

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

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

**RESOLUTION T- 17748  
November 18, 2021**

**R E S O L U T I O N**

**RESOLUTION T-17748: Approves up to \$1,712,901.47 from the California Advanced Services Fund for the Broadband Infrastructure Grant Account applications of Charter Communications Operating, LLC on behalf of its affiliated entities Spectrum Pacific West, LLC, Charter Fiberlink CA-CCO, LLC (U-6878-C), and Time Warner Cable Information Systems California, LLC (U-6874-C) for the Kingswood Estates Project and the River Oaks Project.**

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**I. SUMMARY**

This Resolution approves grant funding in the amount of up to \$1,712,901.47 from the California Advanced Services Fund (CASF) Broadband Infrastructure Grant Account (Infrastructure Account) for two grant applications from Charter Communications Operating, LLC (Charter). Collectively, these projects will serve 75 households.

The two projects approved are:

| <b>Applicant</b> | <b>Project</b>    | <b>Households</b> | <b>Requested Amount</b> | <b>Approved Amount</b> |
|------------------|-------------------|-------------------|-------------------------|------------------------|
| Charter          | Kingswood Estates | 34                | \$967,536.19            | \$967,536.19           |
| Charter          | River Oaks        | 41                | \$745,365.28            | \$745,365.28           |
| Total            |                   | 75                | \$1,712,901.47          | \$1,712,901.47         |

**II. BACKGROUND**

The CASF Infrastructure Account provides grant funding to Internet service providers to build or upgrade broadband infrastructure in areas that are unserved by existing broadband providers. The CASF program was initiated in 2008, after the program was

first adopted by the California Public Utilities Commission (Commission) in Decision (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)<sup>1</sup> into law. This legislation amended the statute governing the CASF program, Public Utilities Code § 281. The Commission issued D.18-12-018 adopting the programmatic changes to the CASF Program. Appendix 1 of D.18-12-018 set forth the rules, application requirements and guidelines for the CASF Infrastructure Account.

The most recent Infrastructure Account grant application deadline was May 4, 2020.<sup>2</sup>

On June 29, 2020, Governor Newsom signed AB 82 into law, amending Public Utilities Code § 281 to authorize leveraging of CASF Infrastructure grant funding to supplement the costs of broadband infrastructure already funded, in whole or in part, by the federal Rural Digital Opportunity Fund (RDOF).<sup>3</sup> In an effort to effectively utilize both state and federal funding toward meeting the CASF program goals, the Commission has deferred project applications that include areas eligible to receive RDOF for consideration until after the results of the RDOF Phase I (Auction 904) have been published.<sup>4,5</sup>

On March 10, 2021, the Commission issued D. 21-03-006 modifying data submission requirements and requiring open access for CASF projects. Revised CASF program guidelines were set forth in Appendix A of D. 21-03-006.

On July 20, 2021, Governor Newsom signed historic broadband legislation to help bridge the digital divide.<sup>6</sup> Among other things, SB 156, authored by the Committee on Budget and Fiscal Review, instituted several changes to the CASF program. The bill changed the definition of “unserved area,” allowing, but not requiring, funding for “an area for which there is no facility-based broadband provider offering at least one tier of

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<sup>1</sup> AB 1665 is codified at Public Utilities (Pub. Util.) Code § 281.

<sup>2</sup> The Commission extended the CASF Infrastructure application deadline from April 1 to May 4, 2020, and all subsequent deadlines are moved back by five weeks due to the COVID-19 public health emergency. *See* Executive Director Letter to CASF Distribution and Service Lists, Postponement of the 2020 CASF Infrastructure Application Deadlines, March 20, 2020.

<sup>3</sup> *See* Public Utilities Code § 281(b)(1)(B)(ii)(II).

<sup>4</sup> *See* D.21-01-003, p. 23.

<sup>5</sup> *See* March 26, 2021 “Postponement of the Deadline for Action on Pending CASF Infrastructure Applications and the Deadline for Submitting 2021 CASF Infrastructure Applications” Letter to CASF Service and Distribution Lists, available at <https://www.cpuc.ca.gov/casf/>.

<sup>6</sup> <https://www.gov.ca.gov/2021/07/20/governor-newsom-signs-historic-broadband-legislation-to-help-bridge-digital-divide/>.

broadband service at speeds of at least 25 mbps downstream, 3 mbps upstream . . . ”<sup>7</sup> However, in the interests of administrative efficiency and to ensure proper notice to project applications, the Commission will use the standard of 6 mbps downstream and 1 mbps upstream to determine eligibility for funding for project applications submitted in 2020.

Further, SB 156 changed the requirements for the infrastructure that could be funded by the CASF program. Pursuant to Pub. Util. Code Sec. 281(f)(5), the Commission may only fund projects that “deploy infrastructure capable of providing broadband access at speeds of a minimum of 100 mbps downstream and 20 mbps upstream . . . ” This is a clear legislative directive to the Commission, which the Commission must implement immediately. All infrastructure funded by the CASF program must be capable of providing broadband access at speeds of a minimum of 100 mbps downstream and 20 mbps upstream.

### III. APPLICANT REQUESTS AND NOTICE

On May 4, 2020, the Communications Division received 54 applications<sup>8</sup> for the CASF Infrastructure Account. On May 18, 2020, Staff posted the proposed project area map, census block groups (CBGs) and Zone Improvement Plan (ZIP) Codes for the Kingswood Estates and River Oaks projects on the Commission’s CASF webpage<sup>9</sup> under “CASF Application Project Summaries” and sent notice regarding the project to the CASF Distribution List.<sup>10</sup>

### IV. APPLICATION REVIEW AND EVALUATION

Staff reviewed all applications according to the guidelines, requirements, and evaluation adopted in D.21-03-006, as follows:

- Project Area Eligibility
- Minimum Performance Criteria

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<sup>7</sup> See Pub. Util. Code Sec. 281(b)(1)(B)(ii)(I).

<sup>8</sup> See <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/california-advanced-services-fund/casf-infrastructure-project-summaries> for project summaries and <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/california-advanced-services-fund/casf-infrastructure-grant/casf-infrastructure-approved-projects> for approved projects.

<sup>9</sup> <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/california-advanced-services-fund/casf-infrastructure-grant>.

<sup>10</sup> [https://www.cpuc.ca.gov/-/media/cpuc-website/files/uploadedfiles/cpuc\\_public\\_website/content/utilities\\_and\\_industries/communications\\_-\\_telecommunications\\_and\\_broadband/service\\_provider\\_information/casfdistributionlist.xlsx](https://www.cpuc.ca.gov/-/media/cpuc-website/files/uploadedfiles/cpuc_public_website/content/utilities_and_industries/communications_-_telecommunications_and_broadband/service_provider_information/casfdistributionlist.xlsx)

- Funding Determination
- Safety and Community Support

Staff's review and evaluation of the applications is summarized below.

### **A. Charter Kingswood Estates**

Charter submitted a CASF Infrastructure application requesting 100 percent funding of \$967,536.19 to deploy last-mile hybrid fiber coaxial (HFC) technology to households in the Kingswood Estates community in Tahoe Vista, Placer County. The project will enable broadband access at speeds of up to 940 Mbps download and 35 Mbps upload to 34 CASF-eligible households.

### **Applicant**

Charter was formed in 1993 and became a publicly traded company in 1999. Charter, Time Warner Cable and Bright House Networks combined in 2016 to form the provider that now serves approximately 28 million customers in the United States. Charter received approval for the merger in D.16-05-007 and received its latest state-wide video franchise update from the Commission in 2018. Charter offers high speed Internet service, Voice over Internet Protocol (VoIP), as well as cable television service in California through a number of plans, including Spectrum Internet Assist for qualifying low-income households.

### **Project Area Eligibility**

No provider filed a valid "right-of-first refusal" for Charter's Kingswood Estate project area by January 15, 2020,<sup>11</sup> nor does the proposed project area include census blocks identified by the Federal Communications Commission's (FCC) Connect America Fund Phase II program.<sup>12</sup> There are no existing facilities-based wireline or fixed wireless

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<sup>11</sup> Pub. Util. Code § 281(f)(4)(A)(ii), repealed in 2021, prohibited the Commission from awarding CASF funding to a project applicant if the existing facility-based broadband provider demonstrates, in response to the Commission's annual offer, that it will deploy broadband or upgrade existing broadband service throughout the proposed project area within 180 days.

<sup>12</sup> Pub. Util. Code § 281(f)(5)(C)(i), repealed in 2021, prohibited the Commission, prior to July 1, 2020, from awarding CASF funding to a project applicant where an existing facility-based broadband provider has accepted federal funds for broadband deployment from Phase II of the Connect America Fund.

broadband service providers in the project area. According to the latest 2019 California Interactive Broadband Map,<sup>13</sup> the area is unserved; only dial-up service is available.<sup>14</sup>

According to the latest 2019 California Interactive Broadband Map,<sup>15</sup> two census blocks are served. On June 28, 2021, Staff directed Charter to remove two census blocks shown as served on the latest California Interactive Broadband Map. On July 28, 2021, Charter sent a revised application summary and project budget that complied with Staff's request to remove two of the four census blocks reflected in its original application.

**Table 1: Charter Kingswood Estates Project Revision**

| Submission Date | Census Blocks | Unserved Households | Funding Requested |
|-----------------|---------------|---------------------|-------------------|
| 05/04/2020      | 4             | 50                  | \$2,165,514.85    |
| 07/28/2021      | 2             | 34                  | \$967,536.19      |

i. Challenges

Pursuant to Public Util. Code Sec. 281(f)(8) and as required by D.18-12-018, the Commission provided an opportunity for entities to challenge the applications. Challenges were due on June 8, 2020.

Exwire, Inc. filed a timely challenge to the Charter Kingswood Estates Project. The Commission updates its California Interactive Broadband Map once a year after collecting broadband deployment data from providers. The data are validated using a number of resources including technical information such as loop length, consumer feedback and location of subscribers. The latest map is based on December 2019 data and was published in December 2020. The latest map should reflect (or should have reflected) the challenges claimed by the challenger if the provider submitted correct broadband data to the Commission for the annual data submission. Therefore, the challenge is denied since the latest 2019 California Interactive Broadband Map shows the project area is eligible.

ii. RDOF

The proposed project areas do not include census blocks identified by the FCC as eligible to receive RDOF awards as part of Phase I (Auction 904).<sup>16</sup>

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<sup>13</sup> With data as of December 31, 2019.

<sup>14</sup> Dial-up provides speed less than 200 Kbps downstream and 200 Kbps upstream.

<sup>15</sup> With data as of December 31, 2019.

<sup>16</sup> See <https://www.broadbandmap.ca.gov/federal/funding/>.

**Minimum Performance Criteria**

Staff reviewed Charter’s application and determined the Kingswood Estates Project meets the minimum performance criteria pursuant to D.21-03-006, Appendix A, Section 6, as summarized in Table 2.

**Table 2: Minimum Performance Criteria**

|                           | <b>CASF Performance Criteria</b>   | <b>Proposed Project</b>   |
|---------------------------|--|---------------------------|
| <b>Project Completion</b> | CEQA-exempt projects must be completed within 12 months, and all other projects shall be completed within 24 months after receiving authorization to construct | 9 months<br>(CEQA Exempt) |
| <b>Pricing</b>            | Prices committed for two years after completion of the project   | 2-year                    |
| <b>Speed</b>              | At least 100/20 Mbps <sup>17</sup>   | 940 / 35 Mbps             |
| <b>Latency</b>            | Maximum of 100 ms of latency   | < 100 ms                  |
| <b>Data Caps</b>          | Minimum of 190 GBs per month   | No data cap               |
| <b>Affordability</b>      | Must offer low-income plan   | \$17.99                   |

**Project Completion and CEQA**

Charter’s Kingswood Estates Project is categorically exempt from California Environmental Quality Act (CEQA) review. Charter has provided the Commission with its plan to use existing roads, rights-of-way, and utility easements for the installation of aerial and underground fiber cable. The project site is an existing residential area in Tahoe Vista, located on north shore of Lake Tahoe in Placer County. The proposed project is located throughout the Kingswood Estates community.

The Kingswood Estates Project, comprising approximately 4.7 total miles of new plant throughout the community includes linear plant extension along a trench route or aerial strand. The new plant includes both the infrastructure to connect the community to the tie-in point and the distribution facilities through the community and may entail both fiber and coaxial cable in parallel. In total, the project includes 2.2 miles of new coaxial cable and 2.5 miles of new fiber sheath. One new coax node will be added at the end of the fiber tie-in point located 2.5 miles from the property entrance. Approximately 0.32

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<sup>17</sup> SB 156, enacted in July 2021 and effective immediately, requires the Commission to fund projects that “deploy infrastructure capable of providing broadband access at a minimum of 100 Mbps downstream and 20 Mbps upstream . . .” See Pub. Util. Code Sec. 281(f)(5).

miles of underground laterals will be used to connect households within the community. Charter expects to install laterals using new conduit and avoid the existing dry utility conduit in compliance with CPUC safety standards.

The project will not involve work in any new right-of-way or on previously undisturbed ground. New aerial strand will be placed along existing utility poles and no new poles will be added. Underground and at-grade installation will occur along existing utility routes, within previously disturbed right-of-way adjacent to existing roadways.

Charter's methods of aerial installation will follow General Order 95 pole safety and loading requirements. Permits required for the project likely will include one or more construction permits from Placer County and/or the Tahoe Regional Protection Agency (which oversees certain land use planning and development issues for the Lake Tahoe region), and an encroachment permit from the California Department of Transportation for installation within the state highway right-of-way (SR 267).

Based on the above information, the Commission's Energy Division has confirmed that the project meets the criteria of the CEQA categorical exemptions found in CEQA Guidelines, 14 C.C.R. § 15301 (Existing Facilities) and 14 C.C.R. § 15303 (New Construction or Conversion of Small Structures). Thus, the entirety of Charter's Kingswood Estates Project is categorically exempt from CEQA.

### **Pricing, Speed, Latency, Data Caps, and Affordability**

Charter commits to fixed residential and low-income broadband pricing plans for two years starting from the completion of the project. Charter will waive all standard installation and service connection fees in the project areas for broadband service customers during the first two years.<sup>18</sup> Additionally, low-income subscribers are eligible for the Spectrum Internet Assist Program that provides low-cost, high speed broadband access for \$17.99 per month (30 Mbps download / 4 Mbps upload and includes a free modem).

Charter's current nationwide pricing plans for broadband services are provided below in Table 3, below.

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<sup>18</sup> Standard installations are installations to residences and buildings that are located up to 125 feet from the point of connection to Charter's existing distribution system.

**Table 3: Charter Broadband Pricing Plan<sup>19</sup>**

| Download Speed | Upload Speed | Monthly Price |
|----------------|--------------|---------------|
| 30 Mbps        | 4 Mbps       | \$17.99       |
| 200 Mbps       | 10 Mbps      | \$74.99       |
| 400 Mbps       | 20 Mbps      | \$94.99       |
| 940 Mbps       | 35 Mbps      | \$134.99      |

The proposed speed offerings (up to 940 Mbps download and up to 35 Mbps upload) meet the 100/20 minimum performance requirement. Charter’s network will also be capable of providing commercial broadband access in excess of 1,000 Mbps upload and download to anchor institutions and small businesses near the project area.

**Funding Determination**

Charter is eligible to receive 100 percent funding to cover the cost of its Kingswood Estates Project. Staff considered the statutory factors to determine the grant funding level, as described by Pub. Util. Code § 281(f)(11) and CASF program rules adopted in D.21-03-006, Appendix A. Table 4, below, details Staff’s funding level determination for the project.

**Table 4: Criteria for Project Funding Level for the Charter Kingswood Estates Project**

| Funding Criteria   | Proposed Project |
|--|------------------|
| Baseline for Eligible Project (60%)  | 60%              |
| Service Level Preference: Only Dial-up or No Internet Connectivity (up to 40%)   | 40%              |
| Low Income – (up to 40%) <ul style="list-style-type: none"> <li>• Median Household Income for community is less than CARE standard for family of 4, which is currently \$53,000 (30%)<sup>20</sup></li> <li>• Applicant serves low-income customers for no more than \$15/month (10%)</li> </ul> | 0%               |
| Others: PU Code § 281(f)(11) Criteria – (up to 20%) <ul style="list-style-type: none"> <li>• Inaccessible Location (10%)</li> <li>• Uses Existing Infrastructure (10%)</li> </ul>  | 0%<br>10%<br>10% |

<sup>19</sup> These rate plans reflect increases from the original application, as the Commission granted price increases for these rate plans in Resolution T-17747, approved September 23, 2021.

<sup>20</sup> <https://www.cpuc.ca.gov/care/>

|  |                          |
|--|--------------------------|
| • Makes a Significant Contribution to the Program Goal (10%) |                          |
| <b>Total Funding Level</b>                                   | <b>100%<sup>21</sup></b> |

**Baseline for an Eligible Project qualifies for 60 percent funding.** The CASF program is intended to finance capital costs of projects deploying broadband facilities in unserved areas of California. The identified Kingswood Estates Project area meets all the eligibility criteria, as previously described in the Project Area Eligibility section.

**Service Level Preference qualifies for an additional 40 percent funding.** According to the latest 2019 California Interactive Broadband Map, Staff confirmed all the proposed project areas are unserved by wireline or fixed wireless broadband service and is therefore eligible for an additional 40 percent funding.

**Low Income Consideration does not qualify for additional funding.** The median household income of the census block group in the proposed project area is \$70,521 and exceeds the CASF low-income eligibility threshold. For those with incomes at or below the federal poverty level, Charter will offer a \$17.99 monthly plan.<sup>22</sup> This does not meet the CASF criteria for affordable low-income pricing and therefore does not qualify for additional funding.

**Other Factor Considerations qualify for an additional 20 percent funding.** The Kingswood Estates project meets two of the three criteria defined in Pub. Util. Code § 281(f)(11) and qualifies for the additional 20 percent funding.

The proposed project is eligible for an additional 10 percent funding for use of existing infrastructure. Charter proposed to use existing utility poles for deployment of its HFC service offering

The project makes a significant contribution to the program goal and is eligible for an additional 10 percent funding. The Kingswood Estates Project area is located within the Gold Country Broadband Consortium which, at 95.7 percent served, is below the CASF program goal.<sup>23</sup> Therefore, this project will make a significant contribution to the program goal.

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<sup>21</sup> D.21-03-006. Summary of Funding Criteria - Maximum funding level is 100 percent.

<sup>22</sup> Spectrum Internet Assist is the nation-wide low-income plan offered by Charter. See <https://www.spectrum.com/browse/content/spectrum-internet-assist.html>.

<sup>23</sup> See 2020 Annual Report on the CASF Program, California Public Utilities Commission, Issued April 2021, page 14, Table 7: Remaining Unserved Households in Each Consortia Region.

### **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, telehealth services, emergency services, and to allow first responders to communicate and collaborate during emergencies.

The project will enhance public safety; according to the Commission's Fire Map, Kingswood Estates is located in a Zone 2 "Elevated Fire Risk" fire threat area as of March 2021.<sup>24</sup>

Assemblymember Megan Dahle representing the 1<sup>st</sup> District, Senator Brian Dahle, representing the 1<sup>st</sup> District, the Placer County Board of Supervisors, the Deputy CEO – Placer County, the North Lake Tahoe Resort Association/Chamber/CVB, and the Tahoe Prosperity Center and Andrew Wilkinson, the author of the Tahoe Basin Broadband Feasibility Study, July 2019 sent letters of support to the Commission. The community supports the Kingswood Estates Project and acknowledges the importance of broadband to residents, community institutions, and businesses in the area. Each of these supporters recognize Charter's commitment to further expand its high-speed broadband services across California and its low-cost, high speed broadband option through the Spectrum Internet Assistance Program.

### **B. Charter River Oaks Project**

Charter submitted a CASF Infrastructure application requesting 100 percent funding of \$745,365.28 to deploy last-mile hybrid fiber coaxial (HFC) technology to households in the unincorporated community of River Oaks in San Benito County. The project will enable broadband access at speeds of up to 940 Mbps download and 35 Mbps upload to 41 CASF-eligible households.

### **Project Area Eligibility**

No provider filed a valid "right-of-first refusal" for the River Oaks Project area by January 15, 2020,<sup>25</sup> nor does the proposed project area include census blocks identified by the Federal Communications Commission's (FCC) Connect America Fund Phase II

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<sup>24</sup> <https://ia.cpuc.ca.gov/firemap/>.

<sup>25</sup> Pub. Util. Code § 281(f)(4)(A)(ii), repealed in 2021, prohibited the Commission from awarding CASF funding to a project applicant if an existing facility-based broadband provider demonstrated, in response to the Commission's annual offer, that it would deploy broadband or upgrade existing broadband service throughout the proposed project area within 180 days."

program.<sup>26</sup> On June 28, 2021, Staff received Charter’s revised application summary and project budget wherein Charter removed the one census block deemed ineligible based on the review of the 2019 California Interactive Broadband Map.<sup>27</sup> See Table 5 below for details of the revised project.

**Table 5: Charter River Oaks Project Revision**

| Submission Date | Census Blocks | Unserved Households | Funding Requested |
|-----------------|---------------|---------------------|-------------------|
| 05/04/2020      | 8             | 43                  | \$829,461.66      |
| 07/28/2021      | 7             | 41                  | \$745,365.28      |

iii. Challenges

Staff received no challenges to the project.

iv. RDOF

While some portions of this project overlap with RDOF-eligible areas, Etheric Communications, LLC did not receive California ETC status; therefore, Staff did not remove the RDOF-eligible areas for this project.<sup>28</sup>

**Minimum Performance Criteria**

Staff reviewed Charter’s application and determined the River Oaks Project meets the minimum performance criteria pursuant to D.21-03-006, Appendix A, Section 6, as summarized in Table 6.

**Table 6: Minimum Performance Criteria**

|                           | CASF Performance Criteria  | Proposed Project          |
|---------------------------|--|---------------------------|
| <b>Project Completion</b> | CEQA-exempt projects must be completed within 12 months, and all other projects shall be completed within 24 months after receiving authorization to construct | 8 months<br>(CEQA Exempt) |
| <b>Pricing</b>            | Prices committed for two years after completion of the project   | 2-year                    |

<sup>26</sup> Pub. Util. Code § 281(f)(5)(C)(i), repealed in 2021, prohibited the Commission, prior to July 1, 2020, from awarding CASF funding to a project applicant where an existing facility-based broadband provider had accepted federal funds for broadband deployment from Phase II of the Connect America Fund.

<sup>27</sup> <https://www.broadbandmap.ca.gov/>.

<sup>28</sup> Etheric Communications, LLC applied for ETC authority in Application (A.)21-01-002, which is pending review. See: <https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=All&DocID=359000951>.

|                      |                                    |                 |
|----------------------|------------------------------------|-----------------|
| <b>Speed</b>         | At least 100/20 Mbps <sup>29</sup> | 940 / 35 Mbps   |
| <b>Latency</b>       | Maximum of 100 ms of latency       | < 100 ms        |
| <b>Data Caps</b>     | Minimum of 190 GBs per month       | No data cap     |
| <b>Affordability</b> | Must offer low-income plan         | \$17.99 monthly |

**Project Completion and CEQA**

Charter’s River Oaks Project is categorically exempt from California Environmental Quality Act (CEQA) review. Charter has provided the Commission with its plan to use existing roads, rights-of-way, and utility easements for the installation of aerial and underground fiber cable. The project area is in the community of River Oaks in the unincorporated area of San Benito County, directly to the south of State Route (SR) 129, in between a large rock quarry operation to the west and the intersection of SR 129 and the U.S. 101 highway to the east.

The River Oaks Project will involve approximately 13.89 total miles of new plant, including both the feeder line to connect the project site to the existing tie-in point, as well as the distribution facilities through the project site to connect to individual residences. The tie-in point to the existing infrastructure is located to the southwest of the project site, within the community of Aromas, on Carpenteria Road near the intersection with Seely Avenue. The connection to the project area from the existing tie-in point will run north along Carpenteria Road through Aromas, then it will cross Aromas Road/Quarry Road and continue running north along Rogge Lane to the intersection with SR 129, then it will run east along SR 129 to a new node located adjacent to SR 129 just to the west of the intersection with School Road. Within the project area to the south of SR 129, Charter will install facilities along existing utility poles; no new poles will be added.

Charter’s methods of aerial installation will follow General Order 95 pole safety and loading requirements. Where aerial installation is not feasible, installation will occur underground along existing roadways, within previously disturbed right-of-way and established utility easements.

Charter is expected to obtain encroachment permits from San Benito County for installation within the county public right-of-way and from the California Department of Transportation for installation within SR 129 right-of-way.

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<sup>29</sup> SB 156, enacted on July 20, 2021, and effective immediately, requires the Commission to fund projects that “deploy infrastructure capable of providing broadband access at a minimum of 100 Mbps downstream and 20 Mbps upstream . . .” See Pub. Util. Code Sec. 281(f)(5).

Based on the above information, the Commission’s Energy Division has confirmed that the project meets the criteria of the CEQA categorical exemptions found in CEQA Guidelines, 14 C.C.R. § 15301 (Existing Facilities) and 14 C.C.R. § 15303 (New Construction or Conversion of Small Structures). Thus, the entirety of the River Oaks Project is categorically exempt from CEQA.

**Pricing, Speed, Latency, Data Caps, and Affordability**

Charter commits to fixed residential and low-income broadband pricing plans for two years starting from the completion of the project. Charter will waive all standard installation and service connection fees in the project areas for broadband service customers during the first two years.<sup>30</sup> Additionally, low-income subscribers are eligible for the Spectrum Internet Assist Program that provides low-cost, high speed broadband access for \$17.99 per month (30 Mbps download / 4 Mbps upload and includes a free modem).

Charter’s current nationwide pricing plans for broadband services are provided below in Table 7, below.

**Table 7: Charter Broadband Pricing Plan<sup>31</sup>**

| <b>Download Speed</b> | <b>Upload Speed</b> | <b>Monthly Price</b> |
|-----------------------|---------------------|----------------------|
| 30 Mbps               | 4 Mbps              | \$17.99              |
| 200 Mbps              | 10 Mbps             | \$74.99              |
| 400 Mbps              | 20 Mbps             | \$94.99              |
| 940 Mbps              | 35 Mbps             | \$134.99             |

The proposed speed offerings (up to 940 Mbps download and up to 35 Mbps upload) meet the 100 Mbps download and 20 Mbps upload minimum performance requirement. Charter’s network will also be capable of providing commercial broadband access in excess of 1,000 Mbps upload and download to anchor institutions and small businesses near the project area.

**Funding Determination**

Charter is eligible to receive 100 percent funding to cover the cost of its River Oaks Project. Staff considered the statutory factors to determine the grant funding level, as described by Pub. Util. Code § 281(f)(11) and CASF program rules adopted in D.21-03-

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<sup>30</sup> Standard installations are installations to residences and buildings that are located up to 125 feet from the point of connection to Charter’s existing distribution system.

<sup>31</sup> These rate plans reflect increases from the original application, as the Commission granted price increases for these rate plans in Resolution T-17747, issued September 23, 2021.

006, Appendix A. Table 8, below, details Staff’s funding level determination for the project.

**Table 8: Criteria for Project Funding Level for the Charter River Oaks Project**

| <b>Funding Criteria</b>  | <b>Proposed Project</b>   |
|--|---------------------------|
| Baseline for Eligible Project (60%)  | 60%                       |
| Service Level Preference: Only Dial-up or No Internet Connectivity (up to 40%)   | 40%                       |
| Low Income – (up to 40%) <ul style="list-style-type: none"> <li>• Median Household Income for community is less than CARE standard for family of 4, which is currently \$53,000 (30%)<sup>32</sup></li> <li>• Applicant serves low-income customers for no more than \$15/month (10%)</li> </ul> | 0%                        |
| Others: PU Code § 281(f)(11) Criteria – (up to 20%) <ul style="list-style-type: none"> <li>• Inaccessible Location (10%)</li> <li>• Uses Existing Infrastructure (10%)</li> <li>• Makes a Significant Contribution to the Program Goal (10%)</li> </ul>  | 0%                        |
| <b>Total Funding Level</b>   | <b>100%</b> <sup>33</sup> |

**Baseline for an Eligible Project qualifies for 60 percent funding.** The CASF program is intended to finance capital costs of projects deploying broadband facilities in unserved areas of California. The identified River Oaks project area meets all the eligibility criteria, as previously described in the Project Area Eligibility section.

**Service Level Preference qualifies for an additional 40 percent funding.** According to the latest 2019 California Interactive Broadband Map, Staff confirmed all the proposed project areas are unserved by wireline or fixed wireless broadband service and is therefore eligible for an additional 40 percent funding.

**Low Income Consideration does not qualify for additional funding.** The weighted median household income across the project’s two census block groups is \$83,496; this does not meet the CASF low-income eligibility threshold and therefore does not qualify

<sup>32</sup> <https://www.cpuc.ca.gov/care/>.

<sup>33</sup> D.21-03-006. Summary of Funding Criteria - Maximum funding level is 100 percent.

for additional funding. For households with incomes at or below the federal poverty level, Charter will offer a \$17.99 monthly plan.<sup>34</sup>

**Other Factor Considerations qualify for an additional 20 percent funding.** The River Oaks project meets two of the three criteria defined in Pub. Util. Code § 281(f)(11) and qualifies for the additional 20 percent funding.

The proposed project is eligible for an additional 10 percent funding for use of existing infrastructure. Charter proposed to use existing utility poles for deployment of its HFC service offering.

The project makes a significant contribution to the program goal and is eligible for an additional 10 percent funding. The River Oaks project area is located within the Central Coast Broadband Consortium area which, at 96.2 percent served, is below the CASF program goal.<sup>35</sup> Therefore, this project will make a significant contribution to the program goal.

### **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, telehealth services, emergency services, and to allow first responders to communicate and collaborate during emergencies.

The project will enhance public safety; according to the Commission's Fire Map, the River Oaks project is located in a Zone 2 "Elevated Fire Risk" fire threat area as of March 2021.<sup>36</sup>

State Senator Anna M. Caballero representing the 12<sup>th</sup> Senate District, the County of San Benito - Board of Supervisors, the Central Coast Broadband Consortium, Graniterock - private business in the area, and the San Benito County Business Council sent letters of support to the Commission. The community supports the River Oaks Project and acknowledges the importance of broadband to residents, community institutions, and businesses in the area. Each of these supporters recognize Charter's commitment to

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<sup>34</sup> Spectrum Internet Assist is the nation-wide low-income plan offered by Charter. See <https://www.spectrum.com/browse/content/spectrum-internet-assist.html>.

<sup>35</sup> See 2020 Annual Report on the CASF Program, California Public Utilities Commission, Issued April 2021, page 14, Table 7: Remaining Unserved Households in Each Consortia Region.

<sup>36</sup> <https://ia.cpuc.ca.gov/firemap/>.

further expand its high-speed broadband services across California and its low-cost, high speed broadband option through the Spectrum Internet Assistance Program.

## V. COMPLIANCE REQUIREMENTS

Charter is required to comply with all the guidelines, requirements, and conditions associated with the Infrastructure Account grant funding as specified in D.21-03-006 and this Resolution. Such compliance includes, but is not limited to those listed in Appendices A and B.

## VI. PAYMENTS TO CASF RECIPIENTS

The Commission may reimburse Charter's expenses in accordance with Pub. Util. Code § 281(f)(10). Details of reimbursable expenses are in Appendix B.

## VI. COMMENTS

In compliance with Pub. Util. Code section 311(g)(1), a Notice of Availability was e-mailed on October 15, 2021, informing all parties on the CASF Distribution List of the availability of the draft of this Resolution, and of the opportunity to comment, at the Commission's website at <http://www.cpuc.ca.gov/>. This letter also served to inform parties that the final conformed Resolution the Commission adopts will be posted and available on this same website.

Comments were submitted by Exwire, Inc. (Exwire, now known as Oasis Broadband Internet) on November 4, 2021.<sup>37</sup> Reply Comments were submitted by Charter on November 11, 2021.

### **Exwire's Comments**

Exwire asserts that a due process error has occurred because the lag between the time the Interactive Broadband Map is published and the date when new applications are "revealed" does not allow applicants to have visibility into applications that will eventually be submitted. Therefore, investment decisions and build outs by Exwire and other companies could not be included in the map but should be considered with respect to the award of grants. Exwire claims to have built out to certain eligible areas within the Kingswood Estates project area in 2019 but did not fully complete its wireless system. Those build outs did not show up on the Interactive Broadband Map,

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<sup>37</sup> CD received these comments at 9:05pm on November 4, 2021.

therefore allowing Charter to erroneously move forward with its application for the Kingswood Estates Project area.<sup>38</sup>

### **Charter's Reply Comments**

Charter asserts that Exwire's comments to draft Resolution T-17748 should be rejected on both substantive and procedural grounds.

Charter notes that Exwire's comments should be rejected as they were submitted at 9:05 p.m. on November 4, 2021 after the close of business, that Exwire did not notify the Communications Division of this late submission as required in the Notice of Availability, and that Exwire's comments were not in a form that suggested proposed changes to the draft Resolution.

Charter asserts that Exwire's claim of impingement of its due process rights is unfounded. Charter further asserts that Exwire does not dispute that the 2019 Interactive Broadband Map, upon which Charter's application was based, and the 2020 Interactive Broadband Map referenced in the draft Resolution, both show that the project area census blocks at issue are unserved.<sup>39</sup> Also, in its May 2020 application seeking CASF funding, Exwire did not disclose to the Commission that it had already started the project in 2019 but affirmatively stated that the area was not served. Charter notes that this an apparent attempt by Exwire to game the system even as the Commission and its Staff have properly followed the program's guidelines and procedures. Lastly, Charter notes that Exwire did not exercise its Right of First Refusal in 2020, prior to the 2020 application cycle, to alert the Commission of its plan to build within the project area.

### **Staff's Response to Comments and Reply Comments**

Staff supports Charter's claim that Exwire's comments should be rejected on procedural grounds.

Staff also rejects Exwire's claim that a due process error has occurred with respect to the time lag between when a new Interactive Broadband Map is published and the submission of applications. As noted in the Resolution, the latest 2019 California Interactive Broadband Map should reflect the challenges claimed by the challenger if

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<sup>38</sup> Exwire comments to draft Resolution T-17748, submitted via email November 4, 2021 at 9:05 p.m.

<sup>39</sup> The latest 2019 California Interactive Broadband Map should reflect the challenges claimed by the challenger if the provider submitted correct broadband data to the Commission for the Annual Data Submission.

the provider submitted correct broadband data to the Commission for the Annual Data Submission.

## FINDINGS

1. On May 4, 2020, the Communications Division received 54 applications for the CASF Infrastructure Account.
2. On May 18, 2020, Staff posted the project summaries, including a listing of the census blocks and ZIP Codes covered by the projects, and the proposed project area maps. The summaries were posted on the "CASF Applications Project Summaries" webpage, which may be found on the Commission's CASF webpage.
3. Pub. Util. Code Sec. 281(f)(5) requires the Commission to fund projects that "deploy infrastructure capable of providing broadband access at speeds of a minimum of 100 mbps downstream and 20 mbps upstream."
4. Staff received a challenge from Exwire, Inc. to the Kingswood Estates Project. The latest 2019 California Interactive Broadband Map should reflect the challenges claimed by the challenger if the provider submitted correct broadband data to the Commission for the Annual Data Submission. Therefore, the challenge is denied since the 2019 California Interactive Broadband Map shows the project area is eligible.
5. While some portions of the River Oaks Project overlap with RDOF-eligible areas, Etheric Communications, LLC did not receive California ETC status; therefore, Staff did not remove the RDOF-eligible areas for this project.<sup>40</sup>
6. Based on its review, Staff determined that the Kingswood Estates and the River Oaks projects qualify for funding pursuant to D. 18-12-018 and its Appendix 1 and recommends Commission approval of CASF funding for the Kingswood Estates and the River Oaks projects up to the amount of \$1,712,901.47.
7. The Commission has determined that the Kingswood Estates and the River Oaks projects are categorically exempt from CEQA review, pursuant to CEQA

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<sup>40</sup> Etheric, LLC applied for ETC authority in Application (A.)21-01-002, which is pending review. See: <https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=All&DocID=359000951>

guidelines at 14 C.C.R § 15301 regarding exemption for existing facilities and 14 C.C.R § 15302 regarding minor modifications to existing structures.

8. A notice letter was e-mailed on October 15, 2021, 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 for comment, at the Commission’s website <http://www.cpuc.ca.gov/>. Comments were submitted by Exwire on November 4, 2021. Reply comments were submitted by Charter on November 11, 2021.

**THEREFORE, IT IS ORDERED that:**

1. The CASF Infrastructure Account funding for the Charter Kingswood Estates Project and the Charter River Oaks Project, as discussed in this resolution, is adopted.
2. The total approved from the CASF Infrastructure Account is up to \$1,712,901.47, as follows:

| APPLICANT | PROJECT           | CASF APPROVED AMOUNT |
|-----------|-------------------|----------------------|
| Charter   | Kingswood Estates | \$967,536.19         |
| Charter   | River Oaks        | \$745,365.28         |
| Total     |                   | \$1,712,901.47       |

3. Charter shall comply with all guidelines, requirements and conditions associated with a CASF award, as specified in D.18-12-018 and its Appendix 1, D. 21-03-006, Appendix A, and all requirements for this project included in this Resolution, including Appendices A – D.
4. If Charter fails to complete the project in accordance with the CASF guidelines and requirements outlined in D.18-12-018 and D.20-03-006, and its Appendix A, and the terms outlined in this Resolution, Charter must reimburse some or all of the CASF funds that it has received.
5. Charter must complete and execute the consent forms (to be sent to the Grantee after this Resolution is adopted) agreeing to the conditions set forth in this Resolution and return them to 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.

This Resolution is effective today.

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

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Rachel Peterson  
Executive Director

## **APPENDIX A**

### **Compliance Requirements**

#### A. Deployment Schedule

The Commission expects Charter to complete the project within 12 months from the start date and the applicant has committed to do so. If the applicant is unable to complete the proposed project within the 12-month timeframe requirement, Charter must notify the Director of the Communications Division as soon as Charter becomes aware of this possibility. If such notice is not provided, the Commission may reduce payment for failure to satisfy this requirement of timely notification to the Director.

#### B. Execution and Performance

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

#### C. Letter of Credit

The Commission exempts Certificate of Public Convenience and Necessity (CPCN) holders from providing a letter of credit, on the basis that the company submitted a performance bond to the Commission to maintain its CPCN and that the Commission has other means to enforce compliance. In its application, Charter provided proof of CPCN registration and thus is exempt from the requirement of providing a letter of credit.

#### D. 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.

Charter's invoices will be subject to a financial audit by the Commission at any time within three years of completion of the work.

E. Providing Voice Service

Charter has certified that its Voice Over Internet Protocol (VoIP) meets the FCC standards for E-911 service and battery backup.

F. Reporting

All grantees must submit biannual progress reports on the status of the project, irrespective of whether grantees request reimbursement or payment. These reports are due semi-annually, in March and September, until the project is completely built and operational. Progress reports shall use the schedule for deployment, major construction milestones and costs submitted in the proposal; indicate the actual date of completion of each task/milestone as well as problems and issues encountered, and the actions taken to resolve these problems and issues during project implementation and construction; and identify future risks to the project.

Before full payment of the project is made, Charter must submit a project completion report. Charter shall also include test results on the download and upload speeds by census block in the final completion report. Charter must certify that each progress report is true and correct under penalty of perjury.

G. Prevailing Wage

Section 1720 of the California Labor Code specifies that CASF-subsidized projects are subject to prevailing wage requirements. Charter has committed to follow state prevailing wage requirements with regards to this project.

H. Contractor Reporting

PST and NCF must comply with the contractor reporting requirements of Section 281(l)(1) of the California Public Utilities Code, which requires reporting of certain information for all contractors and subcontractor undertaking a contract or subcontract in excess of twenty-five thousand dollars (\$25,000) on CASF-subsidized projects.

## **Appendix B Payments to CASF Recipients**

Pub. Util. Code § 281(f)(10) defines 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.21-03-006 (Appendix A, Section 7) caps administrative expenses directly related to the project at 15 percent of the grant amount.<sup>41</sup>

The grantee may submit reimbursement requests at the following intervals:

- 10 percent completion;
- 35 percent completion;
- 60 percent completion;
- 85 percent completion; and
- 100 percent completion.

The final 15 percent payment request (from 85 to 100 percent) 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 Public Utilities 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.

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<sup>41</sup> 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.

**APPENDIX C**  
**Charter Kingswood Estates**  
**CASF Application Key Information**

| <i>Project Name</i>                                    | <b>Kingswood Estates</b>   |
|--|--|
| <i>Project Plan</i>                                    | The project proposes to build last-mile hybrid coaxial/fiber optic infrastructure in Kingswood Estates to enable high-speed Internet services as well as Voice over Internet Protocol (VoIP) to a total of 34 unserved households. |
| <i>Project Size (in square miles)</i>                  | .45 square miles   |
| <i>Download/Upload speed</i>                           | 940 Mbps / 35 Mbps   |
| <i>Location</i>  | Kingswood Estates, Tahoe Vista (Placer County)   |
| <i>Community Name</i>                                  | Kingswood Estates  |
| <i>Census Blocks</i>                                   | 060610201061002<br>060610201061015   |
| <i>Median Household Income</i>                         | \$70,521   |
| <i>Estimated Potential Subscriber Size</i>             | 34 Households  |
| <i>Applicant Expectations</i>                          | 42% take rate  |
| <i>Pricing Plan (Monthly)</i>                          | 30 Mbps / 4 Mbps for \$17.99<br>200 Mbps / 10 Mbps for \$74.99<br>400 Mbps / 20 Mbps for \$94.99<br>940 Mbps / 35 Mbps for \$134.99  |
| <i>Deployment Schedule (from permit approval date)</i> | 9 Months   |
| <i>Proposed Project Budget (Total)</i>                 | \$967,536.19   |
| <i>Grant Requested Amount</i>                          | \$967,536.19   |
| <i>CASF Grant Amount (100 percent)</i>                 | \$967,536.19   |
| <i>Recommended Grant per household</i>                 | \$28,456.95  |

**APPENDIX C**  
**Charter River Oaks**  
**CASF Application Key Information**

| <i><b>Project Name</b></i>                                 | <b>River Oaks Project</b>  |
|--|--|
| <i>Project Plan</i>  | The project proposes to build last-mile hybrid coaxial/fiber optic infrastructure in River Oaks to enable high-speed Internet service to 41 unserved households. |
| <i>Project Size<br/>(In square miles)</i>                  | 0.37   |
| <i>Download/Upload speed</i>                               | 940 Mbps / 35 Mbps   |
| <i>Location</i>  | River Oaks (San Benito County)   |
| <i>Community Name</i>                                      | River Oaks   |
| <i>Census Blocks</i>                                       | 060690002006002 060690002006022<br>060690002006003 060690002006025<br>060871233001055<br>060690002006021 060871233001056   |
| <i>Median Household Income</i>                             | \$83,496   |
| <i>Estimated Potential<br/>Subscriber Size</i>             | 41 Households  |
| <i>Applicant Expectations</i>                              | 42% take rate  |
| <i>Pricing Plan (Monthly)</i>                              | 30 Mbps / 4 Mbps for \$17.99<br>200 Mbps / 10 Mbps for \$74.99<br>400 Mbps / 20 Mbps for \$94.99<br>940 Mbps / 35 Mbps for \$134.99                              |
| <i>Deployment Schedule<br/>(from permit approval date)</i> | 12 Months  |
| <i>Proposed Project Budget<br/>(Total)</i>                 | \$745,365.28   |
| <i>Grant Requested Amount</i>                              | \$745,365.28   |
| <i>CASF Grant Amount<br/>(100 percent)</i>                 | \$745,365.28   |
| <i>Recommended Grant per<br/>household</i>                 | \$18,179.64  |

## APPENDIX D

### Charter Kingswood Estates

### Location Maps



