

Date of Issuance: September 9, 2011

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T-17329
September 8, 2011**

R E S O L U T I O N

**Resolution T-17329 Rescinding Funding for the Mother Lode Internet
Unserved and Underserved Projects in Resolutions T-17197 and T-17225
by Releasing \$5,881,405 of California Advanced Services Fund Grant
Awards for Other Applicants**

Summary

This Resolution rescinds two California Advanced Services Fund (CASF) grants awarded to Mother Lode Internet from the California Advanced Services Fund (CASF) in Resolutions T-17197 (July 9, 2009) and T-17225 (May 6, 2010), releases the corresponding CASF matching funds approved, and makes the census block groups (CBGs) available to new applicants.

Background

On December 20, 2007, the Commission approved Decision (D.) 07-12-054 which established the CASF program for the purpose of providing matching funds of up to 40% of the total project costs for the deployment of broadband infrastructure in unserved and underserved areas in California. Subsequently, the Legislature in Senate Bill (SB) 1193 (Chapter 393, Stats. of 2008) established the California Advanced Services Fund as a new public purpose program effective through January 1, 2013 (see Public Utilities (PU) Code §281).

The Commission approved Resolution T-17143 on June 12, 2008, in which the Commission adopted application requirements, scoring criteria for the award of funds, and a prescribed timeline for filings and notifications. On September 25, 2010, the Governor signed SB 1040 (Chapter 317, Stats. of 2010) which amended PU Code §281 by providing an additional

\$125 million to fund three programs: the Broadband Infrastructure Grant Account, the Rural and Urban Regional Broadband Consortia Account, and the Broadband Infrastructure Revolving Loan Account. To implement the provisions of SB 1040 and to address possible changes to the program based on CASF's three year implementation experience, the Commission opened Order Instituting Rulemaking (R.) 10-12-008 on December 16, 2010, in which the Commission may establish new standards and processes to improve the CASF program and continue the efforts of promoting the state's goal of increased broadband deployment, access, and adoption in rural California.

Discussion

Telenational Communications, Inc. (Telenational), an affiliate of Rapid Link, Inc., a national voice and data carrier, and Mother Lode Internet, an internet service provider, applied for two CASF grants. Telenational acts as the fiscal agent for both projects because it holds a Certificate of Public Convenience and Necessity (CPCN) from the Commission under U-6666-C.¹ Telenational and Mother Lode Internet are referred to hereafter as MLI.

MLI filed project applications for CASF grants as follows:

- Unserved - On July 24, 2008, MLI filed an application for a CASF grant for 40% of the total project costs for unserved areas of Alpine, Amador, Calaveras, Tuolumne, and Mariposa counties. Resolution T-17197, adopted July 9, 2009, approved a CASF grant in the amount of \$2,771,341 for this project.
- Underserved - On August 25, 2008, MLI filed an application for a CASF grant for 40% of the total project costs for underserved areas of Tuolumne, Calaveras, Amador, Alpine and Mariposa counties. Resolution T-17225, adopted May 6, 2010, authorized a CASF grant in the amount of \$3,110,064 for this project.

Both of these CASF project resolutions had similar requirements. The CASF program required MLI to post performance bonds for each of the projects equal to the amounts of the CASF grants and to provide copies of those performance bonds to the Communications Division (CD). For the unserved project, the Commission directed MLI to submit the

¹ Under PU Code §854(a), no person or corporation shall acquire control of any public utility organized and doing business in this state without first securing authorization from the Commission, and any such acquisition without prior authorization shall be void and of no effect. In Application 09-02-021, Rapid Link requested approval to acquire ownership of Telenational. On June 18, 2009, D.09-06-024 approved a transfer of control of Telenational to Rapid Link, Inc. and also imposed a \$1,000 fine for failure to obtain Commission approval prior to the change. The CASF's primary concern with this organizational change was ensuring that the proper entity holding the CPCN is the fiscal agent. In D.09-06-024, the Commission approved the acquisition, thereby permitting Telenational to act as the CASF fiscal agent for the Mother Lode Broadband Projects.

performance bonds within five days after the effective date of the project award and, for the underserved project, within 20 days after the effective date of the award.

Since June 2010, CD has communicated in writing and by telephone with MLI at least 20 times, each time requesting information on MLI's progress in obtaining the performance bonds. In July 2010, CD requested MLI to provide a draft of the performance bonds by July 15, 2010, for staff review. CD's request provided specific information as to what the bond should include: a) the project description and completion date as set forth in the respective CASF grant applications; b) the terms and conditions of the CASF awards as set forth in the Resolutions granting the awards; (c) the amounts of the CASF grants and representations that the bonds will remain in full force and effect until the MLI completes the projects in a manner that complies with the requirements of the grants; and (d) a statement that if MLI does not complete the projects and/or does not comply with the conditions of the CASF grants that the Commission may consider allowing MLI additional time to perform before calling the bond(s).

CD maintained regular communications with MLI through March 2011 attempting to coordinate and obtain the required documents to comply with the program criteria. From March to July 2011, CD had not heard from MLI regarding the project compliance. In July 2011, CD contacted MLI and confirmed that MLI was still non-compliant. Although MLI made promises that it would comply, to date, MLI has failed to submit the copies of the executed performance bonds.

CD recommends that the Commission rescind these two awards for failure of the grantee to submit required documents explicitly set forth as conditions in Resolutions T-17143, T-17197, and T-17225. Because MLI has not demonstrated that it will provide broadband service to the unserved and underserved areas covered by its projects, CD believes the Commission should consider grant requests from other providers for these areas. Accordingly, the Commission should release the CASF funds allocated to these projects and return the census block groups (CBGs) to the pool of unserved and underserved areas for reallocation to other applicants/grants.

A summary of the funds released is shown:

	Resolution	Applicant	Project	County	Amount
A.	T-17197	Rapid Link, Inc.and Mother Lode Internet	Mother Lode Broadband (unserved)	Alpine, Amador, Calaveras, Tuolumne, and Mariposa	\$2,771,341
B.	T-17225	Telenational Communications, Inc. and Mother Lode Internet	Mother Lode Broadband (underserved)	Alpine, Amador, Calaveras, Tuolumne, and Mariposa	\$3,110,064
TOTAL FUNDING RELEASED					\$5,881,405

The list of CBGs made available for new CASF project proposals is shown in Appendix A.

Comments on Draft Resolution

In compliance with PU Code §311(g), a notice letter was emailed on August 3, 2011, informing all CASF applicants and 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.

The Commission did not receive any comments on this resolution.

Findings

1. In Decision (D.) 07-12-054, the Commission established the California Advanced Services Fund (CASF) 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, scoring criteria for the award of funds, and a prescribed timeline for other filings and notifications.
3. On September 25, 2010, the Governor signed SB 1040 (Chapter 317, Stats. of 2010) which amended Public Utilities Code §281 by providing an additional \$125 million to fund three programs: the Broadband Infrastructure Grant Account, the Rural and Urban Regional Broadband Consortia Account, and the Broadband Infrastructure Revolving Loan Account. The Commission opened Order Instituting Rulemaking (R.) 10-12-008 on December 6, 2010, in which the Commission may establish new standards and processes to improve the CASF program.
4. In administering the program, the Communications Division found that two projects approved for awards to Telenational Communications, Inc. and Mother Lode Internet have not complied with CASF funding requirements set forth in Resolution T-17143. Specifically, Telenational Communications, Inc. and Mother Lode Internet have failed to submit performance bonds that ensure the security of the public funds during construction.

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CD/ABA

5. Since June 2010, the Communications Divisions maintained regular communications with Telenational Communications, Inc. and Mother Lode Internet to coordinate their submission of the performance bonds for both projects. To date, neither company has submitted the performance bonds for the Mother Lode Broadband projects.
6. The Commission should rescind Resolutions T-17197 and T-17225 for the two specified projects, release the corresponding funding, and make the respective census block groups available to other applicants/grants.
7. The amount of \$5,881,405 allocated to the two projects is as follows:

	Resolution	Applicant	Project	County	Amount
A.	T-17197	Rapid Link, Inc.and Mother Lode Internet	Mother Lode Broadband (unserved)	Alpine, Amador, Calaveras, Tuolumne, and Mariposa	\$2,771,341
B.	T-17225	Telenational Communications, Inc. and Mother Lode Internet	Mother Lode Broadband (underserved)	Alpine, Amador, Calaveras, Tuolumne, and Mariposa	\$3,110,064
TOTAL FUNDING RELEASED					\$5,881,405

8. A notice letter was emailed on August 3, 2011, informing all applicants filing for CASF funding and 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.
9. The Commission did not receive any comments on this resolution.

THEREFORE, IT IS ORDERED that:

1. Resolutions T-17197 and T-17225 are rescinded, as specified, and the census block groups listed in Appendix A are made available to other applicants.
2. The amount of \$5,881,405 allocated to the projects approved in these two Resolutions is released and made available to other applicants.

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This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 8, 2011. The following Commissioners approved it:

/s/ Paul Clanon

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

APPENDIX A
Resolution T-17329
List of CBGs Open to New Applicants/Grants
By Resolution/Project

<u>Resolution T-17197</u>		<u>Resolution T-17225</u>	
<i>Unserved</i>		<i>Underserved</i>	
60030100001	60430003001	60030100001	60430003001
60030100002	60430003004	60050002002	60430003004
60050001006	60430003005	60050002003	60430003005
60050002001	60430003006	60050002004	60430003006
60050002002	60430004001	60050002005	61090011001
60050002003	61090021001	60050003012	61090011002
60050002004	61090021002	60050003014	61090011003
60050002005	61090021003	60050003021	61090012001
60050003011	61090021006	60050003022	61090012002
60050003014	61090022001	60050003023	61090012003
60050003021	61090022002	60050003024	61090012004
60050003022	61090022003	60050004013	61090021001
60050003023	61090022005	60050004014	61090021002
60050003024	61090022006	60050004021	61090021003
60050004021	61090022007	60050004023	61090021006
60050005001	61090031004	60050004024	61090022002
60050005002	61090031005	60050005001	61090022003
60050005003	61090032004	60050005002	61090022004
60090001102	61090041004	60050005003	61090022005
60090001105	61090042001	60090001101	61090022006
60090001201	61090042002	60090001102	61090022007
60090002101	61090042003	60090001103	61090031001
60090002102	61090042004	60090001201	61090031002
60090002103	61090042005	60090002101	61090031003
60090002104	61090051001	60090002102	61090031004
60090002203	61090051005	60090002103	61090031005
60090003001	61090052011	60090002104	61090032001
60090003002	61090052012	60090002203	61090032003
60090003004	61090052013	60090003001	61090032004
60090003005		60090003002	61090041001
60090004003		60090003004	61090041002
60090004004		60090003005	61090041004
60090004005		60090004005	67090042001
60090005001		60090005001	61090042002
60090005003		60090005002	61090042003
60090005006		60090005003	61090042004
60430001001		60090005005	61090042005
60430001002		60430001001	61090051001
60430001005		60430001002	61090051002
60430001006		60430001003	61090051005
60430002001		60430001004	61090051006
60430002002		60430001005	61090052011
60430002003		60430002002	61090052013
		60430002003	