

D R A F T

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T- 17241
November 20, 2009**

R E S O L U T I O N

Resolution T-17241 Funding Approval for the Race Telecommunications (U-7060-C) Last Mile Project, from the California Advanced Services Fund (CASF), Amounting to \$9,500,864.

Summary

This Resolution adopts contingent funding for the Race Telecommunications, Inc. (Race) Last Mile project, amounting to \$9,500,864 from the California Advanced Services Fund (CASF). The amount granted represents 10% of the project costs to provide broadband service to unserved and underserved areas in accordance with Commission Resolution T-17143 and Decision (D.) 09-07-020.

Background

On December 20, 2007, the Commission approved D.07-12-054 which established the two-year CASF program to provide matching funds of up to 40% of the total project costs for the deployment of broadband infrastructure in underserved and underserved areas in California.¹ Resolution T-17143, approved on June 12, 2008, adopted application requirements, scoring criteria for the award of funds, and a prescribed timeline for other filings and notifications including a projected Commission Meeting date for final approval of award(s). This same Resolution directed interested applicants seeking funding for underserved and underserved projects, to file their project proposals and funding requests beginning July 24, 2008 and August 25, 2008, respectively.

On July 9, 2009, the Commission issued D.09-07-020 establishing new schedules and plans for the filing, review and approval of an additional round of broadband project

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

requests. This decision also provides the potential for the applicants to seek CASF program funding while pursuing funding for broadband deployment grants issued under the American Recovery and Reinvestment Act (ARRA).² Because the federal grants under ARRA can fund up to 80% of the project, the Commission provided applicants in D.09-07-020 the opportunity to seek an additional 10% funding coverage from the CASF, leaving only 10% for the applicant to provide.

As of September 24, 2009, \$12.6 million has been granted for 28 projects covering 4,318 square miles, benefiting 32,943 potential households as follows:

- Unserved- \$11.6 million, 16 projects, 4,284 square miles, and 32,284 households
- Underserved- \$1 million, 12 projects, 34 square miles, 659 households.

Notice/Protests

The Census Block Group (CBG) list for the Race Last Mile project appeared by county on the Commission's CASF website page under "(1) UNSERVED areas proposed to be served as of August 14, 2009: Census Block Groups (CBGs)," and (2) UNDERSERVED areas proposed to be served as of August 14, 2009: Census Block Groups (CBGs)". Challenges were filed against all thirty-three (33) of the proposed CBGs. Communications Division (CD) proceeded to review and analyze these project areas to verify that they were indeed unserved and/or underserved as of the applicants' filing date.

Discussion

This Resolution adopts contingent funding of \$9,500,864 for the proposed Race Last Mile project in Kern County. This project is described in detail in Appendix A, pages A-1 and A-2. Maps of the proposed project can be found on pages A-3 and A-4 of Appendix A. Race submitted its Last Mile application on August 14, 2009. The total project cost is estimated at \$95,008,638 of which 10%, or \$9,500,864, is being requested from CASF as a match to their 80% ARRA fund request.

Race's Last Mile project proposes to deploy a long-haul fiber optic backbone network from Los Angeles to a regional data center and central office with collocation facilities in Kern County, to serve five markets in the county. Once the fiber optic facilities are placed and the data center and central office are established near the center of the regional network, a fiber optic backbone network will be built from the data center to the five markets. Five local distribution rings will be built from the data center and central office to serve the residents and businesses in the designated markets of

² The American recovery and Reinvestment Act (ARRA) appropriates \$7.2 billion for grants and loans to support broadband deployment on a national level. ARRA offers a unique and ground breaking opportunity for California to partner with the federal government and other state agencies in advancing the goal of bridging the digital divide.

California City, the Boron and Rosamond Census Designated Places (CDPs), the Mojave, Golden Hills, Bear Valley Springs, and Stallion Springs CDPs, and the cities of Tehachapi and Arvin.

The 152-mile network will be built using 288 strand single-mode fiber. The total proposed project of 444 square miles surrounds unserved and underserved areas of 24,352 households and 1,274 businesses, and Race proposes to deploy the network so that it passes and has the capacity to serve every household and business in the specified markets. Some portion of the capacity will be reserved for public benefit organizations such as fire and police departments, hospitals, and educational institutions who desire to have their own fiber optic network to improve community services. Race estimates that the project would be completed within 36 months from the beginning of construction, expected to start upon approval of this resolution.

Race proposes to offer high-speed internet access service at speeds of up to 100 mbps download and up to 25 mbps upload. The following table outlines Race's initial product and pricing service strategy. Race's proposal includes a commitment to honor these prices for at least 24 months from initial service deployment, with no term commitments required of customers who subscribe to the entry broadband package. Race did not propose a list of non-recurring charges. Standard business terms and conditions will apply to all customer accounts, and accounts will be required to remain current and comply with the Race Acceptable Use Policy.

Race Telecommunications Inc., Product and Pricing Proposal:

Tier Designation	Advertised Speeds		Average Speeds		Pricing Plan \$ per Month
	Downstream mbps	Upstream mbps	Downstream mbps	Upstream mbps	
Residential					
Entry-Level	1	1	.84	.84	\$15.00
Mid-Grade	25	15	21	12.6	\$45.00
Maximum	100	25	84	21	\$100.00
Other Residential Tiers	50	20	42	16.8	\$65.00
Non-Residential					
Entry Level	25	15	21	12.6	\$60.00
Maximum	100	25	84	21	\$200.00

Race asserts that the CBG areas within their proposal have been historically unserved and underserved by the region's Local Exchange Carriers (LECs). Race describes Kern County as generally sparsely populated and somewhat remote, with investor-owned carriers prioritizing capital deployment to the more populated areas of Kern County, so that by serving these markets the LECs can yield greater returns for their investors. Race cites that it is ironic that Kern County is a center for renewable energy, soon to

host what will be the largest wind farm in California, while also possessing an aeronautical research center and being home to both Edwards Air Force Base and the Mojave Airport, yet all of these facilities have limited broadband technology access. As a result, economic development suffers and where available, its residents pay some of the highest prices in the state for broadband services.

Among those public benefit organizations and anchor institutions that have a collaborative interest in Race receiving project approval are the City of Arvin, the Arvin Police Department, City of Tehachapi, Tehachapi Police Department, Bear Valley Community Services District, Bear Valley Police Department, and the Mojave Air and Space Port. All of these organizations have provided documented support to Race for this project.

For qualification purposes under the CASF program, unserved areas are defined as areas not served by any form of facilities-based broadband, or where internet connectivity is available only through dial-up service or satellite. Likewise, underserved areas are defined as areas where broadband is available but no facilities-based provider offers service at speeds of at least 3 mbps download and 1 mbps upload.

Communications Division (CD) reviewed this project's eligibility through analysis of the required submitted data. These data include, but are not limited to: proof of Certificate of Public Convenience and Necessity (CPCN) registration; descriptions of current and proposed broadband infrastructure; Geographic Information System (GIS) formatted Shapefiles mapping the subject areas; assertion that the area is unserved and/or underserved; potential subscriber size and household incomes; project construction schedule; project budget; proposed pricing and commitment period for new subscribers; and, financial qualifications of the applicant. In addition, CD reviewed the submitted Shapefiles, which mapped the broadband deployment proposed using United States 2000 Census data, the January, 2008, Broadband Task Force Report (BBTF) including its on-line maps, and the revised August 10, 2009, California Broadband Task Force (CBTF) maps, among others. CD conducted its independent review and analysis of the Race Last Mile project to verify that the areas proposed to be served by Race did not coincide with areas shown as served and not unserved or underserved on the updated broadband availability maps.

Of the thirty-three (33) CBGs in this proposed project, all thirty-three (33) were formally challenged. Race responded to all challenges by submitting extensive data along with testimonial letters from a number of residents, businesses, and public benefit organizations, attesting to the lack of broadband facilities or their inability to gain broadband access. Race then resubmitted a proposal to serve thirty-two (32) of the 33 CBGs, including parts of two of the CBGs where approval is already pending for Inyo Networks, Inc.'s (Inyo) Last Mile proposal to serve some, but not all, areas of those two CBGs. Under the resubmitted proposal, the areas Race proposes to serve within these two CBGs do not overlap with the areas within these two CBGs that Inyo proposes to

serve. Should Inyo fail to complete broadband service to these two CBGs, the Commission may consider Race as an alternative provider of broadband service.

Race's resubmitted proposal eliminated one CBG within which approval is already pending for Inyo's Last Mile project to serve that entire CBG. Should Inyo fail to complete broadband service in this CBG, the Commission may consider Race as an alternative provider of broadband service to customers for this entire CBG.

Race's resubmitted proposal took into consideration recalculated costs resulting from the changes. CD determined that the CBGs covering the proposed area are qualified as unserved and/or underserved as defined in Resolution T-17143.

When necessary, CD performed verification with applicants, which included requests for additional data and/or other communication with applicants in order to clarify their project proposals. CD has determined that the Race Last Mile project covers unserved and underserved broadband areas and is eligible to receive CASF funding.

Race Telecommunications, Inc. is certified by the Commission as a Competitive Local Exchange Carrier (CLEC), U-7060-C, with eight years of experience building fiber to the premise facilities. In accordance with Appendix A, IV.13, "Performance Bond Documentation" of Resolution T-17143, Race should be required to post a performance bond equal to the total amount payable under this CASF award, or 10% of the project cost, and provide a copy of the bond to CD in accordance with the existing CASF funding rules.

This project is the only proposal submitted for these unserved and underserved areas of California after the adoption of D.09-07-020. As such, the project will provide for an improved network that will deliver internet access to thousands of potential new subscribers, deliver broadband at faster speeds, and create a self-sufficient, sustainable capacity infrastructure for Race. The Race Last Mile project is, therefore, recommended for approval and award of CASF funding.

Race should be required to comply with all the guidelines, requirements and conditions associated with the granting of CASF funds as specified in Resolution T-17143, including submitting Form 477 and compliance with the California Environmental Quality Act (CEQA). As this project is subject to the CEQA, Race must receive CEQA review approval prior to receiving CASF funding. Race continues to identify any other special permit requirements and will provide those with a cross-reference to the government agencies from which the permits will be or have been required for this project in compliance with all other guidelines, requirements, and conditions associated with the granting of CASF funds as specified in T-17143 including the submission of FCC Form 477.

Payments to CASF Recipients

Submission of invoices from and payments to Race shall be made in accordance with Section IX of Appendix A of Resolution T-17143 and according to the guidelines and supporting documentation required in Resolution T-17143.

Payment to Race shall essentially follow the process adopted for funds created under Public Utilities Code §270. The following table describes the timeline for processing CASF payments.

Event	Payment Cycle 1 (Day/Month)	Payment Cycle 2 (Day/Month)
Invoices due from Race Telecommunications, Inc. to CD	5 th of Month 1	20 th of Month 1
Payment letters from CD to Information and Management Services Division (IMSD) ³	On 19 th of Month 1	On 4 th of Month 2
Invoices submitted from IMSD to State Controller's Office (SCO) for payments	20 th through 26 th of Month 1	5 th through 13 th of Month 2

Race may submit its invoices under Payment Cycle 1 or 2.

If any date in this payment schedule falls on a weekend or holiday, that date will be advanced to the next business day but the remaining dates in the payment schedule will remain unchanged. The SCO requires 14 to 21 days to issue payment from the day that requests are received by SCO. Approval and disbursement of the first 25% CASF payment is contingent upon Race Telecommunications, Inc. receiving (1) ARRA funding approval, and (2) completion of the Commission's CEQA review.

Comments on Draft Resolution

In compliance with PU Code § 311(g), a notice letter was emailed on October 21, 2009, informing a) all CASF applicants filing under D.09-07-020, and b) parties on the service

³ The above schedule is contingent on the CASF recipient submitting clear, complete, and error-free invoices to CD. Additional time to process payments may be necessary if CD finds problems with the submitted invoices.

list of R.06-06-028 of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and will be available at this same website.

Timely filed comments will be addressed in this Resolution.

Conclusion

The Commission finds CD's recommended contingent CASF funds award for unserved and underserved areas in the Race Last Mile project as discussed in this resolution and summarized in Appendix A to be reasonable and consistent with Commission orders, and, therefore, adopts such award. Race's contingent funding is based on receiving (1) ARRA funding, and (2) CEQA review approval. If Race is unable to obtain (1) ARRA funding and (2) CEQA review approval and as a result will not build the Last Mile project, then Race Telecommunications, Inc. should notify the CD Director that the project will not be built so that CASF funds may be reallocated to other grants. Race is also required to post a performance bond and provide a copy of the bond to CD as directed in this resolution.

Findings

1. The Commission finds Communications Division's (CD) recommended contingent California Advanced Services Fund (CASF) award for unserved and underserved areas for the Race Telecommunications, Inc., Last Mile project as discussed in this resolution and summarized in Appendix A to be reasonable and consistent with Commission orders and, therefore, adopts such award. The CASF was implemented by Decision (D.) 07-12-054.
2. The CASF was established as a two-year program that will provide matching funds of up to 40% of the total project costs for the deployment of broadband infrastructure in unserved and underserved areas in California.
3. Resolution T-17143, approved on June 12, 2008, adopts the application requirements and scoring criteria for the award of funds, a prescribed timeline for other filings, and notifications including a projected Commission Meeting date for final approval of award(s). T-17143 directed interested applicants seeking funding for unserved and underserved projects to file their project proposals and funding requests beginning July 24, 2008.
4. On July 9, 2009, the Commission issued D.09-07-020 approving a new CASF schedule and plan for an additional round of broadband projects that would complement broadband grants awarded under the federal government's American Recovery and Reinvestment Act (ARRA). While retaining the 40% matching grant process, the Commission in this Decision authorized providers an option of seeking

a 10% grant from the CASF concurrent with efforts to seek an 80% grant from the ARRA fund.

5. A list of census block groups (CBGs) appeared by county on the Commission's CASF website page under "UNSERVED areas proposed to be served as of August 14, 2009: Census Block Groups (CBGs)", and "UNDERSERVED areas proposed to be served as of August 14, 2009: Census Block Groups (CBGs)." CD proceeded with its independent review and analysis of this project area to verify that it was unserved and/or underserved as of the applicant's filing date.
6. Race's Telecommunications, Inc.'s Last Mile project proposes to deploy a long-haul fiber optic backbone network from Los Angeles to a regional data center and central office with collocation facilities in Kern County.
7. Five local distribution rings would be built from the data center and central office to serve residents and businesses in five markets. The project proposes fiber-to-the-premise construction to 24,352 houses and 1,274 businesses in the communities of Boron, California City, Rosamond, Mojave, Golden Hills, Bear Valley Springs, Stallion Springs, Tehachapi, and Arvin, in Kern County.
8. Race Telecommunications, Inc.'s project proposal includes a commitment to reserve a portion of its network capacity for public benefit organizations who desire to have their own fiber optic network to improve community services.
9. Several public benefit organizations and anchor institutions with a collaborative interest in Race Telecommunications, Inc., receiving project approval, including hospitals, city administrations, fire, and police departments, have provided documented support in favor of this application.
10. Unserved areas are defined as areas not served by any form of facilities-based broadband, or where internet connectivity is available only through dial-up service or satellite.
11. Underserved areas are defined as areas where broadband is available but no facilities-based provider offers services at speeds of at least 3 mbps download and 1 mbps upload.
12. CD reviewed the Race Telecommunications, Inc., Last Mile project eligibility through the analysis of required data submitted. These data include, but are not limited to: proof of Certificate of Public Convenience and Necessity (CPCN) registration; descriptions of current and proposed broadband infrastructure; geographic information system (GIS) formatted Shapefiles mapping the subject areas; assertion that the area is underserved; potential subscriber size and household incomes; project construction schedule; project budget; proposed pricing and commitment period for new subscribers; and, financial qualifications of the applicant.
13. Shapefiles, which mapped the broadband deployment, were reviewed by CD using sources including, but not limited to, the United States 2000 Census data, the

January, 2008, Broadband Task Force Report, and the revised August 10, 2009, California Broadband Task Force map, among others. These maps helped to verify the existence or non-existence of broadband service areas and broadband speeds, where available.

14. All of the 33 Census Block Groups (CBGs) in Race Telecommunications, Inc.'s proposal were formally challenged. CD requested additional information and/or meetings with the applicant to clarify its project proposal. Race then addressed all challenges by submitting extensive data along with testimonial letters attesting to the lack of broadband facilities or the complete inability of households and businesses to gain broadband access in these areas.
15. CD conducted an independent review and analysis of the Race Telecommunications, Inc. proposal, which included discussion with Race regarding their proposal. Race Telecommunications, Inc. then resubmitted their proposal, withdrawing their proposal for 1 CBG and redrawing the boundaries of their proposal within 2 CBGs to account for another carrier's previously submitted Last Mile proposal for portions of those CBGs, while recalculating project costs based on the withdrawal and redrawing. Race Telecommunications, Inc. resubmitted a proposal to serve all or part of 32 CBGs, under recalculated costs.
16. CD determined that the CBGs covering the proposed area are qualified as unserved and underserved as defined in Resolution T-17143.
17. After its review, CD determined the Race Telecommunications, Inc. Last Mile project application for unserved and underserved areas covering 32 CBGs as eligible to receive funding under CASF.
18. Race Telecommunications, Inc., is certified as a Competitive Local Exchange Carrier (CLEC), U-7060-C, with eight years of experience building fiber to the premise facilities.
19. Race Telecommunications, Inc. should be required to post a performance bond equal to the total amount payable under this CASF award, or 10% of the project cost, and provide a copy of the bond to CD in accordance with the existing CASF funding rules.
20. Race Telecommunications, Inc., filed an application on August 14, 2009, and was the only applicant for this area after the adoption of D.09-07-020.
21. Race Telecommunications, Inc. should comply with all guidelines, requirements, and conditions associated with the granting of CASF funds as specified in Resolution T-17143 including the submission of FCC Form 477 and compliance with the California Environmental Quality Act (CEQA), among others.
22. Approval and disbursement of the first 25% CASF payment is contingent upon Race Telecommunications, Inc. receiving (1) ARRA funding approval, and (2) completion of the Commission's California Environmental Quality Act (CEQA) review.

23. A notice letter was emailed on October 21, 2009, informing a) all applicants filing for unserved and underserved areas and, b) parties on the service list of R.06-06-028 of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website.
24. The Commission finds CD's recommended CASF award, contingent on receiving ARRA funding, for unserved and underserved areas in the Race Telecommunications, Inc. Last Mile project and as discussed in this resolution and summarized in Appendix A, to be reasonable and consistent with Commission orders and hereby adopts such award.
25. Race Telecommunications, Inc.'s contingent funding is based on receiving (1) ARRA funding, and (2) CEQA review approval.
26. If Race is unable to obtain (1) ARRA funding and (2) CEQA review approval and will not build the Last Mile project, then Race Telecommunications, Inc. should notify the CD Director that the project will not be built so that CASF funds may be reallocated to other grants.

THEREFORE, IT IS ORDERED that:

1. The California Advanced Services Fund shall award contingent funding of \$9,500,864 from the California Advanced Services Fund to Race Telecommunications Inc., for the Last Mile project to provide service in unserved and underserved areas as described in the Discussion section and summarized in Appendix A of this Resolution. The award is contingent on Race Telecommunications, Inc. receiving (1) an ARRA grant for 80% of the total estimated project cost, and (2) CEQA review approval.
2. Race Telecommunications, Inc. shall post a performance bond equal to the total amount payable under this CASF award, or 10% of the project cost, and provide a copy of the bond to CD in accordance with the existing CASF funding rules.
3. Race Telecommunications, Inc. shall comply with all guidelines, requirements, and conditions associated with the CASF funds award as specified in Resolution T-17143 and D.09-07-020 and the California Environmental Quality Act.
4. Race Telecommunications, Inc. shall notify the CD Director of the disposition of its (1) ARRA application for the Last Mile project, and (2) CEQA review.
5. If the Race Telecommunications, Inc. Last Mile project will not be completed then Race Telecommunications, Inc. shall notify the CD Director so that the committed CASF funds may be reallocated for other grants.

6. The program fund payment of \$9,500,864 for this Commission-approved underserved project shall be paid out of the CASF fund in accordance with the guidelines adopted in Resolution T-17143 and D.09-07-020.
7. Payments to Race Telecommunications, Inc. shall be in accordance with Section IX of Appendix A of Resolution T-17143 and in accordance with the process defined in the "Payments to CASF Recipients" section of this resolution.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on November 20, 2009. The following Commissioners approved it:

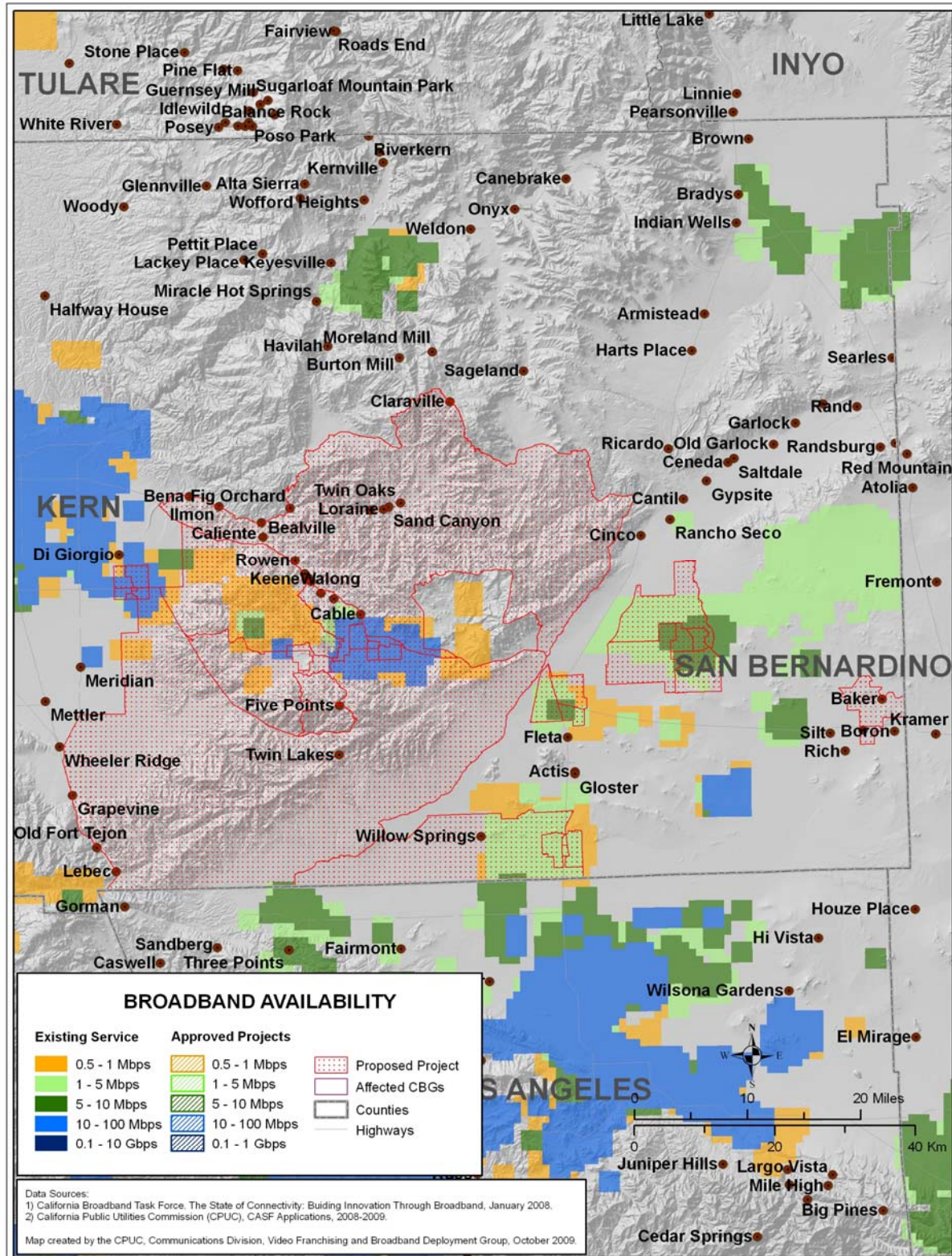
PAUL CLANON
Executive Director

APPENDIX A
Resolution T- 17241
Race Telecommunications, Inc. Last Mile Project, Key Information

1	Project ID	338	
2	Project Name	Race Telecommunications, Inc., Last Mile	
3	Project Plan	(1) Fiber-to-the-premise network; end-to-end fiber optic network from the Internet source in Los Angeles to the end-user premise. System will be standards-based and designed upon Open Systems Interconnection (OSI) standards. <i>(From table showing speeds per CBG but project description text suggests different speeds.)</i>	
4	Project Size (in square miles)	444	
5	Download speed	up to 44 mbps	
6	Upload speed	Up to 15 mbps	
7	Location	Kern County	
a)	Community Names	Arvin, Bear Valley Springs, CDP, Boron CDP, California City, Golden Hills CDP, Mojave CDP, Rosamond CDP, Stallion Springs CDP, Tehachapi	
b)	CBGs / Household Income	CBG	Income
1		60290056001	\$40,800
2		60290056002	\$40,800
3		60290056003	\$40,800
4		60290055051	\$45,868
5		60290055052	\$45,868
6		60290055053	\$45,868
7		60290055054	\$45,868
8		60290055055	\$45,868
9		60290055062	\$42,029
10		60290058001	\$42,029
11		60290058002	\$42,029
12		60290058003	\$42,029
13		60290058004	\$42,029
14		60290059001	\$29,121
15		60290059002	\$29,121
16		60290059003	\$29,121
17		60290060031	\$19,333
18		60290060051	\$19,333
19		60290060052	\$27,388
20		60290060041	n/a
21		60290060053	n/a
22		60290060054	n/a
23		60290060055	\$51,029
24		60290061001	\$47,031
25		60290061002	\$47,031
26		60290061003	\$47,031
27		60290061004	\$47,031
28		60290063011	\$24,577
29		60290063012	\$24,577

30		60290063021	\$24,577
31		60290063022	\$24,577
32		60290063023	\$24,577
33		60290063024	\$24,577
c)	ZIP Codes	93516	
		93505	
		93560	
		93501	
		93561	
		93203	
8	Estimated Potential Subscriber Size		
a)	Households	24,352	
9	Deployment Schedule	Completion within 24 months of Resolution approval.	
10	Proposed Project Budget	\$95,008,638	
b)	CASF (10%)	\$9,500,864	
c)	CIAC	\$0	
d)	Amount of CASF Funds Requested	\$9,500,864	

APPENDIX A
Resolution T- 17241
Race Telecommunications, Inc. Last Mile Project Shapefiles



APPENDIX A
Resolution T- 17241
Race Telecommunications, Inc. Statewide Map



END OF APPENDIX A