

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Broadband, Video, and Market Branch**

**RESOLUTION T-17528
August 18, 2016**

RESOLUTION

Resolution T-17528: Rescinds funding for five previously awarded projects listed in Resolutions T-17182, T-17238, T-17421, T-17431, and T-17439, thereby releasing \$4,513,265 from the California Advanced Services Fund's Infrastructure Grant Account plus \$26,359 from the Revolving Loan Account, making those funds available for other applicants.

Summary

This Resolution rescinds California Advanced Services Fund (CASF) funding for five previously awarded CASF projects approved by Resolutions T-17182, T-17238, T-17421, T-17431, and T-17439. These rescissions would release the corresponding CASF grant funds totaling \$4,513,265, as well as a loan of \$26,359, and make any census block groups (CBGs) that remain unserved or underserved available to new applicants. The rescinded projects cover areas in Pinyon (Riverside County), Cazadero, The Sea Ranch, and Timber Cove (Sonoma County), Westport (Mendocino County), Monterey Dunes (Monterey County), and rural Shasta County.

Background

On November 21, 2008, the Commission adopted Resolution T-17182, which approved up to \$174,000¹ in grant funding for a Verizon backhaul upgrade project in the Pinyon area of Riverside County (Pinyon Project), as well as other grants.² On January 21, 2010,

¹ Composed of \$132,000 in infrastructure funds and \$42,000 in Contribution in Aid of Construction (CIAC).

² Resolution T-17182 awarded a total of six CASF grants to three different grantees. This resolution only affects the portion of Resolution T-17182 that awarded a grant to Verizon for its Pinyon project.

the Commission adopted Resolution T-17238, awarding Verizon a \$1,872,017³ grant for a DSL upgrade in several Sonoma County locales, including Cazadero, The Sea Ranch, and Timber Cove (Sea Ranch Project). On October 31, 2013, the Commission adopted Resolution T-17421, granting WillitsOnline LLC \$149,364 for a DSL project using microwave middle-mile service in Westport, Mendocino County (Westport Project). Resolution T-17431 followed on April 10, 2014, granting \$79,078 and loaning \$26,359 to Surfnet in order to fund a fiber backhaul to nodes in Monterey Dunes (near Castroville, in Monterey County) (Monterey Dunes Project). Finally, Resolution T-17439 was approved on June 26, 2014, granting \$2,238,806 to Shasta County Telecom, Inc., for the Shasta County Unserved and Underserved Broadband Project.

Discussion

Communications Division (CD) staff recommends that the portion of Resolution T-17182 related to Verizon's Pinyon project and the entirety of the resolutions T-17238, T-17421, T-17431, and T-17439 be rescinded for the following reasons:

A. Recipient failed to file reimbursement requests or completion reports

Resolutions T-17182 and T-17238 – Pinyon and The Sea Ranch projects:

These two grants were both approved more than six years ago. CD informed Verizon of the steps necessary to obtain reimbursement as well as the need to file completion reports. Periodic reminders were sent to Verizon on various occasions, such as when arranging a field visit to the project. Section IX of the Appendix to Resolution T-17143 (the resolution containing the CASF guidelines in effect at the time of the awards) required regular reporting of project progress and notes that grantees must file a project completion report.⁴ To date, CD has received no requests for payment from either Verizon or its successor Frontier Communications, nor has it received a completion report for either project.

Staff conducted a post-grant field visit for the Pinyon project in November 2013. Staff, accompanied by Verizon technicians, physically confirmed that the project was completed and conducted speed tests to verify that the service provided speeds above 3 Mbps download and 1 Mbps upload (the CASF requirement at

³ Composed of \$1,419,270 in infrastructure funds and \$452,747 in CIAC.

⁴ Resolution T-17143, page A-14.

the time of the award). Staff was informed by Verizon's former State Government Relations liaison that The Sea Ranch Project was also finished, although staff was unable to independently confirm. In any case, the California Broadband Availability Map shows that Comcast now offers served speeds in Cazadero and the response to a recent denied application confirmed that Cal-Neva Broadband offers served speeds in The Sea Ranch.⁵ According to the California Broadband Availability Map, Verizon offers underserved speeds in the Timber Cove area.

Verizon was given ample time and notification to request payment of these grants. Verizon has not complied with the guidelines, requirements and conditions associated with the granting of CASF funds as specified in T-17143. To date, the Commission has rescinded various approved projects for various reasons including non-compliance with program requirements.⁶ Based on the above, CD believes it is prudent to release these funds in order to make them available for other unserved or underserved areas. Therefore, CD recommends these Verizon grants be rescinded.

B. Recipient unable to complete project as approved

Resolution T-17421 – Westport:

Through a series of communications in 2015 and early 2016, the owner of WillitsOnline, LLC expressed his concerns that the microwave relay proposed in the original resolution could not be completed due to local opposition. The owner has sought an alternate middle-mile solution, but none has been forthcoming. All alternative methods to provide middle-mile connections would incur significant additional costs, possibly including costly environmental studies the company is unable to finance at this time.

The regional North Bay/North Coast Broadband Consortium has expressed concern that the area remains underserved and there have been informal contacts about the availability of the Westport area for new CASF grants.

⁵ ftp://ftp.cpuc.ca.gov/Telco/CASF/Grant_Loan/denial_letters/CASF_SeaRanch_%20Finding.pdf

⁶ D.12-02-015, p. 28.

This resolution would rescind the prior resolution without prejudice, allowing the former grantee or new applicants to apply for a CASF grant for the area with an updated project.

C. Recipient abandoned project

Resolution T-17431 – Monterey Dunes:

Surfnet notified the Commission on June 9, 2016, that it would be cancelling its Monterey Dunes Project.⁷ Surfnet stated that the local homeowners association, which had promised to provide Surfnet's matching funds, had withdrawn from the project and instead entered into an agreement with a local wireless Internet service provider to serve the area. To date, Surfnet has made no expenses eligible for reimbursement, and thus, the entire amount can be returned to the infrastructure account and all CBGs remaining unserved or underserved would be available to new applicants.

D. Recipient ceased communicating with CD staff

Resolution T-17439 – Shasta County Broadband Project:

D.12-02-015 requires that grantees submit quarterly progress reports on the status of the project irrespective of whether grantees request reimbursement or payment.⁸ Shasta County Telecom, Inc., has not filed any of the required quarterly progress reports related to its grant since April 27, 2015. That report noted only that "switch design/engineering was complete," telemetry tests were underway, and that weather had been a hindrance.⁹ Despite the requirement that CASF grantees report their progress quarterly, no subsequent communications have been received. On April 8, 2016, having had no contact since the first half of 2015, CD staff sent an inquiry about progress and said that unless CD heard otherwise from the applicant within one week, it would assume that the project was not being pursued. CD received no reply.

⁷ Letter from Surfnet CEO Mark Morgenthaler to CD, June 9, 2016.

⁸ D.12-02-015, Guidelines, Section X, p. 25.

⁹ Shasta County Telecom progress report, dated April 27, 2015.

CD has checked with local sources, including the Northeast California Connect Consortium, and found no evidence that any service has been offered by Shasta County Telecom, Inc. Further, the California Broadband Availability Map indicates that most of the area that was to be covered by this project remains underserved.

Despite numerous requests, the grantee has not contacted CD in more than a year. Because the grantee has not complied with CASF program requirements and has failed to fulfil its obligation to report any delays under the terms in Section V (B) of Resolution T-17439, CD recommends that the grant be rescinded.

No grant or loan payments have been made or requested on any of the five resolutions. A summary of the funds to be released is shown in the following table:

CASF Award Resolution	Applicant	Project	County	Grant Amount	Loan Amount
T-17182	Verizon	Pinyon	Riverside	\$174,000	\$0
T-17238	Verizon	The Sea Ranch	Sonoma	\$1,872,017	\$0
T-17421	WillitsOnline LLC	Westport	Mendocino	\$149,364	\$0
T-17431	Surfnet	Monterey Dunes	Monterey	\$79,078	\$26,359
T-17439	Shasta County Telecom	Shasta County Unserved and Underserved	Shasta	\$2,238,806	\$0
Total Amount Released:				\$4,513,265	\$26,359

Staff recommends approval of this resolution so that the \$4,513,265 in grant funds and \$26,359 in loan funds can be released and used for other CASF projects in the future.

Safety Impacts

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No safety impacts are expected because none of these projects are currently being acted upon.

Comments on Draft Resolution

In compliance with Public Utilities Code § 311(g), a notice letter was emailed on July 19, 2016, informing all parties on the CASF Distribution List of the availability of the draft of this resolution for public comments at the Commission's documents website at <http://www.cpuc.ca.gov/documents/>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website.

There was one comment: WillitsOnline, LLC requested an opportunity to "redeem" its grant, stating it had faced delays due to several factors and would like to complete the project using a alternate middle-mile connection. CD staff had a teleconference with WillitsOnline President Michael Ireton on August 9, 2016. Ireton presented a plan to connect Westport using an alternate manner, but the route would be significantly different and cost significantly more than in the 2013 plan. CD staff determined this would result in a substantially new project from the original proposal, and therefore continues to recommend that Resolution T-17421 be rescinded.

Should WillitsOnline, LLC choose to submit a revised application for the Westport area, CD staff has committed to assist the applicant in its preparation and would be amenable to expediting its analysis.

Findings

1. On November 21, 2008, the Commission adopted Resolution T-17182, approving several grants, including \$174,000 in CASF funding for a Verizon backhaul upgrade project in the Pinyon area of Riverside County.
2. On January 21, 2010, the Commission adopted Resolution T-17238, approving a \$1,872,017 grant for a Verizon DSL upgrade in several Sonoma County locales, including Cazadero, The Sea Ranch, and Timber Cove.
3. On October 31, 2013, the Commission adopted Resolution T-17421, approving a \$149,364 grant to WillitsOnline, LLC for construction of a DSL system in the Westport area of Mendocino County.

4. On April 10, 2014, the Commission adopted Resolution T-17431, granting \$79,078 and loaning \$26,359 to Surfnet in order to fund a fiber background to nodes in Monterey Dunes.
5. On June 26, 2014, the Commission adopted Resolution T-17439, awarding Shasta County Telecom \$2,238,806 in infrastructure grant funds in order to build a fixed wireless network in unserved and underserved areas in Shasta County.
6. In the almost eight years since its first award and almost six years since its second, neither Verizon nor its successor Frontier requested reimbursement for their CASF awards, nor was a completion report submitted for either project. Therefore, Verizon and Frontier have not complied with the guidelines, requirements, and conditions associated with the granting of CASF funds as specified in Resolution T-17143.
7. WillitsOnline, LLC has communicated its inability to complete its project as awarded.
8. In June 2016, Surfnet notified the Commission that it was cancelling its Monterey Dunes Project.
9. Shasta County Telecom, Inc. has not provided five successive quarterly reports about its project, failed in its obligations to report any delays under Section V (B) of Resolution T-17439, and has not responded to numerous CD inquiries.
10. CD recommends that the Commission rescind CASF funding for the five specified projects from Resolutions T-17181, T-17238, T-17421, T-17431, and T-17439 and declare any areas that remain unserved or underserved available for new applications.
11. The Commission should disencumber the cumulative amount of \$4,513,265 in grant funding and \$26,359 in loan funding allocated to the five projects and make the funds available for future CASF awards.
12. No safety impacts are expected as a result of this resolution.
13. A notice letter was e-mailed on July 19, 2016, informing all parties on the CASF Distribution List of the availability of the draft of this Resolution for public comments at the Commission's document website at:

<http://www.cpuc.ca.gov/documents>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website.

14. There was one comment from WillitsOnline, LLC, requesting that the company be given more time to revise its plan. CD staff determined such a revision would result in a project significantly different than the project that was approved in Resolution T-17421, and therefore its rescission is still recommended.

THEREFORE, IT IS ORDERED that:

1. The portion of Resolution T-17181 pertaining to the Verizon project in Pinyon (Riverside County) is hereby rescinded.
2. The following resolutions are hereby rescinded in full:
 - T-17238, pertaining to the Verizon projects in Cazadero, The Sea Ranch and Timber Cove (Sonoma County);
 - T-17421 pertaining to the WillitsOnline, LLC project in Westport (Mendocino County);
 - T-17431, pertaining to the Surfnet project in Monterey Dunes (Monterey County);
 - T-17439, pertaining to the Shasta Telecom, Inc., project for unserved and underserved areas in Shasta County.
3. The cumulative amount of \$4,513,265 in grant funding and \$26,359 in loan funding allocated to the five projects is disencumbered and made available for future CASF awards.
4. Any CBGs that remain unserved or underserved within the areas covered by the rescinded projects are eligible for future CASF grants.

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CD/JBJ

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on August 18, 2016. The following Commissioners approved it:

/s/ Timothy J. Sullivan

TIMOTHY J. SULLIVAN

Executive Director

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners