

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Broadband, Video and Market Branch**

**RESOLUTION T-17613
July 12, 2018**

RESOLUTION

Resolution T-17613: Approval of funding for the grant application of Frontier California, Inc. (U-1002-C), from the California Advanced Services Fund (CASF) up to the Amount of \$1,458,886 for the Lytle Creek Project for unserved areas in San Bernardino County.

I. Summary

This Resolution approves 80 percent of projected project cost funding in the amount of \$1,458,886 from the California Advanced Service Fund (CASF) for the grant application of Frontier California Inc. (“Frontier”), to construct the Lytle Creek Project, which includes the deployment of middle-mile fiber and last-mile fiber-to-the-home (FTTH) facilities in Lytle Creek in San Bernardino County. The proposed project will enable Internet speeds of up to 1 Gbps download and 1 Gbps upload to an estimated 339 CASF eligible households. Currently, Lytle Creek only has dial-up and mobile data service at below served speeds.

The proposed project is eligible for CASF funding, did not receive a challenge and compares favorably to previously-approved FTTH projects, due to a relatively low cost per household (\$4,304) and relatively high speeds. The proposed project will also provide access to broadband Internet service for the U.S. Forest Service Lytle Creek Ranger Station, the Lytle Creek Community Center, the Lytle Creek Post Office, and several small businesses.

II. Applicant Request

On November 13, 2017, Frontier California, Inc. (U-1002-C) submitted a CASF Infrastructure Account grant application, requesting \$1,823,607 in funding to deploy middle-mile and last-mile fiber facilities that would enable provision of broadband Internet service to 339 households in Lytle Creek, San Bernardino County, an area currently unserved by any wireline or wireless broadband provider. The requested amount of \$1,823,607 is 100 percent of projected project costs.

Geography and Topography: Lytle Creek is located in a canyon in the San Gabriel Mountains in San Bernardino County, about 16 miles northwest of downtown San Bernardino. Located entirely within the boundaries of the San Bernardino National Forest, the proposed project’s route will include traversing hills, streams, and forests, and thus will require coordination with the U.S. Forest Service during review of potential environmental impacts.

Applicant: Frontier is a publicly-traded corporation and the fourth largest incumbent local exchange carrier (ILEC) in the United States and the second largest in California. As the Carrier-of-Last-Resort in Lytle Creek, Frontier California currently provides voice service in the proposed project area via facilities acquired from Verizon in 2016 and does not provide broadband Internet service.

Project: Frontier proposes to place approximately 8 miles of middle-mile fiber optic cable, connecting Lytle Creek to Frontier’s core network (and Glen Helen Parkway), and 10.5 miles of last mile fiber optic cable for the fiber-to-the-home (FTTH) facilities. This project will be capable of providing Internet service with speeds of up to 1 Gbps download and 1 Gbps upload, while also offering VoIP service. This service will be available to the general public, as well as anchor institutions and small businesses, such as the Community Center, Ranger Station, Post Office, event spaces, and campgrounds.

III. Notice and Challenges

On November 29, 2017, Staff posted the proposed project area map, census block groups (CBGs) and zip codes for the Lytle Creek Project on the Commission’s CASF webpage under “CASF Application Project Summaries” and also sent notice regarding the project to its electronic service list. Staff received no challenges to the proposed project area.

IV. Project Review

A. Project Area Eligibility

AB 1665, signed into law by the Governor in October 2017, prohibits the Commission from awarding CASF funding to a project applicant if the existing facility-based broadband provider demonstrates, in response to the Commission’s annual offer, that it will deploy broadband or upgrade existing broadband service throughout the proposed project area within 180 days.¹ Additionally, until July 1, 2020, the Commission cannot award funds for projects located in census blocks where an existing facility-based broadband provider has accepted federal funds for broadband deployment from the Federal Communications Commission’s Connect America Fund Phase II program (unless the existing facility-based broadband provider has notified the Commission before July 1, 2020, that it has completed its Connect America Fund deployment in the census blocks in question).²

In addition to the requirements outlined above, the CASF program requires an applicant to submit proof that the area is unserved, which is now defined as where no provider offers access at speeds of at least 6 Mbps downstream and 1 Mbps upstream.³ The applicant does this by submitting a shapefile of the proposed project area, which Staff compares with United States Census 2010 data and the California Interactive Broadband Availability map (a.k.a., eligibility

¹ See Pub. Util. Code section 281(f)(4)(A)(i) - 281 (f)(4)(A)(ii). The Commission adopted a “right of first refusal” process in T-17443, June 27, 2014, and T-17590, December 20, 2017.

² See Pub. Util. Code section 281(f)(5)(C)(i) - 281 (f)(5)(C)(ii)

³ See Pub. Util. Code section 281(f)(5)(A)

map).⁴ Once Staff determines that the area is eligible as an unserved area, Staff evaluates all other information submitted by the applicant to determine if the project meets the requirements outlined in D.12-02-015.

Frontier filed their application prior to Staff publication of its latest mobile eligibility map and data. Although the prior eligibility map relied upon by Frontier showed the project area as eligible, the latest version of the eligibility map indicates that the area is served by Verizon's mobile facilities. Subsequently, Staff took extensive readings in the project area using the CalSPEED mobile app, of which 88 percent of test results indicate unserved speeds. Thus, the proposed project area is considered unserved and is grant eligible.

Additionally, AB 1665 states: "For a project that includes funding for middle-mile infrastructure, the commission shall verify that the proposed middle-mile infrastructure is indispensable for accessing the last-mile infrastructure."⁵ Staff has verified that the middle-mile facilities are indispensable for accessing the last mile infrastructure, due to the project's terrain and location, and because there is no other wireline facilities provider in the project area. Finally, no provider expressed a commitment to serve the project area before the January 15, 2018 deadline in which to declare a "right-of-first-refusal". Staff determined that the entire proposed project area is CASF grant eligible.

B. Project Criteria Evaluation

Staff evaluated the application with respect to the criteria defined in D.12-02-015, Appendix 1, Section VIII (Scoring Criteria). The statutory provisions adopted in AB 1665 did not revise these criteria, which include: (i) Funds Requested per Potential Customer, (ii) Speed, (iii) Financial Viability, (iv) Pricing, (v) Total Number of Households in the Proposed Area, (vi) Timeliness of Completion of Project, (vii) Guaranteed Pricing Period, and (viii) Low-Income Areas.

Funds per household: Though Frontier has requested a 100 percent grant of \$1,823,607, Staff is recommending an 80 percent grant of \$1,458,886. Evaluated at 80 percent, the per-household subsidy for this project is \$4,304, which is 47 percent less than the \$8,131 median for approved CASF fiber-to-the-home projects. At the 100 percent subsidy requested, this project would be 34 percent less than the median fiber-to-the-home project. Even at the lower grant level, this project will, like all fiber-to-the-home projects, cost approximately four times as much as the median of all CASF projects regardless of deployed technology type. However, many of those projects provide slow speeds and are not directly comparable.

Speed: The proposed speed offerings (up to 1 Gbps download and up to 1 Gbps upload, and a minimum of 15 Mbps download and 5 Mbps upload) exceed the 10/1 minimum performance requirement set by AB 1665. The available speeds would be fast by any standard, and its

⁴ The latest version of the California Interactive Broadband Availability Map uses wireline data as of December 31, 2016. This map was published with fixed-broadband data on December 22, 2017 and published complete with mobile availability data on March 15, 2018.

⁵ See Pub. Util. Code section 281(f)(5)(B)

maximum proposed speed would be equivalent to the speeds offered by the fastest fiber-to-the-home projects.

Financial Viability: Based on the pro forma financial statements submitted by Frontier, Staff believes the applicant is capable of funding its \$364,721 share of the project investment costs, and that the projected revenues will exceed the projected five years of ongoing costs to operate the project area facilities. According to the projections submitted by Frontier, the project will have annual Earnings Before Interest and Taxes (EBIT) of over \$200,000 in the fourth year when the project has finished subscribing customers. Although Frontier has stated that this project does not present a business case at less than 100 percent funding, Staff estimates that, if Frontier’s projections for revenue and expenses are correct, Frontier should earn a return of roughly 20% on its investment of \$364,721.

With respect to the applicant’s overall financial viability, and based exclusively on publicly available documents, Staff shares many of Frontier’s investors’ concerns about the company’s financial position. Frontier showed a \$1.8 billion loss in 2017, its stock has lost 94% of value since its peak in 2014, and its bonds maturing between now and 2025 (rated “Caa1” by Moody’s) offer yields to maturity of 10-15%, which is indicative of a high-risk premium in current market conditions. Despite these facts, Staff considers the risk of the project not being completed and operated for at least five years as low because the project area is projected to be profitable to operate.

Pricing: Frontier has committed to a broadband pricing plan under the terms shown below for two years, starting from the beginning date of service. There is no long-term commitment by the consumer. Frontier’s typical activation fee of \$9.99 will need to be waived for this project, in line with CASF requirements. Consumers can also receive a \$15/month discount (to a minimum price of \$24.99) if they bundle their Internet service with voice service. Compared to other gigabit-speed fiber-to-the-home projects, these prices (measured as \$/Mbps) are 86 percent above the median. Compared to all CASF projects, however, these prices are 63 percent below the median.

Download Speed	Upload Speed	Monthly Cost
30 Mbps	30 Mbps	\$39.99
50 Mbps	50 Mbps	\$64.99
75 Mbps	75 Mbps	\$74.99
100 Mbps	100 Mbps	\$84.99
150 Mbps	150 Mbps	\$124.99
500 Mbps	500 Mbps	\$169.99
1 Gbps	1 Gbps	\$219.99

Households in project area: Based on the latest Census data, there are 339 households in the proposed project areas.

Timeliness of completion: Frontier has submitted a timeline for the project, with milestones for: starting the project; completing engineering; receiving equipment; beginning construction; completing construction; testing the network; and starting service. The applicant expects to need 9 months from the date of approval to begin providing service. By comparison, the average approved project has required over 22 months to be completed.

Guaranteed pricing period: Frontier has committed to a pricing plan of two years after the completion of the project, which is the minimum required by the program.

Low-income areas: According to the U.S. Census data, and the materials provided by the applicant, the median income in Lytle Creek is \$78,750, higher than the statewide median of \$63,783.

C. Safety and Community Input Considerations

The CASF program encourages the deployment of broadband throughout the State to enable the public to access Internet-based safety applications, telehealth services, access to emergency services, and to allow first responders to communicate with each other and collaborate during emergencies.

The proposed project area is within the boundaries of the San Bernardino National Forest, and approval of this project would benefit an area designated as a high fire danger area and tree die-off zone. Lytle Creek has been designated by CalFire as a “Community at risk” and was greatly impacted by the 2016 Blue Cut fire. Reliable broadband Internet will play an important role in response and recovery from future fires. The local San Bernardino County fire department (station 20, located at 497 Lytle Creek Road) as well as U.S. Forest Service Lytle Creek Ranger Station will have access to enhanced communications services as a result of the proposed project.

Additionally, the Lytle Creek Community Center, which offers a Youth and Senior Lunch Program, a Computer Lab, and a Kids’ Morning Club, would benefit from enhanced broadband service availability. CASF has received letters of support for the Lytle Creek Project from: Congressman Paul Cook’s office; Senator Mike Morrell’s office; Assemblymember Marc Steinorth’s office; Supervisor Janice Rutherford’s office; Superintendent of Schools Ted Alejandro’s office; and letters from over 1/3 of the population of the community.

D. Grant Funding Level

Pub. Util. Code section 281(f)(13), amended in 2017 by AB 1665, authorizes the Commission to award grants to fund all or a portion of the project and requires that it determine, on a case-by-case basis, the level of funding to be provided. Further, the Scoping Memo in CASF Rulemaking 12-10-012 stated that “(u)ntil new program rules are in place, the Commission will continue funding of applications in the interim from the remaining funds.”⁶ Given that AB 1665 took effect immediately and that CASF rules not in opposition to the new law remain operative for staff, it is appropriate for Staff to review this project application relative to the new Section

⁶ See, Scoping Memo Ruling, dated February 18, 2018, page 13.

281 statutory language and all operative rules and recommend an appropriate funding level for this project.

Frontier's Request: Frontier requested that the Commission award the company a grant to cover 100 percent of costs for the proposed Lytle Creek broadband infrastructure project. Frontier's stated rationale for the request has been attached as Appendix B. In summary, Frontier argues that this project deserves full funding because: Lytle Creek is eligible for a CASF grant; Lytle Creek is unserved; Frontier can "leverage its existing facilities and operations" in Lytle Creek with less public investment than a competitor can initiate operations in the area; Lytle Creek contains a Ranger Station and has been recognized by the CPUC and Cal Fire for its exposure to fire risk; finally, Frontier has stated that this project only presents a business case for the company at 100 percent funding.

Staff Analysis: In making a determination of the appropriate level of funding for this grant, Staff considered the statutes as amended by AB 1665,⁷ and the legislative committee's assessment that it may be necessary to "offer" in excess of 70 percent grant funding level, potentially up to 100 percent when warranted, to achieve the goals of the program.⁸

Staff used the statutory factors for consideration of the grant funding level contained in Pub. Util. Code sections 281(f)(13) and 281(b)(2)(B)(i), and existing CASF rules, in the following manner to determine the grant funding level for the Lytle Creek Project:

1. Eligible Project – 60 Percent Funding

Pursuant to CASF rules adopted in D.12-02-015, and carried over in D.14-02-018 and T-17443, a project in an area that is not served by any form of wireline or wireless facilities-based broadband is eligible for 70 percent funding, whereas a project in an area where broadband is available, but no wireline or wireless facilities-based provider offers service at speeds that meet CASF standards, is eligible for 60 percent funding. AB 1665 changes the terminology for describing these projects, and changes the upload speed standard, but it does not eliminate the statutory requirement to "give preference to projects in areas... that are not served by any form of wireline or wireless facility-based broadband service." Thus, in order to implement AB 1665 immediately, while continuing to apply all CASF rules not in opposition to the new law, it is appropriate for Staff to continue to award 60 percent funding to eligible projects in areas without broadband service at CASF standards, and to provide an additional 10 percent to projects

⁷ Pub. Util. Code, § 281(f)(13).

⁸ See Bill Analysis prepared by California Assembly Committee on Conveyance, April 26, 2017, p.4. "Arguably since the creation of CASF, most areas that have been served by CASF funds are projects in which applicants feel that their cost, combined with CASF funds, warrant an investment in deploying broadband in such areas. However, this leaves most of the remaining unserved areas of state, mostly in rural and small communities, still without broadband connectivity due to the lack of investment by providers who feel that the difficulties associated with deploying and maintaining such a network in the area for a limited amount of potential customers, even combined with CASF funds, would not result in a positive return on investment. Arguably, the remaining unserved households potentially are households in which even a 70% total cost CASF grant still does not provide enough incentive for a provider to build. Hence, CPUC should consider awarding grants that offer funding for 100% of total costs when warranted."

in areas that are not served by any form of wireline or wireless facility-based broadband service.

Assessment: Lytle Creek meets all of the eligibility criteria, as previously described in the Project Area Eligibility evaluation section, and receives 60 percent funding.

2. Service Level Preference – 10 Percent Funding

Section 281(b)(2)(B)(i), states: “Give preference to projects in areas where Internet connectivity is available only through dial-up service that are not served by any form of wireline or wireless facility-based broadband service or areas with no Internet connectivity.” This is consistent with D.14-02-018 and T-17443, which identify 70 percent funding for areas having no available service, at any speed.⁹

Assessment: According to the Eligibility Map, Lytle Creek does not have any publicly available wireline or fixed wireless broadband service, but nearly all of the households located within the project area have at least some mobile data service. Thus, this project does not receive the Service Level Preference funding.

3. Funding Level Factor Consideration – 30 Percent Funding

Section 281(f)(13) states: “The Commission shall... consider factors that include but are not limited to, the location and accessibility of the area, the existence of communication facilities that may be upgraded to deploy broadband, and whether the project makes a significant contribution to achievement of the program goal.” Staff proposes that each of these factors receive an additional 10 percent funding.

Assessment: Due to the proposed project’s location in a National Forest, Staff considers the project area to be relatively inaccessible to advanced broadband communications infrastructure and eligible for additional funding. Due to Frontier’s use of existing infrastructure to upgrade and deploy broadband, Staff considers the project eligible for additional funding. Regarding whether a project makes a significant contribution to achievement of the program goal, the Commission has established priority areas for broadband infrastructure deployment in Resolution T-17443. Further, in February 2017 Staff published a High-Impact Analysis.¹⁰ Lytle Creek has not been recognized in either document as making a significant contribution toward achievement of the program goal beyond the contribution made by other CASF grants. Therefore, in total this project receives an additional 20 percentage points funding in consideration of meeting two of the three described factors.

⁹ D.12-02-015 considered an area “‘unserved’ if it offers no form of facilities-based broadband, such that Internet connectivity is available only through dial-up service or satellite.”

¹⁰ The Resolution T-17443 and the Staff High-Impact Analysis are available on the CPUC website; www.cpuc.ca.gov/General.aspx?id=6442455975

Recommended Grant Funding Level: Upon weighing the considerations listed above, Staff recommends awarding 80 percent funding for this project based upon using the existing CASF program rules and the new Section 281 statutory criteria, on a case-by-case basis.

V. Compliance Requirements

Frontier is required to comply with all the guidelines, requirements, and conditions associated with the grant of CASF funds as specified in D.12-02-015.

A. California Environmental Quality Act (CEQA)

All CASF grants are subject to California Environmental Quality Act (CEQA) requirements unless the project is statutorily or categorically exempt pursuant to the CEQA Guidelines. Prior to any construction activity, Frontier is required to seek further authority from the Commission for such activity by filing a Proponent's Environmental Assessment (PEA) pursuant to Commission Rule of Practice and Procedure 2.4; and must undergo an environmental review pursuant to the CEQA (California Public Resources Code § 21000 et seq.).

Frontier should contact the Supervisor of the Commission's Energy Division CEQA Unit well in advance of a contemplated filing to (a) consult with staff regarding the process of developing and filing a PEA; (b) provide for cost recovery per Rule of Practice and Procedure 2.5; and (c) enter into a Memorandum of Understanding to allow the Energy Division to initiate the retention of an environmental contractor to perform the environmental review.

Frontier may file a completed CEQA review conducted by another agency acting as the Lead Agency pursuant to CEQA. Frontier should make every effort to ensure that the Commission's CEQA Unit is aware of and included in the CEQA process if another agency acts as the CEQA Lead Agency. Frontier should contact the Supervisor of the Commission's Energy Division CEQA Unit well in advance of a contemplated filing to consult with staff regarding the applicability of another agency's CEQA review.

Frontier must provide the PEA prior to the first payment. The Commission cannot release funds for the construction project until the Commission has completed CEQA review. Frontier has agreed in its application to provide a Proponent's Environmental Assessment, and has allocated \$150,000 in their budget for environmental review and permitting.

B. Deployment Schedule

The Commission expects Frontier to complete the project within 24 months from start date (as determined by the procedure below), and the applicant has committed to do so. If the applicant is unable to complete the proposed project within the 24-month timeframe requirement, it must notify the Director of the Communications Division as soon as Frontier becomes aware of this possibility. If such notice is not provided, the Commission may reduce payment for failure to satisfy this requirement of notifying the Director on a timely basis.

C. Execution and Performance

Frontier shall determine a project start date after the CASF grant recipient has obtained all approvals. Should Frontier or any contractor it retains fail to commence work by the designated date, upon five days' written notice to Frontier, the Commission may terminate the grant. In the event that Frontier fails to complete the project in accordance with the terms of CPUC approval as set forth in this resolution, Frontier shall reimburse some or all of the CASF funds that it has received. Frontier must complete all construction covered by the grant on or before the grant's termination date.

D. Performance Bond

CASF rules do not require a performance bond if the applicant certifies that the percentage of the total project cost it is providing comes from its capital budget and is not obtained from outside financing. In its application, Frontier requested 100 percent funding, and thus did not make such a certification. Given that this Resolution awards a grant covering less than 100 percent of project cost, Frontier will need to certify that the remaining costs will be covered out of its capital budget within 21 days of the issuance of this resolution, or the company will need to obtain a performance bond within five days of the completion of CEQA.

E. Price Commitment Period

The minimum required price commitment period for broadband service to all households within the project area is two years after project completion. Frontier guarantees the price of service offered in the project area for two years.

F. Project Audit

The Commission has the right to conduct any necessary audit, verification, and discovery during project implementation/construction to ensure that CASF funds are spent in accordance with Commission approval.

Frontier's invoices will be subject to a financial audit by the Commission at any time within three years of completion of the work.

G. Providing Voice Service

Frontier has certified that its basic analog telephone service meets the Federal Communications Commission (FCC) standards for E-911 service and battery backup.

H. Reporting

Frontier must submit quarterly progress reports on the status of the project irrespective of whether Frontier requests reimbursement or payment.

Progress reports shall use the schedule for deployment, major construction milestones, and costs submitted in the proposal; indicate the actual date of completion of each task/milestone as well as problems and issues encountered, and the actions taken to resolve these problems and issues during project implementation and construction; and identify future risks to the project. Frontier must certify that each progress report is true and correct under penalty of perjury.

Before full payment of the project, Frontier must submit a project completion report. Frontier shall also include test results on the download and upload speeds on a CBG and zip code basis in the final completion report.

I. Submission of Form 477

The FCC currently requires broadband providers to biannually submit Form 477, which includes speed data. While there is an imperfect match between the data that is reported in the Form 477 and to the CASF, the Form 477 data will be useful in documenting CASF deployment for the service provider's new service. Pursuant to General Order 66-D, service providers in California must submit a copy of their Form 477 data directly to the CPUC, concurrent with their submission of the same data to the FCC for a five-year period after completion of the project.¹¹

J. Prevailing Wage

Section 1720 of the California Labor Code specifies that CASF-subsidized projects are subject to prevailing wage requirements. Frontier has committed to follow state prevailing wage requirements with regards to this project.

K. Payments to CASF Recipients

Submission of invoices from and payments to Frontier shall be made at 25 percent completion intervals, in accordance with Section XI of Appendix 1 of D.12-02-015 and according to the guidelines and supporting documentation required in D.12-02-015.

Payment to Frontier shall follow the process adopted for funds created under Pub. Util. Code, §270. The Commission generally processes payments within 20-25 business days, including Communications Division and Administrative Services' review time. The State Controller's Office (SCO) requires an additional 14- 21 days to issue payment from the day that requests are received by SCO from Administrative Services.

VI. Comments on Draft Resolution

In compliance with Public Utilities Code § 311(g), a notice letter was e-mailed on June 8, 2017, informing all parties on the CASF Distribution List of the availability of the draft of this resolution for public comments at the Commission's website at <http://www.cpuc.ca.gov/PUC/documents/>. This letter also informed parties that the final

¹¹ *Approval of the California Advanced Services Fund (CASF) Application Requirements and Scoring Criteria for Awarding CASF Funds* (2008) Cal. P.U.C. Res. No. T-17143 at 4.

conformed Resolution adopted by the Commission will be posted and available at this same website. Staff received two formal comments on the draft resolution, and two reply comments.

On July 2, 2018, Frontier and the California Emerging Technology Fund (CETF) each submitted comments on the Draft Resolution.

Frontier supports approval of the project, but requests modifications to the following: CASF's CEQA payment provisions; the Resolution's list of letters of support; written errors in the Draft Resolution; and the level of the grant award, from 80% to 100%. Frontier's comments are summarized as follows:

- Frontier asserts that the proposed project enhances public safety, is located in difficult terrain, contains no FCC Connect America Fund areas, uses existing infrastructure, is a low-cost project, lacks other broadband Internet service, makes a significant contribution to the program, and will connect a community that has expressed great support for the project.
- Frontier disagrees with the funding determination proposed by Staff and interprets AB 1665 as requiring Staff to consider each project according to the unique combination of factors that will justify full funding for that project.
- Frontier implies that 80% funding may not be enough to build the Lytle Creek Project, and states that more projects will be presented if the program covers 100% of the costs of projects such as Lytle Creek.
- Frontier requests that the Commission implement Staff's proposal on page 19 of the CASF Rulemaking, to have CEQA costs initially paid directly by the CPUC out of the grant monies, instead of being paid by the applicant and subsequently reimbursed through the payment process.
- Frontier requests the following: that Lytle Creek be characterized as representing "a wide range of socio-economic groups, including many retirees and significant pockets of low-income residents;" the inclusion of additional statements of support for the project; modification of Appendix B to include Frontier's entire request, rather than an excerpt; and changing the reference to the "Legislative Analyst" to the "legislative committee."

CETF supports the proposed project and considers the recommended 80 percent grant funding to be a "responsible use of scarce CASF resources." Additionally, CETF recommends that the Commission convene all stakeholders to develop a preferred scenario (or scenarios) to meet its 98 percent goal in a cost-effective manner.

On July 3, 2018, CETF also submitted replying comments to Frontier's request for additional funding. CETF states that Frontier misrepresents AB 1665, and that the new statute gives the Commission discretion to fund "*all or a portion of the project*" (emphasis

added). CETF further states that the law “properly gives the Commission discretion” to consider factors such as the financial ability of the applicant, the applicant’s “skin in the game” or the profitability of the project. Lastly, CETF asserts that 80 percent funding is already unprecedented and concludes that if the Commission provides 100 percent subsidies to Frontier without Frontier demonstrating good faith efforts to achieve the goal of the program, then the integrity of the CASF program is jeopardized.

On July 9, 2018, Frontier also submitted replying comments to CETF’s reply. Frontier reiterated its support for an interpretation of AB 1665 whereby each project is evaluated according to a unique set of criteria chosen by the applicant to justify full funding. Frontier replies to CETF’s statement that there are no objective or quantitative criteria that support full funding, by stating that, “the most objective and relevant data point” is the number of providers competing to serve the area, using the following criteria:

“For both Lytle Creek and Desert Shores, for example, the analysis would be as follows:

- How many providers previously filed for a CASF grant to serve the project area?
 - Zero
- How many providers have invested private funds to deploy broadband in the area?
 - Zero
- How many providers filed a competing CASF application?
 - Zero
- How many providers filed a challenge to Frontier’s application?
 - Zero”

Finally, Frontier reiterates its arguments for the Lytle Creek Project and reiterates its doubts about whether it will complete the project if required to invest any of its own money.

After reviewing comments, the Commission makes the determinations outlined below.

CASF Application Requirements and Guidelines currently hold that applicants must provide the Proponent’s Environmental Assessment (PEA) prior to the first 25% installment payment.¹² A change to this requirement is being considered as part of the open proceeding, R.12-10-012. For this project, the Commission will deviate from the above rule. In order to preserve incentives for potential applicants to pursue CASF applications, the Commission wants to ensure that applicants are not at risk for monies they may spend on CEQA compliance in the event the CEQA review determines that the project cannot move forward. The most significant risk to ratepayers is if the lead agency responsible for NEPA or CEQA determines that the project cannot move forward. The Commission believes this is a limited risk, particularly in this instance. Thus, the Commission grants Frontier’s request that the Commission’s Energy Division directly invoice the CASF Infrastructure Grant Account for all work related to the PEA. The CASF will fund directly, out of this grant amount, costs related to the development and issuance of the PEA. The CASF will pay directly to Energy Division the project’s CEQA

¹² See CASF – The Broadband Infrastructure Grant Account – Revised Application Requirements and Guidelines, Version 8.0 (June 2014), Resolution T-17443, Appendix 2, Sec. 3.1.25 (CEQA Compliance).

costs, but those costs will be identified as costs associated with Frontier's grant and will have no effect on the sharing of total project costs.

Regarding Frontier's request that the CASF finance 100 percent of its proposed project, the Commission agrees with CETF that the Staff recommendation of 80 percent funding is appropriate and is not misinterpreting or misapplying the law, as Frontier asserts. Frontier has offered an interpretation of AB 1665 whereby every project is evaluated according to the unique set of criteria, chosen by the applicant, that will justify full funding for that project. It has responded to CETF's insistence that the CPUC use objective and quantitative criteria with the suggestion that if there is not a competing proposal for a project area, it should receive full funding. Frontier has presented a list of public interest reasons to fund this project, but they are a list of factors that have already been considered throughout this Resolution, in the eligibility criteria, the scoring criteria, and the funding criteria.

The section entitled "Grant Funding Level" on page 5 through page 7 discusses the rationale for Staff's 80 percent funding recommendation to follow several requirements in statute:

- The Commission give "preference to projects in areas where Internet connectivity is available only through dial-up service that are not served by any form of wireline or wireless facility-based broadband service or areas with no Internet connectivity."¹³
- The Commission consult with regional consortia, stakeholders, local governments, existing facility-based broadband providers, and consumers regarding unserved areas and cost-effective strategies to achieve the broadband access goal."¹⁴
- The Commission also "may award grants to fund all or a portion of the project" and "shall determine, on a case-by-case basis, the level of funding to be provided for a project and shall consider factors that include, but are not limited to, the location and accessibility of the area, the existence of communication facilities that may be upgraded to deploy broadband, and whether the project makes a significant contribution to achievement of the program goal."¹⁵

Staff proposed a consistent manner to evaluate the two Frontier applications seeking 100 percent funding. Frontier's proposed Lytle Creek Project met the 60 percent baseline for all eligible projects, as well as two criteria in the case-by-case evaluation, increasing the funding request to 80 percent.

However, mobile broadband Internet service is available in the proposed project area, which contravenes the statutory requirement for a preference to areas having, "only dial-up service that are not served by any form of wireline or wireless facility-based broadband service or areas with no Internet connectivity." Frontier has neither argued that such broadband service does not exist, nor that the Commission should not consider mobile service. Further, Frontier did not consider the statutory preference or offer an alternative

¹³ Pub. Util. Code Section 281 (b)(2)(B)(ii)

¹⁴ Pub. Util. Code Section 281(f)(2)

¹⁵ Pub. Util. Code Section 281(f)(13)

consistent with the statute. Therefore, the Commission finds it reasonable to not give 10 percentage points to this project for lack of the preference criteria being met.

Additionally, the Lytle Creek area was neither previously identified by Consortia or the Commission as a priority area, nor identified in the High-Impact Analysis. The statute states consideration of “whether the project makes a significant contribution to achievement of the program goal” to achieve 98 percent of California households having broadband availability in each consortia region. The analysis herein considers projects located in “High Priority” or “High Impact”-designated areas as those making a “significant contribution.” The High Impact Analysis represented Staff’s best effort to “identify potential project areas that it ‘believed represented the best “bang for the buck” for deploying broadband Internet infrastructure to more California households” (emphasis added).¹⁶ The Lytle Creek community also did not appear on the list of High Priorities approved by the Commission in Resolution T-17443. Those areas, identified by CASF Regional Consortia, were “based on several considerations that include social and economic impact, feasibility, anchor institutions, income levels, opportunities for resource management, and number of households without broadband access at served speeds.”¹⁷ The Commission considers the appearance on either of these lists to be a reasonable basis for determining which projects make a “significant contribution.” Based on Frontier’s proposed Lytle Creek not meeting two criteria required in statute, Staff recommended that the Commission approve the project at 80 percent funding. The Commission finds this recommendation to be a reasonable interim interpretation of the statute for Staff to use on applications received prior to the Commission approving updated CASF rules.

The Resolution is revised to reflect most of the minor changes Frontier requested with the exception of its request to change the description of the community. When assessing items like income, it is important to rely on factual data, such as the median household income data provided by the US Census, and thus avoid subjective characterizations of the communities. Frontier may be correct that the proposed project area includes some low-income households, but that in itself does not mean that the community as a whole should be considered “low-income” or “disadvantaged.”

VII. Findings

1. Frontier filed an application for CASF funding for its Lytle Creek Project on November 13, 2017. The proposed project will deploy a combination of middle-mile and last-mile fiber facilities to provide up to 1Gbps service to the community of Lytle Creek, California, in the San Bernardino National Forest. Lytle Creek is currently considered unserved by CASF’s criteria. The CBGs affected by the project are 060710092021 and 060710092022.

¹⁶ See at May 17, 2017 letter from Robert Wullenjohn to members of the CASF Distribution List at p. 55. Available at: [ftp://ftp.cpuc.ca.gov/Telco/CASF/Reports%20and%20Audits/CASF%20Workshop%20May%2025th.pdf](http://ftp.cpuc.ca.gov/Telco/CASF/Reports%20and%20Audits/CASF%20Workshop%20May%2025th.pdf)

¹⁷ See Resolution T-17443 at p. 10.

CD

2. Staff posted the proposed project area map, CBGs and zip codes for Frontier's Lytle Creek Project on the Commission's CASF webpage under "CASF Application Project Summaries" on November 29, 2017. Staff received no challenges to this project.
3. Staff reviewed and analyzed data submitted for Frontier's Lytle Creek Project's CASF grant application to determine the project's eligibility for CASF funding. This data included, but was not limited to: proof of a CPCN (U-1002-C) from the Commission; descriptions of current and proposed broadband infrastructure; geographic information system (GIS)-formatted shapefiles mapping the project areas; assertion that the area is unserved; number of potential subscriber households and average incomes; project construction schedule; project budget; proposed pricing and commitment period for new subscribers; and financial viability of the applicant.
4. Staff reviewed the submitted shapefiles, which mapped the proposed broadband deployment using United States 2010 Census data and the California Interactive Broadband Availability Map, with availability data current as of December 31, 2016. These maps helped to verify the availability and speed of any broadband service, where available. The project area was determined to be unserved.
5. Based on its review, Staff determined that the project qualifies as CASF grant eligible pursuant to D. 12-02-015, and new subsections of the Pub. Util. Code section 281, and therefore recommends Commission approval of CASF funding for Frontier's Lytle Creek Project. In applying the statutory requirements on a case-by-case basis, as authorized by statute, Staff determined that this project did not merit funding at the 100 percent level requested by the applicant, and recommends funding this project at an 80 percent level.
6. The Commission finds the funding level recommendation prepared by Staff to be a reasonable interim interpretation of the statute for Staff to use on CASF Infrastructure Grant applications received prior to the Commission approving updated rules.
7. Frontier is required to comply with all guidelines, requirements, and conditions associated with the granting of CASF funds as specified in D.12-02-015, D.14-02-018, Resolution T-17443 and this Resolution and must submit the FCC Form 477, as specified in T-17143.
8. The project must undergo CEQA review prior to construction.
9. A notice letter was e-mailed on November 29, 2017, informing all applicants filing for CASF funding, parties on the CASF distribution list of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/PUC/documents/>. This letter also informed parties that the final confirmed Resolution adopted by the Commission will be posted and available at this same website.
10. The Commission published the Draft Resolution on June 8, 2018, and received comments and reply comments from Frontier and CETF.

THEREFORE, IT IS ORDERED that:

1. The Commission shall award \$1,458,886 to Frontier for the Lytle Creek Project as described herein and summarized in Appendix A of this Resolution.
2. The program fund payment of \$1,458,886 for this project in unserved areas shall be paid out of the CASF Infrastructure Grant Account in accordance with the guidelines adopted in D.12-02-015, D.14-02-018, Resolution T-17443, including compliance with CEQA.
3. Payments to Frontier shall be in accordance with Section XI of Appendix 1 of D.12-02-015, D.14-02-018, and Resolution T-17443, and in accordance with the process defined in the "Payments to CASF Recipients" section of this Resolution.
4. Frontier shall comply with all guidelines, requirements and conditions associated with the CASF funds award as specified in D.12-02-015, D.14-02-018, Resolution T-17443 and this Resolution and must submit the FCC Form 477 to the Commission, as specified in Resolution T-17143.
5. By receiving a CASF grant, Frontier agrees to comply with the terms, conditions, and requirements of the grant and thus submit to the jurisdiction of the Commission with regard to disbursement and administration of the grant.
6. Frontier must complete all construction covered by the grant on or before the grants termination date. If the project will not be completed within the 24-month timeframe, Frontier must notify the Director of Communications Division as soon as it becomes aware of this possibility. If such notice is not provided, the Commission may reduce payment for failure to satisfy this requirement.
7. If Frontier fails to complete the project in accordance with the terms outlined in D.12-02-015, D.14-02-018, Resolution T-17443 and this Resolution, Frontier must reimburse some or all of the CASF funds that it has received.
8. Frontier must sign and return a consent form agreeing to the conditions set forth in this Resolution.
9. Frontier must certify that the percentage of the total project costs it is providing comes from their capital budget and is not obtained from outside financing, within 21 days of the issuance of this resolution, or submit a performance bond within five business days after the completion of the CEQA review.
10. Frontier must submit a project completion report prior to receiving final payment.
11. The Commission cannot release funds for construction activities until CEQA review is complete. Frontier is required to comply with the requirements set forth in the CEQA Section of the Resolution. Frontier must provide the PEA prior to the first payment. CASF will reimburse Energy Division for all costs related to the PEA.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 12. The following Commissioners approved it:

ALICE STEBBINS
Executive Director

MICHAEL PICKER
President
CARLA J. PETERMAN
MARTHA GUZMAN ACEVES
LIANE M. RANDOLPH
CLIFFORD RECHTSCHAFFEN
Commissioners

**APPENDIX A
Resolution T-17613
Frontier Lytle Creek
CASF Applicant Key Information**

<i>Project Name</i>	Frontier California Lytle Creek Project
<i>Project Plan</i>	The project proposes to place approximately 42,000 feet of middle mile 96 single mode fiber optic cable starting from the Lytle Creek (remote south on Lytle Creek Road) to Glen Helen Road that will use new IOF fibers to support a transport system connecting to Frontier’s core network. There will also be 56,000 feet of various sized last mile single mode fiber optic cable (24, 96 and 144 fibers) placed over existing Frontier-owned poles and rights-of-way to enable high speed Internet, Ethernet, and VoIP connectivity to 339 unserved households.
<i>Project Size (in square miles)</i>	0.4 sq miles for middle mile / 4.0 sq miles for last mile
<i>Download/Upload speed</i>	Maximum 1 Gbps / Maximum 1 Gbps
<i>Location</i>	San Bernardino County
<i>Community Name</i>	Lytle Creek
<i>Census Block Groups</i>	060710092022 060710092021
<i>Median Household Income</i>	\$ 78,750
<i>Zip Codes</i>	92358 92407
<i>Estimated Potential Subscriber Size</i>	339 households (2010 US Census)
<i>Applicant Expectations</i>	271 customers (80-percent take rate)
<i>Pricing Plan (Monthly)</i>	Simply Frontier Fiber (stand-alone pricing): Min: 30 Mbps / 30 Mbps for \$39.99; Max: 1 Gbps / 1 Gbps for \$219.99 All service options can be discounted by \$15/month by bundling with voice services.
<i>Deployment Schedule (from permit approval date)</i>	8 months
<i>Eligible Proposed Project Budget (Total)</i>	\$ 1,823,607
<i>Amount of CASF grant funds requested (100 percent)</i>	\$ 1,823,607
<i>Recommended CASF Grant (80 percent)</i>	\$1,458,886
<i>Recommended Applicant Funding (20 percent)</i>	\$364,721
<i>Recommended Grant per household passed</i>	\$4,304

APPENDIX B
Resolution T-17613
Frontier Lytle Creek
Frontier’s Rationale for 100 Percent Funding

Statutory Preference -- The location of the proposed Lytle Creek project currently has no Internet connectivity, thereby constituting an area where the CPUC is required to give a preference in award of infrastructure grants (P.U. Code Section 281(2)(B)(i)). Lytle Creek is exactly the type of community for which this statutory preference is intended – it currently lacks any wireline or wireless broadband service, and a CASF grant will enable Internet connectivity for the first time.

Existing Facilities – The Lytle Creek application proposes a cost-effective expansion of broadband access by leveraging Frontier’s existing facilities and operations to enable symmetrical 1 Gbps service. The cost of the proposed fiber-to-the-home (“FTTH”) deployment is far less than many previously approved FTTH CASF projects and far less than funding another provider. Moreover, the incremental cost for Frontier to deploy FTTH compared to copper-based broadband service is minimal given the significantly higher speed of FTTH service.

No Private Investment or Federal Funds Available – Although lacking any existing broadband service provider, the Lytle Creek area did not qualify for support from the federal Connect America Fund, and Verizon (owner of the facilities until April 2016), never applied for a CASF grant to deploy broadband infrastructure. No other provider has ever submitted a CASF application to expand broadband to Lytle Creek. For Frontier, the area does not present a business case for deployment absent 100% public support. Thus, the proposed project aligns with legislative intent in AB 1665 that the CASF program fund projects where private investment and federal funds are not available (Ch. 851, Stats. 2017, Sec. 2(c)).

Public Safety Benefits – The proposed project area is located entirely within the boundaries of the San Bernardino National Forest and would advance the CPUC objective of prioritizing broadband deployment to areas designated as high fire danger areas and tree die-off zones. Lytle Creek is designated by Cal Fire as a “Community at Risk.” In addition, the Lytle Creek area is adjacent to a tree mortality “Tier 1 High Hazard Zone,” which is designated as “Zone 1” in the Proposed Decision in the CPUC’s fire map proceeding (R.15-05-006). The proposed project would further enhance public safety by enabling High Speed Internet service to the local San Bernardino County Fire Station and U.S. Forest Service Lytle Creek Ranger Station. These public safety benefits will not be realized if full funding is not available to support Frontier’s proposed deployment.

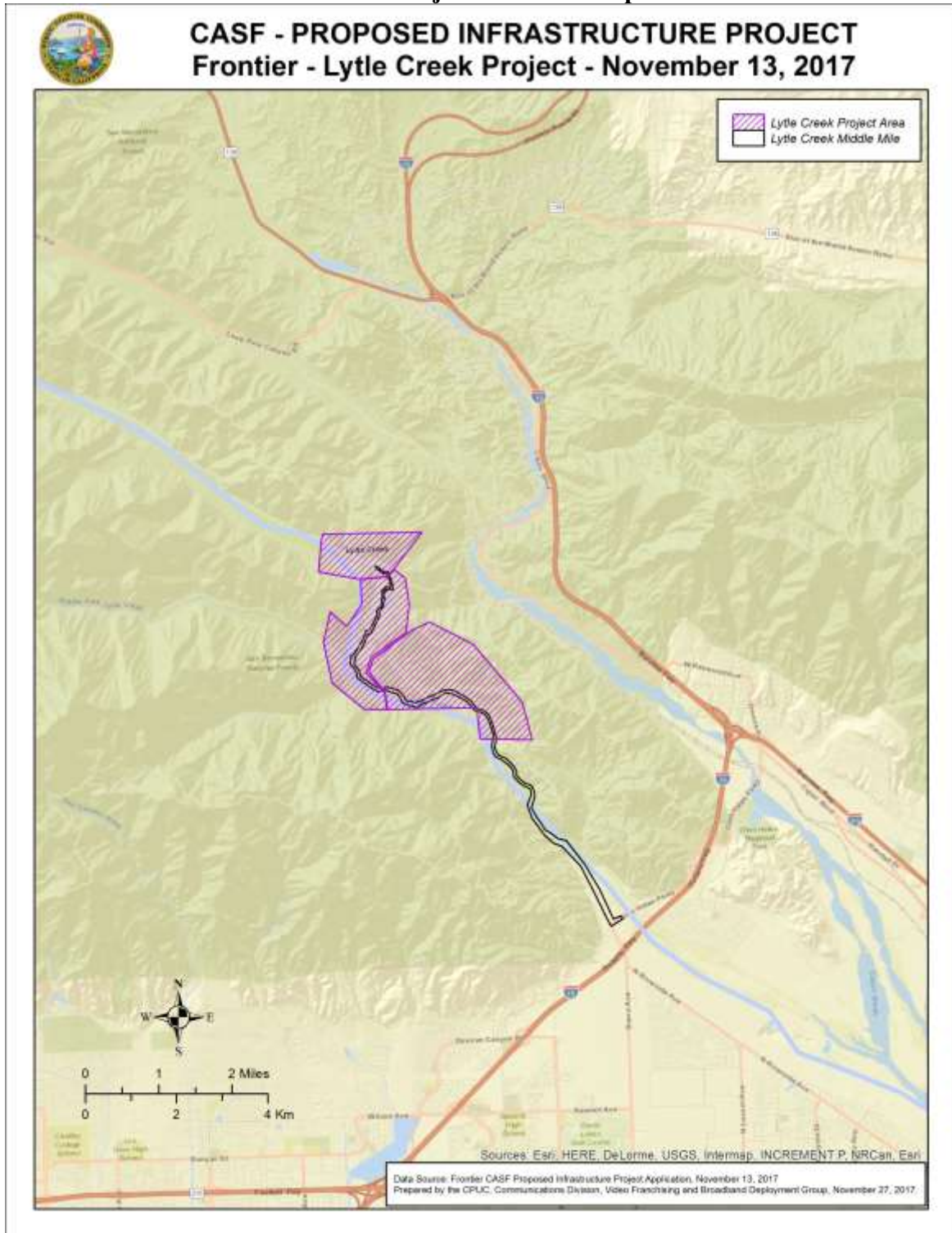
Significant Contribution to Program Goal – The CASF program goal is to ensure broadband access to no less than 98% of California households in each consortia region by approving infrastructure grants to “unserved” areas, defined as areas where no facility-based provider offers broadband service at speeds of at least 6 mbps downstream and one mbps upstream (P.U. Code Section 281(b)(1)). While the CPUC and stakeholders may debate how to calculate the 98% metric, there is no doubt that the program goal includes extending first-time Internet access to

households that currently lack any broadband service. Thus, by any measure, the proposed Lytle Creek project will make a significant contribution to achieving the CASF program goal.

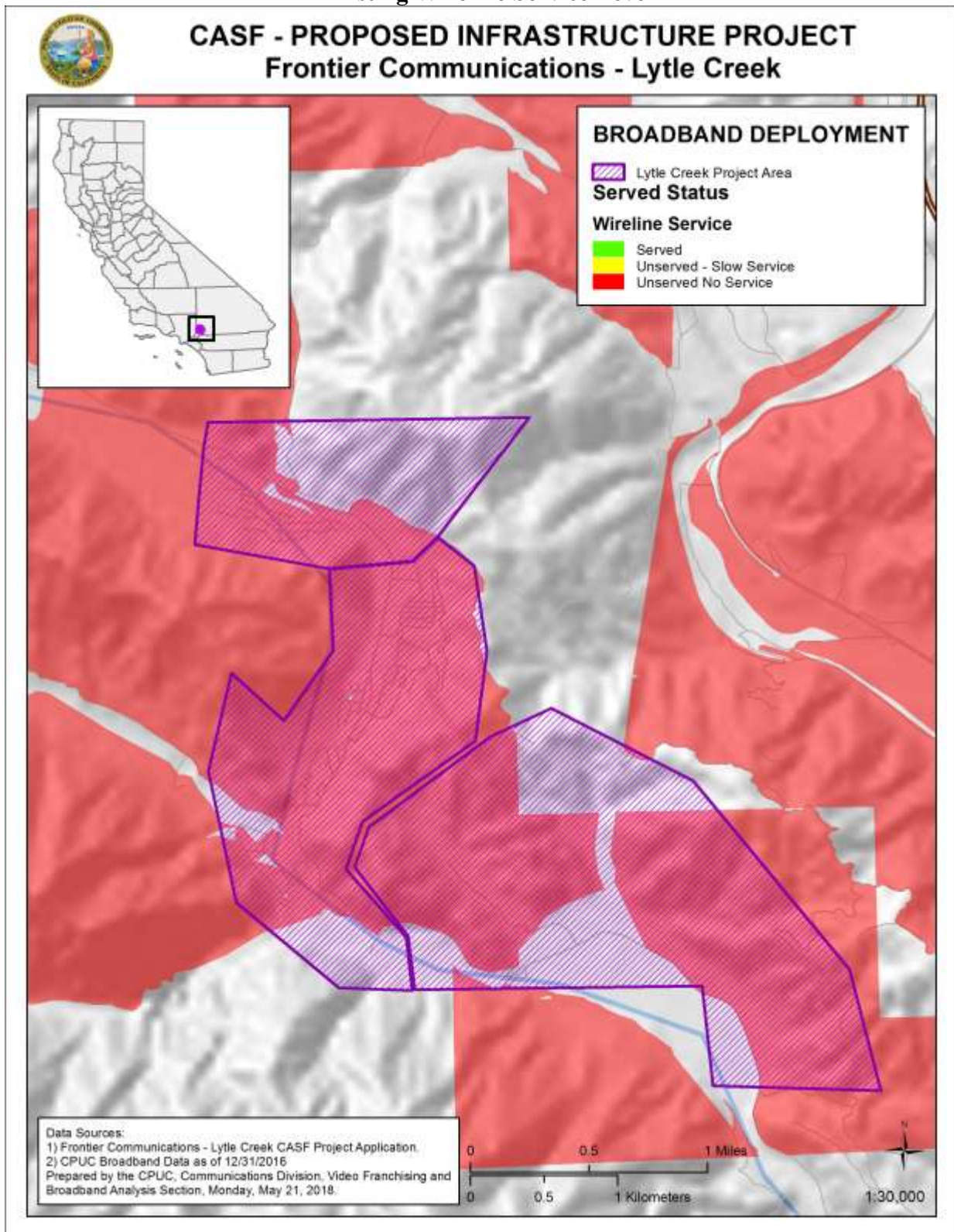
Closing the Digital Divide – The proposed project will bring life-changing benefits to Lytle Creek by connecting a community that has long been on the wrong side of the Digital Divide. Full funding of project costs will enable Frontier to proceed with the proposed deployment. For the first time, Lytle Creek will have advanced communications service “that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies” (P.U. Code 281(a)).

Taken together, Frontier asserts that these factors provide a substantial basis under Section 281(f)(13) for award of a grant covering 100% of Frontier project costs for the proposed Lytle Creek infrastructure project.

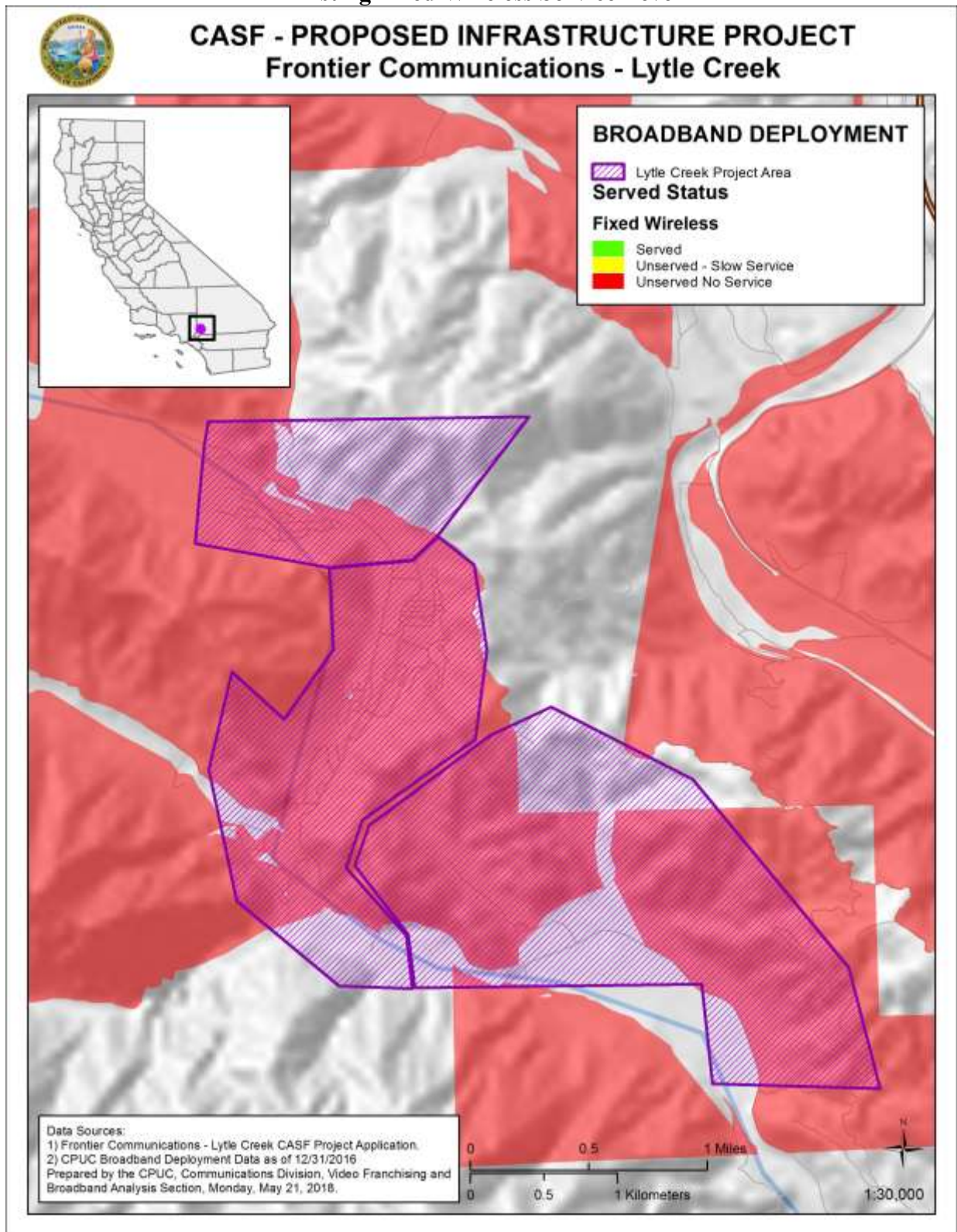
Appendix C
Resolution T-17613 Frontier Lytle Creek Project
Project Location Map



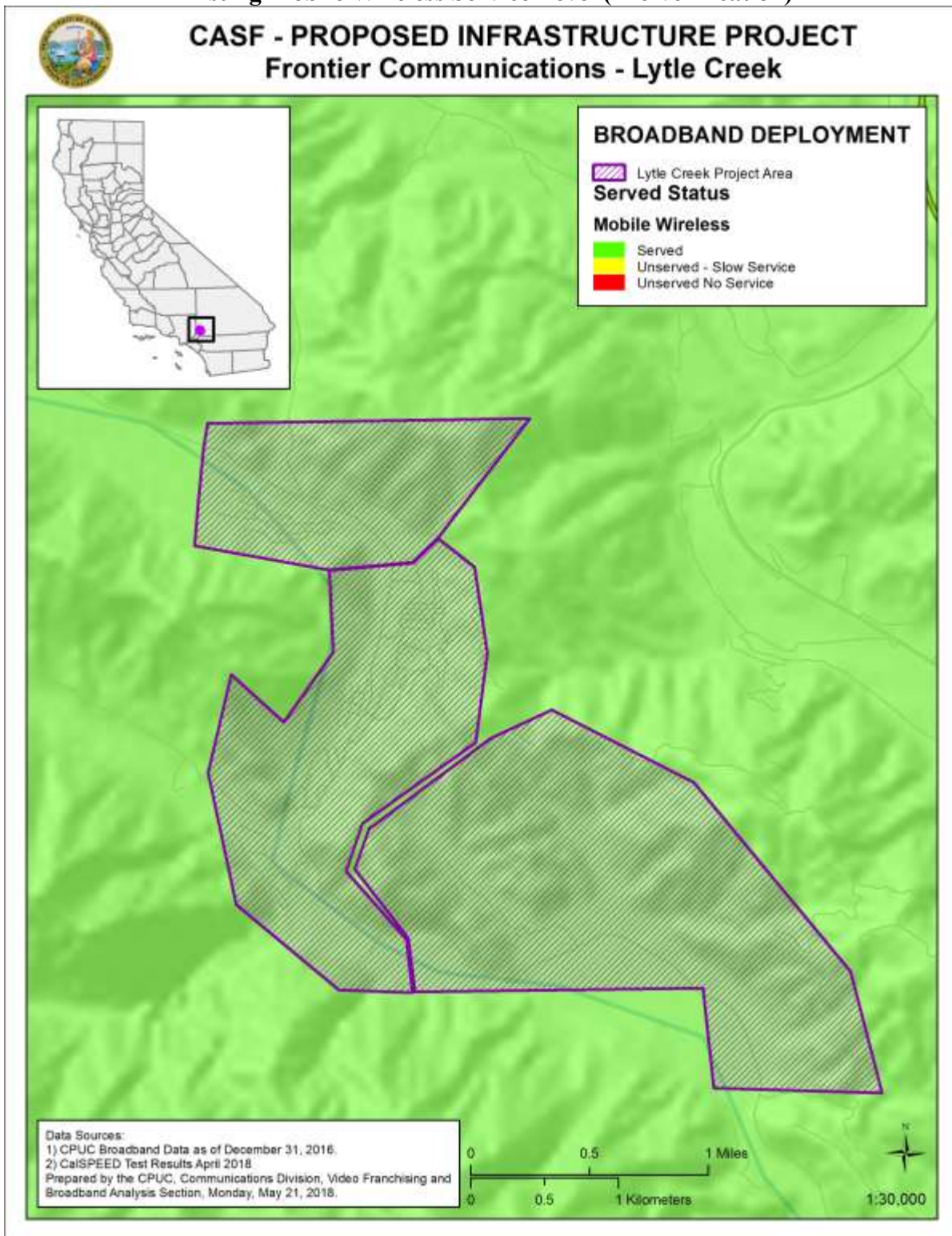
Appendix D
Resolution T-17613 Frontier Lytle Creek Project
Existing Wireline Service Level



Appendix E
Resolution T-17613 Frontier Lytle Creek Project
Existing Fixed Wireless Service Level



Appendix F
Resolution T-17613 Frontier Lytle Creek Project
Existing Mobile Wireless Service Level (Pre-verification)



Appendix G
Resolution T-17613 Frontier Lytle Creek Project
Mobile Wireless Verification CalSPEED Results

