

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T- 17234
October 29, 2009**

R E S O L U T I O N

Resolution T-17234. Funding Approval from the California Advanced Services Fund Citizens Telecommunications Company of California (U-1024-C) Alturas Middle Mile Application Amounting to \$225,918.

Summary

This Resolution adopts contingent funding for the Citizens Telecommunications Company of California dba Frontier Communications Company of California (Frontier) Alturas Middle Mile broadband project in underserved and unserved areas totaling \$225,918 from the California Advanced Services Fund (CASF). The amount granted represents 10% of the total costs of this Middle Mile project in accordance with Resolution T-17143 and Commission Decision (D.)09-07-020.

Background

On December 20, 2007, the Commission adopted Decision (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 unserved and underserved areas in California.¹ Resolution T-17143, approved on June 12, 2008, adopts the CASF 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 directs interested applicants, seeking funding for unserved and underserved projects, to file their project proposals and funding requests on July 24, 2008 and August 25, 2008, respectively.

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

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

requests. This decision also allows potential 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 in D.09-07-020 provided prospective applicants the opportunity to seek an additional 10% funding coverage from the CASF leaving only 10% for the applicant to fund on its own.³

As of September 24, 2009, the Commission has approved a total of \$12.6 M funding for 28 unserved and underserved projects. The sum of \$11.6 M has been approved for 16 unserved area projects covering 4,284 square miles to benefit 32,284 potential households and \$1 M has been approved for 12 underserved area projects covering 34 square miles to benefit 459 potential households.

Notice/Protests

The Census Block Group (CBG) list appeared by county on the Commission's CASF website page under "UNSERVED areas proposed to be served as of July 17, 2009: Census Block Groups (CBGs)". The website also listed the ZIP codes for the areas proposed to be served, of which ZIP code 96124 was challenged. However, on further investigation and contact with Frontier it was determined that the ZIP code should have been 96123 and thus, there is no conflict with the served area.

Discussion

This Resolution adopts contingent funding of \$225,918 from the CASF fund for the Frontier Alturas Middle Mile Fiber broadband project in unserved and underserved areas in Lassen and Modoc Counties.

Frontier submitted a project proposal for the Alturas Middle Mile project (Alturas Project) on July 17, 2009. The Alturas Project is a fiber extension from Fall River Mills (Shasta County) to Alturas (Modoc County) of about 74 miles along California State Highway 299. The installation of this fiber will reinforce the network and allow Frontier to increase the speeds of the broadband service in the underserved areas and to extend the service to adjacent unserved areas. Frontier currently provides telephone service to the areas in Lassen and Modoc counties and provides broadband DSL service to some limited areas of the service territory.

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

² The American Recovery and Reinvestment Act appropriated \$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.

³ Frontier did not file in the first round of ARRA funding for the Alturas Middle Mile Project but anticipates filing for the project in the second round.

available only through dial-up service or satellite. Underserved areas are defined as areas where the speed is less than the 3/1 mbps download/upload. Communications Division (CD) reviewed the project's eligibility by analyzing the required data submitted by Frontier. These data included, but are not limited to: proof of CPCN registration; descriptions of current and proposed broadband infrastructure; Geographic Information System (GIS) formatted Shapefiles mapping the subject areas; 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 Shapefiles submitted by Frontier which mapped the proposed broadband deployment using data from the United States 2000 Census and the revised August 10, 2009 California broadband availability maps among others. The Communications Division conducted its independent review and analysis of this Frontier project to verify that the areas proposed to be served by Frontier did not coincide with areas shown as served on the updated broadband availability maps. Therefore this area is underserved.

When necessary, CD also performed further verification with the applicants which included the submission of additional data and/or meetings with the applicants in order to clarify their project proposals.

In the analysis, CD discovered that an area of about one square mile in Alturas was not underserved and indicated broadband available at speeds of 1 to 5 mbps. After further interaction with Frontier, it was determined that Frontier reported a few residences in Alturas as having higher speeds to the Broadband Task Force. The methodology used by the BBTF maps the served areas at a granularity of one square kilometer resulting in the indicated speed data inaccuracies. The inaccurate reporting by Frontier resulted in the area in Alturas indicating 1-5 mbps broadband service when that was not the case.

Frontier indicated that the currently served areas in Modoc County near Alturas have broadband service linked by radio which is nearing 85% capacity. The current radio link has limited speed capability. No new frequencies are available so the radio capacity cannot be increased and therefore expansion into adjacent unserved areas would not be possible. Frontier will soon have to refuse new broadband customers when the current capacity is full. Accordingly, the construction of a fiber extension into Alturas would not only provide adequate bandwidth for current and future customers at a higher speed, but would also allow Frontier to extend service to adjacent unserved areas. If this project is approved, the additional fiber capacity will also permit the speeds for the Lookout project (approved by Resolution T-17224) to be eventually increased to the 3/1 mbps download/upload benchmark when a fiber is extended from Frontier's Bieber central office to Lookout.

A table of key information is on page A-1 of Appendix A. A map of all Frontier's Alturas project can be found on page A-2 of Appendix A. Page A-3 of Appendix A locates the project on a map of California.

Frontier has an established track record with the Commission and, therefore, no performance bond should be required.

Frontier indicated that it will obtain all of the necessary permits to construct along California State Highway 299, comply with the provisions of CEQA, and will provide a Proponent’s Environmental Assessment report pursuant to the requirements of Resolution T-17143.

The receipt of the CASF grant should be contingent on Frontier receiving the 80% ARRA grant on its Alturas Middle Mile project. If the applicant is not successful in its request for the ARRA grant or if of the ARRA grant is less than 80%, then Frontier may request additional CASF funds in accordance with Ordering Paragraph No. 7 of D.09-07-020. The granting of additional funds will be contingent on the availability of CASF funds.

Frontier is required to comply with all the guidelines, requirements and conditions associated with the granting of CASF funds as specified in Resolution T-17143 including the submission of Form 477 and compliance with the California Environmental Quality Act (CEQA).

Payments to CASF Recipients

Submission of invoices and CASF payments to Frontier shall be made in accordance with the requirements and Section IX of Appendix A of Resolution T-17143.

Payment to Frontier for its Alturas Middle Mile project shall essentially follow the process adopted for funds created under Public Utilities (PU) 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 CASF recipients to CD	5 th of Month 1	20 th of Month 1
Payment letters from CD to Information and Management Services Division (IMSD) ⁴	On 19 th of Month 1	On 4 th of Month 2
Invoices submitted from IMSD to State’s Controller Office (SCO) for payments	20 th through 26 th of Month 1	5 th through 13 th of Month 2

⁴ The above schedule is contingent on the CASF recipient submitting clear, complete and error free invoices to CD. Additionally time to process payments may be necessary if CD finds problems with the submitted invoices.

Frontier 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. SCO requires about 14 to 21 days to issue a payment from the day it receives the payment request.

Comments on Draft Resolution

In compliance with PU Code § 311(g), a notice letter was emailed on September 29, 2009 to a) all applicants filing for unserved areas and b) parties on the service list of R.09-06-019⁵ informing them of the availability of this draft 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 as adopted by the Commission will be posted and will be available at this same website.

DRA filed comments which were generic to the CASF process and some specifically for the Alturas project. Frontier filed reply comments

DRA's Comments

DRA's comments address transparency concerns involving confidentiality rules in the CASF process that the Commission established in prior decisions and a resolution. Specifically, D.07-12-054 and Resolution T-17143 set forth a CASF process by which carrier data in applications is treated confidentially, and D.09-07-020 extended and clarified those rules to CASF/ARRA applications (see p. 9, footnote 6). Since this resolution, however, addresses the approval of conditional funding for a specific applicant, it is not the proper forum to seek changes in the established CASF/ARRA process or rules. As such, it would be inappropriate and cumbersome to modify CASF/ARRA program rules in this resolution. To the extent DRA remains concerned with transparency, a petition to modify the prior Commission decisions and resolution would be a more appropriate vehicle.

DRA has also raised concerns about the relative costs of this project and has requested a more thorough explanation of costs from the applicant as well as additional cost details. Additionally, DRA recommended that the Commission require applicants to waive proposed installation and service activation fees for CASF-approved projects. These comments are without merit, as the CASF/ARRA process relies on a competitive bidding process to keep an applicant's costs and proposed installation fees in check, rather than a cost reasonableness review requiring the applicant to justify details of specific project costs and proposed installation fees. Under the established CASF/ARRA process, an applicant risks not receiving a CASF/ARRA award if its costs are too high and other carriers bid at lower costs. The applicant assumes the same risk in proposing installation and service

⁵ Currently the same service list as for R.06-06-028

activation fees. All other concerns raised by DRA look to address issues with the CASF process in general and will not be addressed in this resolution affecting the review of a single CASF application.

DRA believes that Frontier's filing is incomplete and should include a breakdown of costs and customers by unserved and served areas. Because DRA notes that the completion of this project would increase the speeds available in the Lookout Project approved by Resolution T-17224. DRA is concerned that we may be funding the same project twice.

Frontier Reply Comments

Frontier disputes DRA's comments that "its application is incomplete." Frontier asserts that it has responded to all CD staff questions for information and clarification. In addition, Frontier submitted a response to DRA's comments. Frontier included some additional details about the project such as proposed locations of fiber terminals and a Cisco router. Frontier also opposes DRA's request that connection fees should be waived for customers connecting to projects that were funded by CASF and ARRA grants. The grants provide only capital costs and do not include estimates of connections, since the actual numbers of customers is unknown.

Conclusion

The Lookout Project funded costs for last mile connections, while this project is being funded for the middle-mile. Therefore, the projects are complementary and not redundant. We believe that sufficient data was provided by the applicant and the request should be granted.

Findings

1. The California Advanced Services Fund (CASF) was adopted by the Commission in Decision (D.) 07-12-054. The CASF was established as a two-year program to 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.
2. Resolution T-17143, approved on June 12, 2008, adopts the application requirements and scoring criteria for the award of funds and prescribed a timeline for other filings and notifications including a projected Commission Meeting date for final approval of award(s). Resolution T-17143 directed interested applicants seeking funding for unserved projects to file their project proposals and funding requests on July 24, 2008.
3. Resolution T-17143 defines unserved areas as areas which are not served by any form of facilities-based broadband or where Internet connectivity is available only through dial-up or satellite service.

4. D.09-07-020 allows coordination of CASF grants with federal grants under ARRA. ARRA is anticipated to fund 80% of the total project cost with the applicant funding 10% and the CASF awarding the remaining 10%.
5. If the ARRA grant is not received or if the amount received is less than 80% of the total project cost, Frontier should have the option to reapply for additional funds under the CASF grant program in accordance with Ordering Paragraph No. 7 of D.09-07-020. The granting of further funding would be contingent on funds being available in the CASF program.
6. 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 July 17, 2009: Census Block Groups (CBGs)". The Communications Division (CD) conducted its independent review and analysis of these Frontier challenged project areas to verify that they were not shown as served on the Broadband Availability Maps.
7. CD reviewed each application's eligibility in the unserved review phase through the analysis of required data submitted. These data included, but were not limited to: proof of CPCN registration; descriptions of current and proposed broadband infrastructure; geographic information system (GIS) formatted Shapefiles mapping the subject areas; 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.
8. Shapefiles, which mapped the broadband deployment, were reviewed by Communications Division using sources including, but not limited to, the United States 2000 Census data and the revised July 9, 2009 California broadband availability maps among others. These maps helped to verify the existence of or non-existence of broadband service areas and broadband speeds, where available.
9. CD analyzed the project and, when necessary, requested additional information from Frontier to clarify its project proposal.
10. After its review, CD determined that the Frontier Alturas Middle Mile application for unserved areas is eligible to receive funding under CASF.
11. The total project cost is \$2,259,181 with \$129,917 being materials and equipment and with \$2,138,264 comprising the fully loaded installation and labor costs. CASF funds will be used to fund 10% of the total project or \$225,918.
12. Frontier should not be required to post a performance bond as Frontier has a proven track record with the Commission, and since the remaining 10% of the total project cost will be financed through Frontier's capital budget.
13. Frontier 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 Form 477 and compliance with the California Environmental Quality Act, among others and requirements imposed by D.09-07-020.

14. A notice letter was emailed on September 29, 2009 informing: a) all applicants filing under D.09-07-020 and, b) parties on the service list of R.09-06-019 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 as adopted by the Commission will be posted and will be available at this same website.
15. DRA filed comments and Frontier filed reply comments. The comments are discussed in this Resolution.
16. If Frontier is unable to obtain ARRA funding and will not construct the Alturas Middle Mile project, then Frontier should notify the Director of the Communications Division promptly so that CASF funds may be reallocated to other grants.
17. The Commission finds Communication Division's recommended contingent CASF award for the Alturas Middle Mile Project as discussed in this resolution and summarized in Appendix A of this Resolution to be reasonable and consistent with Commission orders and should be adopted.

THEREFORE, IT IS ORDERED that:

1. The Commission awards contingent funding of \$225,918 from the California Advanced Services Fund to the Frontier Communications Company of California Alturas Middle Mile project to provide service in unserved areas, as described in the Discussion portion and summarized in Appendix A of this Resolution. This award is contingent on Frontier receiving an ARRA grant for 80% of the total estimated project cost.
2. Frontier Communications Company of California shall not be required to post a performance bond.
3. Frontier Communications Company of California shall comply with all guidelines, requirements and conditions associated with the CASF funds award as specified in Resolution T-17143, D.09-07-020, and the California Environmental Quality Act.
4. Frontier Communications Company of California shall notify the Director of the Communications Division of the disposition of its ARRA application for the Alturas Middle Mile Project.
5. If the Alturas Middle Mile Project will not be constructed, then Frontier Communications Company of California shall promptly notify the Director of the Communications Division so that the committed CASF funds may be reallocated for other grants.

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6. The program fund payment of \$225,918 for the Commission-approved Alturas Middle Mile 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 Frontier Communications Company of California 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 October 29, 2009. The following Commissioners approved it:

/s/ Paul Clanon

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

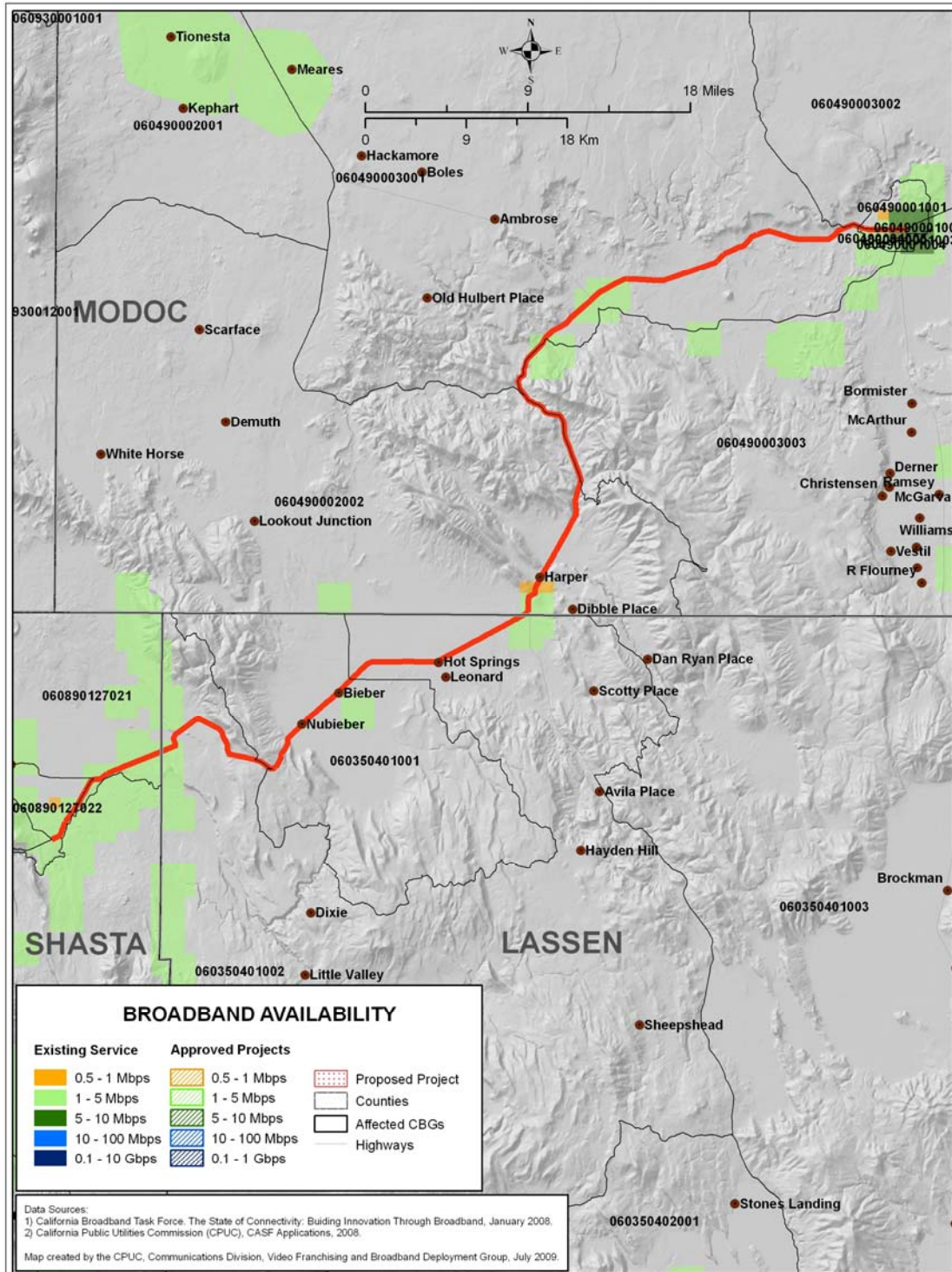
APPENDIX A
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Frontier Alturas Middle Mile Project Key Information

1	Project ID		
2	Project Name	Frontier Alturas Middle Mile	
3	Project Plan	Install about 74 miles of fiber along Highway 299, a middle mile connection, to extend high speed internet service to unserved areas and to increase speeds for underserved areas.	
4	Project Size (in square miles)	418	
5	Download speed	1 mbps	
6	Upload speed	3 mbps	
7	Location (County)	Modoc & Lassen	
a)	Community Name	Alturas	
b)	CBGs / Household Income		
		060350401001	\$23,750
		060350401002	\$31,250
		060490001001	\$26,953
		060490001002	\$14,427
		060490001003	\$26,205
		060490001004	\$28,235
		060490001005	\$26,953
		060490002002	\$27,692
		060490003001	\$36,027
		060490003002	\$43,967
		060490003003	\$29,671
c)	ZIP Codes	96101	
		96015	
		96123	
		96104	
		96006	
		96009	
		96054	
8	Estimated Potential Subscriber Size		
a)	Households	2,064	
9	Proposed Project Budget		
a)	Total	\$2,259,181	
b)	CASF (10%)	\$225,918	
c)	ARRA	\$1,807,345	
d)	Internally Funded (10%)	\$225,918	
e)	Amount of CASF Funds Requested	\$225,918	

APPENDIX A

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Frontier Alturas Middle Mile Project



APPENDIX A

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Alturas Middle Mile Project

Statewide Proposed Project Map

