

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

Communications Division  
Carrier Oversight and Programs Branch

**RESOLUTION T-17183**  
March 12, 2009

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

**Resolution T-17183 Approval of Funding for the Covelo and Laytonville Broadband Projects of Willits OnLine LLC and its subsidiary company, Rural Broadband Now! LLC from California Advanced Services Fund (CASF) Amounting to \$108,000**

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**Summary**

This Resolution adopts funding for the Covelo and Laytonville unserved area broadband projects totaling \$108,000 from the California Advanced Services Fund (CASF). The amount granted represents 40% of the total project costs of \$135,000.

**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.<sup>1</sup> 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). This same Resolution directed interested applicants, seeking funding for unserved projects, to file their project proposals and funding requests on July 24, 2008. Twenty-three (23) project proposals were received that sought CASF funding for unserved areas. Of these numbers, six proposals were unchallenged and received approval for funding under Resolution T- 17182, and sixteen (16) were challenged by various parties contending that the areas proposed were already served. On February 20, 2009, the Commission adopted two resolutions for five challenged unserved projects: Resolution T-17187 approving Broadband Associates' Highway 299 Broadband Network Project and Resolution T-17195 approving four AT&T projects.

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

Willits Online LLC submitted two project proposals on behalf of Willits Online LLC and its subsidiary company, Rural Broadband Now! LLC (Willits) for the Covelo and Laytonville areas of Mendocino County on July 24, 2008. Further details are presented in the Discussion Section of this resolution.

### **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 24, 2008: Census Block Groups (CBGs)." Of the CBGs covered by Willits proposals none was formally challenged by either existing service providers or other interested parties. Therefore, Communications Division (CD) proceeded with a review and an analysis of these project areas to verify that they were indeed unserved as of the applicants' filing date.

### **Discussion**

This Resolution adopts a total of \$108,000 in CASF funding support for the Covelo and Laytonville projects. These projects are described in detail in Appendix A, A-1 and A-3, respectively. Appendix A-2 and A-4 show maps of the Covelo and Laytonville unserved project areas. A statewide map showing the location of both projects is shown in Appendix A-5.

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.

Willits Online LLC submitted two project proposals on behalf of Willits Online LLC and its subsidiary company, Rural Broadband Now! LLC (Willits), a telephone corporation registered with the Commission, for the Covelo and Laytonville areas of Mendocino County on July 24, 2008.

In its application, Willits requests CASF funding of \$54,000 for the Covelo and \$54,000 for the Laytonville unserved areas. These amounts represent 40% of the total project cost of \$135,000 for the Covelo unserved area and 40% of the total project cost of \$135,000 for the Laytonville unserved area.

Willits proposes to deploy ADSL2+ <sup>2</sup> based broadband service which will reach most addresses that have existing wireline telephone service, within 3.5 miles of Willits' central

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<sup>2</sup> Asynchronous Digital Subscriber Line (ADSL)2+ is the International Telecommunications Union (ITU) standard known as ITU G.992.5. Standard and download speeds can be up to 24 MBPS, while upload speeds are specified as up to 1 MBPS. ADSL2+ will provide higher download speeds over longer distances from the exchange than ADSL2 and is becoming the prevalent technology of choice for ADSL broadband services.

office. These projects will be able to serve approximately 300 and 500 households in the Covelo and Laytonville areas, respectively.

CD reviewed Willits projects' eligibility in the unserved review phase by analyzing the required data submitted. This information included, but is 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 unserved; 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.

A list of CBGs appeared by county on the Commission's CASF website page under "UNSERVED areas proposed to be served as of July 24, 2008: Census Block Groups (CBGs)". CBGs 060450101002 and 060450101003 for the Covelo unserved area and CBG 060450102005 for the Laytonville unserved areas were not challenged by existing service providers or other interested parties. CD proceeded with its independent review and analysis, and verified the non-existence of broadband service of the Covelo and Laytonville areas through the January 2008 Broadband Task Force Report (BBTF).

In its application, Willits also indicated that its Covelo project began prior to Commission authorization. Through a formal data request, CD asked for additional information to determine Covelo's project eligibility for CASF funding. In its response, Willits states that the equipment required for the Willits-Sanhedrin-Covelo project link was ordered on June 12, 2008.

Although the Commission normally approves projects on a prospective basis and CD considered disqualifying the Covelo portion, CD is recommending the approval of both the Covelo and Laytonville projects even though Willits already commenced construction activities before approval. CD believes the approval of both projects is appropriate here because:

- the CASF guidelines may have been open to misinterpretation as Resolution T-17143 did not explicitly state that applicants should not start construction activities prior to approval of CASF funding and that applicants doing so run the risk of not having their projects approved and thus, not being reimbursed for project expenditures;
- the applicant is a newcomer, as far as participation in the Commission's programs are concerned, and may not be conversant with the Commission's rules as other telecommunication corporations;
- the needs in the Covelo and Laytonville areas, particularly with respect to the statistics on the low proficiency levels of its high schools and elementary schools; broadband service to these areas would hopefully improve the proficiency levels in its high schools and elementary schools; and
- the applicant wanted to undertake construction under good weather condition.

However, CD stresses that its approval of the already underway Covelo broadband project is a one-time occurrence. This should not serve as a precedent for other CASF projects submitted by the applicants. All subsequent applications from Willits, shall be subject to Commission and CASF funding rules and guidelines. Further, applicants who start a project prior to Commission approval do so at their own risk and may be responsible for all costs and expenses incurred.

Accordingly, CD recommends the approval of the Covelo and Laytonville projects with a total CASF award of \$108,000.

The Application Requirements and Guidelines on the awarding of CASF funds<sup>3</sup> provide that the execution of a Performance Bond is not required if 60% of the total project costs comes from the applicants' capital budget and is not obtained from outside financing sources. In its applications, Willits certified in writing that 60% of the total project costs will come from its existing capital budget. Therefore, a performance bond will not be required from the applicant.

Willits also states in its application that it will collocate within Verizon central offices to install and maintain the necessary DSL termination equipment for the Laytonville project. Willits explained that it will not be constructing any facilities for the purposes of providing broadband service except for equipment to be installed in existing Verizon central offices or buildings. Therefore, since this is a limited facility based construction, Willits is exempt from the California Environmental Quality Act review. However, Willits is required to comply with all other requirements and conditions such as, but not limited to, the submission of Form 477 associated with the granting of CASF funds as specified in Resolution T-17143.

### **Payments to CASF Recipients**

Submission of invoices and payments to Willits 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.

Since CASF funding is limited to entities with a Certificate of Public Convenience and Necessity (CPCN) that qualify as a "telephone corporation" as defined under P. U. Code §234 or wireless carriers registered with the Commission over which the Commission has jurisdiction, payment to Willits shall essentially follow the process adopted for funds created under Public Utilities Code §270. The following table describes the timeline for processing CASF payments.

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<sup>3</sup> Resolution T-17143

Event	Payment Cycle 1 (Day/Month)	Payment Cycle 2 (Day/Month)
Invoices due from CASF recipients to CD	5 <sup>th</sup> of Month 1	20 <sup>th</sup> of Month 1
Payment letters from CD to Information and Management Services Division (IMSD) <sup>4</sup>	On 19 <sup>th</sup> of Month 1	On 4 <sup>th</sup> of Month 2
Invoices submitted from IMSD to State's Controller Office (SCO) for payments	20 <sup>th</sup> through 26 <sup>th</sup> of Month 1	5 <sup>th</sup> through 13 <sup>th</sup> of Month 2

Willits 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.

### Comments on Draft Resolution

In compliance with PU Code § 311(g), a notice letter was emailed on January 20, 2008 informing a) all applicants filing for unserved 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 will be available at this same website.

On February 4, 2009, Willits submitted comments only to Commission staff on the draft resolution and requested the approval of both the Covelo and Laytonville unserved area projects for CASF funding. Willits was subsequently asked to served its comments to parties in the R.06-06-028 proceeding.

Willits comments are summarized below:

1. *There may have been some misunderstanding of the evolution of the project.*  
 Willits clarifies that it had a business desire to perform an upgrade to its microwave backhaul network in the Covelo area prior to the announcement of CASF. Willits placed the equipment order for the Willits-Sanhedrin-Covelo link with the idea to only use the equipment internally. Further, Willits was motivated to install the equipment on Sanhedrin Mountain due to good weather, availability of financing to purchase the equipment, and the possibility of a future

<sup>4</sup> 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 invoice

loan which would enable them to offer DSL to areas within the range of the new microwave. Willits believes that installing the equipment in 2008 would set the stage for future loans/grants.

**2. *Equity of disqualifying Covelo.***

Willits states that it has taken a huge business risk in participating in the CASF program. Covelo is a remote rural community which lacks many basic services including broadband and government support. In addition, the low population density makes any kind of infrastructure unattractive and unprofitable due to low use and high operational expense. Over the years, Covelo has lost local businesses due to the lack of broadband service and cannot easily attract new business nor adequately compete because it is not connected.

Willits also notes that Resolution T-17143 did not specifically discuss time frames for what could be considered nor did it state that applicants' cannot continue with their business as usual.

**3. *The project is not designed to be divided.***

Willits indicates that its project planning accounted for designing a system that would support both Covelo and Laytonville unserved areas. In trying to meet the deadline, Willits elected to absorb some costs, such as cost of construction, costs involved in establishing the collocation presence and miscellaneous equipment expenses. Willits states that without the approval of the total amount requested for Covelo and Laytonville projects, Willits may not be able to complete either project.

**4. *Technical errors in the analysis.***

Willits states that Resolution T-17183 incorrectly states the speeds proposed by Willits. Willits proposes to install ADSL2+ technology with proposed speeds of up to 24 MBPS down and 2.5 MBPS up.

**5. *Overwhelming public support for the project***

Willits submits a petition with 318 signatures of Covelo residents requesting that the project go forward.

The Commission, in Resolution T-17143, Appendix A, IV.11. Deployment Schedule states:

- Delineated schedules for deployment to build out within 24 months of the approval of the application. (emphasis added)

Also, the timeline of submission for and evaluation of both unserved and underserved projects in Appendix A states "CD will respond to funding requests through letter informing the applicant that the application has been evaluated and the project qualifies for CASF Funding; however, Final approval will be by Commission resolution." (emphasis added)

While Resolution T-17143 did not explicitly state that applicants should not start projects prior to Commission approval, applicants risk the disapproval of their projects that start prior to Commission approval. CD now puts future applicants on notice that if applicants commence work or incur costs and expenses on a proposed project prior to Commission approval, they do so at their own risk for it is illogical for any party to assume that the mere submission of an application guarantees funding approval. If the mere submission of a CASF application is the basis for approval, then the Commission's CASF requirements and scoring criteria for evaluation is meaningless.

The Commission normally approves projects on a prospective basis. Telecommunication corporations who are conversant with the Commission's rules and practices are aware of this. In fact, of the telecommunication corporations who applied for CASF funding to date; only Willits has assumed that the Commission will fund projects that already started and/or has been completed.

CD recognizes, however, that, Willits is new to the Commission and may not have had experience dealing with the Commission and other state agencies. Likewise, since the above-cited portions of Resolution T-17143 imply that projects need to be approved first before start of construction and disbursement of funds, it did not explicitly say so. This may have created some confusion for newcomers to the Commission.

CD takes note of Willits comments that the start of construction was prompted by the following factors: good weather, availability of financing and the possibility of securing future loans.

CD particularly takes note of the fact that the schools in both Covelo and Laytonville register very low in terms of proficiency: 23% for Covelo high schools and 17% for elementary schools and 30% for Laytonville high schools and 33% for elementary schools.

Because of these mitigating factors: weather condition in the proposed area and the proficiency levels in its schools, CD has reconsidered its original position of not recommending funding for approval Willits' Covelo project.

Accordingly, CD recommends for approval both the Covelo and Laytonville unserved broadband projects for CASF funding of \$108,000.

CD also notes that the applicant had made procedural errors in its application. Willits did not file its application online nor did it submit maps with its application. CD staff, on July 24, 2008, accepted a hard copy of the application and assisted/prepared the maps for Willits' project areas. Likewise, Willits, in submitting their Opening Comments, failed to serve all applicants for unserved areas and parties in R.06-06-028, thus extending the opening and reply comment periods. The Commission excuses these lack of adherence to Commission's and CASF 's rules for this first application because its primary concern is to

ensure that broadband service is made available to areas that have none and whose population would derive the most benefit from its availability .

## 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). T-17143 directed interested applicants seeking funding for unserved projects to file their project proposals and funding requests on July 24, 2008.
3. Unserved areas are defined 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. Willits Online submitted two project proposals on behalf of Willits Online and its subsidiary company, Rural Broadband Now! LLC (Willits) and requested CASF funding of \$54,000 for the Covelo unserved area and \$54,000 for the Laytonville unserved area of Mendocino County.
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 July 24, 2008: Census Block Groups (CBGs)". CBGs 060450101002 and 060450101003 for the Covelo unserved area and CBG 060450102005 for the Laytonville unserved areas were not challenged by either existing service providers or other interested parties. Communications Division (CD) proceeded with its independent review and analysis of the Covelo and Laytonville areas to verify that they were unserved as of the applicants' filing date.
6. CD reviewed Willits application's eligibility in the unserved review phase by analyzing 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 unserved; 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 and the



January, 2008, Broadband Task Force Report and its available on-line maps. These maps helped to verify the existence of or non-existence of broadband service areas and broadband speeds, where available.

8. CD is recommending approval of the Covelo project in spite of the start of the project prior to Commission approval of CASF funding and Willits' non-observance of Commission and CASF rules, requirements, and guidelines because of the following:
  - the CASF guidelines may have been open to misinterpretation as Resolution T-17143 did not explicitly state that applicants should not start construction activities prior to approval of CASF funding and that applicants doing so run the risk of not having their projects approved and thus, not being reimbursed for project expenditures;
  - the applicant is a newcomer, as far as participation in the Commission's public programs are concerned, and may not be conversant with the Commission's rules as other telecommunication corporations;
  - the needs in the Covelo and Laytonville areas, particularly with regard to the statistics on the low proficiency level of its high schools and elementary schools; broadband service to these areas would hopefully improve the proficiency levels in its high schools and elementary schools; and
  - the applicant wanted to undertake construction under good weather condition.
9. CD stresses that its approval of the already underway Covelo project is a one-time occurrence. This should not serve as a precedent for other CASF projects submitted by the applicants. All subsequent applications from Willits shall be subject to Commission and CASF funding rules and guidelines.
10. Applicants who start a project prior to Commission approval do so at their own risk and may be responsible for all costs and expenses incurred.
11. CD determined that the Covelo and Laytonville unserved area projects are eligible to receive funding under CASF.
12. Willits should not be required to post a performance bond for its Laytonville project since 60% of its total project cost will be financed by Willits through its capital budget.
13. Willits should be exempt from the California Environmental Quality Act review since it will collocate within Verizon central offices and buildings to install and maintain the necessary DSL equipment and is therefore a limited facility based construction.
14. Willits should comply with all the other requirements and conditions such as, but not limited to, the submission of Form 477 associated with the granting of CASF funds as specified in Resolution T-17143.

15. A notice letter was emailed on January 20, 2009 informing a) all applicants filing for unserved 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.
16. Opening comments on the Draft Resolution were filed by the Willits. No reply comments were filed. Willits' comments are addressed in the Comments section of this Resolution.
17. The Commission finds CD's recommended CASF award of \$108,000 for the Covelo and Laytonville broadband projects reasonable and consistent with Commission orders and should be adopted.

**THEREFORE, IT IS ORDERED that:**

1. The California Advanced Services Fund (CASF) shall award \$108,000 to Willits Online LLC and subsidiary company, Rural Broadband Now LLC (Willits) for the Covelo and Laytonville projects as described in the Discussion section of this Resolution.
2. The program fund payment of \$108,000 for the Commission-approved Covelo and Laytonville broadband projects shall be paid out of the CASF fund in accordance with the guidelines adopted in Resolution T-17143.
3. Willits shall not be required to post a performance bond for its Covelo and Laytonville broadband projects.
4. Payments to Willits 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. Willits shall be exempt from the California Environmental Quality Act review and requirements.
6. Willits shall comply with all requirements and conditions associated with the CASF funds award as specified in Resolution T-17143.
7. All subsequent applications from Willits, shall be subject to Commission and CASF funding rules and guidelines.
8. All other CASF applicants who start a project prior to Commission approval shall do so at their own risk and may be responsible for all costs and expenses incurred.

Resolution T-17183  
CD/MA1

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on March 12, 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

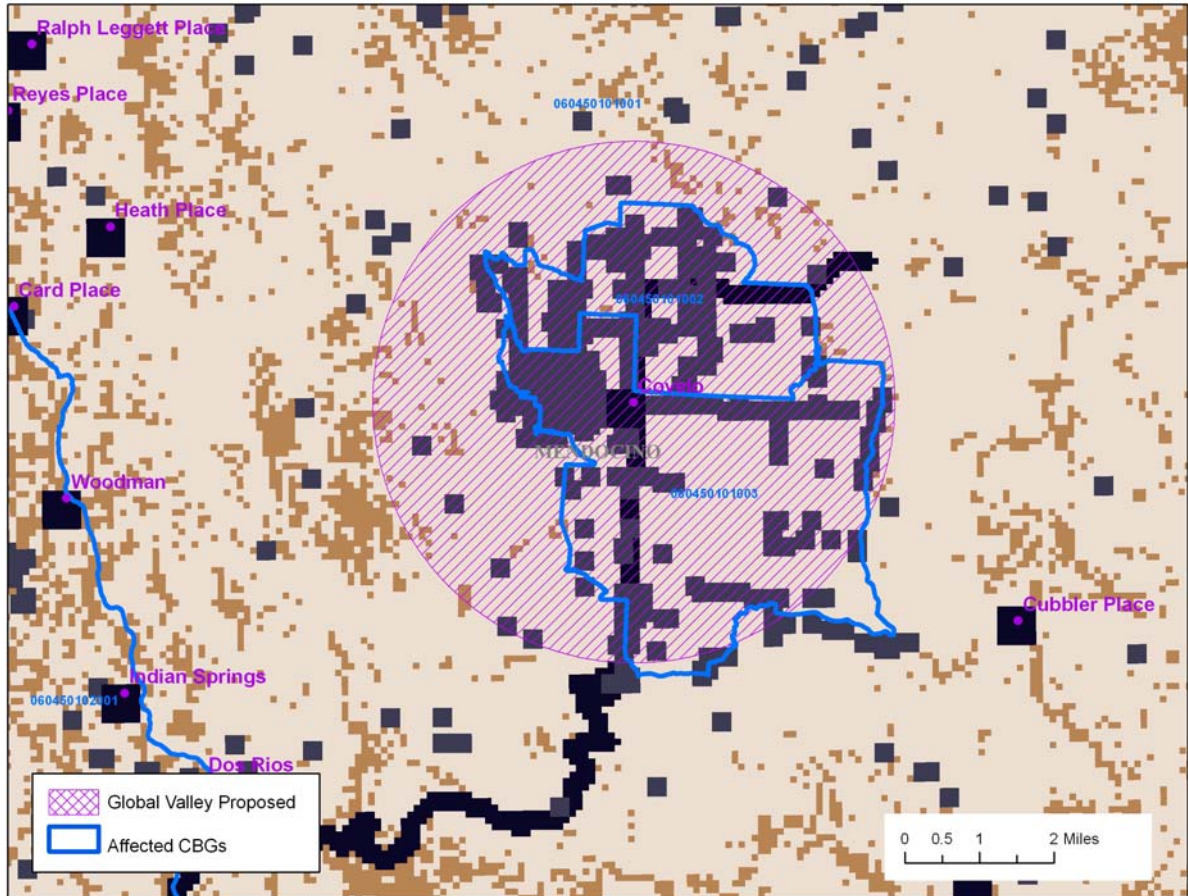
**APPENDIX A**  
**Resolution T-17183**  
**Covelo Project Key Information**

1	<i>Project ID</i>	<b>Willits Online</b>	
2	<i>Project Name</i>	<b>Covelo</b>	
3	<i>Project Plan</i>	deploy ADSL2+ based broadband service to the rural community of Covelo.	
4	<i>Project Size (in square miles)</i>	3.5	
5	<i>Download speed</i>	up to 6 MBPS	
6	<i>Upload speed</i>	up to 768 KBPS	
7	<i>Location</i>	Mendocino	
a)	<i>Community Name</i>	Covelo	
b)	<i>CBGs/Household Income</i>	060450101002	\$27,639
		060450101003	\$27,639
c)	<i>Zip Codes</i>	95428	
8	<i>Estimated Potential Subscriber Size</i>		
a)	<i>Households</i>	300	
9	<i>Deployment Schedule (from Commission approval)</i>	July 2008 - February 2009	
10	<i>Proposed Project Budget</i>		
	<i>CASF (40%)</i>	\$54,000	
	<i>CIAC</i>		
	<i>Amount of CASF Funds Requested</i>	<b>\$54,000</b>	

# APPENDIX A

## Resolution T-17183

### Covelo Project Shape file

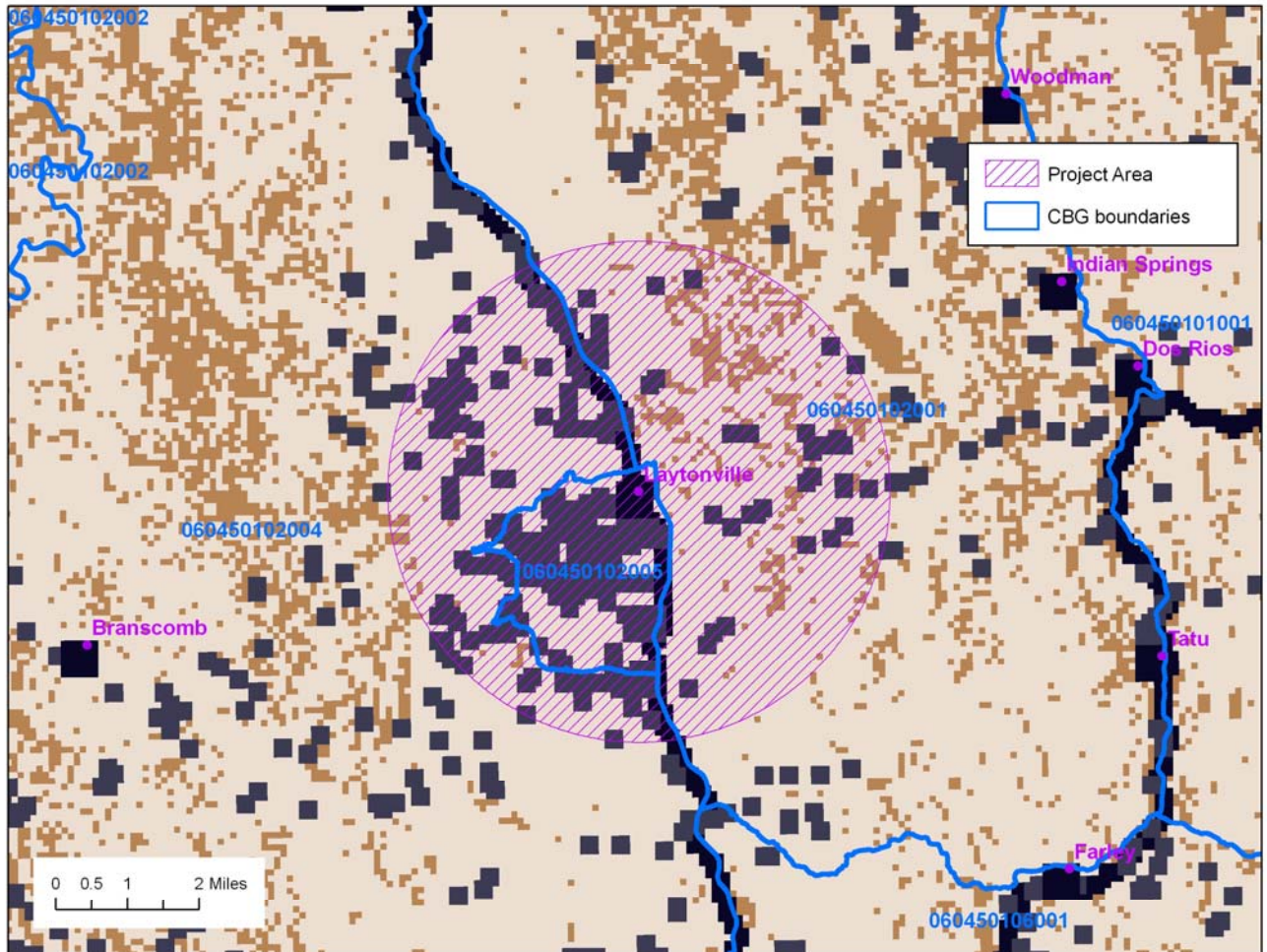


**APPENDIX A**  
**Resolution T-17183**  
**Laytonville Project Key Information**

<b>1</b>	<b>Project ID</b>	<b>Willits Online</b>	
<b>2</b>	<b>Project Name</b>	<b>Laytonville</b>	
<b>3</b>	<b>Project Plan</b>	deploy ADSL2+ based broadband service to the rural community of Laytonville.	
<b>4</b>	<b>Project Size (in square miles)</b>	3.5	
<b>5</b>	<b>Download speed</b>	up to 6 MBPS	
<b>6</b>	<b>Upload speed</b>	up to 768 KBPS	
<b>7</b>	<b>Location</b>	Mendocino	
<b>a)</b>	<b>Community Name</b>	Laytonville	
<b>b)</b>	<b>CBGs/Household Income</b>	060450102005	\$34,432
<b>c)</b>	<b>Zip Codes</b>	95454	
<b>8</b>	<b>Estimated Potential Subscriber Size</b>		
<b>a)</b>	<b>Households</b>	500	
<b>9</b>	<b>Deployment Schedule (from Commission approval)</b>	April - August 2009	
<b>10</b>	<b>Proposed Project Budget</b>		
	<b>CASF (40%)</b>	\$54,000	
	<b>CIAC</b>		
	<b>Amount of CASF Funds Requested</b>	\$54,000	



**APPENDIX A**  
**Resolution T-17183**  
**Laytonville Project Shapefile**



## APPENDIX A Resolution T-17183 Covello and Laytonville Statewide Map

