

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

**RESOLUTION T-17690
May 7, 2020**

RESOLUTION

Resolution T-17690: Approving Supplemental Funding for the Grant Application of the Karuk Tribe (U-7235-C), from the California Advanced Services Fund for \$10,820,150 requested for the Klamath River Rural Broadband Initiative Project.

SUMMARY

This Resolution approves funding in the amount of \$10,820,150 from the California Advanced Service Fund (CASF) Infrastructure Account for the Karuk Tribe to complete the Klamath River Rural Broadband Initiative (KRRBI) Project in Humboldt County.¹ This funding supplements the previously approved CASF funding amount of \$6,602,422 to deploy high-speed broadband services to 616 unserved households and numerous anchor institutions on the Karuk and Yurok homelands and to extend a middle-mile fiber optic route to a robust interconnection point.²

The additional funding enables the Karuk Tribe to cover costs associated with: (1) extending the middle-mile infrastructure to an interconnection point in McKinleyville (adding approximately 21.8 miles to the previously approved route of 82.3 miles); (2) providing the project with the appropriate level of management, permitting, engineering and environmental review; and (3) increased labor costs from changes to prevailing wage laws that were not in effect when the original grant was approved in 2013. This funding is approved under rules established in California Public Utilities Commission (Commission) Decision (D).18-12-018, which allows for the grant of 100 percent of project costs, based on funding criteria in Pub. Util. Code §§ 281(f)(13)

¹ California Public Utilities Commission Decision (D).12-08-026 granted limited facilities-based and resold local exchange service and non-dominant interexchange service authority (also known as a CPCN) to the Karuk Tribe (U-7235-C), August 29, 2012.

² California Public Utilities Commission Resolution T-17418, October 21, 2013. ([Resolution T-17418](#))

and 281(b)(2)(B)(i).

This Resolution also approves the request for a waiver from the program rules governing reimbursements for projects. The reimbursement procedures pursuant to CASF Infrastructure Account rules, based on increments of 25 percent of project costs, is modified to allow for reimbursements on accumulated billings of \$1,000,000, in order to provide necessary cash flow for successful completion of the KRRBI Project.

BACKGROUND

The CASF Infrastructure Grant Account (CASF Infrastructure) assists Internet service providers with building or upgrading broadband infrastructure in areas that are unserved by existing providers. The CASF program, initiated in 2008, was first adopted by the Commission in D. 07-12-054 and enacted into statute pursuant to Senate Bill (SB) 1193.

On October 15, 2017, Governor Brown signed Assembly Bill (AB) 1665 (Garcia)³ into law. This legislation amended the statute governing the CASF program, Public Utilities Code, section 281. The Commission issued D.18-12-018 to adopt the programmatic changes to the CASF Infrastructure Account. Appendix 1 of D.18-12-018 set forth the rules, application requirements and guidelines for the CASF Infrastructure Account.

On October 21, 2013, the Commission adopted Resolution T-17418. This granted the Karuk Tribe \$6,602,422 for the KRRBI Project to extend high-speed broadband service to approximately 80 square miles covering the Karuk Tribe and Yurok homelands in extremely rural and frontier environments in northern Humboldt County.⁴ The project proposed to install a middle-mile fiber optic network (comprising 82.3 miles) and a last-mile wireless broadband network to provide broadband access to 616 households in the communities of Orick, Orleans, Johnsons and Wautech, as well as to approximately 26 anchor institutions, including first responder agencies, schools and other state and federal offices.

On December 6, 2018, the Karuk Tribe requested payments for work completed and requested a waiver from CASF rules that require reimbursements based on increments

³ AB 1665 is codified at Public Utilities (Pub. Util.) Code § 281.

⁴ [Resolution T-17418](#).

of 25 percent of the work completed on a CASF project. The Commission approved the requested payments totaling \$1,620,220.09.⁵

On January 8, 2019 the Karuk Tribe signed an overhead facilities license agreement with Pacific Gas and Electric (PG&E) to enable the placement of communications infrastructure on PG&E's poles, rather than incurring the substantial cost of extensive trenching for underground placement of cables, as originally proposed and authorized in Resolution T-17418.

On November 5, 2019 the Karuk Tribe submitted a request for an additional \$11,329,178 in CASF funding for the KRRBI Project. The additional funding request was based on a change to the middle-mile fiber optic route and interconnection point previously authorized in Resolution T-17418. Details of the project, as revised by the request for supplemented funding, are outlined in Table 1.

Table 1. Additional Funding Request

Project	Unserved Households (number)	Last/Middle Infrastructure (miles)	Funding (dollars)
Approved per Resolution T-17418	616	82.3	\$6,602,422
Proposed Supplemental Funding	616	104.1	\$10,820,150
Total	616	104.1	\$17,422,572

Previous Reviews of Requests for Additional Funding. CASF Program rules and guidelines, along with previously adopted Commission Decisions related to the CASF Program, do not discuss a process for addressing requests for additional funding. Instead, Staff has reviewed these requests on a case-by-case basis, with the Commission approving requests for additional CASF Infrastructure Account funding when Staff determined that exogenous factors beyond the applicant's control were the main reason

⁵ Request of waiver of rules in D.12-02-015, Appendix 1, Section 11 was submitted to the Commission via letter to the Communications Division Director on December 6, 2018.

for cost increases.⁶ In the future, the Commission may develop procedures and rules to address changes to projects, including requests for additional funding, on a more systematic, procedural basis.⁷

Legislative Changes to the CASF Infrastructure Account Since Approval of Resolution T-17418. The Commission approved the KRRBI Project prior to the enactment of AB 1665. Among other items, AB 1665 revised the funding criteria to allow the Commission to fund all or a portion of a project on a case-by-case basis. Under the new statute, a new CASF application proposed to serve this project area would be eligible for 100 percent funding. Although the Karuk Tribe submitted a request for additional funds, Staff does not find the increase in costs resulted solely from exogenous factors beyond the grantee's control. Therefore, Staff evaluated the request as a new application subject to new rules established by D.18-12-018.

NOTICE

On December 10, 2019, the Commission publicly posted the summary and proposed project area map for supplemental funding requested for the KRRBI Project on the Commission's CASF webpage under "CASF Application Project Summaries" and sent notice regarding the project to its CASF Distribution List.⁸

PROTEST/CHALLENGES

No challenges were received.

DISCUSSION

In compliance with D.18-12-018, Staff determined that the KRRBI Project is eligible to receive supplemental funding of \$10,820,150 from the CASF Infrastructure Grant Account. The KRRBI Project is required to comply with all the guidelines, requirements,

⁶ See for example: Resolution T-17658. Approves Additional CASF Funding of up to \$9,061,201 to Race Telecommunications to complete the Gigafy Phelan Project, October 17, 2019 and Resolution T-17408, California Broadband Cooperative to complete the Digital 395 Project, September 6, 2013.

⁷ See the Commission's most current CASF Annual Report for a summary of previously approved infrastructure grants at: <https://www.cpuc.ca.gov/General.aspx?id=9226>. Notwithstanding the development of new rules, in the event that the Commission receives requests for additional funding for previously approved grants, the Communications Division will recommend funding levels to the Commission in a draft Resolution, based on guidelines indicated in previous Commission decisions and resolutions.

⁸ CASF Applications Project Summaries. See <https://www.cpuc.ca.gov/General.aspx?id=1040>.

and conditions associated with the grant of CASF Infrastructure Funds. Payments to the KRRBI project will be made in accordance to the Pub. Util. Code § 281 (f)(11).

Details of Staff analysis are explained in the following sections:

- I. Project Area Eligibility
- II. Minimum Performance Criteria
- III. Funding Determination
- IV. Safety and Community Support
- V. Compliance Requirements
- VI. Payments to CASF Recipients

Key project information and maps are shown in Appendices A, B and C.

I. Project Area Eligibility

The KRRBI Project has not fundamentally altered the last-mile service areas as authorized under Resolution T-17418. The number of unserved households remains unchanged.

The additional middle-mile infrastructure is indispensable and is required to provide service to these Tribal areas. The funding significantly increases the middle-mile fiber route distance from 82.3 to 104.1 miles. Currently, there is no available middle-mile fiber optic cable infrastructure along the proposed route that would fulfill the KRRBI Project's requirements. The Karuk Tribe has contacted middle-mile fiber providers in and near the project area, but no provider could meet the requirements of secure interconnection and capacity to support the project with safe, secure connections and backhaul capabilities. Without the middle-mile infrastructure, the KRRBI Project will be unable to deliver last-mile service to the unserved households and the critical communications infrastructure that provides public safety in this remote area. The investment of high capacity backhaul will benefit many households, businesses, and anchor institutions beyond the CASF project areas. Staff determined that the proposed middle-mile infrastructure is necessary to serve the project.⁹

Middle-mile infrastructure is eligible for CASF grant funding. The middle-mile route extension travels through census blocks where an existing facility-based broadband

⁹ Pub. Util. Code § 281(f)(5)(B) specifies that for projects that include funding for middle-mile infrastructure, the Commission is required to verify that the proposed middle-mile infrastructure is indispensable for accessing the last-mile infrastructure.

provider has accepted funds from the Federal Communications Commission's (FCC) Connect America Fund Phase II program (CAF II). Pub. Util. Code section 281(f)(5)(C)(i) prohibits CASF funding for a project located in CAF II census blocks, with some exceptions. Staff finds an exemption to the requirements of Section 281(f)(5)(C)(i) is appropriate, as this provision prohibits the funding of *last-mile* broadband deployment within CAF II census blocks, but should not prohibit CASF funding of *middle-mile* infrastructure that merely travels through CAF II census blocks, if those CAF II census blocks lack adequate broadband middle-mile infrastructure.¹⁰

With respect to providing CASF funding to build and deploy the KRRBI Project's middle-mile infrastructure, the Commission has previously ordered that "[t]he KRRBI middle-mile network shall be made available for wholesale access to other potential CASF grantees at reasonable rates and terms. These reasonable rates shall be at cost."¹¹ That order advanced the goals of CASF program. Staff recommends that because middle-mile infrastructure will be utilized to support broadband deployment within the proposed project and provide increased means for interconnection within the region, that the Commission adopt a similar requirement herein.

II. Minimum Performance Criteria

Staff reviewed the KRRBI Project application and determined that the proposed project meets the minimum performance criteria pursuant to D.18-12-018, Appendix 1, Section 6, as summarized in Table 2.

Table 2. Minimum Performance Criteria

	CASF Performance Criteria	Proposed Projects
Project Completion	CEQA-exempt projects must be completed within 12 months, and all other projects shall be completed within 24 months after receiving authorization to construct	Yes - 24 months after CEQA approval

¹⁰ This interpretation is supported by Pub. Util. Code section 281(f)(5)(C)(ii), which allows CASF funding for projects that supplement a CAF II grant, funding infrastructure to expand broadband service beyond that provided by CAF II funding. In the case of the KRRBI project, the funding for the middle-mile infrastructure would expand broadband service to areas unserved by the CAF II funding, in census blocks outside of the CAF II area. See also, the Commission's discussion of supplemental grants for CAF II census blocks. D.18-12-018, pp 54-55.

¹¹ [Resolution T-17418](#), Ordering Paragraph 6.

Pricing	Price commitment for two years after completion of the project	Yes - 2-year commitment
Speed	At least 10/1 Mbps	10/1 Mbps
Latency	Maximum of 100 ms of latency	25 ms
Data Caps	Minimum of 190 GBs per month	No data cap
Affordability	Must offer low-income plan	Yes - \$15.00/month

The Commission must review all CASF projects in accordance with California Environmental Quality Act (CEQA) requirements unless the project is statutorily or categorically exempt pursuant to CEQA rules. The KRRBI Project is subject to CEQA review and the project must be completed within 24 months from the start date (when the applicants have secured CEQA approval from the Commission and all required permits).¹²

The KRRBI Project commits to its broadband pricing plan, including latency and data cap requirements for residential users, for two years starting from the beginning date of service (see Table 3). There is no long-term commitment required of the consumer and activation and installation fees will be waived. The KRRBI Project commits for two-years to offer a low-income plan at \$15.00 per month, waiving all activation and installation fees.

Table 3. KRRBI Broadband Pricing Plans

Download Speed	Upload Speed	Monthly Price
10 Mbps	1 Mbps	\$15.00 ¹³
10 Mbps	1 Mbps	\$45.00
15 Mbps	2.5 Mbps	\$85.00
25 Mbps	3 Mbps	\$125.00

III. Funding Determination

Table 4 provides a comparison of Karuk Tribe's funding request and Staff's recommendations for the KRRBI Project.

Table 4. Summary of Proposed Funding

¹² See Section V.A and V.B of this Resolution for details of CEQA compliance requirement.

¹³ Low income plan offering.

Project	Supplemental Funding Requested
KRRBI Project	\$11,329,178
Staff Recommendation	\$10,820,150

Staff's analyzed the supplemental funding application for the KRRBI Project and found that the project could potentially be funded at 100 percent. However, the budget proposal for the KRRBI Project included a line item for a performance bond, which is no longer required under the rules.¹⁴ Staff recommends that the amount of \$509,028, requested for the performance bond, be removed from the total project budget of \$11,329,178, which would adjust the total of the grant funding to \$10,820,150.

AB 1665 authorizes the Commission to award grants to fund all or a portion of projects and requires that it determine, on a case-by-case basis, the level of funding to be provided. Staff considered the funding criteria to determine the grant funding level, as described by Pub. Util. Code §§ 281(f)(13) and 281(b)(2)(B)(i), and CASF program rules adopted in D.18-12-018.

Table 5 summarizes Staff's funding level determination for the project.

Table 5. Criteria for Project Funding Level for the KRRBI Project

Funding Criteria	KRRBI Project
Baseline for Eligible Project (60%)	60%
Service Level Preference: Only Dial-up or No Internet Connectivity (up to 40%)—no fixed or mobile broadband	0%
Low Income – (up to 40%) <ul style="list-style-type: none"> Median Household Income for community is less than CARE standard for family of 4, which is currently \$51,500 (30%) Applicant serves low-income customers for no more than \$15/month (10%) 	30% 10%
Others: PU Code Sec 281(f)(13) Criteria – (up to 20%) <ul style="list-style-type: none"> Inaccessible Location (10%) Uses Existing Infrastructure (10%) Makes a Significant Contribution to the Program Goal (10%) 	10% 0% 10%

¹⁴ See D.18-12-018, p. 38; see also PUC § 1013(f), and D.13-05-035.

Total Funding Level	100%¹⁵
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Details of the appropriate funding level are described below.

A. Baseline for Eligible Project Qualifies for 60 Percent Funding Level

The CASF program is intended to finance capital costs for the deployment of broadband facilities in unserved areas of California. The identified communities of Orick, Orleans, Johnsons, and Wautec meet all the eligibility criteria, as previously described in the Project Area Eligibility section.

B. Service Level Preference Does Not Qualify for an Additional 40 Percent Funding

Public Utilities Code § 281(b)(2)(B)(i) encourages the Commission to give preference to projects in areas with no Internet connectivity or where Internet connectivity is available only through dial-up service that are not served by any form of wireline or wireless facility-based broadband service. According to the California Interactive Broadband Map, all the proposed project areas are unserved by wireline or fixed wireless broadband service; however, Staff discovered the area does have access to mobile data service which qualifies as Internet connectivity thereby eliminating this criteria for additional funding.¹⁶

C. Low Income Considerations Qualify for an Additional 40 Percent Funding

The median household income in each of the Census Block Groups in the KRRBI Project area is below \$51,500 and thus qualifies for an additional 30 percent funding, as the median household income is below the threshold for the Commission's Alternate Rates for Energy program (CARE).¹⁷ The Karuk and Yurok Tribes, through the KRRBI Project, also commit to offer low-income customers a discounted broadband plan at \$15.00 per month, which meets the criteria for an additional 10 percent funding.

D. Other Factor Considerations Qualify for an Additional 20 Percent Funding

Staff determined the KRRBI Project makes a significant contribution to the CASF program goals and is eligible for an additional 10 percent funding. The Redwood Coast

¹⁵ Per D.18-12-018, maximum funding level cannot exceed 100 percent.

¹⁶ Interactive Broadband Map: <http://www.broadbandmap.ca.gov/>.

¹⁷ Alternate Rates for Energy Program (CARE): <https://www.cpuc.ca.gov/General.aspx?id=976>.

Connect Consortium, to which the communities belong, have not yet reached the 98 percent goal of deploying broadband Internet service at served speeds; therefore, these projects will make a significant contribution to the program goal.¹⁸

Staff determined the KRRBI Project, located in a remote area of California, does meet the “inaccessible location” criteria and is eligible for an additional 10 percent funding. The complex terrain of the region makes it very difficult to build and deploy facilities that provide advanced broadband communications.

The KRRBI Project does not leverage existing infrastructure and requires new fiber to be constructed; therefore, it does not qualify for additional funding under the “Uses Existing Infrastructure” criteria.

E. Consideration of Matching Funds

In Resolution T-17418, the KRRBI Project budget was authorized for \$6,602,422 in CASF Infrastructure Grant Funding, which comprised 51.5 percent of the total project cost. The CASF funding amount was determined and authorized under the program rules extant in 2013, that allowed for a maximum of 70 percent funding, thereby requiring that the project secure matching funds. The U.S. Department of Agriculture’s Rural Utility Service and High Energy Cost Grant Program (USDA) were the primary contributors of the matching funds.

Under the new CASF Infrastructure grant program rules, matching funds are no longer required; the program can fund up to 100 percent of the project costs.¹⁹ However, nothing precludes the KRRBI Project proponents from securing additional matching funds as needed to meet the estimated total project costs of \$25,989,112.²⁰

IV. Safety and Community Support

The CASF program encourages the deployment of broadband throughout the State to enable the public to access Internet-based safety applications, tele-health services, emergency services, and to allow first responders to communicate and collaborate

¹⁸ CASF Annual Report 2018 at p. 4. See:

https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/About_Us/Organization/Divisions/Office_of_Governmental_Affairs/Legislation/2019/CASF%202018%20Annual%20Report%20April%202019.pdf.

¹⁹ Pub. Util. Code §281(f)(13) states that the Commission may award grants to fund all or part of project.

²⁰ Total project costs are estimated to be \$25,989,112. The portion funded by CASF is \$17,422,572, which includes \$6,602,422 authorized in Resolution T-17418 and \$10,820,150 authorized in this Resolution.

during emergencies. The project is highly supported by the community for its potential to remove barriers to economic and workforce development, health care, education and public safety.

The KRRBI Project will provide a network to support enhanced communications services in a Tier 2 High Fire-Threat District.²¹ Reliable broadband connectivity is crucial for public safety and rapid response and recovery from wildfires and other potential disasters. The communities of Orick, Orleans and Weitchpec are designated by CalFire as “Communities at Risk” of damage from wildfires,²² due to the recent increase in the occurrence of wildfires.²³

V. Compliance Requirements

The Karuk Tribe is required to comply with all the guidelines, requirements, and conditions associated with the grant of CASF funds as specified in D. 18-12-018. Such compliance includes, but is not limited to, the items noted below.

A. California Environmental Quality Act (CEQA)

The KRRBI Project is subject to CEQA review. The Commission’s Energy Division (CEQA Unit) must complete CEQA review prior to Commission disbursement of CASF funds for construction activities. The funding granted in this Resolution may initially only be used for project development and other activities that do not involve construction or that would not have any direct or indirect effect on the physical environment.

Prior to any construction activity, the Karuk Tribe is required to seek further authority from the Commission for such activity by filing a Proponent’s Environmental Assessment (PEA) pursuant to Commission Rule of Practice and Procedure 2.4; and must undergo an environmental review pursuant to CEQA (California Public Resources Code § 21000 et seq.). The Karuk Tribe should contact the Supervisor of the CEQA Unit well in advance of a contemplated filing to (a) consult with staff regarding the process of developing and filing a PEA; (b) provide for cost recovery per Rule of Practice and

²¹ Fire-Threat Maps & the High Fire-Threat District (HFTD). See: <https://www.cpuc.ca.gov/FireThreatMaps/>.

²² CalFire Communities at Risk List. See: <https://osfm.fire.ca.gov/divisions/wildfire-planning-engineering/fire-plan/communities-at-risk/>.

²³ First responder agencies include but are not limited to: Karuk Tribal Police & Fire, Yurok Tribal Fire, Wautec Fire House, Cal Fire Forest Fire Station, Orick Volunteer Fire Department, Orick Cal- Fire Elk Camp, Redwood National Park, Redwood State Parks and Orleans Volunteer Fire Department.

Procedure 2.5; and (c) enter into a Memorandum of Understanding to allow the Energy Division to initiate the retention of an environmental contractor to perform the environmental review.

The Karuk Tribe may file a completed CEQA review conducted by another agency acting as the Lead Agency pursuant to CEQA. The Karuk Tribe should make every effort to ensure that the CEQA Unit is aware of and included in the CEQA process if it is conducted by another agency acting as the CEQA Lead Agency.

The Karuk Tribe must provide a completed PEA prior to the first payment. The Commission cannot release funds for the construction project until the Commission has completed CEQA review. The Karuk Tribe has agreed to provide a PEA and has requested a level of funding in the supplemental request that is consistent with providing adequate funding to successfully complete CEQA and National Environmental Policy Act (NEPA) review for the KRRBI Project. The additional funding requested is comprised of costs associated with CEQA and NEPA review as well as funding to cover increased permitting costs and agency fees associated with extending the project to an interconnection point in McKinleyville (adding approximately 21.8 miles to the approved route of 82.3 miles).

B. Deployment Schedule

The Commission expects the Karuk Tribe to complete the project within 24 months from the start date once the applicants have secured CEQA approval from the Commission and all required permits. If the applicant is unable to complete the proposed project within the 24-month requirement, the applicant must notify the Director of the Commission's Communications Division as soon as possible. If such notice is not provided, the Commission may reduce payment for failure to satisfy this timely notification requirement.

C. Execution and Performance

Staff and the Karuk Tribe shall determine a project start date after the CASF grant recipient has obtained all approvals, including CEQA permits. Should the Karuk Tribe or any retained contractor fail to commence work by the designated date, the Commission may terminate the grant after five days written notice. If the Karuk Tribe fails to complete the project in accordance with the terms of the Commission approval as set forth in this resolution, the Karuk Tribe shall reimburse some or all of the CASF funds that it has received. The Karuk Tribe must complete all construction on the KRRBI Project on or before the grant's termination date.

D. Letter of Credit

The Commission exempts Certificate of Public Convenience and Necessity (CPCN) holders from providing a letter of credit; CPCN holders are required to submit a performance bond to the Commission, therefore a letter of credit is unnecessary.²⁴ The applicant provided proof of CPCN registration and therefore is exempt.²⁵

E. Project Audit

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. Any of the KRRBI Project invoices submitted for payment will be subject to a financial audit by the Commission at any time within three years of completion of the work.

F. Providing Voice Service

If the KRRBI Project plans to provide voice service in the project area, it must meet the Federal Communications Commission (FCC) standards for E-911 service and battery backup.

G. Reporting

The Karuk Tribe must submit semi-annual progress reports on the status of the project irrespective of whether grantees request reimbursement or payment during that reporting period. Progress reports shall reflect the schedule for deployment, major construction milestones and costs submitted in the proposal, the actual date of completion of each task/milestone as well as problems and issues encountered, and the

²⁴ See D.18-12-018, p. 38; see also PUC §1013(f), and D.13-05-035.

²⁵ D.12-08-026 granted a CPCN to the Karuk Tribe (U-7235-C) on August 29, 2012.

actions taken to resolve these problems and issues. Any potential known risks to the project must be identified.

Before the Commission completes full payment of the project, the Karuk Tribe must submit a project completion report, which shall also include test results on the download and upload speeds by census block. The Karuk Tribe must certify that each progress report is true and correct under penalty of perjury.

H. Submission of Form 477

The FCC currently requires broadband providers to semiannually submit Form 477, which includes speed data. While there is an imperfect match between the data that are reported in Form 477 and data relevant to the CASF program, the Form 477 data will be useful in documenting CASF deployment for the service provider's new service. Pursuant to Commission Resolution T-17143, service providers in California must submit a copy of their Form 477 data directly to the Commission, concurrent with their submission of the same data to the FCC, for a five-year period after completion of the project.²⁶

I. Prevailing Wage

Section 1720 of the California Labor Code specifies that CASF-subsidized projects are subject to prevailing wage requirements. The Karuk Tribe has committed to follow state prevailing wage requirements for this project.

VI. Payments to CASF Recipients

The Commission may reimburse the Karuk Tribe's expenses in accordance to Pub. Util. Code § 281(f)(11). Details of reimbursable expenses are contained in Appendix 1, Section 14.

In December 2018, prior to the Commission publishing the updated CASF Infrastructure Grant Account rules in D.18-12-018, the Karuk Tribe requested a waiver from the existing requirement that reimbursements be made in increments of 25 percent

²⁶ Approval of the California Advanced Services Fund (CASF) Application Requirements and Scoring Criteria for Awarding CASF Funds (2008) Cal. P.U.C. Res. T-17143 at 4.

of the work completed.²⁷ The request for waiver was to allow for reimbursements on accumulated billings of \$1 million.²⁸

The Karuk Tribe has requested similar treatment in the supplemental application being considered in this Resolution. Although the reimbursement rules were modified in D.18-12-018 to allow for reimbursement at increments of 10, 35, 60, 85 and 100 percent of project costs, the proponent requests a waiver to allow for reimbursements on accumulated billings of \$1 million. The rationale for the waiver is to provide a more predictable and necessary cash flow for successful completion of the KRRBI Project. The project proponents posit that their Tribal governments do not have access to capital to support the infrastructure deployment during the period of the build. Staff recommends that a waiver of program rules that govern reimbursements for the KRRBI Project be granted to allow reimbursements based on \$1 million increments.

COMMENTS ON DRAFT RESOLUTION

In compliance with Pub. Util. Code § 311(g), a notice letter was e-mailed on April 8, 2020, informing all parties on the CASF Distribution List of the availability of the draft of this resolution and of the opportunity for comments. The draft resolution was publicized on the Commission's website at <http://www.cpuc.ca.gov/PUC/documents/>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website.

FINDINGS

1. On November 5, 2019 the Karuk Tribe (U-7235-C) submitted a request for an additional \$11,329,178 in CASF funding for the KRRBI Project. The additional funding request was based on a change to the middle-mile fiber optic route and interconnection point previously authorized in Resolution T-17418.
2. On December 10, 2019, Staff posted a project summary of the KRRBI Project and the proposed project area map. The summary was posted on the "CASF

²⁷ For project costs accrued by the KRRBI Project approved in T-17418.

²⁸ Request of waiver of rules in Decision (D).12-02-015, Appendix 1, Section 11 was submitted to the Commission via letter to the Communications Division Director on December 6, 2018. The procedures for reimbursements, based on increments of 25 percent of project costs, is modified to allow for reimbursements on accumulated billings of \$1 million.

Applications Project Summaries” webpage, which may be found on the Commission’s CASF webpage.

3. Staff received no challenges to the KRRBI Project request for supplemental funding.
4. Based on its review, Staff determined that the project qualifies for funding pursuant to Pub. Util. Code section 281 and D. 18-12-018 and recommends Commission approval of CASF funding for the KRRBI Project of \$10,820,150 pursuant to the funding criteria in D. 18-12-018 and its Appendix 1.
5. The Commission has determined that the KRRBI Project is not categorically exempt from CEQA review.
6. The Commission finds that the KRRBI Project request to extend middle-mile infrastructure is indispensable to providing last mile service to unserved households in the project area.
7. The KRRBI Project provided proof of CPCN registration, granted by D.12-08-026, and therefore is exempt from providing a letter of credit or a performance bond, pursuant to D.18-12-018. The amount of \$509,208, requested for the performance bond, is removed from the total project budget of \$11,329,178, which adjusts the total of the grant funding to \$10,820,150.
8. The KRRBI Project request for a waiver of the CASF Infrastructure Grant Account rules governing reimbursements is granted to allow for reimbursements on accumulated billings of \$1 million.
9. A notice letter was e-mailed on April 8, 2020, informing all applicants filing for CASF funding and parties on the CASF distribution list of the availability of the draft of this Resolution and of the opportunity to comment. The draft resolution was publicized at the Commission’s website <http://www.cpuc.ca.gov/PUC/documents/>. This letter also informed parties that the final confirmed Resolution adopted by the Commission will be posted and available at this same website.

THEREFORE, IT IS ORDERED that:

1. The Commission shall award \$10,820,150 to the Karuk Tribe to complete the KRRBI Project as described herein and summarized in Appendix A of this Resolution, which shall be paid out of the CASF Infrastructure Grant Account in accordance with the guidelines adopted in D. 18-12-018 and its Appendix 1, and with the process defined in Appendix C “Payments to CASF Recipients” of this Resolution.
2. The Karuk Tribe shall comply with all guidelines, requirements and conditions associated with a CASF award as specified in D.18-12-018 and its Appendix 1, all requirements for this project contained in this Resolution and must submit FCC Form 477 to the Commission, as specified in Resolution T-17413 and Resolution T-17418 (the original funding Resolution).
3. The Commission shall waive the rules governing reimbursement increments established in D.18-12-018 and allow reimbursement increments of \$1 million in order for the Karuk Tribe to maintain proper cash flow during project build out.
4. The amount of \$509,028, requested for the performance bond, is removed from the total project budget of \$11,329,178, which adjusts the total of the grant funding to \$10,820,150.
5. The Commission finds that the KRRBI Project request to extend middle-mile infrastructure is indispensable to providing last mile service to unserved households in the project area.
6. Pursuant to Ordering Paragraph 6 of Resolution T-17418, the KRRBI middle-mile network shall be made available for wholesale access to other potential CASF grantees at reasonable rates and terms. These reasonable rates shall be at cost.
7. If the Karuk Tribe fails to complete the project in accordance with the CASF guidelines and requirements outlined in D.18-12-018 and its Appendix 1, and the terms in this Resolution, the Karuk Tribe must reimburse some or all of the CASF funds that it has received.
8. The Karuk Tribe must complete and execute the consent form (to be sent to the Grantee after this Resolution is adopted) agreeing to the conditions set forth in this Resolution and return it to the CASF Staff within 30 calendar days from the date of

the adoption of this Resolution. Failure to submit the consent form within 30 calendar days from the adoption date of this Resolution may result in the Commission voiding the grant award.

9. The Commission cannot release funds for construction activities until CEQA review is complete. The KRRBI Project is required to comply with the requirements set forth in the CEQA Section of the Resolution. The KRRBI Project must provide the PEA prior to the first payment. CASF will reimburse Energy/Communications Division for all costs related to the PEA.

This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on _____. The following Commissioners adopted it:

Alice Stebbins
Executive Director

APPENDIX A
Resolution T –17690
The Karuk Tribe Klamath River Rural Broadband Initiative Project
Key Information

<i>Project Name</i>	Klamath River Rural Broadband Initiative Project
<i>Project Plan</i>	The project will install a 104.1-mile middle-mile fiber optic network as well as provide last mile fixed wireless broadband access to eight first responder agencies and fourteen other anchor institutions, as well as 616 households, in Orick, Orleans, Wautec, Johnsons and Weitchpec.
<i>Project Size (in square miles)</i>	80 square miles
<i>Download/ upload speed (in Mbps)</i>	10 / 1 Mbps for \$15.00/month (Low Income Plan) 10 /1 Mbps for \$45.00/month 15 /2.5 Mbps for \$85.00/month 25 /3 Mbps for \$125.00/month
<i>Location</i>	Humboldt County
<i>Community Name</i>	Orleans, Orick, Wautec, and Weitchpec
<i>CBGs/ Household Income</i>	060230101021 - \$38,194 060230101023 - \$35,469 060230101022 - \$12,375 060230102001 - \$40,694
<i>Census Blocks</i>	395
<i>Estimated Potential Subscriber Size Households/ Subscribers</i>	616
<i>Deployment Schedule (from Commission approval date)</i>	24 months
<i>Amount of CASF Funds Requested</i>	\$11,329,267
<i>Amount of CASF Funds Awarded</i>	\$10,820,150

APPENDIX B
Resolution T-17690
The Karuk Tribe Klamath River Rural Broadband Initiative Project
Project Area Map



APPENDIX C
Resolution T-17690
The Karuk Tribe Klamath River Rural Broadband Initiative Project
Payments to CASF Recipients

Pub. Util. Code § 281(f)(11) define the costs the Commission may reimburse as follows:

- Costs directly related to the deployment of infrastructure;
- Costs to lease access to property or for Internet backhaul services for a period not to exceed five years; and
- Costs incurred by an existing facility-based broadband provider to upgrade its existing facilities to provide for interconnection.

Additionally, D. 18-12-018 (Appendix 1, Section 7) caps administrative expenses directly related to the project at 15 percent of the grant amount.²⁹

The grantee may submit reimbursement requests at the following intervals:

- \$1,000,000 until project completion.³⁰

The final payment request will not be paid without an approved completion report. Payments are based on submitted receipts, invoices and other supporting documentation showing expenditures incurred for the project in accordance with the approved CASF funding budget included in the CASF grantee's application.

Payment to grantees shall follow the process adopted for funds created under P.U. Code § 270. The Commission generally processes payments within 20-25 business days, including Communications Division and Administrative Services review time. The State Controller's Office (SCO) requires an additional 14- 21 days to issue payment from the day that requests are received by SCO from Administrative Services.

²⁹ Administrative costs are defined as "indirect overhead costs attributable to a project, per generally accepted accounting principles (GAAP), and the direct cost of complying with Commission administrative and regulatory requirements related to the grant itself." Applicants seeking additional funds will require a Commission exemption included in a draft resolution.

³⁰ Resolution T-17690, Ordering Paragraph #3 (this Resolution) states "the Commission shall waive the 25 percent reimbursement increments and allow reimbursement increments of \$1 million in order for the Karuk Tribe to maintain proper cash flow during project build out."