

D R A F T

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T- 17280
July 8, 2010**

R E S O L U T I O N

**Resolution T- 17280 Rescinds Resolution T- 17187 by Releasing California
Advanced Services Fund (CASF) Grant Award to Broadband Associates
International for the Highway 299 Project**

Summary

This Resolution recognizes that the Highway 299 Broadband Project funded by the CASF will not be constructed due to the inability of Broadband Associates International (BBA) to demonstrate that it can complete the project by the approved project completion date. As a result, this Resolution effectively (1) rescinds Resolution T-17187, (2) disencumbers the CASF funds of \$7,830,720 awarded to BBA, and (3) makes available to new applicants the Census Block Groups (CBGs) that had been approved for the project.

Background

On December 20, 2007, the Commission approved D.07-12-054 which established the two-year CASF program to provide matching funds of up to 40% of the total project for the deployment of broadband infrastructure in unserved and underserved areas in California.¹ Resolution T-17143, approved on June 12, 2008, adopted application requirements, scoring criteria for the award of funds, and a prescribed timeline for other filings and notifications including a projected Commission Meeting date for final approval of award(s). To be able to secure the 40% CASF funding, applicants must fund 60% of the project through their own internally generated funds or through external sources and meet California Environmental Quality Act requirements.

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

In Resolution T-17187 (February 20, 2009), the Commission awarded a 40% CASF funding or \$7,830,720 to BBA for its Highway 299 broadband project in portions of Humboldt, Trinity, and Shasta Counties. Resolution T-17187 required BBA to complete the project within 11 months from Commission approval, secure a loan to fund 60% of the project cost and to get permits to use micro-trenching (use a depth cover of 12" instead of the 42" required by Caltrans) in laying fiber-optic lines.

Discussion

This resolution rescinds Resolution T-17187, disencumbers the CASF funds of \$7,830,720 awarded to BBA, and makes available to new applicants the Census Block Groups (CBGs) that had been approved for the project. BBA has not demonstrated its ability to complete the project within the approved timeframe for the following reasons:

- The 60% matching funds is not available at this time, and
- BBA has not been able to secure CALTRANS' approval of their proposal to use micro-trenching in Highway 299 for California Environmental Quality Act review purposes.

BBA has encountered significant delays in commencing construction activities because of financial and construction issues since February 2009. Given the current financial environment, BBA has been unable to secure the 60% matching funds and to receive commitments from local providers and prospective users to tap into BBA's Highway 229 proposed fiber. Further, in a letter to BBA dated August 26, 2009, Caltrans denied BBA's request to lay fiber to a depth of less than 42". Considering the additional cost involved in going from a 12" to a 42" depth cover, the inability of BBA to secure 60% funding for its project, and the lack of commitment and interest from local providers to tap into the BBA's Highway 299 fiber, CD concludes that this project is no longer viable and recommends that the CASF award to BBA be rescinded.

The Commission's rescission of the award nullifies Resolution T-17187, disencumbers the funds allocated for the project and makes the CBGs allocated to the project, as listed in Appendix A of this Resolution, available to new CASF project proposals.

Comments on Draft Resolution

In compliance with PU Code § 311(g), a notice letter was emailed on June 8, 2010 informing a) all CASF applicants filing under D.09-07-020, and b) parties on the service list of R.06-06-028 of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and will be available at this same website.

Findings

1. The California Advanced Services Fund (CASF) was adopted in Decision (D.) 07-12-054.
2. The CASF was established as a two-year program that will provide matching funds of up to 40% of the total project costs for the deployment of broadband infrastructure in underserved and underserved areas in California.
3. Resolution T-17143, approved on June 12, 2008, adopts the application requirements and scoring criteria for the award of funds, a prescribed timeline for other filings, and notifications including a projected Commission Meeting date for final approval of award(s). To be able to secure the 40% CASF funding, applicants must fund 60% of the project through their own internally generated funds or through external sources and meet California Environmental Quality Act requirements.
4. In Resolution T-17187 (February 20, 2009), the Commission awarded a 40% CASF funding of \$7,830,720 to BBA for its Highway 299 broadband project in portions of Humboldt, Trinity, and Shasta Counties.
5. Resolution T-17187 required BBA to complete the project within 11 months from Commission approval, secure a loan to fund 60% of the project cost and to get permits to use micro-trenching (use a depth cover of 12" instead of the 42" required by Caltrans) in laying fiber-optic lines.
6. BBA has not been able to demonstrate that it will be able to complete the project by the approved completion date because of the following reasons:
 - The 60% matching funds is not available at this time,
 - BBA has not been able to secure CALTRANS' approval of their proposal to use micro-trenching in Highway 299 for California Environmental Quality Act review purposes, and
 - BBA has not been able to secure the commitment of local providers and prospective users to tap into its fiber-optic line.
7. CD, therefore, recommends that the Commission rescind Resolution T-17187, disencumber the \$7,830,720 allocated for the project and make available the CBGs allocated to the project, as listed in Appendix A of this resolution, to new CASF project proposals.
8. A notice letter was emailed on June 8, informing a) all applicants filing for CASF funding and, b) parties on the service list of R.06-06-028 of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed

parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website.

THEREFORE, IT IS ORDERED that:

1. Resolution T- 17187 is rescinded, the CASF grant of \$7,830,720 is disencumbered and Census Block Groups listed in Appendix A of this Resolution are made available to other applicants/grants.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 8, 2010. The following Commissioners approved it:

PAUL CLANON
Executive Director

APPENDIX A
Resolution T- 17280
List of CBGs Open to New Applicants/Grants

60230101021
60230101024
60230103003
60230103004
60230103005
60890124001
60890124002
61050001003
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