application requirements, timelines, and scoring criteria for parties to qualify for broadband project funding under the California Advanced Services Fund (CASF). The application requirements, guidelines, checklist and scoring criteria are attached at the end of this resolution.

Background

The California Advanced Services Fund (CASF), a two-year program established by the Commission on December 20, 2007 in Decision (D.) 07-12-054, provides matching funds of up to 40% of the total project cost for the deployment of broadband infrastructure in unserved and underserved areas in California. The Commission has allocated $100 million for qualifying projects. The CASF is funded by a 0.25% surcharge on end-users' intrastate bills, effective January 1, 2008. Priority in funding will be for unserved areas, defined as areas that are not served by any form of facilities-based broadband, or where Internet connectivity is available only through dial-up service or satellite. If funds are still available, CASF funding will be extended to underserved areas, defined as areas where broadband is available but no facilities-based provider offers service at speeds of at least 3 Mega Bits per Second (MBPS) download and 1 MBPS upload.

In compliance with Ordering Paragraph (OP) 11 of D.07-12-054, and OP 1 of the January 23, 2008 Assigned Commissioner's Ruling (ACR), the Communications Division staff (CD) held a technical workshop on February 7, 2008 to discuss a draft template (straw man) for applicants in submitting CASF proposals and the scoring system to be used in

comparing and ranking CASF proposals for funding. The assigned Commissioner and Administrative Law Judge (ALJ) presided over the workshop. Subsequently, CD distributed a preliminary draft workshop report on February 25, 2008 to workshop participants for them to offer input to CD staff as to the accuracy of the workshop report by March 3, 2008. Based on input from parties, CD revised and submitted the final workshop report to the Assigned Commissioner on March 7, 2008. An ACR Releasing the Final Workshop Report on the CASF was issued and served to parties in the R.06-06-028 proceeding on March 13, 2008.

As prescribed in OP 12 of D.07-12-054, we are approving in this resolution the final scoring criteria and template to be used for CASF project proposals.

Discussion

In this resolution, the Commission adopts the application requirements, guidelines, and scoring criteria, which were developed using the process outlined in the January 23, 2008 ACR.

The following section discusses the comments raised by parties both in the workshop and in their submitted post-workshop comments on the straw man proposal.

A. Application Requirements

1. Description of Provider's Current Broadband Infrastructure Within 5 miles of the Current Proposed Project and Shapefile (.shp) [1] of Current Service Area

Parties' Comments:
AT&T argues that the proposal for a description of current broadband infrastructure within 100 miles of the project is unnecessary, burdens the process unnecessarily, and is not within the Commission's jurisdiction. AT&T, however, is agreeable to providing a Shapefile of the proposed build out area including a description of adjacent broadband infrastructure if that area will receive incidental benefit from the application. Verizon believes that the Commission should allow Digital Infrastructure Video Competition Act (DIVCA) providers to reference or affirm that the data required has already been provided to the Commission under the DIVCA requirements. Comcast agrees to provide the

[1] Shapefile (.shp) is a digital vector (non-topological) storage format for storing geometric location and associated attribute information. The Shapefile format is created by ArcView and can be used by ArcView, ARC/INFO, ArcGIS and other widely used GIS software.

information required but in general terms, without including the providers' trade secrets or other proprietary information.

Discussion:
Since the Commission is funding 40% of the total broadband project cost, we believe it reasonable and necessary to require submission of information and maps of current infrastructure that will be used to verify that funds are not allocated to areas that already have broadband infrastructure. The Commission is requiring the most up-to-date census block group (CBG) and geographic spatial map information to determine the extent of deployment of broadband services and to more accurately pinpoint unserved or underserved areas that have yet to benefit from advanced telecommunications services. We are convinced that the requirement to show 100 miles of any current broadband facilities from the project is unnecessary and over burdensome, so we reduce the requirement to a description of the provider's current broadband infrastructure and/or telephone service within 5 miles of the proposed project, if applicable. We also request speed information for the broadband infrastructure identified, if applicable.

2. Description of Proposed Broadband Project Plan Including Project Size, Download and Upload Speed Capabilities of Proposed Facilities

Parties' Comments:
Participants raise the issue of accuracy in measuring speed delivery to service areas as many factors may cause variances to occur such as the time of day, distance from the central office or remote terminal, number of customers using the network at the same time, etc. AT&T notes that as to its Digital Subscriber Line (DSL) service, speeds are faster nearer the central office and slower farther from the central office. AT&T recommends that applicants submit "up to" speeds that they use in advertising. DRA and TURN, on the other hand, opine that "up to" speeds are not sufficient, that speeds vary in actuality, and recommend that speed requirements should be more specific in order to ensure subscribers really obtain the advertised speed. DRA also seeks clarification on whether the 3 MBPS download and 1 MBPS upload speed is a requirement or the optimum speed.

TURN and DRA recommend that the Commission develop a way to track and measure speeds after the project is completed to ensure that the speed promised by the provider is actually met.

Discussion:
In establishing the benchmark of 3 MBPS download and 1 MBPS upload to CASF subscribers, the Commission sought to establish a reasonable benchmark to effectively work from home given current uses of the Internet to download video

and data, while providing a reasonable balance of technology, engineering and costs as of the end of 2007. [2] However, the 3/1 speed benchmark does not mean that projects that offer less than these benchmark speeds will be automatically denied funding. We clarify that projects that meet the benchmark speeds will score higher on the speed criterion than projects that do not meet the 3/1 MBPS speed. For example, should there only be a single application for an unserved area and the speed proposed therein is lower than the 3/1 MBPS speed benchmark, this application will be given serious consideration and may be selected given there are no other applications for that unserved area.

The Commission recognizes that there are differences affecting speed among the existing broadband technologies; thus, speed is only one of several criteria that will be considered in the evaluation of CASF proposals. Through the proposal evaluation and scoring process, we will award funds to projects that score the highest points based on all the criteria. A proposal that includes a speed of 3/1 MBPS or greater potentially has an advantage to receive funding when combined with all its other high-rating criteria points. Therefore, we retain the speed benchmark of 3 MBPS download and 1 MBPS upload as required in D.07-12-054. Proposals of projects offering less than 3/1 MBPS speed will be considered and rated accordingly.

Prior to the reimbursement of the final payment to recipients, a completion report describing the total project costs, including engineering, planning, and material costs, is required. In that final report, recipients shall include an assessment of the speed the broadband facilities are delivering to their subscribers as compared to the initial proposals approved by the Commission. In the workshop, there was much discussion among the participants regarding how to ensure specified speeds continue to be offered long after funds have been dispersed and service is established. The Federal Communications Commission currently requires broadband providers to submit Form 477 annually and include speed data. While there is an imperfect match between the current reporting areas for the Form 477 and CASF, Form 477 information will be useful in documenting CASF deployment for the specific new service area(s) of the carrier. CASF recipients shall submit a copy of their Form 477 data directly to the Commission, under General Order 66-C, when they submit this data to the FCC for a five year period after completion of the project.

In general, the Commission believes that the advertised speed is a reasonable indicator of the actual speed. While not exactly the same definition used by the

[2] D.07-12-054, Finding of Fact 27 and pages 40-41.

FCC in Form 477,[3] it is consistent with how broadband services are purchased and understood by consumers. In advertising for broadband service, broadband providers regularly include legal caveats related to speed and the Commission fully expects that those same caveats would be included in CASF applications. A number of state and federal statutes and regulations of general applicability relate to ensuring commercial advertisements contain accurate information. It is reasonable for the Commission to rely on those rules and their enforcement by appropriate state and federal enforcement entities. This Commission does not need to use its scarce resources to engage in speed monitoring exercises absent evidence of actual instances of alleged fraud relating to broadband service funded under this program. Thus reliance on advertised speeds provides the best measure of reporting and comparing applications.

In addition, we will require recipients to include test results on the download speed and upload speed on per CBG and per ZIP Code bases in the final completion report. Completion testing is good project planning and execution and including the results of such testing in the final completion report should not be burdensome.

3. Geographic Locations by CBGs Where Broadband Facilities Will Be Deployed

Parties' Comments:
AT&T argues that the CBG specificity required will reveal the identity of the applicant, as well as disclose the applicant's proposed technology. Instead, AT&T recommends that the Commission only publish the CBGs and their corresponding standardized code. [4] DRA agrees that the CASF website should publish the CBGs applied for and a map identifying the section(s) of the CBGs that the applicant proposes to serve as the CBG numbers do not provide sufficient information to allow for competing bids. TURN concurs with DRA's position that the submission should include a shapefile and boundaries of areas to be served.

Discussion:
Since some rural areas are quite large, a list of CBGs would be insufficient to identify the number of potential subscribers in a CBG area. A shapefile showing

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[3] FCC Form 477, Instructions at p.3 for March 1, 2008 Filing (of data as of 12/31/2007). ("filers should consider the end user's authorized maximum information transfer rate ("speed") on that connection.")
[4] Federal information processing standards codes (FIPS codes) are a standardized set of numeric or alphabetic codes issued by the National Institute of Standards and Technology (NIST) to ensure uniform identification of geographic entities through all federal government agencies. http://www.census.gov/geo/www/fips/fips.html

boundaries is required to clearly and accurately identify/plot the service area under application.

In consideration of the parties' concern over the proprietary nature of some information, only the list of CBGs and shapefiles showing boundaries of areas where broadband projects are proposed will be posted on the Commission's website. This information will be updated after each application deadline and carriers can check the CPUC website to see what CBG areas are under consideration for CASF deployment. No other applicant information will be posted.

4. Explanation for Asserting that an Area is Unserved or Underserved

Parties' Comments:
Both AT&T and Verizon raise the possibility that proposing service to a yet unserved area could result in making broadband also available in an area already served by another broadband provider but with a different technology, e.g., wireless broadband overlap with DSL. In this scenario, AT&T suggests that the area still be evaluated as unserved but that funding be pro-rated with the exclusion of costs pertaining to the already served area. Likewise, AT&T suggests that the Commission consider an area that has 75% of its population not having any access to any form of broadband service as unserved. Parties acknowledge the usefulness of the wireline broadband availability map and list of unserved communities and request that the same information be made available for wireless broadband service. TURN recommends that the Commission further refine the definition of unserved and underserved. Further, because of rapid changes in broadband landscape and technology, participants raise the question of the reference timeframe for asserting that an area is unserved or underserved.

Parties advocate that the initial round of submission strictly be for unserved areas.

Discussion:
An unserved area is defined as an area that is not served by any form of facilities-based broadband, or where Internet connectivity is available only through dial-up service or satellite. An underserved area is defined as an area in which broadband is available but no facilities-based provider offers service at speeds of at least 3 MBPS download and 1 MBPS upload.

The Commission's goal is, as its first priority, to provide service to areas that are entirely devoid of broadband service. Revising the definition of unserved and accepting applications for 75% unserved areas as 100% unserved is not the intent of the Commission and will not serve the purpose for which the CASF is

established. The submission by applicants of shapefiles and lists of CBGs and ZIP Codes is meant primarily to accurately identify the boundaries of the unserved and served areas.

As of the date of this resolution, the wireline and wireless availability maps are available in the Broadband Task Force Report at *www.calink.ca.gov/taskforcereport/* and should be a source for all carriers to use in the preparation of their applications. The Commission will use all the available Report's map data to evaluate applications received in determining unserved and underserved areas for proposed project plans. We acknowledge that the Task Force Reports' availability maps may not be 100% accurate particularly as time passes. Any party may file comments to a particular application noting actual broadband service in a particular alleged unserved area, and the staff shall investigate to see if the applied-for area is indeed served or not.

We agree with comments that we should allow applicants to pro-rate costs when projects include facilities in unserved and underserved -- and even "served" -- areas. It is not reasonable to assume that providers will undertake a project to deploy in strictly unserved areas or potentially not be eligible for funding because the project also includes an upgrade in facilities to an adjacent area. Applicants must fully explain the allocation of costs and provide the Commission with a full accounting of that allocation at each funding phase of the project.

For example, if a project will cost $2.5 million and 20% of those costs are related to facility improvements that will benefit both unserved and served areas, applicants should pro-rate the amounts related to each area. Thus, if the common facilities will be used equally by unserved areas and by communities with broadband today, then the applicant should only include $250,000 in the application for facility improvement costs. The applicant should thus ask for $900,000 in CASF funds ($800,000 for construction in the unserved area, and $100,000 in common costs allocated to the unserved area). The applicant should fully explain the total cost of the project and the allocation that was made to arrive at the figures used in the application. [5]

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[5] a) Total Project Cost x 20% equals amount of facility improvements benefiting both Unserved and Underserved areas: ($2,500,000 x 0.20 = $500,000),
b) Equal proration of facility improvements: Unserved area = $250,000 and Underserved area = $250,000,
c) Common cost funded by CASF for facility improvements: Unserved area equals $250,000 x 0.40 = $100,000,
d) Project cost *exclusive* of facility improvements equals $2,000,000 ($2,500,000 - $500,000),
e) CASF funding of project costs *exclusive* of facilities improvements equals $800,000 ($2,000,000 x 0.40),
f) Thus, the applicant's Total CASF funding request would be $900,000 ($800,000 + $100,000).

We also agree with Verizon that, in order to deliver adequate telecommuting level broadband service for 2008, we should consider the total network costs of deploying broadband to an area. Verizon specifically pointed out the situation where the transit service between the unserved or underserved community and an Internet node does not have enough capacity to allow broadband service in that community. In other words, we may deploy broadband technologies in the community only to have the traffic slow to "dial-up" level because the current transit capacity can only provide that "dial-up" speed of service. While it appears these situations are limited, the circumstances where providers have made this claim are notable. We should not allow these inadequate "middle mile" facilities to throttle the delivery of broadband and information services to target communities. Thus, we find it is reasonable to consider necessary upgrades to the transit component to reach the desired speed benchmark as part of a CASF grant. The burden is on the applicant to provide sufficient information to show this upgrade is necessary. For example, we would expect to see information related to the engineering of the network that would require this upgrade, as well as an allocation of costs and usage of the transit facilities by other served areas as explained above.

The Commission shall consider applications received by July 3, 2008 for unserved areas first. We will also consider applications received between July 7, 2008 and August 4, 2008 as submitted at the same time. If necessary, a subsequent filing period between August 5, 2008 and October 6, 2008 will occur and all applications received in that period will be considered submitted at the same time. Subsequent filing periods, not to exceed three months, may be created by CD if applications do not exceed the available funds. After considering all of the unserved applications received by the initial deadlines, through October 6, 2008, and if funds are still available, underserved area applications will be considered.

The determination of whether an area is served or underserved is made at the time the application is filed.

5. Estimated Number of Subscribers

Parties' Comments:
Participants advocate the use of uniform standards for measuring the estimated number of subscribers and ask that the Commission clarify the definition of "subscriber." AT&T recommends that the Commission use the definition of "household" used in D.07-03-014, Appendix D, footnote 2. Verizon recommends that subscribers should be defined as "occupied households" as only occupied households can subscribe to broadband service. TURN concurs with the use of households but also points out that the number of potential subscribers would be

influenced by the price charged for the service. Thus, the applicant should also be required to submit information on its marketing plans, pricing subscription rates, etc.

Discussion:
Applications shall include a determinate number of potential subscribers within the new targeted area. New subscribers may be represented by households, consistent with the U.S. Census Bureau definition as a house, apartment, a mobile home, a group of rooms, or a single room that is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and that have direct access from the outside of the building or through a common hall.[6] An explanation of the methodology used in determining the number of potential subscribers is required. The explanation should be based on census data for the CBGs and ZIP Codes listed in the application. We recognize that wireless services are by definition mobile and to the extent a wireless provider's potential subscribers data will vary from the US Census Bureau household data for a region, they should provide an explanation of the variance.

6. Delineated Schedule for Deployment

Parties' Comments:
TURN argues that applicants should provide further detail on this item, including all prerequisite actions necessary to complete deployment, so that the Commission can assess, as objectively as possible, whether applicants will be able to meet the 24-month timeline requirement. AT&T suggests that CASF recipients notify the Commission if they believe the 24-month deadline cannot be met.

Discussion:
CD needs the ability to examine how likely it is that proposed projects will meet the 24-month timeline, and to track the progress of approved projects during construction. Schedules should show both major construction milestones and all prerequisite tasks and actions necessary, such as securing rights-of-way, CEQA, etc., to satisfy deployment.

CASF recipients shall notify the Commission as soon as they become aware that they may not be able to meet the 24-month timeline. Payment will be reduced if applicants are unable to meet the 24-month timeline, *or* if applicants fail to notify the Commission of any delays in project construction or implementation. A goal of this Commission is to encourage broadband service to unserved and underserved communities as soon as possible in order to enhance that area's economic development and other benefits that flow from broadband availability.

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[6] California Public Utilities Code, § 5890(j)(3). This definition is consistent with the U.S. Census Bureau's definition of an occupied housing unit.

7. Proposed Budget

Parties' Comments:
Parties generally agree that the Commission should require applicants to furnish a proposed budget, except that during the workshop AT&T requested clarification that applicants stipulate the percentage of the total budget that will be funded by CASF monies.

Discussion:
The Commission needs from applicants a detailed proposed budget so that the Commission can determine how much of CASF funding is being requested, and whether the amount requested is 40% or less of the total cost of the proposed project. Applicants shall provide a detailed breakdown of project cost elements, including the source and amount of funds for each cost element, and the availability of matching funds to be supplied by applicants or other third parties.

8. Performance Bond

Parties' Comments:
During the workshop Verizon expressed concern at having to post a bond for each application it submits, and sought clarification that applicants need only post a bond for those applications that are ultimately approved. AT&T suggested that the Commission follow the process established for DIVCA, wherein franchisees are required to provide the Executive Director a copy of their executed bond within five business days after the effective date of their state video franchise.[7] Small Local Exchange Carriers (LECs) asserted that, if applicants are deemed financially fit, then this requirement may not be necessary.

In post-workshop filed comments, Verizon asserts that this requirement is rendered unnecessary by other provisions, such as the requirement that CASF recipients submit progress reports before receiving CASF funds in fractional payments. If a performance bond is deemed necessary, Verizon recommends that the Commission clarify that applicants need only state their agreement to post a bond if their application is approved. Verizon further suggests that the scope of the bond be specified to ensure completion of the project, not for continued operations once construction has been completed. Comcast asserts that standardized commercial performance bond terms should be set before the Commission receives any applications, so that applicants can account for such costs in preparing their applications.

[7] D.07-03-014, pp. 80-81.

Discussion:
The Commission agrees that the DIVCA process provides a helpful model. Thus, the Commission will require applicants to state in their applications that they will agree to provide to the Executive Director and to the Communications Division Director a copy of their executed bond, equal to the total amount payable under the CASF award, within five business days after the effective date of their CASF award. [8]

While financial information may demonstrate that an applicant has sufficient funds at the time of application, this does not necessarily ensure that a CASF recipient will have sufficient funds at the time when construction is scheduled to begin, or that funds will continue to be available during construction. We agree with the Small LECs that a distinction can be drawn between applicants that are utilizing their own funds for the 60% of the total project cost and those applicants that are financing the 60% through a loan or debt offering. Thus, an applicant that certifies that the 60% of the funding they are providing comes from their capital budget and is not obtained from outside financing sources should not be required to post a performance bond. In addition, there may be other reasonable situations where a performance bond is deemed not necessary. We do not want the bond requirement to discourage small applicants; however, the bond does serve an important function to ensure the completion of the project. The Communications Division (CD) will include a recommendation about the need for a performance bond in individual cases as CASF decisions are brought before the Commission.

The Commission further clarifies that the scope of a required bond is to ensure completion of the proposed project, and does not extend to ensuring continued operations.

9. Proposed Recurring Retail Price per MBPS

Parties' Comments:
During the workshop, AT&T sought clarification that the proposed price commitment is the same for which the Commission is seeking a minimum price commitment of one year (Item 15 in Section IV of Appendix A, Application Requirements and Guidelines), and additionally that this price would represent the maximum price customers could expect to pay during that initial period. TURN noted that data pricing is usually expressed as a flat (monthly) fee for a given level of subscription, rather than on a per MBPS basis.

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[8] State Contracting Manual, Current as of October 2005. Volume 1: Glossary p.5: A performance bond "insures costs in the event that the contractor abandons the work before its completion or fails to complete the work as required by the contract. The performance bond must equal the contract price."

Parties generally agree that applicants should disclose all information that impacts the price of their broadband service offering, along with any service restrictions, such as tying availability of broadband services to the purchase of other services, commitments, any requirements that customers must meet, or equipment that customers must purchase or lease, in order to receive the service. Verizon specifically suggests that applicants include all billed revenues they would receive from a subscriber over 12 months, expressed as a monthly average. Alternatively, AT&T suggests that applicants use the monthly rate per MBPS and spread the non-recurring charges over 12 months. Comcast asserts that applicants should provide a total retail price excluding discounts and promotions. DRA and TURN argue that applicants should indicate what services customers will receive for the stated monthly subscription fee, i.e. applicants should match a specific price to a specific upload and download speed. DRA asserts that the Commission must clarify whether and which bundles may be considered more optimal when evaluating this requirement. TURN further asserts that any pricing directed at low-income customers should also be indicated.

Discussion:
The attributed monthly charge – inclusive of all recurring rates and non-recurring charges and a description of what services the customer will receive – may be more useful than just the price alone on a per MBPS basis, given differences among providers and corresponding differences in subscription fee structures. Applicants shall disclose all service restrictions, tying availability of broadband services to the purchase of other services, commitments, any requirements that customers must meet, or equipment they must purchase or lease, in order to receive service. We adopt Verizon's proposal for calculating the subscription fee, which includes the sum of all recurring rates and non-recurring charges over a 12-month period, expressed as a monthly average price. Projects may vary in terms of what services and speeds are offered, as well as service restrictions, term commitments, etc. By combining all associated rates and charges into one monthly average price, the method proposed by Verizon would more readily allow for comparable estimates than those proposed by AT&T and other parties.

We clarify that this attributed monthly charge represents a monthly allocation of the total amount that customers should expect to pay; the maximum amount that customers actually pay each month should be the stated monthly subscription fee.

The stated price should be exclusive of any promotions or discounts because the Commission is concerned that including such provisions may distort the subscription fee calculation. However, CASF recipients are not precluded from making such offers available to customers. By eliminating seasonal or

promotional discounts from the evaluation process, comparison between applications is more reflective of the long-term incremental cost (to customers), which provides a fairer evaluation.

We decline to determine optimal bundles at this time. The primary purpose of CASF is to promote broadband infrastructure deployment to unserved/underserved areas, not to influence CASF recipients' marketing strategies or how CASF recipients package their services.

Finally, this program is primarily designed to make broadband service available to those without any level of broadband today. A focus on pricing is inapposite in the situation where there is no service today. CASF is designed to provide incentives to broadband providers to build facilities in difficult to serve areas, where heretofore no price could be paid because the service did not exist. However, while too much emphasis on pricing is not appropriate, the Commission believes that pricing terms are a factor in the success of the service and has structured CASF so that providers will need to offer competitive prices in order to create a sustainable operation given their particular investments and cost structures. [9]

Further, the Commission encourages, but will not require, applicants to offer discounted prices for low-income customers. As discussed in Section D (Scoring Criteria), points will be awarded for applications proposing to serve low-income areas. At this time, broadband service is not a component of basic service for Lifeline purposes, thus discounted pricing for low-income broadband service is not legislatively required. [10]

10. Period of Commitment for the Initial Price of Broadband Service

Parties' Comments:
During the workshop TURN sought clarification as to whether the one-year commitment was on a per customer basis, i.e. whether an individual who signs up 365 days after the CASF recipient has commenced service would be guaranteed the same price for one full year. AT&T expressed concern that committing to a single price over essentially a two-year period might discourage the company from upgrading their technology.

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[9] D.07-12-054, Finding of Fact 37 and pages 43-44, 47-48.
[10] Broadband service is not regulated by the Commission but by federal authorities. The Commission is considering changes to the California Lifeline program in R.06-05-028, including ways to make the program more competitively and technologically neutral.

In post-workshop filed comments, AT&T suggests a one-year price guarantee lock-in, and that customers should not be able to renew on Day 360 at the same initial guaranteed price. TURN asserts that prices should not be allowed to increase by more than the general rate of inflation for three years. DRA argues that the one-year minimum is too short, given that CASF recipients will not be restricted from selling other services and should thus have ample opportunity to recover operating and maintenance costs. DRA also responds to AT&T's concern regarding upgrading technology by adding a requirement that customers should have the option to remain on the previous service at the committed price, or to upgrade at the new price.

Discussion:
Broadband is not a regulated service under the authority of this Commission; it is regulated by the federal authorities. The Commission, however, does and should retain some discretion to ensure continued public benefits from this investment since the Commission is approving 40% of project infrastructure costs.

We clarify that the monthly subscription fee, as described in Appendix A (Item 14 in Section IV), is the price for which the Commission seeks a minimum commitment of one year (Item 15 in Section IV of Appendix A). As discussed during the workshop, we further clarify that applicants may stipulate one price to which they will commit for one time period, and to different prices for subsequent periods within that initial year of service.

We note that the period of commitment is on a per customer basis, such that any customer who signs up within one year of the beginning date of service can expect the same price guarantee(s) from the day they begin their subscription, albeit not for an entire year. For example, a new customer that signs up on Day 365 of the CASF recipient's initial year of providing service shall pay the same price for the first month of service as a customer who signs up on Day 1. As pricing varies by provider, applications should include any customer requirements with the application.

We agree with the parties that assert that the Commission has no authority to regulate broadband pricing or service. We also agree that participation in CASF would not thereby make an otherwise unregulated provider subject to the Commission's jurisdiction. [11] The Commission's authority with respect to these

[11] See e.g., D.06-06-010, p.5, *mimeo* ("The FCC has determined that it, not the states, will prescribe what regulations apply to IP-enabled services"), *See also*, *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, Declaratory Ruling and Notice of Proposed Rulemaking, 17 FCC Rcd 4798, 4801, para. 4 (2002) (*Cable Modem Declaratory Ruling*), *aff'd*, Nat'l Cable & Telecomms. Ass'n v. Brand X Internet Servs., 125 S. Ct. 2688 (2005) (*NCTA v. Brand X*). *Appropriate Framework for Broadband Access to the Internet over Wireline*

unregulated providers is limited to the administration of the CASF program. This Commission will not adjudicate or be a forum for billing, quality of service, service, or other disputes relative to broadband Internet access services or interstate broadband services except to the extent necessary to administer CASF. Such inquiries should be directed at federal authorities such as the Federal Communications Commission or the Federal Trade Commission.

The primary goal of the CASF is to bring broadband infrastructure and thus service to rural areas that have none. For those areas the price today may as well be extremely high. A voluntary price commitment by CASF recipients is one way for the Commission to distinguish between different proposals and place a higher value on those applications that propose a lower customer cost. It is understandable for parties to desire to expand this requirement as far as possible, but we must be cognizant of the unavailability of broadband service today in the target areas. A voluntary price commitment for one year is a reasonable balance between these competing interests.

Thus, while we agree with DRA's suggestion that customers should be allowed to remain on the original service at the committed price in the event that the provider upgrades its service offerings, we decline to mandate it. CASF recipients should not be the cause of delays in technological upgrades. Customers should also have the option to upgrade at the same (initial) price for the remaining term of their contract.

Applicants are being asked to commit to (a) price(s) for services that are not likely to take effect until, at the earliest, fall of 2010. [12] Given the pace of market changes and the corresponding difficulty in projecting market conditions, the Commission declines to require a longer pricing commitment than one year, or to impose a price cap following the initial price guarantee. We also concur with AT&T's position not to allow customers to renew on Day 360 at the same guaranteed price. The providers are free to change their price after the guaranteed term has expired. Technological and regulatory changes and developments may dictate a change in the pricing structure.

Facilities, CC Docket No. 02-33, FCC 05-150, Report and Order and Notice of Proposed Rulemaking (August 5, 2005) (*Wireline Broadband Internet Access Order and Broadband Consumer Protection Notice*), *In the Matter of Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, WT Docket No.07-53, FCC 07-30, 22 FCC Rcd 5901 (rel. Mar. 23, 2007)(*Wireless Broadband Internet Access Order*), *Petition of AT&T Inc. for Forbearance Under 47 U.S. C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services; Petition of BellSouth Corporation for Forbearance Under Section 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services*, WC Docket No. 06-125, Memorandum Opinion and Order, FCC 07-180 (rel. Oct. 12, 2007) (*AT&T Title II and Computer Inquiry Forbearance Order*).

[12] The earliest that funds will be approved is fall of 2008.

11. Financial Qualifications

Parties' Comments:
AT&T recommends that, instead of Rule 2.3 of the Commission's Rules of Practice and Procedure, [13] the Commission follow the alternative to the bond requirement suggested for DIVCA applicants, whereby applicants would have been required to produce a financial statement that demonstrates that they possess unencumbered cash that is reasonably liquid and readily available to meet expenses. [14] Another alternative is to require applicants to provide a statement in the affidavit that they are financially, legally and technically qualified to complete the proposed project.

Discussion:
Applicants must provide a balance sheet as of the latest available date, along with an income statement that covers the period from close of the last calendar year for which an annual report has been filed with the Commission to the date of the balance sheet. This requirement should not be prohibitively difficult to satisfy, since CASF applicants (or at least the lead participant in a consortium) are required to be registered with the Commission, and are required to submit these documents in their annual reports. [15]

12. Applicant's Certificate of Public Convenience and Necessity (CPCN) or U-Number

Parties' Comments:
During the workshop, DRA noted that wireless applicants should be explicitly required to provide their registration information. In its post-workshop comments, AT&T argues that this information is unnecessary and a possible hindrance to applicants with limited geographical operating authority.

Discussion:
Several considerations lead us to retain this requirement. In D.07-12-054, the Commission determined that it will limit CASF funding to entities with a CPCN that qualify as a "telephone corporation" as defined under Public Utilities Code §234, except that wireless carriers registered with the Commission need not obtain

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[13] Rule 2.3 (Financial Statement) requires a financial statement that includes all amounts and types of stock, bonds, and other indebtedness, along with balance sheet and income statements. http://docs.cpuc.ca.gov/published/RULES_PRAC_PROC/70731.htm#P289_38341

[14] D.07-03-014, pp.81-82. The Commission decided, however, not to allow this option for the DIVCA application process.

[15] Although wireless carriers that are registered with the Commission are not required to file this information, for CASF purposes they will be subject to this requirement.

a CPCN to qualify. The Commission has a fiscal responsibility to ensure that funds are used for the purpose for which they are intended and thus, needs to have some regulatory authority over the recipients. The Commission does not have the same capabilities to oversee and ensure the proper use of ratepayer funds by unregistered entities. To ensure that funds are used properly and that any waste, fraud, or abuse does not result in losses to ratepayers, limiting recipients to "telephone corporations" is the most responsible course of action at this time. [16]

As we noted above in Section 10, broadband service is not a Commission-regulated public utility offering. It is regulated by the Federal Communications Commission, and other federal authorities. This Commission must have some means of verifying that applicants are viable and up-to-date on all requirements associated with their CPCN authorization. We emphasize that the Commission is not categorically precluding broadband providers that are not registered with the Commission from applying for CASF funds. These providers may partner with or apply through a consortium, so long as the financial agent for the consortium is an entity with a CPCN or U-number.

Prospective applicants who do not have a CPCN or U-number and are not registered wireless carriers can obtain information for obtaining a CPCN, U-number or be registered with the Commission at the following Commission web-site URL link:

- http://www.cpuc.ca.gov/NR/rdonlyres/1FFA2BC1-1D33-482C-9AD8-5C9F2550EC1A/0/CASFWirelessFAQsheet42408.doc

13. Name and Contact Information

Parties' Comments:
AT&T suggests that only the names of principal officers be required instead of officers and directors, as is required for DIVCA applicants.

Discussion:

[16] This proceeding contains no record that other entities are ready or capable of utilizing CASF funds. If the Commission finds that regulated entities do not make use of the CASF funds or that additional entities (such as unregulated wired or wireless Internet Service Providers) should be eligible for future funding, then we may consider other alternatives. For example, as the program develops and the Commission gains experience in these projects, it may consider expanding the program to entities such as those eligible under the AB 140 rural telephone infrastructure program or entities eligible under the California Teleconnect program. However, such action is beyond the scope of this Resolution, but may be considered later if proposed in a petition for modification to our CASF decisions or on the Commission's own motion.

Only the name(s) and contact information of key officer(s) for each proposed project will be required. We will not require directors' information.

14. Affidavit

Parties' Comments:
Parties generally agreed that the Commission should require this item, although parties expressed concern that they may incorrectly identify an area as unserved/underserved due to the vintage of the data on which they are basing their assertion.

Discussion:
The Commission will require that all CASF applicants sign and submit an affidavit affirming, under Rule 1.1 of the Commission's Rules of Practice and Procedure, that all information provided in their application packets is true and correct, to the best of their knowledge. We recognize that the unserved and underserved areas may not be complete or have changed since the maps were produced by the California Broadband Task Force. The Commission clarifies that applicants will not be penalized for good faith assertions. A copy of the Affidavit is attached to this resolution as Appendix C.

B. Submission and Timelines

Parties' Comments:
During the workshop AT&T noted that there is no stated date by which an application would be denied or granted, and requested that such a designation be made. DRA and Small LECs both inquired as to how parties would be notified of initial submissions and protests. Kerman specifically asked if the Commission would notify ILECs when an application is submitted for a part of their (ILECs') service territory. Kerman also expressed concern about having to continuously check the website for updates, if the Commission accepts applications filed after June 2, 2008 (date revised to July 3, 2008 in this resolution).

While parties agree that the identity of each applicant should be kept confidential, AT&T and Verizon suggest that the actual boundaries of each proposed project should also remain confidential, as they regard this information as proprietary and potentially disadvantageous to first movers. AT&T and Verizon recommend that the only information to be publicized should be the list of CBGs for which each project is being proposed. TURN and DRA assert that a list of CBGs is insufficient, given that CBGs in rural areas tend to be large and are likely to include both served and unserved areas. Therefore, they suggest that a map showing the actual boundaries of proposed projects should also be posted on the website.

AT&T, TURN and DRA all oppose counterbids, and TURN and DRA each propose an alternative process for considering and approving project proposals. In the initial round of TURN's proposed process, all applications for uncontested areas are evaluated, while the Commission concurrently addresses and resolves challenges to initial applications. Round 1 determinations are made the same day that Round 2 applications, for previously challenged areas, are due. TURN asserts that Round 2 applicants should not gain information from the Round 1 awards. TURN also suggests that the Commission establish a set of protocols for opening and evaluating bids, and offers an example from the London Regional Transport Authority. [17]

DRA's suggested process is to first consider areas that are entirely unserved, and then areas that have a mixture of unserved and underserved areas in a subsequent round. DRA also suggests that the Commission establish a final cut-off date for submission of applications.

Discussion:
Both the list of CBGs and a map showing the boundaries of each proposed project shall be published. This will obviate the need to second-guess whether a proposed project intersects areas that are already served.

We adopt the Timeline for Submission and Evaluation shown in Section V of Appendix A to this resolution. This Timeline considers OP 8 of D.07-12-054 and the approval of the CASF award by the Commission through the resolution process. [18]

The Commission will not provide separate notification to ILECs when an application is filed to serve part of their (ILECs') service territory. Since the location of each proposed project will be posted on the Commission's website, it should not be problematic for participants to monitor which areas have been applied for and to cross check these with areas of interest. In addition, in Section V of Appendix A to this resolution, we establish subsequent filing deadlines. With such information we are providing notice to the entire state as to areas for which applications have been submitted.

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[17] TURN post-workshop comments, Attachment A, February 19, 2008. http://docs.cpuc.ca.gov/efile/CM/78990.pdf
[18] D.07-12-054, OP 8 states that "Responses to funding requests shall be due 30 days after receipt by the Communications Division, except that responses that present a counteroffer to meet the proposed broadband commitment under different terms shall be due 45 business days after the proposal is submitted." OP 12 of D.07-12-054 states that "Individual awards of CASF funding shall also be authorized by separate Commission resolution."

The Commission will retain the option to consider counter proposals. Since the only information that will be made public is the location of proposed projects, it is not expected that applicants submitting counter proposals will have any unfair advantage vis-à-vis initial bidders. Moreover, consideration of counter proposals will encourage all applicants to put forth their most competitive and efficiently designed proposal.

Pursuant to D.07-12-054, the Commission will first consider proposals for entirely unserved areas. [19] If any funds remain after unserved areas have been awarded, the Commission will then consider applications for underserved or mixed unserved/underserved areas. D.07-12-054 also states that proposals will be accepted until all of the funds allocated to the CASF have been designated or until December 2011. [20]

C. Proposal Checklist

Parties' Comments:
During the workshop TURN noted that the proposed checklist shows voice service as a required offering. In post-workshop filed comments, TURN and Comcast both support eliminating the basic voice requirement. TURN supports eliminating this requirement so that local providers may apply for CASF funds. Comcast argues that voice service should not be required until the Commission allows competition in small LECs' service territories.

If this requirement is retained, TURN recommends further requiring that applicants provide information on the basic voice service they will offer. Comcast asserts that such a requirement should be limited to battery backup and E911 service.

Discussion:
Provision of basic voice service is not a requirement to receive CASF funds as we believe the availability of a voice equivalent is an application available on all broadband services. However, if applicants choose to offer voice service (other than basic service) as an additional feature to broadband customers, they must, at a minimum, comply with the FCC's E911 and battery backup requirements.[21] In setting this requirement, we do not intend to modify existing minimum basic service requirements for local exchange service in this proceeding

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[19] D.07-12-054, p.3
[20] D.07-12-054, p.28. See Section 4, supra for additional timeline details.
[21] Information on the FCC's E911 and battery backup requirements can be found at: http://www.fcc.gov/pshs/services/911-services/ and http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-177A1.pdf

We note that by providing broadband service to unserved areas, it will give additional telephone service choices to subscribers through Voice over Internet Protocol providers. This serves this Commission's goal of increasing phone service choices to consumers, consistent with federal and state laws and policies.

The Proposal Checklist, included as Appendix B, is revised to reflect all modifications to CASF application requirements as adopted in this resolution.

D. Scoring Criteria

The model for scoring CASF applications sets the basic framework for evaluating applications. It determines how the CASF criteria will be used to rank applications. Commission staff initially proposed that the best way to rank applications would be to assign points for each criterion, which when added together, would form a score for each application that could be used to objectively rank them.

Each criterion has an associated formula that determines its value. Value in this context is defined as how well the goals of the CASF program are promoted. A score for each CASF application is derived from these formulas. Each formula is calculated with applicants' data, producing a point score. Points from all criteria will be added together to determine each application's total score.

Weight is the maximum number of points achievable for each criterion and is used to set a limit on each criterion's value. In determining the weight for each criterion, the value of each criterion is considered against all other criteria. As the total weight (100) is constant, when the weight of one criterion is increased, the values of all others decrease. To better illustrate a tradeoff, CASF funds could produce either of the following examples: Many customers served with adequate speed, or few customers served with fast speeds. Arranging criteria from highest to lowest weight also serves as a list of the most to least important, or in other words valuable, criteria.

Relative scoring measures an application's performance by how well they do compared to all other applications. The application that does the "best" for each criterion is awarded maximum points and sets the bar for all other applications. Relative scoring uses a formula to determine a pre-weighted score between zero and one for each criterion in each application. These pre-weighted scores are then multiplied by weights that set the maximum number of points and the percentage of the total score. Weights are set at amounts that reflect the importance of each criterion with respect to the policy goals of the CASF program. Introducing

weights into the scoring formulas sets a limit on the amount each criterion can affect the total score. Using weights in the scoring process ensures applicants are incented properly to offer a mixture of the features most sought after by the Commission for the CASF program. Weighting also takes into account diminishing returns. This would be very difficult to accurately represent in a non-relative formula.

The formulas to determine the pre-weighted scores all follow the same basic principle. The scores equal the criterion's percentage of the highest or lowest where applicable (example: for the area criterion, we want to see applications serve as much area as possible; for price, we want to see applicants offer service priced as low as possible, etc.) amount for that criterion out of all applications. Imagine three applicants; their respective submissions for criterion "x" are 100, 75, and 60. If we wanted to maximize "x"; we see that 100 is the highest amount submitted, so all applications would be measured against that amount. The pre-weighted scores for each respectively would be: 100/100=1, 75/100=0.75, 60/100=0.6. Alternatively, if we wanted to minimize "x"; we see that 60 is the lowest amount submitted, so all applications would be measured against that amount. The pre-weighted scores for each respectively would be: 60/100=0.6, 60/75=0.8, 60/60=1. The benefit of relative scoring is that it is possible to set the weighting for each criterion at a level that reflects the policy goals of the CASF, and the points given for each criterion cannot exceed its weight.

In the February 7, 2008 workshop, CD presented the straw man proposal using relative scoring criteria and solicited comments from participants. Additional written comments were also solicited from participants after the workshop; these comments were submitted on February 19, 2008.

Parties' Comments:
Comments of parties during the workshop and in their February 19, 2008 post-workshop filed comments are summarized below.

Four parties proposed changes to the formulas in the ACR. In the workshop, Verizon asked that the square root be dropped from the speed formula because they believe it does not appropriately punish applicants who offer poor speeds. They did not echo this statement in their filed post-workshop comments. In their post-workshop comments, Verizon suggested that for those applications that do not meet a certain standard, their score be reduced by either 25%, 50%, or 75% because the point penalty for offering slow speeds is low due to the use of a square root in the speed formula.

TURN likewise proposes a different formula for speed and service area as follows:

Speed: based on the 3 MBPS download and 1 MBPS upload speed standard established by the Commission:

$$[b_i / Max(b)] * 20$$

where:

B_i = (Applicant's proposed download speed/3 Mbps) + (Applicant's proposed upload speed/ 1 Mbps) and,

Max(b) = the highest b_i

Service Area: revise this criterion so that applicants are not awarded for large but unpopulated areas. TURN specifically suggests the formula:

$$N_i / Max(N) * 10$$

where:

N_i = number of households in the bidder's service area and,

Max(N) = maximum number of households among the relevant proposals

TURN also suggested the square root be removed from the speed formula and in its place, both upload and download should be divided by the benchmark. TURN believes that the use of a square root function biases the overall ranking process against applicants who can offer higher speeds. In addition, TURN urged using households in place of units of distance for the area formula. TURN believes that a measure of physical area will not accurately capture, for all intents and purposes, practical service area. Finally, TURN believes the pricing formula should consider basic and premium prices, but both should be weighted differently. TURN believes this will yield the most accurate representation of service price.

TURN seeks clarification on the definition of "n" in the straw man formula. TURN also points out a mathematical inconsistency between the formula as presented in Attachment B of the January 23, 2008 ACR and the Excel file distributed to parties after the workshop.

DRA and the Latino Issues Forum recommended that preference points be given to applicants offering service in low-income and/or uneconomic areas because of the fundamental universal service principle.

The following table compares CD's straw man proposal weight allocation for each criterion with parties' comments on/suggested revisions to the proposed allocation.

Criteria/Formula/Weight (points)	CD Straw Man	AT&T	Verizon	TURN	DRA	Comcast	Latino Issues Forum
Funds Requested per Potential Customer	50	50	40	35	"Too many points"	40	
Speed	15	15	25	20		25	
Service Area	15		10	10			
Timeliness	10		0	0		5	
Pricing	5	5	25	25	"Not Enough Points"	10	10
Guaranteed Pricing Period	5		0	10	"Not Enough Points"		10
Low-Income Areas					10		10

Discussion:
The square root shall remain in the speed formula because we believe there is a diminishing return to the value of speed, i.e., each additional unit of input (in MBPS) yields less and less additional output or value.

The 25%, 50%, or 75% reduction proposed by Verizon is unnecessary because the formula in the straw man already appropriately takes this into account. Using Verizon's suggestion, it is theoretically possible for one applicant to be scored 25%, 50%, or 75% lower than another for an application that proposes a speed that is far less than 25%, 50%, or 75% lower.

The speed formula in the ACR did not measure unserved applications the same way it measured underserved applications. For unserved applications, the formula correctly accounts for the diminishing returns associated with speed, but for underserved applications, the formula measures the increase in speed as if it were increasing from zero rather than the appropriate point on the value curve. However, we do not believe a separate formula for underserved applications is necessary, as underserved areas only have MBPS speeds up to 3/1 (the difference

in the slope at the point on the value curve the applicant is at, versus the slope at the origin), which is not sufficiently less to warrant separate treatment.

With respect to TURN's alternative formula, the Commission believes that dividing the speed by the benchmark speeds is not the best means to evaluate CASF applications. Such a formula will result in valuing upload speed three times greater than download speed and does not consider the diminishing returns to the value of speed. TURN's proposal is empirically backwards, since download speed has been viewed as more valuable to potential customers than upload speed. Also, TURN's proposal does not take into account the possibility that an application could be for an underserved area. If TURN's proposed formula were applied, an applicant who proposes to increase broadband speed in an underserved area would have total speed counted, potentially giving them an unfair advantage when compared to an application for an unserved area.

TURN's arguments that households should be used in place of units of distance and that a measure of physical area will not accurately capture practical service area are mistaken. In the first criterion, *Funds Requested per Customer*, households are already captured as potential customers. In the case of the service area formula, the straw man measures this as physical area served, which in conjunction with the number of households in Funds Requested per Potential Customer accounts for density. Thus, we believe that households as well as practical service area are adequately accounted for.

TURN's suggested changes to the pricing formula are not necessary as there is only one service being considered and the lowest priced proposal per MBPS gets more preference points. Thus, it is in the applicants' best interests to price service at a level that will attract subscribers.

TURN states in its comments that the term "n" is undefined in the straw man and was incorrectly defined during the workshop. TURN correctly state that during the workshop, CD defined "n" as the population. In this case, population means "group of individual persons, objects, or items from which samples are taken for statistical measurement", the group in this case being CASF applications. The Commission clarifies that "n" is in fact the number of total applications.

TURN is correct in pointing out that there is an inconsistency between the formula in the ACR and the scenario spreadsheet handed out by CD staff after the February 7, 2008 workshop, with respect to the computation of speed. Appendix D is a corrected scenario analysis of the CASF scoring.

The Commission agrees with the comments of DRA, Latino Issues Forum and TURN that accounting for low income areas would be beneficial to the CASF program. A seventh criterion is, therefore, added to the scoring criteria – Low-Income Areas – and is reflected in Section VII of Appendix A (Application Requirements and Guidelines).

With respect to the weight allocation suggested by parties, the Commission offers the following comments:

- ***Funds Requested per Potential Customer*** - Increasing the weight for this criterion will encourage applicants to reduce the cost of their proposals, which would free up resources to fund more applications. A consequence of lowering the weight is that fewer potential customers will end up getting served. We believe that a weight of less than 40 will compromise the core goal of the CASF. A weight of 40 points is set for this criterion.

- ***Speed*** - Increasing the weight for this criterion motivates applicants to increase the broadband speeds of their proposals. Setting this weight too high could leave some potential customers with broadband service that exceeds their needs while some potential customers would not receive service at all. While motivating applicants to offer speeds greater than the minimum is a good idea, economies of scale will eventually come into play making it less expensive for a carrier to significantly increase their speed than to serve an entirely new customer. Offering extra speed is encouraged, but should not be weighted too highly, as it would detract from all other criteria. We believe a weight greater than 20 will detract too much from the core goal of the CASF given that the diminishing returns built into the formula for this criterion give more points to those on the lower end of the spectrum. A weight of 20 is assigned to this criterion.

- ***Service Area*** - Increasing the weight for this criterion motivates applicants to increase the amount of physical area they propose to serve. Lowering the weight for this criterion diminishes this incentive, allowing applicants to focus more resources on other criteria. A lower weight also diminishes the impact of the five-year commitment to offer broadband service to any residential household or small commercial business within the service territory covered by the deployment. Setting this weight too high would provide an unfair advantage to applicants who propose to serve unpopulated areas. Assigning a weight below 15 would not accurately represent the value of serving a large area, and

would provide an unfair advantage to "less rural" applicants. [22] A weight of 15 points is allocated to this criterion.

- ***Timeliness*** - Raising the weight for this criterion motivates applicants to complete the project as quickly as possible, which is one key purpose of the CASF program (bringing broadband faster to unserved or underserved area). Considering that D.07-12-054 already prescribes 24 months for completion of the project, this criterion is assigned 5 points.

- ***Pricing*** - Offering a low price is encouraged, but ultimately applicants will need to set prices that potential customers can afford if they hope to stay in business. Since D.07-12-054 structured CASF so that price is an important factor in the success of the service and providers will need to offer competitive prices given their own investments, 10 points is assigned to this criterion.

- ***Guaranteed Pricing Period*** - Offering a longer price guarantee is encouraged, but ultimately the applicants will need to set prices for a length of time that is financially viable if they hope to stay in business. The requirement of at least a one year price guarantee as required by D.07-12-054 is an adequate starting point. A weight of 5 points is assigned to this criterion.

- ***Low-Income Areas*** - 5 points will provide a reasonable balance between the need to provide broadband service to the greatest number of people and the need to provide this service to areas with low income populations. This will serve to help bridge the Digital Divide to ensure low income populations have access to a broadband service provider as a first critical step.

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[22] *See* CPUC Res T-17002, Appendix B, Section II. G, *See also Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd at 6388-96, ¶¶ 48-53.

In summary, we adopt the criteria and weight allocation for each criterion as identified in the following table:

Criterion	Weight (points)
Funds Requested per Potential Customer	40
Speed	20
Service Area	15
Timeliness	5
Pricing	10
Guaranteed Pricing Period	5
Low-Income Areas	5
Total:	100

E. Payment

Parties' Comments:
AT&T suggests the elimination of the 10% retention requirement since payments are to be based on progress billing at 25, 50, 75 and 100% progress, supported by project status reports and project completion reports (in the case of the final payment), and the posting of a performance bond to ensure project completion. DRA's comment focused on clarification of the timing for funding collection, disbursement and duration of collection of the CASF surcharge.

Discussion:
We find merit in AT&T's comments and will eliminate the 10% retention requirement.

On the collection and disbursement of CASF funds, since January 1, 2008, the effective date of the 0.25% CASF surcharge rate, carriers have been instructed to hold custody of all the collected CASF surcharge revenues and accumulated interest until the Commission provides further direction on the disposition of these revenues. Upon Legislative approval of CASF funding through the State Treasury, carriers will remit the CASF surcharge monies collected to a designated fund as directed by the Commission. The Commission is coordinating with its Office of Government Affairs for the enactment of legislation that would govern remittances and disbursements under the CASF program.[23]

[23] SB-1193 was introduced by State Senator Alex Padilla to amend Section 270, and to amend, renumber, and add

In accordance with D.07-12-054, CASF funding applications will be accepted until all of the funds allocated to the CASF have been designated for specific projects or December 2011, whichever occurs first. A future evaluation of this CASF program will occur in 2010, and this Commission and the Legislature will consider whether to extend the CASF program based on how effectively it has met the goals of the program.[24]

F. Execution and Performance

Parties' Comments:
Parties' comments primarily center on the submission of reports both to guarantee full payment and to ensure that recipients conform to committed standards both during project implementation and construction and after project completion.[25]

Discussion:
The proposed application guidelines presented during the workshop already provide audit, verification and discovery authority to the Commission. This authority extends during project construction and implementation.

The recipient is expected to submit progress reports as an attachment to their invoices submitted at 25%, 50%, and 75% completion. These percentages relate to cost, so that when recipients have spent 25%, 50%, and 75% of the total projected costs of the project, they may submit a progress report documenting those costs.

Section 281 of, the Public Utilities Code, to establish the CASF within the state treasury and authorize the collection and disbursement of funds thereto. In May 2008, SB-1193 was approved by the full Senate by a vote of 33-3 and now moves to the Assembly for consideration. In addition, SB-780, sponsored by Senator Pat Wiggins, may impact the CASF: as proposed it would extend both the California High-Cost Fund-A (CHCF-A) and California High-Cost Fund-B (CHCF-B) programs until January. 1, 2013; the bill further states the intent of the Legislature that funds distributed by both programs be used to address (1) the continued need for universal and affordable service in high-cost areas of the State, particularly where competition is limited, and (2) the ability to access the fund for broadband deployment in unserved and underserved areas though varied mechanisms, including "innovative and community-based approaches to extending broadband access." The Senate, in mid-January 2008, voted 37-3 to advance this bill and amend PU Code §739.3.

[24] The Commission will begin an evaluation of the effectiveness of the initial awards under CASF no later than July 1, 2010, D.07-12-054, page 28.

[25] In their post workshop submissions, the following parties made the following comments:

- Comcast - the Commission should establish the content of the completion report as this is the basis of full payment;
- DRA - the Commission should conduct any necessary audit, verification, monitoring, and discovery during project construction and implementation; and
- Latino Issues Forum - the Commission should require the submission of reports after project completion, at six month intervals, for the first 24 months after project completion and annually, thereafter.

Such progress reports shall use both the schedule for deployment; major construction milestones and costs submitted in their proposals and indicate the actual date of completion of each task/milestone as well as problems/issues encountered and the actions taken to resolve these issues/problems during project implementation and construction. Recipients shall also include test results on the download speed and upload speed on a per CBG and per ZIP Code basis in the final completion report.

G. California Environmental Quality Act (CEQA) and Other Permits

CEQA issues and requirements were not addressed in the straw man document or during the workshop. However, it has been subsequently determined by staff that CEQA review may be required depending on considerations such as the type of technology and/or location of the proposed broadband project. Therefore, compliance with CEQA is an item added to the list of information required for each application. However, the Commission will not conduct a CEQA analysis as part of the scoring and ranking process to determine CASF funding eligibility.

The scoring and ranking of applications for CASF funding eligibility is not an "approval" of a "project" within the meaning of CEQA. [26] During the scoring and ranking process, the Commission will not have sufficient information to conduct meaningful, project-level review under CEQA, nor will the Commission be committing itself to any particular course of action. Applicants will provide the Commission with census block group (CBG) and geographic spatial map information that display areas that have yet to benefit from advanced telecommunications services and demonstrate the potential extent of deployment of broadband services to these areas. Requiring more specific, project-level details at this time would be overly speculative and would likely harm competition for CASF funds by discouraging otherwise eligible applicants.

As explained above, payment to CASF recipients will be on a progress billing basis with the first 25% to be made upon the proponent's submission to the Commission staff of a progress report showing that 25% of the project has been completed. Before applicants eligible for CASF funding can receive payments from the Commission, CEQA compliance must be demonstrated. As a basis to ensure CEQA compliance and the timely disbursement of CASF money, applicants should submit a Proponent's Environmental Assessment (PEA) soon after specific, project-level details become known and, at the latest, before the first scheduled 25% payment. [27] The PEA should conform to the guidelines and

[26] Public Resources Code § 21065; CEQA Guidelines, Cal. Code Regs., tit. 14, §§ 15352(a), 15378.
[27] Rule 2.4 of the Commission's Rules of Practice and Procedure.

standards as outlined in the Commission's environmental information requirements, which can be found at:

http://www.cpuc.ca.gov/PUC/energy/electric/Environment/infocrit.htm

In addition, the PEA submission should include information on any land crossing sites requiring discretionary or mandatory permits or environmental review pursuant to CEQA (include the type of permit required, the name of the permitting agency/agencies and the Lead Agency if an environmental review is required). The applicant should also identify any other special permits required with a cross reference to the government agencies from which the permits will be required for the project. Depending on the extent to which CEQA requirements may apply, the timeline for approval and/or disbursement of CASF money may take longer than is reflected in our adopted timetable.

Comments

In compliance with PU Code § 311 (g), on April 29, 2008, a notice of availability was e-mailed to the parties of record in R.06-06-028 informing these parties that this draft resolution is available at the Commission's website http://www.cpuc.ca.gov/puc/ and is available for public comments. In addition, the Communications Division (CD) informed these parties of the availability of the conformed resolution at the same website.

Opening comments were filed on May 14, 2008 by AT&T, Verizon, Comcast, COX, DRA, TURN, LIF and Sierra Economic Development Corporation (SEDCorp); reply comments were filed on May 19, 2008 by AT&T, Verizon, DRA, TURN, and COX.

A discussion of issues raised in both the opening and reply comments follows.

Guaranteed Pricing Period

In its opening comments, Verizon asserted that applicants should be allowed to include promotions or discounts in their calculations of the initial one-year price commitment.

In its reply comments, TURN rejected Verizon's suggestion, noting that promotions may not be available to all customers, and are often linked to the purchasing of bundles, which may complicate Staff's ability to appropriately compare projects.

The Commission maintains that the proposed recurring price should be exclusive of any promotions or discounts, etc. since it is uncertain whether all and how long customers would continue to enjoy these benefits.

AT&T, TURN, DRA and LIF filed the following opening comments regarding the guaranteed pricing period requirement:

- AT&T stated that the draft resolution's reference to "the period of commitment on a per customer basis" somewhat contradicts following language that the price guarantee is "not for an entire year."
- AT&T further stated that Appendix A in the draft resolution did not align with the pricing section and the checklist in its reference to "other recurring rates" and "other non-recurring charges."
- TURN asserted that clarification is needed regarding the specific date on which the one-year period for the initial price offering begins.
- DRA also filed comments reflecting this concern, and further suggested that CASF carriers should be required to define what date(s) will trigger the beginning of the time period for the price commitment.
- LIF reasserted their previous statements that prices should not be allowed to increase more than the general rate of inflation for three years.

TURN filed reply comments asserting that, for the limited pricing commitment period, terms and conditions should only be changed with the Commission's approval.

The Commission clarifies that the minimum price guarantee period for any new customer is from the first day that the CASF carrier begins service. For example, if the period of offering is from July 1, 2009 through June 30, 2010, then the price holds for this period to any subscriber who signs up during this period. If the price increases or decreases effective July 1, 2010, all subscribers who signed up during the period July 1, 2009 through June 30, 2010 and who continue the service will be adjusted for the new rate. If a customer orders service on the 364th day (i.e. at the end of the one-year carrier commitment), that customer is entitled to 30 days of service at the sign-up price, assuming that the carrier bills on a monthly basis.

Appendix A has been revised to reflect the discrepancy noted by AT&T regarding "other recurring rates" and "other non-recurring charges."

The Commission reaffirms that the one-year period begins when the CASF carrier begins service. We further clarify that, in terms of when the CASF carrier "begins service," the clock starts when the service becomes available to a customer. We will require CASF applicants to disclose whether they intend to roll out services incrementally and if so, the dates when service will be available to different areas.

The Commission maintains that a one-year commitment to provide service is sufficient for subscribers to find value in the offered broadband service. The Commission does not

regulate broadband service or its pricing, and this resolution does not propose to regulate or otherwise monitor marketing campaigns conducted by CASF recipients.

The Commission agrees that any requirements that the customer must meet in order to receive service, as listed in item 14 of Appendix B (checklist), should not be changed without the Commission's approval.

Submission of Form 477

COX, AT&T and Comcast filed opening comments regarding applicants' submission of FCC Form 477 data, as follows:

- COX asserted that FCC Form 477 submissions should not be required since this does not help the Commission validate successful completion of a project.
- AT&T and Comcast asserted that CASF recipients should submit their FCC Form 477 information to the Commission under General Order 66-C, and that the Commission accordingly treat this information confidentially.

The Commission maintains this FCC Form 477 submission requirement as a means to assess speeds after projects have been completed. The Commission agrees with AT&T and Comcast and assures CASF recipients that information provided in FCC Form 477 submissions will be kept confidential as to specific applicant information pursuant to General Order 66-C.

Reduction in Payment for Failure to Meet the 24 month Timeline or Inform the Commission of Delays in Project Implementation or Construction

AT&T filed opening comments objecting to reductions in payment for failure to meet the 24-month deadline or for failure to notify the Commission of any delays in project construction or implementation.

The Commission retains discretion to exercise this option, since we expect that CASF recipients should be able to inform Commission staff of any foreseeable delays.

Submission of Income Data

Verizon and AT&T filed the following opening comments:

- Verizon suggested that, in order to minimize outliers, the Commission should use median household income instead of average income for its "Low Income Areas" scoring criterion.
- AT&T filed comments pointing out that the formula indicates "average income" while the checklist asks for per capita income.

The Commission agrees with Verizon's suggestion for minimizing the effects of outliers; the formula for the "Low Income Areas" scoring criterion and the checklist are revised to reflect this modification from per capita income to median household income.

Proponents Environmental Assessment

In its opening comments, AT&T noted that the checklist asks applicants to submit their PEA at the time of application, and asserted that applicants should not be required to submit this information until after their project proposals are approved and submitted prior to the first 25% payment invoice.
The Commission confirms this discrepancy; the checklist is revised to require that PEAs be submitted prior to the first 25% payment.

Proposed Project Budget

Verizon noted in their opening comments that:

- The requirement to submit the "source and amount of funds available for each cost element" is unnecessary, and that funding sources should instead be identified based on total project costs.
- Until a determination is made that CASF grants are not taxable, the Income Tax Component (ITC) on Contributions in Aid of Construction (CIAC) should be permitted as a component of project costs.

The Commission agrees with the suggestion that listing the source of funds for each cost element is unnecessary, and that an itemized showing of funding sources that is at least equal to the total project cost is sufficient. The requirements for the proposed project budget are revised accordingly.

The Commission will allow project applicants to include the ITC on CIAC as a cost element in their proposed project budgets, until CASF grants are deemed not taxable to the carrier.

Scoring Criterion: Price

TURN filed reply comments reasserting its view that the scoring criterion for the proposed price should be weighted more highly such that applicants that offer the lowest price or make longer minimum pricing commitments receive more than the 10 points allocated to the Price criterion. Likewise, in its opening comments, LIF stated that the pricing criterion should be given 20 points.

In its opening comments, AT&T stated that pricing terms and conditions cannot be predicted considering that the implementation will be three years from the application date. It asserts that broadband providers have to be able to modify terms and conditions

of service as use of the Internet and use of the service they provide changes, and as the law changes. Requiring applicants to predict and commit to the needed terms and conditions of service could dissuade potential subscribers from participating in CASF because it deprives them of the necessary legal protections. If the draft resolution intended only disclosure of the terms and conditions of getting one price versus a different price, then this requirement makes sense.

The Commission agrees with AT&T that overall terms and conditions should not be formed so far in advance of service provision. Therefore, applicants should provide any fundamental requirements for broadband service that customers need to meet, such as purchase or leasing of equipment, installation, set term contract length, early termination fee, etc.

The Commission maintains that 10 points is sufficient for the pricing criterion as increasing points for this criterion will dilute the importance of all other criteria.

Who May Apply

Sierra Economic Development Corporation (SEDCorp) proposed the expansion of the eligibility criteria to make SEDCorp eligible to receive CASF funds for the purpose of extending debt financing to broadband service providers throughout the seven California Emerging Technology Fund (CETF) regions. COX, in its reply comments, urged rejection of this proposal. TURN, in its reply comments, supported SEDCorp's proposal and reiterated its support for the extension of CASF funds to entities other than "telephone corporations."

The Commission finds SEDCorp's proposal, while intriguing, premature at this time. SEDCorp's proposal requires a thorough evaluation of the legal and regulatory impacts of their involvement as a financial conduit for Commission monies. The Commission, however, may consider the expansion of CASF eligibility to "entities other than telephone corporations" in the near future on its own motion, should the CASF program as originally rolled out leave CASF funds remaining. The Commission emphasizes it remains open minded about more creative and non traditional ways to achieve broadband access to unserved areas after this initial round is completed. CASF funds will, therefore, remain limited to entities specified in Appendix A.III of this resolution.

Determination of Unserved and Underserved Areas

Verizon commented that no high burden of proof should be required from applicants on transit portions of the applications as this may lead to disputes on the suitability of engineering or technology choices. The Commission concurs with Verizon's comments and recognizes that upgrades to "middle mile" facilities may be required to reach

unserved areas. Thus, we require that the applicant clearly explain the need for upgrading adjacent areas, allocate the costs to unserved and already served area (if the upgrade will affect both areas), and prorate the costs accordingly, as discussed in item 4 of the Discussion section of this resolution.

In determining whether an area is unserved or underserved, C recommended in their comments that Staff use information sources other than the Broadband Task Force Report and cited CD's recent web-based database that provides a tool for customers in finding voice and broadband service providers. We agree with COX's comments and direct CD to consider all publicly available data sources to verify whether or not an area being proposed is indeed unserved or underserved. We recognize that the unserved and underserved areas may not be complete or have changed since the maps were produced by the California Broadband Task Force. Staff should excuse good faith errors on the part of applicants as to what areas are unserved and underserved given that we believe the existing data about what exact areas are unserved and underserved to be less than 100% accurate. We emphasize our desire for a collaborative working relationship between applicants and our staff to ensure the most positive outcome of this program.

Application Timeline

In its opening comments, AT&T recommended that the Commission first award funds to unserved projects and, if funds are still available, then consider adjusting the CASF rules to further reach unserved areas by increasing the 40% match or allowing recovery of operating costs, and consider pilot projects for unserved areas, using modified parameters to ensure the feasibility of the project. AT&T suggested that these courses of action be undertaken by the Commission before it considers applications for underserved areas.

Verizon recommended delaying the application deadlines since the initial deadline is too close to the Resolution adoption date. Verizon recommended a delay of at least one month to enable applicants to coordinate the CETF development and quantification of demand aggregation opportunities with the CASF application process. TURN pointed out that there is an overlap in the submission deadlines, in the sense that applications for underserved areas will be submitted before funding approval is made for unserved areas.

COX pointed out in its opening comments that the Commission omitted a means by which notification can be made to the Commission that a proposed area is neither unserved nor underserved. In its reply comments, C supported the modification of the timeline as recommended by TURN, Verizon and AT&T to ensure that unserved area applications be awarded first before the submission of applications for underserved areas.

In reply comments, AT& T concurred with Verizon's proposal and pointed out an inconsistency between the draft resolution timeline of 22 days and the timeline of 45 days provided for in D.07-12-054 with respect to the time provided for the submission of counter proposals. Further, AT&T concurred with C's observation that the timeline omitted a date by which challenges to an applicant's contention that an area is unserved or underserved can be made.

The Commission agrees with AT&T's position that unserved area applications should be considered first, but concurs with C's position that changing the rules to allow more applicants to qualify for funding, after the initial awards have been made, would encourage prospective applicants to not submit their proposals in the first round. Further, we will not change the eligibility criteria, after awards have been made to early filers because it reflects ineffective project management and will punish early filers[28].

The Commission finds merit in parties' recommendation to extend deadlines and has adjusted the timeline accordingly to give applicants time to submit counter proposals, challenges to an applicant's claim that an area is unserved or underserved, and to synchronize the timelines provided in D.07-12-054 as much as possible.

Basic Service

TURN, in its opening comments, opined that since the CASF does not require applicants to provide basic service, there is no need for the Commission to redefine it. Therefore, CASF applicants are authorized to offer service which does not meet the definition of basic service. In reply comments, DRA agreed with TURN's position that basic service need not be redefined. Verizon, likewise, opined that the resolution's approach to basic service is reasonable and should remain.

The Commission reiterates that basic service is not a requirement of CASF. However, applicants must ensure that if voice service (other than basic) is provided, compliance with the FCC's E911 and battery backup requirements is met as discussed infra.

Speed Requirement

The following recommendations were proposed by parties on the speed requirement:

[28] Having said that, the Commission notes that it always has the ability to evaluate and modify a program in ways that will serve the goals of the program.

- In its opening comments, Verizon stated that the requirement to state average download and upload speeds should be deleted. Instead, the applicant should be required to provide advertised speeds only.

- In its opening comments, COX stated that the Commission should confirm that the specified speeds serve the majority of customers in the proposed service area and that a standard proxy server from a specified site, not available to the public, and available only to CASF applicants, be utilized to confirm the speeds for all applicants through testing and audits administered by the Commission.

- In its opening comments, TURN stated that monitoring of speed should be part of an overall CASF monitoring program to ensure that ratepayer monies are being used for the purposes for which they are intended.

- In its opening comments, DRA stated that the Commission should remove language that: a) concludes that an advertised speed is a sufficient proxy for the actual broadband speed that a recipient will provide over a network partially funded by the CASF; b) references existing laws regarding the prevention of fraud in advertising in a manner that is inappropriate and irrelevant; c) disclaims responsibility for monitoring whether an applicant ultimately meets its broadband speed commitments. Further, DRA proposed that the resolution include language, in its discussion of broadband speeds, that requires applicants to identify methodologies for testing the broadband speeds of their proposed networks.

- In its reply comments, AT&T stated that DRA's and TURN's criticisms of reliance on advertised speeds and urging future measurements of speeds are mistaken. Further, AT&T stated that DRA's and TURN's calls for some alternative way to measure and monitor actual speed ignores the difficulties of such a task and ignores how relying on advertised speed solves the problem of how to both measure and monitor broadband speed. AT&T concurred with Verizon's opening comment that average speed should be deleted and that the advertised speeds for the area, or reference to the Governor's Broadband Task Force's speed findings, should be sufficient. AT&T found Comcast's proposal to use a "standard proxy server"procedurally improper and too superficial to be adopted.

- In its reply comments, Verizon stated that the draft resolution is correct in recognizing that advertised speed is commonly recognized by consumers, regulators, and industry participants, and that adequate enforcement mechanisms are already available in the event fraud or misrepresentation occurs. Recipients' own speed data submitted on a per CBG and ZIP Code basis in the final

completion report, as well as the required FCC Form 477 data, are sufficient for speed validation.

- In its reply comments, TURN stated that in addition to TURN, DRA and Comcast also supported the need for the Commission to validate the actual speed of broadband offerings by CASF recipients. TURN finds COX's opposition to the submission of FCC Form 477 data puzzling as FCC Form 477 data will be produced by COX regardless of whether or not the Commission requires its submission, thus, there is no additional regulatory burden on COX. However, while the Commission should have access to the Form 477 data, it is insufficient by itself to assess broadband speeds. Thus, the Commission should develop a consistent methodology that assesses actual, not advertised, speeds and apply this approach to all CASF recipients.

- In its reply comments, DRA stated that as TURN and DRA have repeatedly noted, the broadband speeds that carriers advertise do not guarantee, and are not intended to guarantee, actual speeds. DRA pointed out the following in their comments:
    - The draft resolution fails to address the Commission's obligation and role regarding the monitoring of speed. As TURN argued, "monitoring of speed should be part of an overall monitoring program to ensure that ratepayer monies are being used for the purposes to which they are intended". Though the Commission requires that CASF recipients provide data on actual broadband speeds prior to receiving final reimbursement payments, it is insufficient to ensure that end-users will indeed experience broadband service at the promised speeds.
    - The Commission should ensure that the methodology for testing broadband speeds is clearly articulated and accounts for peak and off-peak variations.

The Commission agrees with Verizon and AT&T that advertised speeds are sufficient, but notes that it is possible for one project to serve different speeds to different areas within a single CBG. We therefore revise the speed requirement to be average advertised speeds for each project by CBG and ZIP Code. With respect to the concerns raised by Comcast, TURN, and DRA on the monitoring of speeds offered by applicants, the Commission does not believe a proxy server is necessary at this time. However, the Commission notes that it has the right to audit applicants at any time. We fully expect that if we were to use any other measure in evaluating applications that we would receive similar legal caveats and conditions found on the broadband advertisements of providers, effectively making any other measure the same as simply using the advertised speeds. In addition, false advertising penalties are far greater than the CASF funds under consideration. Accordingly, we believe that relying on the advertised speeds is an effective measure for CASF purposes. Finally, we concur with both Verizon

and TURN that FCC Form 477 data should provide sufficient information to the Commission that speed commitments in the application are complied with.

Scoring Criterion: Speed

In its opening comments, TURN stated that there may be an inconsistency between the speed ranking formula that appears in Appendix A and the calculations that underlie the example provided in Appendix D. TURN's review of the formula in Appendix A indicates that there can be cases where more than 20 points will be awarded to the "winning" applicant. TURN requested that the Commission make the calculations associated with the application of the speed formula more transparent.

We disagree with TURN's analysis of the speed formula. We do not find any inconsistency between the formula and the example provided. Furthermore, it is impossible for more than 20 points to be awarded. An item in a list divided by the largest number in that same list and multiplied by 20 can never equal more than 20. Lastly, we believe that the formula cannot be made more transparent than it already is - all calculations are shown and all variables are defined.

Scoring Criterion: Low Income

LIF's opening comment, indicating that the low income criterion should receive a minimum of 10 points, was supported by DRA in its reply comments.

The Commission believes that the weight of 5 for the low income criterion is appropriate, and that weighting it higher would dilute the importance of all other criteria. The Commission encourages applicants to attempt to bring broadband service to all unserved area customers, regardless of socioeconomic status. In low income areas, access to broadband can bring significant benefits to the community for improvement of educational opportunities for K-12 students and adult education, in addition to providing information for job searches and health care. The Commission further notes active efforts by CETF to aggregate demand by schools, colleges, libraries, local governments, local businesses, agriculture, public safety, and others in 35 counties of these very rural areas of the state.

Scoring Criterion: Guaranteed Pricing Period

In its opening comments, LIF stated that the guaranteed pricing period criterion should be given a minimum of 10 points.

The Commission maintains that the weight of 5 for the guaranteed pricing period criterion is appropriate, and that weighting it higher would dilute the importance of all other criteria for all the reasons stated in this resolution and our prior decision.

Scoring Criterion: Low Income

TURN stated that in the draft resolution, DRA and Latino Issues Forum are singled out as advocating for low-income customers. TURN notes that it addressed low-income issues on pages 8, 9 and 16 of its February 19, 2008 post-workshop comments. TURN requested that the draft resolution's omission of TURN's advocacy for low-income customers be corrected so that TURN's concerns regarding low income issues can be correctly reflected.

In its reply comments, TURN continued to recommend that applicants with the lowest price receive 25 points (holdback from the Funds Requested per Potential Customer criterion). In addition, applicants committing to increase broadband prices at a rate no more than the rate of CPI-U inflation for a period of three years should receive 10 points. Applicants committing to rate increases of no more than CPI-U for a period of 24 months should receive 5 points. TURN asserted that its overall approach to pricing appropriately identifies the importance of price in the adoption of broadband services, including the proportionally greater impact price will have on low-income households.

The Commission notes TURN's comments and has reflected its advocacy for low-income customers in this resolution.

The Commission maintains that the weights for all criteria as shown in Section VII of Appendix A are appropriate, and that weighting any differently would be detrimental to the goals of the CASF.

Findings

1. The Commission, in Decision (D.) 07-12-054, established the California Advanced Services Fund (CASF), a two year program that provides matching funds of up to 40% of the total project cost for the deployment of broadband infrastructure in unserved and underserved areas in California.

2. D.07-12-054 allocates $100 million, to be funded by a 0.25% surcharge on end-users' intrastate bills effective January 1, 2008, for CASF qualifying projects.

3. Priority in funding will be for unserved areas, defined as areas that are not served by any form of facilities-based broadband, or where Internet connectivity is available only through dial-up service or satellite. If funds are still available, CASF funding will be extended to underserved areas, defined as areas where broadband is

available but no facilities-based provider offers service at speeds of at least 3 Mega Bits Per Second (MBPS) download or 1 MBPS upload.

4. In Ordering Paragraph (OP) 11 of D.07-12-054, the Communications Division staff (CD) was directed to convene a technical workshop to afford parties an opportunity to give input on the scoring criteria to be used in evaluating projects for CASF funding.

5. In compliance with OP 11 of D.07-12-054 and OP 1 of the January 23, 2008 Assigned Commissioner's Ruling, CD conducted a workshop on February 7, 2008 to discuss a draft template (straw man) for applicants in submitting CASF proposals, and the scoring system to be used in comparing and ranking CASF proposals for funding.

6. CD distributed a preliminary draft workshop report on February 25, 2008 to workshop participants for them to offer input to CD staff as to the accuracy of the workshop report by March 3, 2008. Based on input from parties, CD revised and submitted the final workshop report to the Assigned Commissioner on March 7, 2008. An ACR Releasing the Final Workshop Report on the CASF was issued and served to parties in the R.06-06-028 proceeding on March 13, 2008.

7. In OP 12 of D.07-12-054, the Commission ruled that the final criteria and project proposal template to be used to evaluate and award CASF funds will be approved by the Commission in a resolution.

8. The comments of parties both during the workshop and in post-workshop comments submissions have been reviewed.

9. There is merit in some of the comments filed, including: the inclusion of a low-income area criterion in the scoring criteria, the reallocation of weights among the scoring criterion, the addition of the phrase "to the best of my knowledge" in the Affidavit, and refinement of the timelines for submission of CASF applications.

10. Clarifications on some issues raised by participants such as the 3 MBPS download and 1 MBPS upload speed requirement, application information available to the public, determination of the number of subscribers, and submission of performance bond have been made in this resolution.

11. Participants also pointed out an error in the hypothetical scoring criteria worksheet distributed to the participants after the workshop. CD has made the correction.

12. Compliance with the California Environmental Quality Act (CEQA) has been included as an additional submission requirement for CASF funding requests.

13. The application information packet, including the Application Requirements and Guidelines (Appendix A), Application Checklist (Appendix B), Affidavit (Appendix C), and the hypothetical scoring criteria worksheet (Appendix D) have been modified from the Workshop Report, to reflect the changes and clarifications needed.

14. In compliance with PU Code § 311 (g), on April 29, 2008, a notice of availability was e-mailed to the parties of record in R.06-06-028 informing these parties that this draft resolution is available at the Commission's website http://www.cpuc.ca.gov/puc/ and is available for public comments. In addition, the Communications Division (CD) informed these parties of the availability of the conformed resolution at the same website.

15. Opening comments on the draft resolution were filed by AT&T, Verizon, Comcast, COX, DRA, TURN, LIF and Sierra Economic Development Corporation (SEDCorp) on May 14, 2008. Reply comments were filed on May 19, 2008 by AT&T, Verizon, DRA, TURN, and COX.

16. The Commission reviewed the comments filed and finds the following comments reasonable and revised this resolution and the affected Appendices accordingly:

    - use of average advertised speed
    - correction of the discrepancy in the use of "other recurring rates" and "other non-recurring charges"
    - treatment of the submission of Form 477 as confidential and filed under G.O. 66-C
    - use of median household income for the Low Income Criterion;
    - submission of the Proponent's Environmental Assessment prior to presentation of the first 25% invoice
    - identification of project funding sources based on total project cost
    - revision of the timeline to (1) include a period to receive challenges to applicants' contention that a proposed area is unserved or underserved, (2) provide more time for the submission of counter proposals, and (3) to synchronize the timeline with that in D.07-12-054 as much as possible
    - substitution of pricing "terms and conditions" with requirements that customers must meet to receive broadband service such as purchase or leasing of equipment, installation, etc.,
    - deletion of per capita income in Appendix A-3, and
    - reflecting TURN as an advocate for low-income customers.

17. The Commission rejects comments on increasing weight allocation to price, low income, and guaranteed pricing period criteria as doing this would dilute the importance of other scoring criteria.

18. The Commission finds SEDCorp's proposal premature and outside the scope of this resolution. The Commission may consider the expansion of CASF eligibility to "entities other than telephone corporations" in the future.

THEREFORE, IT IS ORDERED that:

1. As set forth in Appendices A through C of this resolution, the application requirements and guidelines for the submission of applications, as well as criteria for the scoring formulas, selection processes, and funding provisions that the Commission will apply in reviewing CASF proposals, are adopted.
2. Applicants proposing broadband projects for funding by CASF shall conform to the CASF requirements and guidelines, as discussed and adopted in this resolution, in submitting their proposals to the Commission.
3. Applicants submitting applications shall adhere to the timelines for submission of their proposals. These timelines are identified in Section V of Appendix A in this resolution.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 12, 2008. The following Commissioners approved it:

PAUL CLANON
Executive Director

APPENDIX A

Application Requirements and Guidelines

I. Background

The California Advanced Services Fund (CASF), a two year program established by the Commission on December 20, 2007, under D.07-12-054, provides matching funding for the deployment of broadband infrastructure in unserved and underserved areas of California to qualifying applicants. The funding will be used for projects that will first provide broadband services to areas currently without broadband access or with access only to dial-up service or satellite; and then second, build out facilities in underserved areas if funds are still available. Applications for CASF funding will be considered beginning July 3, 2008. [29]

$100 million in funding is available for qualifying projects over a two year period.

II. Definitions

An "unserved" area is an area that is not served by any form of facilities-based broadband, such that Internet connectivity is available only through dial-up service or satellite.

An "underserved" area is an area where broadband is available, but no facilities-based provider offers service at speeds of at least 3 MBPS download and 1 MBPS upload.

III. Who May Apply

CASF funding is limited to entities with a Certificate of Public Convenience and Necessity (CPCN) that qualify as a "telephone corporation" as defined under Public Utilities Code §234 or wireless carriers who are registered with the Commission. Wireless carriers need not obtain a CPCN to qualify for CASF funding. An entity who has a pending CPCN application to provide service as a "telephone corporation" may submit a request for CASF funding subject to approval of its CPCN. CASF funding is also available to a consortium as long as the lead financial agent for the consortium is an entity holding a CPCN or a wireless carrier registered with the CPUC.

Applicants are also encouraged to offer basic voice service to customers within the service area of the broadband deployment subject to the CASF award. Any such voice service offering must, at a minimum, meet FCC standards for E-911 service and battery back-up

[29] This revision supersedes the June 2, 2008 deadline for submission of applications as set forth in D.07-12-054

supply.[30] For purposes of the CASF, "basic service" is defined to include any form of voice-grade service including that offered through a wireless or VOIP service. [31]

IV. Information Required From Applicants

Applicants are required to submit the following information to the Commission for each proposed broadband project (each "broadband project" is defined as deployment encompassing a single contiguous group of Census Block Groups (CBGs)).

Each item will be listed and submitted as a document, unless otherwise specified, and in some cases also as data entered directly.

1. CPCN / U-Number / CPUC Registration Proof:

(As a single document)

- Applicant's U-Number and/or
  Proof of applicant's Certificate of Public Convenience and Necessity (CPCN)

- In the absence of a CPCN -
  Proof of CPCN application pending approval, or
  CPCN application number.

- Wireless Carriers –
  CPUC Registration Number

2. CASF Key Contact Information:

- First Name
- Last Name
- Address Line1
- Address Line2
- City
- State
- ZIP
- Email
- Phone

3. Key Company Officers (list up to 5):

- Position Title
- First Name

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[30] D.07-12-054, OP 16, pp. 62-63, mimeo
[31] D.07-12-054, COL 13, p. 59, mimeo

- 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, if applicable.

5. Current Broadband Infrastructure Shapefile:

- Shapefile (.shp) [32] of current service area. [33]

6. Proposed Broadband Project Description:

- Description of proposed broadband project plan for which CASF funding is being requested, including:
- Project size (in square miles)
- Download speed capabilities of proposed facilities
- Upload speed capabilities of proposed facilities

The proposed broadband description should include a description of the type of technology to be provided in the proposed service areas.

The Commission established benchmark speed standards of 3 MBPS download and 1 MBPS upload. Applicants may propose lower speeds; speed will be a criteria considered in evaluating the applications with higher speeds being preferable.

7. Proposed Broadband Project Location:

- Geographic locations by CBG(s) where broadband facilities will be deployed:
- List of CBG(s),
- Median household income for each CBG that intersects the proposed project, to be based on most current Census data available, and
- 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 of Unserved or Underserved Area:

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[32] This file format is compatible with ArcGIS software used by the Commission.
[33] Pursuant to D.07-12-054: All information other than the location of the proposed project shall be kept confidential.

- An explanation of the basis for asserting (i.e. reference to the California Broadband Task Force Report or other published reports) that, to the best of the applicant's knowledge, the area is unserved or underserved.
  This includes figures, in MBPS, of the current:

  (a) average download speed by CBG(s);
  (b) average download speed by ZIP Code(s);
  (c) average upload speed by CBG(s); and
  (d) average upload speed by ZIP Code(s).

10. Estimated Potential Subscriber Size:

- Estimated number of potential broadband households (i.e. total occupied housing units) in proposed project location.
- Estimated number of potential broadband subscribers (i.e. total population) in proposed project location.
- Documentation of all assumptions and data sources used to compile estimates.

11. Deployment Schedule:

- Delineated schedule for deployment with commitment to complete build out within 24 months of the approval of the application. The schedule shall identify major prerequisite(s), construction, and any other milestones that can be verified by Commission staff. Milestones will be listed using the following format:
  - Milestone Start and Ending Date
  - Milestone Description
  - Milestone Comments
  - Milestone Risks

- In the event that you are unable to complete the proposed project within the 24-month timeframe, you must notify the CPUC as soon as you become aware of this prospect. Payment may be reduced for failure to satisfy this requirement.

12. Proposed Project Budget:

- Proposed budget for the project including:
  - a 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
  - the amount of CASF funds requested.

Note: At least 60% matching funds must be supplied by applicant.

13. Performance Bond Documentation:

- 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 the Communications Division within five business days after effective date of the project award. An applicant that certifies that the 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.

14. Proposed Pricing:

Proposed (initial year) monthly subscription fee for applicant's proposed broadband service(s). The monthly subscription fee should be the sum of all recurring rates and non-recurring charges the customer must pay to receive service during the initial year of service, expressed as a monthly average. All services upon which the monthly subscription fee is based should be clearly itemized. The monthly subscription fee should not include discounts or any other promotional offerings. The monthly subscription fee should represent the maximum amount that customers will pay, on average, for the duration that this price is committed (according to Item 15).

Also indicate, if any: service restrictions; option to bundle with other services; commitments; any requirements that customers must meet, or equipment that they must purchase or lease, in order to receive the service.

For each type and/or bundle of services that you propose to offer (or for each monthly subscription fee, if you propose to commit to more than one), provide the following:

- Proposed (initial year) monthly subscription fee for applicant's proposed broadband service(s).
- Initial service connection charges, if any;
- Other recurring rates;
- Other non-recurring charges;
- All services and equipment upon which the monthly subscription fee is based;
- Service restrictions; option to bundle with other services;
- Any commitments and/or requirements that customers must meet, or equipment they must purchase or lease, in order to receive service. Any such requirements can not be changed without Commission approval.

15. Price Commitment Period:

- The required Period of Commitment to which the initial price (listed in Item 14) is applicable for all households within the service area of the project. Minimum price guarantee period for each customer is one year;
- If you propose to require customer commitments to more than one monthly subscription fee (i.e., one amount for six months and a different amount for the next six months), list the duration and amount of each price guarantee separately (Note: you must make a separate showing for each amount in Item 14).

16. Financials - Financial Qualifications to Meet Commitments:

- 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 (i.e. first bullet above).

17. If Providing Voice Service:

- Availability of voice service that meets FCC standards for E-911 service and battery back-up;
- Listing of types of voice services offered;
- Timeframe of voice offering(s).

18. CEQA Compliance:

- Agreement to provide, prior to the first 25% payment, Proponent's Environmental Assessment (PEA). The PEA submission should include information on any land crossing sites requiring discretionary or mandatory permits or environmental review pursuant to CEQA (include the type of permit required, the name of the permitting agency/agencies and the Lead Agency if an environmental review is required). Also agree to identify, prior to the first 25% payment, any other special permits required with a cross reference to the government agencies from which the permits will be required for the project.

19. Affidavit of Application's Accuracy

Applicants are required to submit an affidavit, under penalty of perjury, that to the best of their knowledge all the statements and representations made in the application information submitted is true and correct (Appendix C). [34]

[34] Rule 1.1 of the Commission's Rule of Practice and Procedure.

Applicants are encouraged to reference the Final Report of the California Broadband Task Force, January 2008, which is available at www.calink.ca.gov/taskforcereport/.

V. Submission and Timelines

Completed applications should be filed electronically at http://www.cpuc.ca.gov/puc/ and a copy mailed separately to the Communications Division, Attn: California Advanced Services Fund. Since applications are not filed with the Commission's Docket Office, they will not be assigned proceeding number(s). The timeline for application submission and evaluation is as follows:

TIMELINE FOR SUBMISSION AND EVALUATION		
From	**To**	**Description**
I. For Unserved Areas		
7/3/2008		Initial deadline to submit funding requests for unserved areas
7/11/2008		Areas applied for, by CBG's and shapefile, will be posted on the Commission's CASF website
7/25/2008		Deadline for submitting letter challenges and letters of intent to submit a counter proposal in areas where applications have been received (refer to website posting)
7/26/2008	8/13/2008 (28 business days from receipt of application)	Evaluation of proposals *without* challenges and *without* counter proposals
8/15/2008 (30 business days from receipt of application)		CD responds to funding requests *without* challenges and *without* counter proposals (through letter to applicant informing the applicant that application has been evaluated and that the project qualifies for CASF funding; however, Final Approval will be by Commission resolution)
9/8/2008		Deadline for submitting counter proposals in areas where applications have been received (refer to website posting)
9/9/2008	10/17/2008 (28 business days from receipt of counter proposal application)	Evaluation of proposals *with* counter proposals
10/21/2008 (30 business days from receipt of counter proposal application)		CD responds to funding requests received *with* counter proposal (through letter to applicant informing the applicant that application has been evaluated and that the project qualifies for CASF funding; however, Final Approval will be by Commission resolution)
10/16/2008		Resolution(s) adopted by Commission approving funding application(s) *without* counter proposals

12/18/2008		Resolution(s) adopted by Commission approving funding application(s) *with* counter proposals

TIMELINE FOR SUBMISSION AND EVALUATION		
From	**To**	**Description**
II. For Underserved Areas		
8/4/2008		Initial deadline to submit funding requests for underserved areas
8/11/2008		Areas applied for, by CBG's and shapefile, will be posted on the Commission's CASF website
8/25/2008		Deadline for submitting letter challenges and letters of intent to submit a counter proposal in areas where applications have been received (refer to website posting)
8/26/2008	9/12/2008 (28 business days from receipt of application)	Evaluation of proposals *without* challenges and *without* counter proposals
9/16/2008 (30 business days from receipt of application)		CD responds to funding request *without* challenges and *without* counter proposals (through letter to applicant informing the applicant that application has been evaluated and that the project qualifies for CASF funding; however, Final Approval will be by Commission resolution)
10/7/2008		Deadline for submitting counter proposals in areas where applications have been received (refer to website posting)
10/8/2008	11/18/2008 (28 business days from receipt of counter proposal application)	Evaluation of proposals *with* counter proposals
11/20/2008 (30 business days from receipt of counter proposal application)		CD responds to funding request *with* a counter proposal (through letter to applicant informing the applicant that application has been evaluated and that the project qualifies for CASF funding; however, Final Approval will be by Commission resolution)
1/08/2009 (Tentative date; final date to be determined upon release of 2009 Commission Meeting schedule)		Resolution(s) adopted by Commission approving funding application(s) *without* counter proposals
1/22/2009 (Tentative date; final date to be determined upon release of 2009 Commission		Resolution(s) adopted by Commission approving funding application(s) *with* counter proposals

Meeting schedule		

CASF funding requests submitted after July 3, 2008, will be accepted but will be reviewed under a lower priority. Funding requests received between July 4, 2008 and August 4, 2008 will be treated as submitted at the same time. If necessary, a subsequent filing period between August 5, 2008 and October 6, 2008 will occur and all applications received in that period will be considered submitted at the same time. Subsequent filing periods, not to exceed three months, may be created by CD if applications do not exceed the available funds. After considering all of the unserved applications received by the initial deadlines, through October 6, 2008, and funds are still available, underserved area applications will be considered. These proposals will be reviewed and funded subject to the availability of remaining CASF funds.

VI. Proposal Checklist

The CASF Application Checklist Form (Appendix B) must be completed and attached to *each* project proposal.

VII. Scoring Criteria

This section describes the method by which applicants will be objectively evaluated on how well they meet the goals of the CASF program outlined in D.07-12-054. Judgment will be rendered in the form of a numerical score. Once applicants are assigned a score, they will be ranked in order from highest to lowest, with CASF money being allocated following this order until the entire fund has been allocated.

An evaluation team comprised of Commission staff will assess applications in each of the following areas: (i) Funds Requested per Potential Customer, (ii) Speed, (iii) Service Area, (iv) Timeliness of Completion of Project, (v) Pricing, (vi) Guaranteed Pricing Period, and (vii) Low-Income Areas by applying the corresponding formula and assigning weights. Points will be awarded based on consensus of the evaluation team.

The following table summarizes the adopted scoring criteria and weights:

Scoring Criteria

Criterion	Weight (Points)
i) Funds Requested per Potential Customers	40
ii) Speed	20
iii) Service Area	15
iv) Timeliness of Completion of Project	5
v) Pricing	10
vi) Guaranteed Pricing Period	5
vii) Low-Income Areas	5
TOTAL:	100

Applicants will be scored based on seven criteria with each criterion scored relative to the best offer (highest amount or lowest, where applicable (Max/Min). Relative scoring measures an applicant's performance by how well they do compared to all other applications. The application that does the "best" for each criterion is awarded more points and sets the standard for comparison with all other applications. Using points in the scoring formulas sets a limit on the effect each criterion will have on the total score and ensures that the optimum mix of CASF features sought by the Commission is made available by applicants.

Each criterion has a formula associated with it that determines its value and is scored accordingly. Applicants' data as reflected in their submission is entered in the formula for each criterion to generate the points for each criterion. Corresponding points for each of the criterion will be added together to determine each application's total score.

Example:

Among three applicants, each proposes to serve 100, 75, and 50 square miles respectively. The highest value is 100, therefore, each applicant will be scored relative to that. Thus, the first applicant's score for this factor would be (100/100)*15 = 15; the second applicant's would be (75/100)*15 = 11.25; and, the third applicant's would be (50/100)* 15 = 7.5.

i) Funds Requested per Potential Customers

This will be determined based on the number of customers the applicant will be able to serve divided by the funding amount asked for from the CASF should their proposal be accepted. Points will be determined based on the following formula:

$$\text{Min}(a) / a_i * 40$$

Where "a" is the funding amount ($) requested from the CASF divided by the number (#) of potential customers for the specific project being scored and Min(a) is the lowest funding amount ($) requested from the CASF divided by the number (#) of potential customers among all the eligible projects submitted.

$$a = \text{Funds Requested} / \text{Potential Customers}$$

Customers is defined as households and defined in California Public Utilities Code, §5890(j)(3). Data on households can be obtained from the U.S. Census Bureau.

ii) Speed

This criterion represents the difference between the current average advertised speed per customer available and the average advertised speed per customer available after the proposal is complete in the proposed areas. Applicants are encouraged to offer a minimum of 3 MBPS download and 1MBPS upload. Points will be determined based on the following formula:

$$b_i / \text{Max}(b) * 20$$

Where "b" is the sum of the square roots of the differences in upload and download speeds (MB) between pre- and post-project for the specific project being scored and Max(b) is the highest sum of the square roots of the differences in upload and download speeds among all the eligible projects submitted.

$$b = \sqrt{\sum_{p=1}^{n} \frac{NSUp - OSUp}{n}} + \sqrt{\sum_{p=1}^{n} \frac{NSDp - OSDp}{n}}$$

The square root of the average advertised speed increase is used to express the diminishing return to value associated with increasing speed. This encourages speed increases that are more noticeable and therefore valuable to the customer, but still rewards those who offer speeds far above the preferred 3 MBPS download and 1 MBPS upload.

Where:

NSU = New Speed Upload
Average advertised upload speed (MB) per customer post-proposal in the proposed areas.

OSU = Old Speed Upload
Average advertised upload speed (MB) per customer pre-proposal in the proposed areas.

NSD = New Speed Download
Average advertised download speed (MB) per customer post-proposal in the proposed areas.

OSD = Old Speed Download
Average advertised download speed (MB) per customer pre-proposal in the proposed areas.

iii) Service Area

Service area is the applicant's proposed area coverage including a list of CBGs and ZIP Codes, the total square miles, and any other appropriate geographical information. Points will be determined based on the following formula:

$$c_i / \text{Max}(c) * 15$$

Where "c" is the amount of area (Sq. Mi.) for the specific project being scored and Max(c) is the highest amount of area among all the eligible projects submitted.

iv) Timeliness of Completion of Project

This criterion measures the number of months the applicant will complete its proposal ahead of the 24 month cut-off date. Points will be determined based on the following formula:

$$d_i / \text{Max}(d) * 5$$

Where "d" is the number of months (Mo.) ahead of schedule for the specific project being scored and Max(d) is the highest number of months ahead of schedule among all the eligible projects submitted.

$$d = 24 - TT$$

where:

TT = Total Time (Mo.) to complete

The total amount of time the proposal will take to complete. Total Time may not exceed 24-months.

v) Pricing

This factor measures the price applicants will charge, on average, per Megabit. Points will be determined based on the following formula:
.

$$Min(e) / e_i * 10$$

Where "e" is the price ($/MB) of service for the specific project being scored and Min(e) is the lowest price of service among all the eligible projects submitted.

vi) Guaranteed Pricing Period

This measures the amount of time the applicant can guarantee the price of service beyond the mandatory year. Note: applicants must guarantee the initial price of their services in the proposed areas for at least one year. Points will be determined based on the following formula:

$$f_i / Max(f) * 5$$

Where "f" is the length (Mo.) of price guarantee for the specific project being scored and Max(f) is the highest length (Mo.) of price guarantee among all the eligible projects submitted.

$$f = \text{Months Guaranteed} - 12$$

vii) Low Income Areas

This will be determined based on the median household income of the potential customers in the applicant's proposed area. Points will be determined based on the following formula:

$$Min(g) / g_i * 5$$

Where "g" is the median household income ($) of the potential customers for the specific project being scored and Min(g) is the lowest median household income ($) of the potential customers among all the eligible projects submitted.
* Data on population and median household income per CBG can be obtained from the U.S. Census Bureau.

VIII. Selection

Projects that receive the highest number of points based on the scoring criteria described above will be granted CASF funding. Individual awards for CASF funding will be authorized by the Commission in a separate Commission resolution.

IX. Payment

Payment to the CASF recipient will be on a progress billing basis with the first 25% to be made upon the proponent's submission to the Commission staff of a progress report showing that 25% of the total project has been completed. Subsequent payments shall be made on 25% increments showing completion at 50%, 75%, and 100%. A project completion report will be required before full payment. Progress reports shall use both the schedule for deployment; major construction milestones and costs submitted in the proposals and indicate the actual date of completion of each task/milestone as well as problems/issues encountered, and the actions taken to resolve these issues/problems during project implementation and construction. Recipients shall also include test results on the download speed and upload speed on a per CBG and per ZIP Code basis in the final completion report. The progress report will be submitted and certified under penalty of perjury.

CASF recipients shall notify the Commission as soon as they become aware that they may not be able to meet the 24-month timeline. Payment will be reduced if applicants are unable to meet the 24-month timeline, and if they fail to notify the Commission of any delays in project construction or implementation.

Payment will be based upon receipt and approval of invoices/other supporting documents showing the expenditures incurred for the project in accordance with the CASF funding submitted by the CASF recipient in their application.

Payment will be made in accordance with, and within the time specified in, California Government Code commencing with Section 927.

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

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

X. Execution and Performance

Project start date shall be determined by the Commission and the CASF recipient after all approvals have been obtained. Should the recipient or Contractor fail to commence work at the agreed upon time, the Commission, upon five (5) days written notice to the CASF recipient, reserves the right to terminate the award.

In the event that the CASF recipient fails to complete the project, in accordance with the terms of approval granted by the Commission, the CASF recipient will be required to reimburse some or all of the CASF funds that it has received.

All performance under the award shall be completed on or before the termination date of the award.

APPENDIX B

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)
- ☐ **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)

- [ ] If matching funds are from applicant's capital budget, applicant must provide certification indicating this funding source (as opposed to outside funding sources).

- [ ] **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 (see Appendix C)**

Applications will be considered beginning: July 3, 2008
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

APPENDIX C

AFFIDAVIT

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 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: _____

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APPENDIX D

CASF Scoring - Scenario Analysis for 7 Hypothetical Proposed Projects -- For Illustrative Purposes Only

Raw Values

		Applicant A	Applicant B	Applicant C	Applicant D	Applicant E	Applicant F	Applicant G
	No. of Potential Customers	200	25	30	45	10	100	75
	Funds requested ($)	100,000	50,000	50,000	60,000	20,000	50,000	45,000
a	**Funds requested per potential customer ($)**	*500*	*2000*	*1667*	*1333*	*2000*	*500*	*600*
	Current average download speed	4.500	8.200	3.500	1.000	3.100	3.100	5.300
	Proposed average download speed	5.484	12.484	10	1.032	4.8	5.226	12.226
	square root of difference_download	0.375	0.782	0.964	0.068	0.493	0.551	0.995
	Current average upload speed	0.500	1.000	0.400	0.500	0.500	0.500	3.000
	Proposed average upload speed	0.984	4.284	6.500	1.000	1.700	2.126	6.926
	Square root of difference_upload	0.263	0.685	0.934	0.267	0.414	0.482	0.749
b	**Speed (MBPS)**	*0.638*	*1.467*	*1.897*	*0.335*	*0.907*	*1.033*	*1.744*
c	**Service Area (square miles)**	*100*	*75*	*50*	*500*	*175*	*750*	*750*
	Total time to complete	24	23	18	19	20	20	19
d	**Timeliness of Completion of Project (mo.)**	*0*	*1*	*6*	*5*	*4*	*4*	*5*
e	**Pricing ($ / MBPS)**	*5*	*10*	*5*	*6*	*7*	*10*	*5*
	Total months guaranteed	60	24	12	36	48	24	60
f	**Guaranteed Pricing Period (mo.)**	*48*	*12*	*0*	*24*	*36*	*12*	*48*
g	**Low-Income Areas**	*20,000*	*30,000*	*40,000*	*20,000*	*25,000*	*50,000*	*30,000*
	(median household income - median of all CBGs)							

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Weighted Scores

		Maximum Weight	Applicant A	Applicant B	Applicant C	Applicant D	Applicant E	Applicant F	Applicant G
a	Funds Requested per Potential Customer	40	40	10	12	15	10	40	33
			highest					highest	
b	Speed	20	7	15	20	4	10	11	18
					highest				
c	Service Area	15	2	2	1	10	4	15	15
								highest	highest
d	Timeliness of Completion of Project	5	0	1	5	4	3	3	4
					highest				
e	Pricing	10	10	5	10	8	7	5	10
			highest		highest				highest
f	Guaranteed Pricing Period	5	5	1	0	3	4	1	5
			highest						highest
g	Low-Income Areas	5	5	3.33333333	2.5	5	4	2	3.33333333
			highest			highest			
	Total scores		68.7	37.4	50.5	48.5	41.3	77.5	89.2
									highest
		Winning bid >>>							**45,000**
			Applicant A	**Applicant B**	**Applicant C**	**Applicant D**	**Applicant E**	**Applicant F**	**Applicant G**