

Date of Issuance: November 23, 2009

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T- 17237
November 20, 2009**

R E S O L U T I O N

Resolution T - 17237 Approval of Funding for the CASF Grant Application of Siskiyou Telephone Company (U-1017-C), from the California Advanced Services Fund (CASF) Amounting to \$2,621,824 for the Seiad Underserved Broadband Project

Summary

This Resolution adopts funding for the CASF Grant Application of Siskiyou Telephone Company, (Siskiyou) amounting to \$2,621,824 from the California Advanced Services Fund (CASF) for its Seiad Underserved Broadband Project. The amount granted represents 40% of the total project cost plus Contribution in Aid of Construction (CIAC) of this underserved area application filed in accordance with Resolution T-17143.

Background

On December 20, 2007, the Commission approved 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, adopted the 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).

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

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CD/GVC

As of October 29, 2009, \$15.12 million has been granted for 30 projects covering 4,942 square miles, benefiting 41,209 potential households as follows:

- Unserved: \$11.64 million, 16 projects, 4,284 square miles, and 32,284 households.
- Underserved: \$3.48 million, 14 projects, 658 square miles, and 8,925 households.

Notice/Protests

The Census Block Group (CBG) list for the Siskiyou Telephone project appeared by county on the Commission's CASF website page under "UNDERSERVED areas proposed to be served as of July 17, 2009: Census Block Groups (CBGs)." Although another applicant, Siskiyou County Development, submitted a competing application for the same CBGs proposed to be covered by Siskiyou, the competing applicant failed to provide the information required under Resolution T-17143 despite repeated requests from staff. Thus, the Communications Division (CD) proceeded with the evaluation of the Siskiyou application.

Discussion

This Resolution adopts CD's recommended CASF funding award of \$2,621,824 (inclusive of CIAC) for the Siskiyou Telephone Seiad project. The Commission is deferring action on the project's three other areas until after the current CASF funding phase is complete. The Seiad underserved project is described in detail in Appendix A.

Siskiyou submitted their CASF application on July 14, 2009. This application which covers four project areas, namely: 1) Seiad (Seiad - Fort Goff - Thompson Creek- Hwy. 96 - Seiad Creek), 2) Hamburg (Hamburg C.O. - Steelhead - Scott Bar - Sunny Slope - Steelhead - Horse Creek - West Horse Creek), 3) Member Creek (Member Creek to Boulder Creek) and 4) Oak Knoll (Oak Knoll to McKinney Creek), would bring fiber optic facilities to nine underserved nodes in Siskiyou County. Reliability of the customer's DSL service would be increased by replacing old, undersized and vulnerable aerial copper cable with underground cable in conduit which is currently under constant threat from ice, snow, wind and lightning damage plus occasional destruction of aerial cable due to wildfires. For the four project areas, Siskiyou seeks a CASF grant for \$7,378,103, equal to 40% of the project's costs.

Siskiyou's current broadband infrastructure consists of old, undersized aerial copper cable wire which is used to feed remote subscriber carrier nodes. This is done by means of a digital T-1 circuit which travels to each cabinet over 2 copper cable pairs. Each T-1 circuit provides 1.5 mbps of capacity to the subscriber carrier cabinet. Currently all of the remote shelves within the project area are set to provide maximum data rates of 0.768 mbps download and 0.256 mbps upload. Lengthy copper cable wire loops to the end user

premises (up to 20,000 feet) pose a further challenge to the data rates subscribers can obtain.

In its application, Siskiyou proposes to construct approximately 30 miles of underground fiber optic cable replacing aerial copper wire to nine nodes in the Seiad Valley and Scott Bar areas. This proposal would provide broadband service in the 4 areas (i.e. Seiad, Hamburg, Member Creek and Oak Knoll) to 295 households covering an area of about 108 square miles at average speeds of 3 mbps download and 1 mbps upload. The 40% CASF subsidy for this project is \$7,378,103 of the total project cost of \$11,097,700.

For qualification purposes under the CASF program, underserved areas are defined as areas in which broadband is available but no facilities-based provider offers service at speeds of at least 3 mbps download and 1 mbps upload. CD reviewed this project's eligibility through the analysis of the required data submitted. These data include, 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; 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. In addition, CD reviewed the Shapefiles submitted 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) map, among others. Comparisons of submitted maps to that of the BBTF and CBTF verified the existence or non-existence of broadband service as well as speeds in areas where broadband services are available.

CD verified this project and, when necessary, requested additional information and/or meetings with the applicant to clarify its project proposal. CD determined that the four CBGs covering the proposed area are qualified as underserved as defined in Resolution T-17143.

While there were no challenges filed on Siskiyou's proposed four CASF project areas (i.e. Seiad, Hamburg, Member Creek and Oak Knoll), CD finds that the CASF cost per household for the entire project for the four areas is \$25,011 which is quite high compared to the cost per household of all CASF projects approved to date.² CD recognizes that any infrastructure development in Siskiyou's service area will be higher, in part, based on the area's topography and demographics.³ However, since the CASF has limited funds with competing demands from CASF only applicants requesting for 40% matching funds and

² To date, the CASF cost per household for approved unserved areas is \$360.44 while CASF cost per household for approved underserved areas is \$1,531.48.

³ Siskiyou Telephone has also applied for a grant under the Rural Telephone Infrastructure (RTI) program. Staff has gone on site-visits and noted that the area's topography and demographics would result in relatively high build-out cost. The cost per mile of the proposed projects under the RTI ranges from \$220,000 to \$630,000.

CASF and ARRA applicants requesting for 10% matching funds, CD has a responsibility to manage the optimum utilization of the fund.

To determine which of the areas proposed by Siskiyou would result in the optimum use of the CASF fund in terms of the cost and the number of households that the project would benefit, CD asked Siskiyou to submit a breakdown of the project costs into the four proposed areas.⁴ Of the four Siskiyou proposed areas, CD recommends funding only for the Seiad area at this time. The Seiad portion of the Siskiyou project will involve CASF funding of \$2,621,824 to benefit 134 households at a CASF cost per household of \$19,566. CD proposes deferring a CASF funding decision for the other 3 areas until the current CASF funding phase is complete.

The Commission finds CD's recommendation of CASF award of \$2,621,824 for Siskiyou's underserved Seiad project as summarized in Appendix A of this Resolution to be reasonable and consistent with Commission orders and should be adopted.

The Application Requirements and Guidelines on the awarding of CASF Funds⁵ provide that the execution of a Performance Bond is not required if 60% of the total project costs come from the applicant's capital budget and is not obtained from outside financing sources. In its application, Siskiyou certified that 60% of the total project costs will come from its existing capital budget as submitted in the company's financial documentation. Therefore, a performance bond is not required under the CASF.

Siskiyou should comply with all guidelines, requirements, and conditions associated with the granting of CASF funds as specified in Resolution T-17143. The Commission cannot disburse CASF funds, and Siskiyou cannot begin ground breaking activities, until the Commission has completed California Environmental Quality Act (CEQA) review.

Payments to CASF Recipients

Submission of invoices from and payments to Siskiyou 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 Siskiyou shall essentially follow the process adopted for funds created under Public Utilities Code §270. The following table describes the timeline for processing CASF payments.

⁴ The four areas are Seiad, Hamburg, Member Creek and Oak Knoll.

⁵ Resolution T-17143

Event	Payment Cycle 1 (Day/Month)	Payment Cycle 2 (Day/Month)
Invoices due from Siskiyou Telephone Company, to CD	5 th of Month 1	20 th of Month 1
Payment letters from CD to Information and Management Services Division (IMSD) ⁶	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

Siskiyou 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 14 to 21 days to issue payment from the day that requests are received by SCO.

Establishment of a Memorandum Account

We note that in D.07-12-054 in which we implemented the CASF, we restricted CASF awards to only provide funds for capital projects on approved broadband deployment projects. CASF does not allow payments for general operating or maintenance expenses.⁷ To assure adherence to this requirement we direct Siskiyou to establish a memorandum account for the use of CASF grant funds for the Seiad project area.

In D.07-12-054 we also required recipients of CASF awards to offer basic voice service to customers within the service area of the broadband deployment subject to the CASF awards.⁸ Finally, in Resolution T-17143, we reiterate that we do not regulate broadband service as it is a service that is regulated by federal authorities.⁹

⁶ 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.

⁷ D.07-12-054, Finding of Fact 38

⁸ Ibid, Findings of Fact 28 and 29

⁹ T-17143 at pg. 15, mimeo

However, we note that Siskiyou Telephone Company is a rate-of-return regulated company and therefore, Siskiyou's proposed test year estimates of intrastate revenues, expenses and rate base estimates used to establish the utility's rates and charges must be approved by the Commission. Since Siskiyou continues to be under rate-of-return regulation, it is authorized to receive support from the California High Cost Fund A (CHCF-A). to keep its local rate affordable, so long as the utility makes regular General Rate Case (GRC) filings in accordance with the requirements of the CHCF-A.

As discussed, we also require recipients that receive CASF awards to provide basic voice service. Since this resolution is not the appropriate venue for us to resolve how or what operational recurring expenses related to the provision of basic voice service will be allowed for rate making purposes, we will require Siskiyou to establish a memorandum account to keep track of these recurring expenses. In Siskiyou's next general rate case filing, this memorandum account will be used to assist the Commission's ratemaking process by identifying, Siskiyou's operational recurring general operating and/or maintenance expenses and additional capital improvement expenditures used to provision basic voice service from its Seiad broadband infrastructure project.

Therefore, Siskiyou shall track all operational recurring expenditures, as discussed above, for its Seiad broadband infrastructure project in a memorandum account. These operational recurring expenditures shall be allocated on a percentage basis between that infrastructure used to provide basic voice service and that used to provide non-regulated broadband services including DSL internet service, cable television, video services, etc.

Comments on Draft Resolution

DRA submitted comments to Resolutions T-17237 on November 3rd.

DRA's comments and CD discussion of those comments are reflected below:

I. DRA Comments

A. Project Costs Are Too High on a "Per-Household" Basis

DRA recommended that the Commission set a benchmark to determine the reasonableness of project costs and commented on the following:

- No justification is required from the applicant on the project cost
- A purported "competitive bidding" process is relied on to keep project costs in check
- No competition is evident except in the area covered by Resolution T-17197.

Further, DRA recommended that the Commission should perform a cost review of applications for areas where there are no competitive bids since it believes the market cannot constrain costs and cannot check on cost reasonableness where competition does not exist.

DRA also suggested using a benchmark cost per household from past CASF projects to compare costs of various pending CASF projects as a proxy to determine whether costs are reasonable. DRA calculated the cost per household to be \$956 based on projects approved as of September 24th and it has taken issue with those pending resolutions (e.g. Race, Ponderosa Cablevision) with DRA calculated cost per household figures for these pending resolutions above this level.

In reviewing DRA's comments, we note that DRA miscalculated the cost per household, relying on total costs rather than CASF costs, and has erroneously assumed that all of the CASF projects approved as of September 24, 2009 are seeking 40% funding. Some applicants only requested 10% CASF funding with 80% coming from ARRA. Also, some of the projects include Contribution in Aid of Construction (CIAC) costs in addition to the 40% CASF funds. If the total CASF funds approved to date as of September 24, 2009 of \$12.6 million is divided by the total number of households at 32,943, the result would be \$384 per household, not \$956.

DRA points out that the amount awarded to Siskiyou constitutes 52% of the total project cost, while they should only be allowed 40%. Applicants are awarded 40% of total project cost plus CIAC. Since CASF grants are taxed, applicants are awarded an amount that will equal 40% of total project cost after taxes have been applied.

DRA notes that the total project cost per household for Siskiyou, \$37,224, is over 37 times greater than the previous average. DRA believes that it may not be appropriate to fund this project, as these funds could be better utilized elsewhere.

The Commission has already determined that CASF cost per household data cannot be standardized for all areas. In fact, the latest response to this issue is on page 12 of Resolution T-17233¹⁰, where the Commission states that:

“the overriding goal of the CASF program - that is to provide broadband service to areas where there is none or to improve the quality of broadband service to areas that currently suffer from unreliable, spotty and inferior speeds not geared towards the present economic and business need. It was not the intent of the Commission to set a ceiling or an absolute minimum that applicants need to meet in

¹⁰ Resolution T-17233, adopted by the Commission on October 29, 2009, approved CASF application requirements for broadband providers/applicants other than holders of telecommunications Certificate of Public Convenience and Necessity and registered wireless providers.

order to qualify for funding. As the Commission has stated in several CASF resolutions adopting funding for projects, “low speed is better than no speed”. Likewise, the areas that are being funded and will be funded by CASF are areas that have no broadband precisely because these are high cost areas that are characterized by rugged terrain and low population density, which would not otherwise be economically viable or make business sense for private entities to invest in without CASF funding assistance.”

In summary, CASF project costs cannot be standardized precisely because not all areas have the same topographical characteristics, the same demographics or can be served by the same technology or infrastructure. Accordingly, we do not agree with the DRA recommendation that past approved CASF projects covering different areas should be used as an absolute basis to deny pending CASF projects, as it would unfairly prevent residents in areas of the State from receiving broadband service simply because they live in areas that are more costly to serve.

With respect to DRA competitive bidding comments, again this issue has been previously raised by DRA and addressed by the Commission. The Commission has already stated in Resolutions T-17234 and T-17229:

“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.”

Page 13 of Resolution T-17233 also states:

“We also take exception to the statement of parties that there is no competition. Under existing rules, CBGs and Zip Codes are posted on the CASF webpage 7 days after an application is received. Any party who wishes to submit a competing application may do so by submitting a letter of intent to submit a counter-proposal and / or submit a counter-proposal directly within the prescribed timelines as stated in Resolution T-17143 and D.09-07-020. As Resolution T-17197 and draft Resolution T-17225 demonstrate, competition does exist.”

Where there is no counter-proposal or competing proposal submitted for an area, this implies that the broadband cost for developing broadband infrastructure in the area is too high that even with the 40% or 10% CASF funds match, broadband providers are not confident that it would make business sense for them to invest in the area.

In summary, we believe the CASF competitive bidding process renders cost reasonableness review as an unnecessary step in our program and one that will cause unserved and underserved communities in the state a delay in receiving broadband service.

B. The CASF Program Requires an Audit

DRA commented that all resolutions should include an audit requirement as provided in the CASF legislation and D.07-12-054. However, we note that all resolutions have an Ordering Paragraph to the effect that they will comply with all the guidelines, requirements and conditions associated with the CASF funds award as specified in resolution T-17143 and D.07-09-020. Page A-14 of Resolution T-17143 describes the payment procedure, which includes the submission of progress reports and invoices, as well as the right of the Commission to conduct any necessary audit, verification, and discovery during project implementation / construction to ensure that CASF funds are spent in accordance with Commission approval. Thus, the audit requirement and all other requirements applicable to CASF fund recipients as specified in Resolution T-17143 are already addressed in the Ordering Paragraph.

Likewise, as DRA pointed out, the Commission, in SB 1193 and AB 1555, financial and performance audits of the implementation and effectiveness of the CASF is required and a report on the said audits submitted to the Legislature by December 31, 2010. The Commission will comply with this requirement.

C. Project Costs Are Confusing

DRA commented that the draft resolutions do not describe the projects in sufficient detail to evaluate exactly what the CASF is asked to fund. DRA recommends that the Draft Resolution clearly define the project's customers by deleting any references to household customers, including the reference to households in Appendix A.

With respect to these comments, we believe that the project description detailed in this resolution adequately describes the capital infrastructure the CASF grant money is funding. As for the use of household metrics, households are adequately defined in Resolution T-17143.

For the reasons expressed above we recommend the Siskiyou Telephone CASF Grant Application for CASF funding.

Findings

1. The California Advanced Services Fund (CASF) was implemented by Decision (D.) 07-12-054. 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.
2. 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).
3. Siskiyou Telephone Company filed a CASF application on July 14, 2009.
4. Underserved areas are defined as areas in which broadband is available but no facilities-based provider offers service at speeds of at least 3 mbps download and 1 mbps upload.
5. A list of census block groups (CBGs) appeared by county on the Commission's CASF website page under "UNDERSERVED areas proposed to be served as of July 17, 2009: Census Block Groups (CBGs)."
6. CD reviewed the Siskiyou Telephone Company CASF Grant Application project eligibility through the analysis of required data submitted. These data include, 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; 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.
7. 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 July 9, 2009, California Broadband Task Force (CBTF) map, among others. These maps helped to verify the existence or non-existence of broadband service areas and broadband speeds, where available.
8. CD verified this project and, when necessary, requested additional information and/or meetings with the applicant to clarify its project proposal. Of the 4 CBGs in this project, none were formally challenged and CD determined that the CBGs covering the

proposed area are qualified as underserved as defined in Resolution T-17143 and eligible to receive funding under CASF.

9. Siskiyou's project cost per household is higher than other approved CASF projects cost per household to date, in part due to the areas' topography and demographics.
10. In seeking to promote the optimum utilization of CASF funds among competing applications, CD requested Siskiyou to submit a breakdown of the project costs among the proposed four areas. Based on the analysis of the costs and household that would benefit from the broadband project, CD recommends funding the Seiad area at this time and deferring action on the project's three other areas until after the current CASF funding phase is complete.
11. The Commission finds CD's recommendation of CASF award of \$2,621,824 for the Siskiyou Telephone Seiad underserved project as summarized in Appendix A of this Resolution to be reasonable and consistent with Commission orders and should be adopted.
12. The posting of a performance bond by Siskiyou Telephone Company is not required recipient because 60% of the total project cost will be financed through Siskiyou Telephone Company's capital budget.
13. Siskiyou Telephone Company should comply with all guidelines, requirements, and conditions associated with the granting of CASF funds as specified in Resolution T-17143 such as the submission of FCC Form 477.
14. The Commission cannot disburse CASF funds, and Siskiyou cannot begin ground breaking activities, until the Commission has completed California Environmental Quality Act (CEQA) review of this project.
15. Siskiyou Telephone Company should be required to maintain a memorandum account for the use of CASF grant funds for the Seiad project area and to keep track of recurring expenses associated with the provision of voice services. This memorandum account should be used to assist the Commission's ratemaking process by identifying Siskiyou's operating and/or maintenance expenses and additional capital improvement expenditures to provide basic telephone service from its Seiad broadband infrastructure project.
16. A notice letter was emailed on October 21, 2009, informing a) all applicants filing for CASF funding under D.09-07-020 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.

17. Opening comments filed by the Division of Ratepayers Advocates are addressed in this resolution.

THEREFORE, IT IS ORDERED that:

1. The California Advanced Services Fund shall award \$2,621,824 to Siskiyou Telephone Company for the Seiad underserved area broadband project as described in the Discussion section and summarized in Appendix A of this Resolution.
2. Siskiyou Telephone Company shall not be required to post a performance bond.
3. The program fund payment of \$2,621,824 for this Commission-approved underserved project shall be paid out of the CASF fund in accordance with the guidelines adopted in Resolution T-17143.
4. Payments to the CASF recipient 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.
5. Siskiyou Telephone Company shall maintain a memorandum account for the use of CASF grant funds for the Seiad project area and to keep track of recurring expenses associated with the provision of voice services.
6. The CASF fund recipient, Siskiyou Telephone Company, shall comply with all guidelines, requirements and conditions associated with the CASF funds award as specified in Resolution T-17143.

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:

/s/ Paul Clanon

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

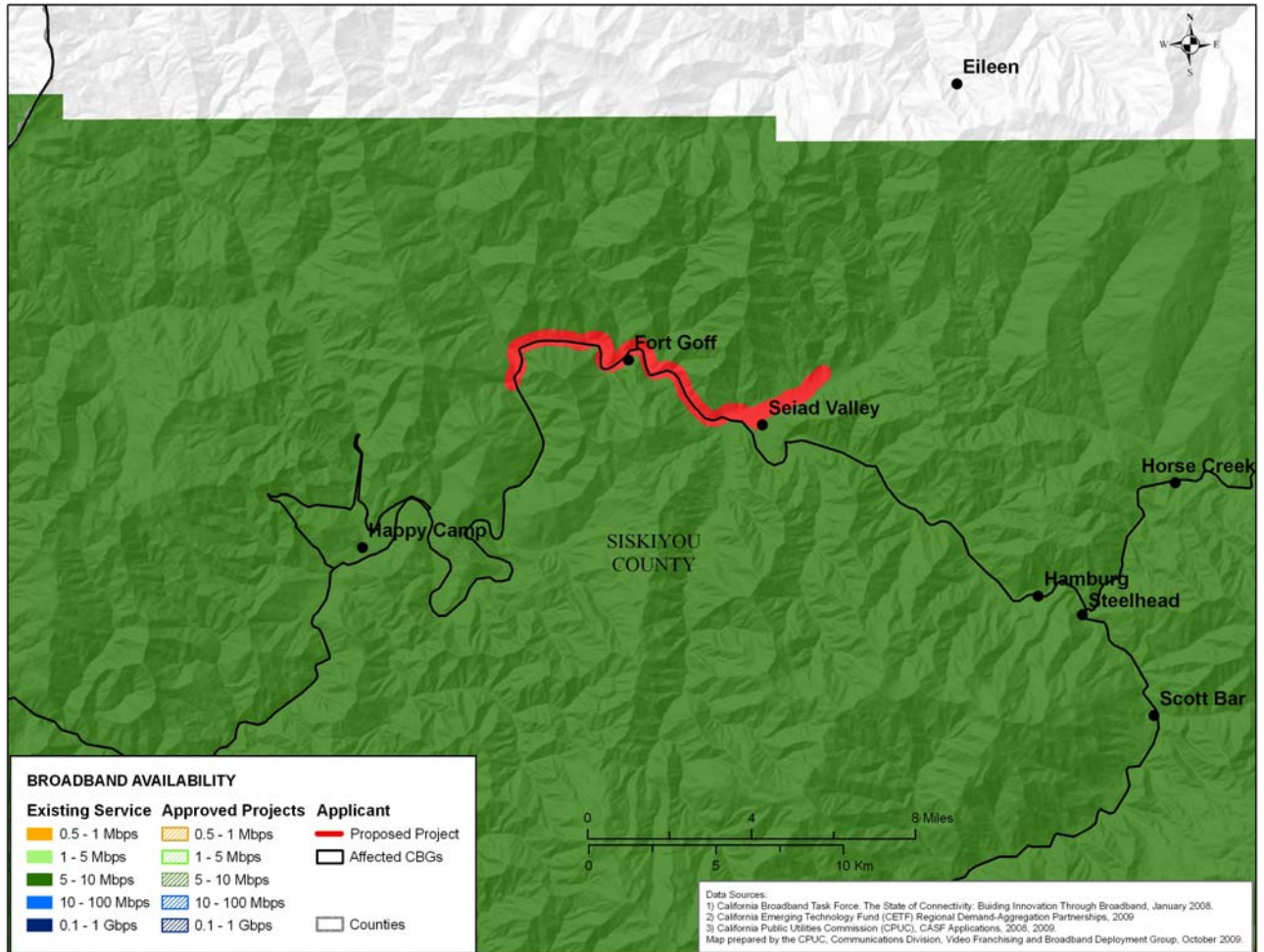
TIMOTHY ALAN SIMON

Commissioners

APPENDIX A
Resolution T- 17237
Siskiyou Telephone Seiad CASF Grant Application
Key Information

1	Project ID	256		
2	Project Name	Siskiyou Telephone Seiad Project		
3	Project Plan	High-speed Internet to Seiad via underground fiber optic conduit.		
4	Project Size (in square miles)	108		
5 & 6	Download / upload speed (in Mbps)	3 Mbps/1 Mbps		
7	Location	Siskiyou County		
a)	Community Name	Seiad		
b)	CBGs / Household Income			
		060930005001	\$23,375	
		060930005003	\$23,015	
c)	ZIP Codes	96086		
8	Estimated Potential Subscriber Size			
a)	Households	134		
b)	Broadband Subscribers	289		
c)	Deployment Schedule (from Commission approval date)	24 months		
9	Proposed Project Budget			
a)	Total (Seiad)	\$4,987,978		
b)	CASF (40%)	\$1,577,436		
c)	CIAC	\$1,044,388		
d)	Amount of CASF Funds Requested	\$2,621,824		
e)	Internally funded (60%)	\$2,366,154		

APPENDIX A
Resolution T- 17237
Siskiyou Telephone CASF Seiad Project - Shapefiles



APPENDIX A
Resolution T- 17237
Siskiyou Telephone Seiad Underserved Project - Regional Map



END OF APPENDIX A