



## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

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To: Members of the CASF Distribution List

From: Robert Wullenjohn  
Program Manager, Communications Division  
California Public Utilities Commission

Date: February 1, 2018

Re: Revised Disposition of 2018 Right of First Refusal Submissions

**This revised Notice supersedes the Notice sent to the CASF Distribution List on January 31, 2018. The previous Notice contained census blocks that are ineligible for ROFR. Please refer to the revised list of census blocks below.**

Pursuant to Assembly Bill (AB) 1665,<sup>[1]</sup> the California Public Utilities Commission (Commission) shall annually offer an existing facility-based broadband provider (existing provider) the opportunity to demonstrate that it will deploy broadband or upgrade existing facilities to a delineated unserved area within 180 days of the demonstration. The Commission received three "Right of First Refusal" (ROFR) submissions, as well as one additional informal submission. Below we provide public notice of how we will dispense with each submission.

On December 14, 2017, the Commission adopted Resolution T-17590, which established interim requirements for existing providers to invoke its ROFR pursuant to AB 1665. Existing providers were instructed to submit by January 15, 2018, a letter to the Communications Division (CD) Director, copying the CASF distribution service list, demonstrating its intent to upgrade services to households at served speeds within 180 days. The Commission instructed existing providers to include the following information in the letter:

- Area designated for broadband deployment by census block or geospatial file, such as .kmz or shapefile;
- The number of households or locations to be served;
- A commitment to ensure that all households within the area will have the capability to receive minimum speeds;
- An estimated of the date (within 180-day statutory requirement) by which the deployment will be completed with service available to the public.

As of January 16, 2018, the Commission received ROFR submissions from three broadband providers, as well as an informal submission from another. CD Staff reviewed these ROFR submissions for completeness and in accordance with statute and Commission rules.

The statute requires that the Commission on an annual basis "offer an existing facility-based broadband provider the opportunity to demonstrate that it will deploy broadband or upgrade existing facilities to a delineated unserved area within 180 days."<sup>[2]</sup> (emphasis added) CD Staff has interpreted the term "existing facility-based broadband provider" to mean that the provider making the ROFR submission must already have facilities in the claimed area.<sup>[3]</sup> In Resolution T-17443, the Commission noted that it

must give existing providers the opportunity to upgrade their networks in areas serving underserved households before funds are awarded to a non-telephone corporation, and local governments may apply for funds only if its project provides a connection to an unserved household or business and no other eligible entity has applied.<sup>[4]</sup>

CD Staff used the following items to determine if a provider has existing facilities in the ROFR claimed area: (1) The company submitted data during the most recent broadband data collection, or the most recent FCC Form 477 data submission that is publicly available, and that footprint includes the area in its ROFR claim; or (2) The company claiming ROFR has a video franchise under DIVCA, the area it claims in the ROFR submission is part of its DIVCA footprint; or (3) The company claiming ROFR is an ILEC, the area it claims in the ROFR is an unserved area within its wire center region.

Based on the review of the submissions, as well as other research, CD Staff determinations for each ROFR submission are below.

**The ROFR submission from Anza Electric Cooperative (Anza) is denied in full for three reasons.** First, Anza did not follow the instructions in Resolution T-17590 to designate the area for broadband deployment by census block or geospatial file and instead merely listed census block groups. Second, the areas designated for broadband deployment in the ROFR are ineligible for ROFR status. Under CASF rules, areas that receive CASF grants are ineligible for other CASF grants for three years. The ROFR submission includes communities such as Anza, Aguanga, Lake Riverside Estates, Reed Valley and other communities in the project area approved by the Commission in Resolution T-17503, which awarded \$2,662,450 for the Connect Anza Project. Further, the ROFR submission includes census blocks with Federal Communications Commission (FCC) Connect America Fund Phase II (CAF) accepted locations, as well as census blocks that are already served as of December 31, 2016. Those are ineligible for ROFR status. Additionally, current ROFR rules apply to an existing facility-based broadband provider in the designated ROFR area. Anza does not have existing facilities in and around the communities of Mountain Center, Thomas Mountain, Garner Valley, the Santa Rosa Reservation and Pinyon Pines.

Finally, CD Staff notes that Anza also separately provided the census blocks that reflect its deployment related to the Connect Anza Project, as of December 31, 2017. We accept this information and consider these areas as ineligible for a CASF grant. This area is already depicted on the California Interactive Broadband Map as an approved project area that is ineligible for a grant. ([www.broadbandmap.ca.gov](http://www.broadbandmap.ca.gov)).

**The ROFR submission from GeoLinks is denied in full for two reasons.** First, GeoLinks did not follow the instructions in Resolution T-17590 to designate the area for broadband deployment by census block or geospatial file and instead listed census block groups. Although GeoLinks stated in its ROFR letter that it "intends to deploy broadband services in all unserved census blocks that fall within" the census block groups listed in its ROFR letter, and was "unable to pinpoint exact census blocks for which to submit its ROFR" because "the California Broadband Map [had] not been revised at [that] time," the California Broadband Map was updated on December 22, 2017, including delineated unserved areas per AB 1665. Additionally, the GeoLinks' ROFR is denied because it is not an existing facility-based broadband provider in the designated ROFR area.

**The ROFR submission from Conifer Communications (Conifer) is denied in part and accepted in part.** Although Conifer did not follow the instructions in Resolution T-17590 to designate the area for broadband deployment by census block or geospatial file and instead listed census block groups, the ROFR submission is partially accepted in census blocks where Conifer is the existing facility-based broadband provider within the area designated in its ROFR submission. After filtering out ineligible census blocks, including those already served, census blocks which contain CAF accepted locations, and census blocks with previously awarded CASF grants, CD accepts the following 21 census blocks containing 281 households as ROFR eligible:

060430002001022	060430002001145	061090051005085	060430002001147
060430002001203	060990029011051	061090022007007	060430002001121
060430002001129	061090052012234	061090052012333	060430002001021
060430002001056	061090051001052	061090052012273	
060430002001171	061090052012360	061090052012323	
060430002001066	060430002001175	060430002001013	

Additionally, **Charter Communications submitted an informational submission.** While this submission is not eligible for ROFR protections, and Charter did not request such protections in its letter, Staff recognizes that the company is making these upgrades to its service footprint to comply with conditions ordered in the Commission's decision approving its acquisition of Time Warner Cable. This data will soon appear on the California Interactive Broadband Map as notice of Charter's planned deployment and upgrades.

[1] Assembly Bill 1665 (Garcia) Stats. 2017 Ch. 851, amending Pub. Util. Code, § 281

2 Pub. Util. Code, §281(f)(4)(A)(i)

3 Resolution T-17590 defers to a rulemaking-proceeding the adoption of a final ROFR procedure.

4 Resolution T-17443, p. 2