

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

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

**RESOLUTION T-17680**  
**[DATE:](#) December 19, 2019**

**RESOLUTION**

**Resolution T-17680:** Conditional approval of \$1,377,174.97 in funding for three grant applications of Charter Communications Operating, LLC on behalf of its affiliated entities Spectrum Pacific West, LLC; Charter Fiberlink CA-CCO, LLC (U-6878-C); and Time Warner Cable Information Services California, LLC (U-6874-C) from the California Advanced Services Fund.

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**SUMMARY**

This Resolution approves contingent funding from the California Advanced Services Fund (CASF) of \$1,377,174.97 for three applications<sup>1</sup> of Charter Communications Operating, LLC (Charter) on behalf of its affiliated entities Spectrum Pacific West, LLC; Charter Fiberlink CA-CCO, LLC (U-6878-C); and Time Warner Cable Information Services California, LLC (U-6874-C).

This Resolution grants Charter's ~~requests~~[request](#) for ~~waivers~~[waiver](#) of the two-year pricing requirement, ~~but rejects~~ [and](#) Charter's ~~requests~~[request](#) for a waiver of [the requirement that](#) installation and connection charges ~~for a two-year period~~[be reduced from two years to three months](#) after completion of the projects.<sup>2</sup> Moreover, the funding approval is contingent upon Charter obtaining approval from the owners of the Country Squire Mobile Home Park and the Silver Wheel Ranch Mobile Home Park to build broadband infrastructure on their property.

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<sup>1</sup> Funding of \$267,943.21 for the Country Squire Mobile Home Park project in Riverside County, \$197,184.76 for the Highland Orchid Drive project in San Bernardino County, and funding of \$912,047.00 for the Silver Wheel Ranch Mobile Home Park project in Ventura County.

<sup>2</sup> D.18-12-018, Appendix 1, Section 6. Decision Implementing the California Advanced Services Fund Infrastructure Account Revised Rules.

Charter proposes to deploy last-mile coaxial and fiber infrastructure to enable broadband access at speeds of up to 940 megabits per second (Mbps) download and 35 Mbps upload to a total of 279 CASF-eligible households in all three of its proposed projects. The proposed projects will enable broadband access to areas that are currently unserved with no facilities-based wireline or fixed wireless broadband service providers.

## **BACKGROUND**

The CASF Infrastructure Grant Account (CASF Infrastructure) assists Internet service providers to build or upgrade broadband infrastructure in areas that are unserved by existing broadband providers. The CASF program was initiated in 2008, after the program was first adopted by the Commission in D.07-12-054 and enacted into statute pursuant to Senate Bill 1193.

On October 15, 2017, Governor Brown signed Assembly Bill (AB) 1665 (Garcia) into law.<sup>3</sup> This legislation amended the statutes governing the CASF program, including Public Utilities Code § 281. The Commission issued D.18-12-018 adopting the programmatic changes to the CASF ordered by AB 1665. Appendix 1 of D.18-12-018 set forth the rules, application requirements and guidelines for the CASF Infrastructure Grant Account (CASF Infrastructure).<sup>4</sup>

On May 1, 2019, Charter submitted three CASF Infrastructure applications, requesting a combined funding of \$1,426,471.16 to deploy fiber and coaxial last-mile broadband access to 279 unserved households located in two mobile home parks and one community in Riverside, San Bernardino, and Ventura Counties. The proposed projects will enable broadband access at speeds of up to 940 Mbps download and 35 Mbps upload to areas that are currently unserved.

Details of three proposed projects are outlined on the following page in Table 1.

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<sup>3</sup> AB 1665 is codified at Public Utilities (Pub. Util.) Code § 281.

<sup>4</sup> The Commission extended the CASF Infrastructure application deadline from April 1 to May 1, 2019, and all subsequent deadlines are moved back by one month. Assigned Commissioner's Ruling R.12-10-012, March 14, 2019.

**Table 1. Charter's Proposed Projects**

<b>Project</b>	<b>Unserved Households (numbers)</b>	<b>Last-Mile Infrastructure (miles)</b>	<b>Funding Requested (dollars)</b>
Country Squire Mobile Home Park	99	0.93	\$267,943.21
Highland Orchid Drive	115	0.53	\$246,480.95
Silver Wheel Ranch Mobile Home Park	65	3.00	\$912,047.00
<b>Total</b>	<b>279</b>	<b>4.46</b>	<b>\$1,426,471.16</b>

Charter was formed in 1993 and became a publicly traded company in 1999. Charter, Time Warner Cable and Bright House Networks combined in 2016 to form the provider that now serves approximately 28 million customers in the United States.<sup>5</sup> Charter received approval for the merger in D.16-05-007 and received its latest state-wide video franchise update from the Commission in 2018.<sup>6</sup> Charter offers high speed Internet service, Voice over Internet Protocol (VoIP) as well as cable television service in California through a number of plans, including Spectrum Internet Assist for qualifying low-income households.

## **NOTICE**

On May 15, 2019, Staff posted the proposed project area maps, census blocks (CBs) and zip codes for the Country Squire Mobile Home Park project, the Highland Orchid Drive project and the Silver Wheel Ranch Mobile Home Park project on the Commission's CASF webpage under "CASF Application Project Summaries" and sent notice regarding the project to its CASF Distribution List.<sup>7</sup>

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<sup>5</sup> Charter Communications Newsroom: <https://newsroom.charter.com/company-profile/>.

<sup>6</sup> CPUC, Video Franchising Applications: <https://www.cpuc.ca.gov/General.aspx?id=6442456379>.

<sup>7</sup> CPUC, CASF Applications Project Summaries: <https://www.cpuc.ca.gov/General.aspx?id=1040>.

## **PROTEST/CHALLENGES**

No challenges were received.

## **DISCUSSION**

In compliance with D.18-12-018, Staff determined that Charter is eligible to receive 80 percent of its request for the Highland Orchid Drive project. For the Country Squire Mobile Home Park project and the Silver Wheel Ranch Mobile Home Park project, Staff determined that Charter is eligible to receive 100% of its request. Table 2, below, contains Staff's recommendation for funding.

**Table 2. Recommended Funding for Charter Projects**

<b>Project</b>	<b>Staff Funding Recommendation</b>	<b>Households to be Served</b>
Country Squire Mobile Home Park	\$267,943.21	99
Highland Orchid Drive	\$197,184.76	115
Silver Wheel Ranch Mobile Home Park	\$912,047.00	65
<b>Total</b>	<b>\$1,377,174.97</b>	<b>279</b>

Staff further recommends that funding granted in this Resolution be made contingent upon Charter obtaining approval from the owners of the Country Squire Mobile Home Park and the Silver Wheel Ranch Mobile Home Park to build broadband infrastructure on their property. In its application materials, Charter states concerns that mobile home park owners could deny access where Charter is not planning to serve the whole community.

Charter is required to comply with all guidelines, requirements, and conditions associated with the grant of CASF Infrastructure funds with exception of the two-year pricing commitment, as discussed below. Payments to Charter will be made in accordance to the Pub. Util. Code § 281(f)(11).

Details of Staff analysis are explained specifically in the following sections:

### **I. Project Area Eligibility**

- II. Minimum Performance Criteria
- III. Funding Determination
- IV. Safety and Community Support
- V. Compliance Requirements
- VI. Payments to CASF Recipients

Key project information and maps are shown in Appendix A and B.

**I. Project Area Eligibility**

No provider filed a “right-of first refusal” for Charter’s proposed project areas by January 15, 2019, nor do the proposed project areas include census blocks identified by the Federal Communications Commission’s Connect America Fund Phase II program.<sup>8</sup> Staff determined that Charter’s Country Squire Mobile Home Park project, Highland Orchid Drive project and Silver Wheel Ranch Mobile Home Park project are eligible for CASF Infrastructure grants.

**II. Minimum Performance Criteria**

Staff reviewed Charter’s applications and determined that the proposed projects meet, with the exception of the two-year pricing commitment, the minimum performance criteria pursuant to D.18-12-018, Appendix 1, Section 6, as summarized in Table 3.

**Table 3. Minimum Performance Criteria**

	<b>CASF Performance Criteria</b>	<b>Proposed Projects</b>
<b>Project Completion</b>	CEQA-exempt projects must be completed within 12 months, and all other projects shall be completed within 24 months after receiving authorization to construct	Less than 12 months CEQA Exempt
<b>Pricing</b>	Price commitment for two years after completion of the project	Requested waiver of 2 Year commitment
<b>Speed</b>	At least 10/1 Mbps	Up to 940/35 Mbps
<b>Latency</b>	Maximum of 100 ms of latency	25 ms
<b>Data Caps</b>	Minimum of 190 GBs per month	No data cap

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<sup>8</sup> Pub. Util. Code 281 (f)(4)(A)(ii) 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.

<b>Affordability</b>	Must offer low-income plan	\$14.99 monthly
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The Commission must review all CASF projects in accordance with CEQA requirements unless the project is statutorily or categorically exempt pursuant to CEQA rules. For the Country Squire Mobile Home Park project, Highland Orchid Drive project and Silver Wheel Ranch Mobile Home Park project, Charter has provided the Commission with its plan to use existing right-of-way and already developed private property. Based on the information that Charter provided below, the Commission's Energy Division has confirmed that all three projects are categorically exempt from CEQA review. These projects meet the criteria of the CEQA categorical exemptions as described in CEQA Guidelines, 14 C.C.R. § 15301 (Existing facilities), § 15302 (Replacement or reconstruction of existing structures and facilities), and § 15304 (Minor alterations to land). Therefore, the entirety of the three projects are categorically exempt from CEQA review.

The Country Squire Mobile Home Park project involves installation of an underground fiberoptic and coaxial cable within previously disturbed public right-of-way and previously developed private property for 0.93 total miles. The project will connect from public right-of-way to an existing private mobile home park. The node pedestals and the power supply cabinets will be installed in previously disturbed public right-of-way. New conduit, pedestals and vaults will be installed along the streets within the developed private mobile home park property to serve individual homes.

The Highland Orchid Drive project would involve installation of coaxial cable within previously disturbed public right-of-way and previously developed private property for 0.53 total miles. The project will connect from public right-of-way to existing private residential developments consisting of two rows of apartment buildings. The project will install small underground vaults and approximately small above-ground pedestals within previously disturbed public right-of-way. Within the private residential development, each home would be provided separate services via underground drops.

The Silver Wheel Mobile Home Park Project would involve installation of an underground fiberoptic and coaxial cable within previously disturbed public right-of-way and previously developed private property for 3.0 total miles. The project will utilize above-ground equipment, consisting of a node, power supply and amplifiers installed within previously disturbed public right-of-way.

Charter has requested a waiver of the requirement for a two-year commitment to a broadband pricing plan. Charter has also requested relief from the requirement that

installation charges be waived by the provider for a two-year period. Charter proposes to limit the installation charges waiver to the first three months following completion of construction.<sup>9</sup> Charter cites an undue burden based on establishing a separate billing operation, for 24 months, to meet these requirements.<sup>10</sup> While the Commission has specifically ordered these requirements in D.18-12-018, Staff recommends approval of a waiver of the two-year pricing commitment and installation charges in light of Charter's commitment to offer a low-income Internet plan for \$14.99 per month and to serve a traditionally lower income segment of the population that resides in mobile home parks.<sup>11</sup> Notwithstanding the waiver, Staff encourages Charter to honor a two-year pricing commitment for its Internet Assist Plan to its low-income customers in the three project areas. In future applications, the Commission will consider requests for waivers of rules on a case-by-case basis.

Charter's current nationwide pricing plans for broadband services are provided in Table 4 below and in Appendix A of this Resolution. While Staff has recommended granting Charter a waiver of the two-year pricing commitment, if pricing plans change going forward, Charter should not exceed its California-wide pricing for similar broadband services in the project areas for two years after completion of the project.

**Table 4. Charter Broadband Pricing Plans**

Download Speed	Upload Speed	Monthly Price
30 Mbps	4 Mbps	<del>\$14.99</del> <u>14.99</u> <sup>12</sup>
200 Mbps	15 Mbps	\$44.99
400 Mbps	20 Mbps	\$64.99
940 Mbps	35 Mbps	\$104.99

### **III. Funding Determination**

Table 5 provides a comparison of Charter's funding requests and Staff's recommendations.

<sup>9</sup> Charter proposes that the installation charges waiver be applied only during the first three months following completion of construction during which most customers are expected to sign up for service.

<sup>10</sup> CPUC, CASF Project Summaries: <https://www.cpuc.ca.gov/General.aspx?id=1040>. (Charter Applications May 1, 2019) Charter has indicated that this waiver is a precondition of its participation in the program.

<sup>11</sup> U.S. Census Bureau American Housing Survey finds the median household income of mobile home households to be \$33,000/yr. See: <https://www.census.gov/programs-surveys/ahs/data/legacy/data-tools/ahstablecreator.html>.

<sup>12</sup> Spectrum Internet Assist is the nation-wide low-income plan offered by Charter. See: <https://www.spectrum.com/browse/content/spectrum-internet-assist.html>.

**Table 5: Summary of Funding for Charter's Proposed Projects**

<b>Project</b>	<b>Funding Requested</b>	<b>Staff Recommendation</b>
Country Squire Mobile Home Park	<del>\$246,480.95</del> <u>267,943.21</u>	<del>\$214,354.57</del> <u>267,943.21</u>
Highland Orchid Drive	<del>\$267,943.21</del> <u>246,480.95</u>	\$197,184.76
Silver Wheel Ranch Mobile Home Park	\$912,047.00	<del>\$267,943.21</del> <u>1912,047.00</u>
<b>Total</b>	\$1,426,471.16	<b>\$1,377,174.97</b>

Staff analyzed Charter's Country Squire Mobile Home Park project, Highland Orchid Drive project and Silver Wheel Ranch Mobile Home Park project funding requests and determined Charter should be awarded a total of \$1,377,174.97 in CASF Infrastructure Grant funding to cover costs of the three projects. AB 1665 authorizes the Commission to award grants to fund all or a portion of projects and requires that it determine, on a case-by-case basis, the level of funding to be provided. Staff considered the statutory factors to determine the grant funding level, as described by Pub. Util. Code § 281(f)(13) and 281(b)(2)(B)(i), and CASF program rules adopted in D.18-12-018.

Table 6 summarizes Staff's funding level determination for the project.

**Table 6. Criteria for Project Funding Level for Charter Projects**

<b>Funding Criteria</b>	<b>Country Squire Mobile Home Park</b>	<b>Highland Orchid Drive</b>	<b>Silver Wheel Ranch Mobile Home Park</b>
Baseline for Eligible Project (60%)	60%	60%	60%
Service Level Preference: Only Dial-up or No Internet Connectivity (40%)—no fixed or mobile broadband	0%	0%	0%



Low Income - up to 40%			
• Median Household Income for community is less than CARE standard for family of 4, which is currently \$50,200 (30%)	30%	0%	30%
• Applicant serves low-income customers for no more than \$15/month (10%)	10%	10%	10%
Others: PU Code Sec 281(f)(13) Criteria - up to 20%			
• Inaccessible Location (10%)	0%	0%	0%
• Uses Existing Infrastructure (10%) <sup>42</sup>	0%	0%	0%
• Makes a Significant Contribution to the Program Goal (10%)	10%	10%	10%
<b>Total Funding Level</b> <sup>42</sup> <sup>43</sup>	100%	80%	100%

Details of the appropriate funding level are described below.

A. Baseline for Eligible Project Qualifies for 60 Percent Funding Level

The CASF program is intended to finance capital costs of projects deploying broadband facilities in unserved areas of California. The identified communities of the Country Squire Mobile Home Park, the Highland Orchid Drive area and the Silver Wheel Ranch Mobile Home Park meet all of the eligibility criteria, as previously described in the Project Area Eligibility section.

B. Service Level Preference Does Not Qualify for Funding Level

Public Utilities Code § 281(b)(2)(B)(i) encourages the Commission to give preference to projects in areas with no Internet connectivity or where Internet connectivity is available only through dial-up service and are not served by any form of wireline or wireless facility-based broadband service. According to the California Interactive Broadband Map, all the proposed project areas are unserved by wireline or fixed wireless broadband service; however, Staff discovered the area has access to mobile data service. Mobile data qualifies as “internet connectivity.”<sup>43</sup><sup>44</sup>

<sup>42</sup><sup>13</sup> The maximum funding level is 100 percent. D.18-12-018, Table 1. Summary of Funding Level Determinations.

<sup>43</sup><sup>14</sup> CPUC Interactive Broadband Map: <http://www.broadbandmap.ca.gov/>.

C. Low Income Consideration Qualifies for Additional Funding Based on Project Characteristics

The median household income of the census block groups in each of the proposed project areas is above the threshold for the Commission's Alternate Rates for Energy program (CARE).<sup>1415</sup> Charter's projects are all located in areas with median household income exceeding the CARE limit for a family of four, which is currently \$51,500. However, for the Country Squire Mobile Home Park and Silver Wheel Ranch Mobile Home Park projects Staff recommends that the Commission grant additional funding of 30 percent based on serving mobile home park residents, who generally have lower incomes. Mobile home park residents, according to the U.S. Census Bureau's American Housing Survey, have a median household income of \$33,000, which is well below the level of the CARE program threshold.<sup>1516</sup>

Charter has also committed to offer discounted broadband plans at \$14.99 per month which meets the criteria for an additional 10 percent funding level for all three projects.<sup>1617</sup> Therefore, Charter should receive additional funding of 40 percent for the Country Squire Mobile Home Park and Silver Wheel Ranch Mobile Home Park projects, and additional funding of 10 percent funding for the Highland Orchid Drive project.

D. Other Factor Considerations Qualify for 10 Percent Funding Level

Staff determined these projects make a significant contribution to the program goal and are eligible for an additional 10 percent funding. The Broadband Consortium of the Pacific Coast and Inland Empire Regional Broadband Consortium to which the communities belong, have not yet reached the 98 percent goal of deploying broadband Internet service at served speeds; therefore, these projects are considered as making a significant contribution to the program goal.<sup>1718</sup>

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<sup>1415</sup> CPUC, Alternate Rates for Energy program (CARE): <https://www.cpuc.ca.gov/General.aspx?id=976>.

<sup>1516</sup> U.S. Census Bureau:

<https://www.census.gov/programs-surveys/ahs/data/legacy/data-tools/ahstablecreator.html>

<sup>1617</sup> Spectrum Internet Assist: <https://www.spectrum.com/browse/content/spectrum-internet-assist.html>.

<sup>1718</sup> CPUC, CASF Annual Report 2018 at p. 4:

[https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/About\\_Us/Organization/Divisions/Office\\_of\\_Governmental\\_Affairs/Legislation/2019/CASF%202018%20Annual%20Report%20April%202019.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/About_Us/Organization/Divisions/Office_of_Governmental_Affairs/Legislation/2019/CASF%202018%20Annual%20Report%20April%202019.pdf)4:[https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/About\\_Us/Organization/Divisions/Office\\_of\\_Governmental\\_Affairs/Legislation/2019/CASF%202018%20Annual%20Report%20April%202019.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/About_Us/Organization/Divisions/Office_of_Governmental_Affairs/Legislation/2019/CASF%202018%20Annual%20Report%20April%202019.pdf).

Staff determined the proposed projects do not meet the inaccessible location criteria. These projects are located in communities where there is relatively flat terrain and feasible access to Charter's existing infrastructure. Moreover, the proposed projects do not leverage existing infrastructure and require new coaxial and or fiber to be constructed; therefore, they do not qualify for the "Uses Existing Infrastructure" criteria.

#### **IV. Community Support**

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. Charter has not submitted letters of support from community organizations or governmental entities.

#### **V. Compliance Requirements**

Charter is required to comply with all the guidelines, requirements, and conditions associated with the grant of CASF funds as specified in D. 18-12-018. Such compliance includes, but is not limited to, the items noted below.

##### **A. Deployment Schedule**

The Commission expects Charter to complete the three projects within 12 months from the start date (as determined by the procedure below). Charter proposes to complete the Country Squire Mobile Home Park project in 256 days, the Highland Orchid Drive project in 241 days and the Silver Wheel Ranch Mobile Home Park project in 275 days. If Charter is unable to complete the proposed project within the 12-month timeframe, it must notify the Director of the Communications Division as soon as Charter becomes aware of this possibility. If such notice is not provided, the Commission may reduce payment for failure to satisfy the requirement of timely notifying the Director.

##### **B. Execution and Performance**

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

C. Letter of Credit

The Commission exempts Certificate of Public Convenience and Necessity (CPCN) holders from providing a letter of credit, on the basis that the company submitted a performance bond to the Commission to maintain its CPCN and that the Commission has other means to enforce compliance. In its applications, Charter provided proof of CPCN registration and therefore is exempt from providing a letter of credit.

D. 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. Any of the Charter invoices submitted for payment will be subject to a financial audit by the Commission at any time within three years of completion of the work.

E. Providing Voice Service

Charter will provide voice service, via fixed interconnected VoIP in each of the project areas, which meets the Federal Communications Commission (FCC) standards for E-911 service and battery backup.

F. Reporting

All grantees must submit quarterly progress reports on the status of the project irrespective of whether grantees request 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.

Before full payment of the project, Charter must submit a project completion report. Charter shall also include test results on the download and upload speeds on a census block basis in the final completion report. Charter must certify that each progress report is true and correct under penalty of perjury.

G. Submission of Form 477

The FCC currently requires broadband providers to semiannually submit Form 477, which includes speed data. While there is an imperfect match between the data that is reported in Form 477 and data relevant to the CASF program, the Form 477 data will be useful in documenting CASF deployment for the service provider's new service.

Pursuant to General Order 66-C, 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.<sup>1819</sup>

#### H. Prevailing Wage

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

#### VI. Payments to CASF Recipients

The Commission may reimburse Charter's expense in accordance to Pub. Util. Code § 281(f)(11). Details of reimbursable expenses are in Appendix C.

### COMMENTS ON DRAFT RESOLUTION

In compliance with Pub. Util. Code § 311(g), a notice letter was e-mailed on November 1, 2019, 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/>.

[Comments from the Public Advocates Office \(PAO\) and Charter were received on November 21, 2019 and reply comments from Charter were received on November 26, 2019.](#)

#### Waiving Two-Year Pricing Commitments

[PAO asserts that waiving the two-year pricing commitment and reducing the waiver period of installation and connection charges from two years to three months does not comply with D.18-12-018. PAO argues those waivers would set a bad precedent and violate parties' due process by making a de facto change to the CASF rules. PAO further asserts that in waiving certain rules, Charter is being treated differently than other CASF infrastructure grant applicants and that the burden of the waivers falls upon other ratepayers.](#)<sup>20</sup>

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<sup>1819</sup> 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.

<sup>20</sup> [PAO Opening Comments to draft Resolution T-17680, November 21, 2019, at 3.](#)

In its reply comments, Charter asserts that the Commission has the authority to determine funding on a case-by-case basis (see Pub. Util. Code § 281(f)(13)) and has appropriately addressed input from other interested parties via this Resolution process. Charters argues that the wavier is needed for its billing system and its ability to offer uniform broadband pricing to subscribers in rural areas, who would benefit from the same price offered to customers in more competitive areas. Charter expects that most customers would choose to subscribe to broadband service in the first three months and receive the benefit of waiving installation and connection charges.

### **Staff's Response**

While Staff understands PAO's concerns, we continue to recommend that the Commission grant the requested waivers. Staff notes that this is the first instance in which a major national cable provider has applied for CASF funding to address the broadband needs in these unserved communities. We see this is an encouraging development and acknowledge Charter's concern that it may not be able to proceed with the project absent the waivers because changes to their billing system for the few households that would be served by these projects is cost prohibitive. We also note the Inland Empire Regional Broadband Consortium's support for these projects, including Charter's requested waivers. Further, in light of the overall statutory goal of the CASF program, we conclude that it is appropriate to grant the waivers in this case.

### **Funding Level**

In its comments, Charter asserts that the 80 percent funding level for the Highland Orchid Drive Project should be increased to 100 percent based on two criteria.<sup>21</sup>

First, for the "Service Level Preference" criteria (40 percent), Charter asserts that some funding credit is warranted due to a low level of mobile service in the project area. While Charter agrees that mobile service can qualify as "internet connectivity," Charter argues it should be awarded some funding credit. Charter's argument is based on the assertion that the mobile service in the Highland project area averages only just above served speeds. Charter also asserts that a full 40 percent funding level is warranted for the

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<sup>21</sup> Charter Opening Comments to draft Resolution T-17680, November 21, 2019, at 3 and 4.

improvement the project would provide (broadband speeds of up to 940 Mbps/35 Mbps).

Second, for the “Uses Existing Infrastructure” criteria (10 percent), Charter asserts that an additional 10 percent funding should be granted because Charter will upgrade an existing trunk amplifier and existing equipment in the San Bernardino hub.

### **Staff’s Response**

Mobile service qualifies as “internet connectivity,” and as Charter noted, mobile service is available at served speeds in the project area. The Commission has made previous findings regarding this matter, Staff reiterates its recommendation that no additions be made to the funding level.<sup>22</sup>

Staff disagrees with Charter’s assertions on the use of existing infrastructure. CASF rules (see D.18-12-018, Appendix 1, Sec. 2.2) state the project must rely *primarily* on existing communication facilities and infrastructure such as poles and conduit to meet this funding criteria. Charter’s proposed project is not primarily relying on existing communication facilities and infrastructure, but will be relying on building a new underground infrastructure. Therefore, Staff stands by its recommendation regarding its grant assessment for this criterion.

### **Minor Technical Errors**

In its comments, Charter identified several technical errors in the draft Resolution. The resolution has been revised to correct the technical errors.

### **Support Letter**

Staff received a letter from the Inland Empire Regional Broadband Consortium on December 2, 2019 supporting Charter’s proposed CASF projects. That letter was not sent to the CASF Distribution List.

## **FINDINGS**

1. On May 1, 2019, Charter filed applications for CASF funding for the Country Squire Mobile Home Park project in Riverside County, for the Highland Orchid

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<sup>22</sup> Resolution T-17660, Approval of Frontier California, Inc., CASF Funding for the Weimar Project, at 7.

Drive project in San Bernardino County, and for the Silver Wheel Ranch Mobile Home Park project, in Ventura County. The proposed projects will deploy last-mile fiber and coaxial facilities that will enable provision of high-speed Internet service with speeds of up to 940 Mbps download and 35 Mbps upload to 279 households in unserved communities.

2. On May 15, 2019, Staff posted project summaries of Charter's Country Squire Mobile Home Park project, the Highland Orchid Drive project and the Silver Wheel Ranch Mobile Home Park project, including a listing of the census blocks and zip codes covered by the project, and the proposed project area map. The summary was posted on the "CASF Applications Project Summaries" webpage, which may be found on the Commission's CASF webpage.
3. Staff received no challenges to Charter's Country Squire Mobile Home Park application, the Highland Orchid Drive application or the Silver Wheel Ranch Mobile Home Park application.
4. Based on its review, Staff determined that Charter is eligible to receive 80 percent of its requested funding for the Highland Orchid Drive project and 100 percent of its requested funding for the Country Squire Mobile Home Park and Silver Wheel Ranch Mobile Home Parks pursuant to the funding criteria in D. 18-12-018 and Appendix 1. Therefore, Staff recommends Commission approval of CASF funding for Charter's Country Squire Mobile Home Park application, Highland Orchid Drive application and Silver Wheel Ranch Mobile Home Park application in the combined amount of \$1,377,174.97.
5. Based on its review, Staff determined that the projects funding be made contingent upon Charter obtaining approval from the owners of the Country Squire Mobile Home Park and the Silver Wheel Ranch Mobile Home Park to build broadband infrastructure on their property.
- 6.
7. Based on Charter's service to mobile home park residents, its commitment to offer low-income pricing below \$15 per month and other factors described in this resolution, Staff recommends that the Commission grant Charter's request for waiver from the requirement of a two-year pricing commitment, pursuant to the eligibility criteria in D. 18-12-018, but require that, if pricing plans change going forward, Charter not exceed it's California-wide pricing for similar broadband services in the project areas for two years after completion of the project.



8. Based on Charter's service to mobile home park residents, its commitment to offer low-income pricing below \$15 per month and other factors described in this resolution, Staff recommends that the Commission grant Charter's request for waiver of the requirement that their installation charges be waived for a two-year period, and approves Charter's proposal to limit the installation charges waiver to the first three months following completion of construction.
9. The Commission has determined that all three projects are categorically exempt from CEQA review. These projects meet the criteria of the CEQA categorical exemptions as described in CEQA Guidelines, 14 C.C.R. § 15301 (Existing facilities), § 15302 (Replacement or reconstruction of existing structures and facilities), and § 15304 (Minor alterations to land). Therefore, the entirety of the three projects are categorically exempt from CEQA review.
10. A notice letter was e-mailed on November 1, 2019, informing all applicants filing for CASF funding and entities 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/> ~~http://www.cpuc.ca.gov/PUC/documents/~~ <http://www.cpuc.ca.gov/PUC/documents/>. PAO and Charter submitted comments; Charter submitted reply comments.

**THEREFORE, IT IS ORDERED that:**

1. The Commission shall award \$267,943.21 to Charter for the Country Squire Mobile Home Park project as described herein and summarized in Appendix A of this Resolution, which shall be paid out of the CASF Infrastructure Grant Account in accordance with the guidelines adopted in D. 18-12-018 and its Appendix 1, and with the process defined in Appendix C "Payments to CASF Recipients" of this Resolution. Funding shall be contingent upon Charter obtaining approval from the owners of the Country Squire Mobile Home Park to build broadband infrastructure on their property.
2. The Commission shall award \$197,184.76 to Charter for the Highland Orchid Drive project as described herein and summarized in Appendix A of this Resolution, which shall be paid out of the CASF Infrastructure Grant Account in accordance with the guidelines adopted in D. 18-12-018 and its Appendix 1, and with the process defined in Appendix C "Payments to CASF Recipients" of this Resolution.

3. The Commission shall award \$912,047.00 to Charter for the Silver Wheel Ranch Mobile Home Park project as described herein and summarized in Appendix A of this Resolution, which shall be paid out of the CASF Infrastructure Grant Account in accordance with the guidelines adopted in D. 18-12-018 and its Appendix 1, and with the process defined in Appendix C "Payments to CASF Recipients" of this Resolution. Funding shall be contingent upon Charter obtaining approval from the owners of the Silver Wheel Ranch Mobile Home Park to build broadband infrastructure on their property.
4. The Commission grants Charter's request for waiver from the requirement of a two-year pricing commitment, pursuant to the eligibility criteria in D. 18-12-018, but requires that, if pricing plans change going forward, Charter not exceed ~~it's~~sits California-wide pricing for similar broadband services in the project areas for two years after completion of the project. In future applications the Commission will consider requests for waivers of rules on a case-by-case basis.
5. The Commission grants Charter's request for waiver of the requirement customer installation charges be waived for a two-year period, and approves Charter's proposal to limit the installation charges waiver to the first three months following completion of construction. In future applications the Commission will consider requests for waivers of rules on a case-by-case basis.
6. Charter shall comply with all guidelines, requirements and conditions associated with a CASF award, as specified in D. 18-12-018 and its Appendix 1, and all requirements for this project included in this Resolution, and must submit FCC Form 477 to the Commission, as specified in Resolution T-17143.
7. If Charter fails to complete the project in accordance with the CASF guidelines and requirements outlined in D.18-12-018 and its Appendix 1, and the terms outlined in this Resolution, Charter must reimburse some or all of the CASF funds that it has received.
8. Charter must complete and execute the consent form (to be sent to the Grantee after this Resolution is adopted) agreeing to the conditions set forth in this Resolution and return it the CASF Staff within 30 calendar days from the date of the adoption of this Resolution. Failure to submit the consent form within 30 calendar days from the adoption date of this Resolution may result in the Commission voiding the grant award.

This Resolution is effective today.

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

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~~ALICE STEBBINS~~ Alice Stebbins

Executive Director

## APPENDIX A

### Resolution T-17680 Charter Communications - CASF Applicant Key Information

<i>Project Name</i>	<b>Country Squire Mobile Home Park Project</b>
<i>Project Plan</i>	Charter proposes to deploy 0.93 miles of last-mile coaxial and fiber infrastructure for the Country Squire Mobile Home Park project. The area is currently unserved.
<i>Project Size (in square miles)</i>	0.04
<i>Download/Upload speed</i>	940 Mbps / 35 Mbps
<i>Location</i>	Riverside County
<i>Community Names</i>	Moreno Valley
<i>Census Blocks</i>	060650487002002 060650487002003 060650487002005 060650487002006 060650487002007
<i>Median Household Income (by Census Block Group)</i>	\$74,899
<i>Estimated potential subscriber size</i>	99 households
<i>Applicant expectations</i>	41 households (41% take rate)
<i>Pricing Plan (Monthly)</i>	30 Mbps / 4 Mbps for \$14.99 200 Mbps / 15 Mbps for \$44.99 400 Mbps / 20 Mbps for \$64.99 940 Mbps / 35 Mbps for \$104.99
<i>Deployment Schedule (from permit approval date)</i>	256 days
<i>Proposed Project Budget (Total)</i>	\$267,943.21
<i>Grant Requested Amount (100 percent)</i>	\$267,943.21
<i>CASF Grant Amount (<del>80</del><u>100</u> percent)</i>	<del>\$214,354.57</del> <u>\$267,943.21</u>
<i>Recommended Grant per household passed</i>	<del>\$2,165.20</del> <u>\$2,706.50</u>

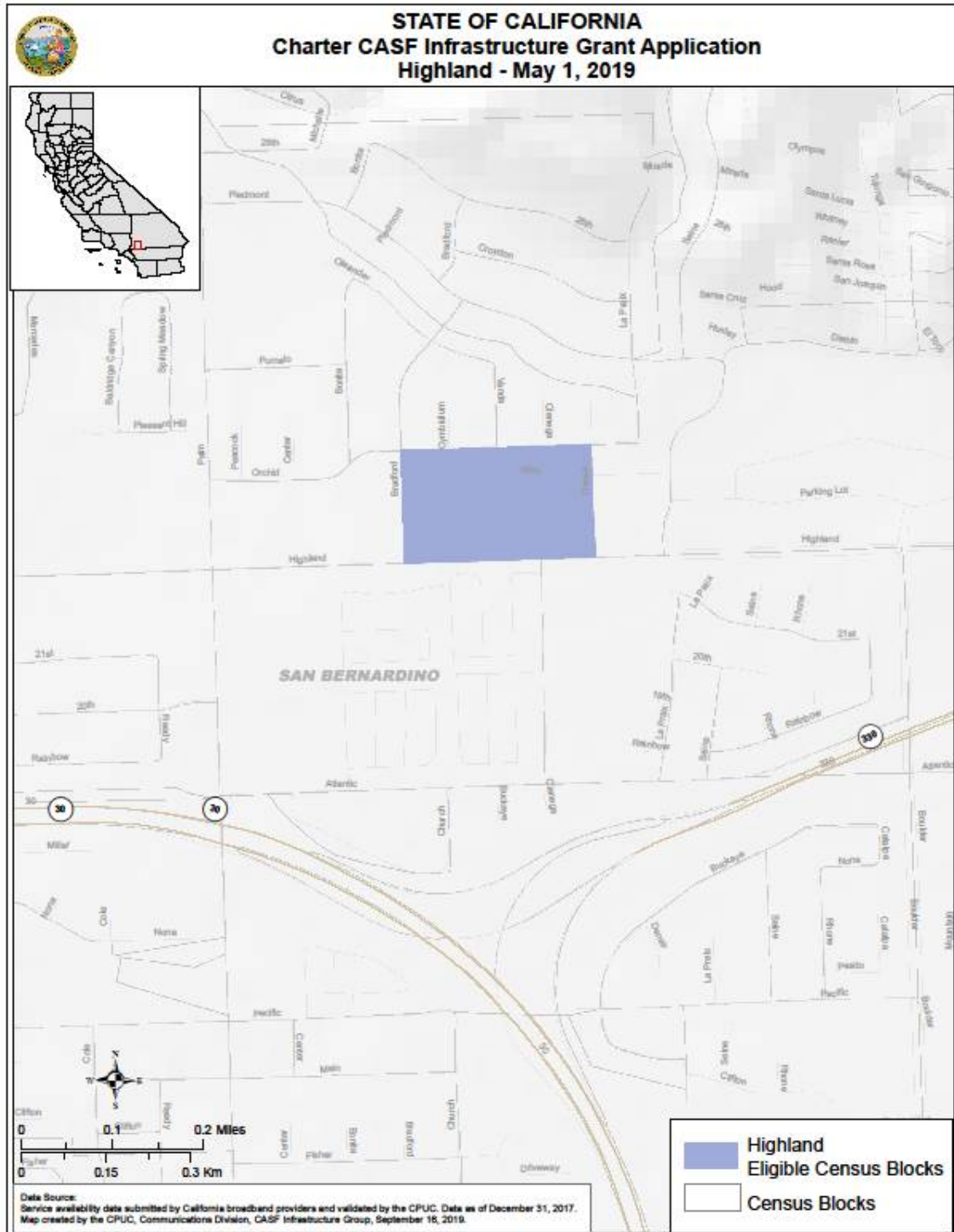
<i>Project Name</i>	<b>Highland Orchid Drive Project</b>
<i>Project Plan</i>	Charter proposes to deploy 0.53 miles of last-mile coaxial infrastructure to provide high-speed Internet service to the Highland Orchid Drive area. The proposed project area is currently unserved
<i>Project Size (in square miles)</i>	0.03
<i>Download/Upload speed</i>	940 Mbps / 35 Mbps
<i>Location</i>	San Bernardino County
<i>Community Names</i>	Highland
<i>Census Blocks</i>	060710074045007
<i>Median Household Income (by Census Block Group)</i>	\$64,597
<i>Estimated potential subscriber size</i>	115 households
<i>Applicant expectations</i>	48 households (42% take rate)
<i>Pricing Plan (Monthly)</i>	30 Mbps / 4 Mbps for \$14.99 200 Mbps / 15 Mbps for \$44.99 400 Mbps / 20 Mbps for \$64.99 940 Mbps / 35 Mbps for \$104.99
<i>Deployment Schedule (from permit approval date)</i>	241 days
<i>Proposed Project Budget (Total)</i>	\$246,480.95
<i>Grant Requested Amount (100 percent)</i>	\$246,480.95
<i>CASF Grant Amount (80 percent)</i>	\$197,184.76
<i>Recommended Grant per household passed</i>	\$1,714.65

<i>Project Name</i>	<b>Silver Wheel Mobile Home Park Project</b>
<i>Project Plan</i>	Charter proposes to deploy 3.0 miles of last-mile coaxial and fiber infrastructure for the Silver Wheel Ranch Mobile Home Park project. The area is currently unserved.
<i>Project Size (in square miles)</i>	0.008
<i>Download/Upload speed</i>	940 Mbps / 35 Mbps
<i>Location</i>	Ventura County
<i>Community Names</i>	Oxnard
<i>Census Blocks</i>	061110047042004 061110047042020 061110047042021 061110047042022
<i>Median Household Income (by Census Block Group)</i>	\$56,442
<i>Estimated potential subscriber size</i>	65 households <del>(42% take rate)</del>
<i>Applicant expectations</i>	27 households <u>(42% take rate)</u>
<i>Pricing Plan (Monthly)</i>	30 Mbps / 4 Mbps for \$14.99 200 Mbps / 15 Mbps for \$44.99 400 Mbps / 20 Mbps for \$64.99 940 Mbps / 35 Mbps for \$104.99
<i>Deployment Schedule (from permit approval date)</i>	275 days
<i>Proposed Project Budget (Total)</i>	\$912,047.00
<i>Grant Requested Amount (100 percent)</i>	\$912,047.00
<i>CASF Grant Amount (<del>80</del><u>100</u> percent)</i>	<del>\$729,637.60</del> <u>\$912,047.00</u>
<i>Recommended Grant per household passed</i>	<del>\$11,225.19</del> <u>\$14,031.49</u>

## APPENDIX B

### Resolution T-17680 Charter Communications - Project Location Map









## APPENDIX C

### **Resolution T-17680: Charter Communications Payments to CASF Recipients**

Pub. Util. Code § 281(f)(11) define the costs the Commission may reimburse as follows:

- Costs directly related to the deployment of infrastructure;
- Costs to lease access to property or for Internet backhaul services for a period not to exceed five years; and
- Costs incurred by an existing facility-based broadband provider to upgrade its existing facilities to provide for interconnection.

Additionally, D. 18-12-018 (Appendix 1, Section 7) caps administrative expenses directly related to the project at 15 percent of the grant amount.<sup>4923</sup>

The grantee may submit reimbursement requests at the following intervals:

- 10 percent completion;
- 35 percent completion;
- 60 percent completion;
- 85 percent completion; and
- 100 percent completion.

The final 15 percent payment request (from 85 to 100 percent) will not be paid without an approved completion report. Payments are based on submitted receipts, invoices and other supporting documentation showing expenditures incurred for the project in accordance with the approved CASF funding budget included in the CASF grantee's application.

Payment to grantees shall follow the process adopted for funds created under P.U. 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.

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<sup>4923</sup> Administrative costs are defined as "indirect overhead costs attributable to a project, per generally accepted accounting principles (GAAP), and the direct cost of complying with Commission administrative and regulatory requirements related to the grant itself." Applicants seeking additional funds will require a Commission exemption included in a draft resolution.

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