

**DRAFT**

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

**Communications Division  
Broadband, Policy and Analysis Branch**

**Resolution T-17421  
October 31, 2013**

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

**Resolution T-17421 Approval of Funding for the Grant Application of Willits OnLine LLC and its subsidiary company, Rural Broadband Now! LLC (U-7073-C), from the California Advanced Services Fund (CASF) in the Amount of \$149,364 for the Westport Unserved and Underserved Broadband Project**

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**I. SUMMARY**

This Resolution approves funding in the amount of \$149,364 from the California Advanced Service Fund (CASF) for the CASF grant application of WillitsOnLine LLC and its subsidiary company, Rural Broadband Now! LLC for its Westport Last Mile Unserved and Underserved Broadband Project (Westport Project). The Westport Project will extend high-speed Internet service to 19.87 square miles in Westport, the northernmost town of Mendocino County.

**II. BACKGROUND**

On December 20, 2007, the California Public Utilities Commission (Commission) in Decision (D.) 07-12-054 established the CASF program as a two-year program to provide funds for the deployment of broadband infrastructure in unserved and underserved areas in California.

On September 25, 2010, Governor Schwarzenegger signed Senate Bill (SB) 1040<sup>1</sup> which codified the CASF program and expanded it to include three accounts: (1) the Infrastructure Grant Account, (2) the Consortia Grant Account, and (3) the Revolving Loan Account. The latter two accounts are intended to address the needs that were unmet under the original CASF program. Specifically, the purpose of the Revolving Loan Account is “to finance capital costs of broadband facilities not funded by a grant from the

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<sup>1</sup> Stats. 2010, c. 317, codified at Public Utilities (P.U.) Code § 281.

Broadband Infrastructure Grant Account.”<sup>2</sup> SB 1040 also expanded the CASF fund from \$100 million to \$225 million adding \$100 million to the Infrastructure Grant Account and allocating \$10 million and \$15 million to the Consortia Grant Account and the Revolving Loan Account, respectively.<sup>3</sup>

On February 1, 2012, the Commission approved D.12-02-015 to implement new guidelines for the Infrastructure Grant and Revolving Loan Accounts. Key provisions of the Decision include:

- A maximum CASF grant award of 70 percent of project costs for unserved areas and 60 percent for underserved areas;
- A definition of an underserved area, “where broadband is available, but no wireline or wireless facilities-based provider offers service at advertised speeds of at least 6 megabits per second (Mbps) downstream and 1.5 Mbps upstream (6 Mbps /1.5 Mbps);” and
- A Revolving Loan Program to provide supplemental financing for projects also applying for CASF grant funding (up to 20% of projects costs, with a maximum of \$500,000), utilizing the same project and applicant eligibility requirements as the Infrastructure Grant Program.

Consequently, on May 10, 2012, the Commission approved Resolution T-17362 which established the application deadlines for the CASF Broadband Infrastructure Grant Account and the Revolving Loan Account as follows:

- October 1, 2012, for unserved areas;
- February 1, 2013, for underserved areas not previously funded by the CASF and hybrid projects that cover both unserved and underserved areas; and,
- A date to be determined for projects in underserved areas where the existing broadband infrastructure was partially funded by a CASF grant.

On October 1, 2012, WillitsOnline LLC submitted an application for CASF funding on behalf of WillitsOnline LLC and its subsidiary company, Rural Broadband Now! LLC. (WillitsOnline), for the unserved areas of Westport. After review and analysis of the project application, Communications Division (CD) deemed the proposal to be a hybrid project that covered both unserved and underserved areas. Therefore, CD moved it into the February 1, 2013 application deadline where hybrid projects are eligible for CASF funding.

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<sup>2</sup> P.U. Code § 281(e).

<sup>3</sup> P.U. Code § 281(b)(1).

### III. NOTICE/PROTESTS

CD posted the proposed project area map, census block groups (CBGs) and zip codes by county for the Westport Project on the Commission's CASF webpage under "Pending New CASF Applications to Offer Broadband as of October 9, 2012." CD did not receive any challenges from any broadband provider claiming to provide service at served speeds in the proposed project area.

### IV. DISCUSSION

This Resolution adopts CD's recommended CASF fund award of \$149,364<sup>4</sup> for the Westport Project. This award represents 65% of the total project costs of \$230,500. Key project information and maps are shown in Appendix A.

#### A. Project Overview

WillitsOnline currently does not provide broadband or telephone service within five miles of the Westport Project. In 2009, the Commission awarded the company a CASF grant (Resolution T-17183) to bring broadband service to the communities of Laytonville and Covelo. WillitsOnline successfully completed both projects, which resulted in the deployment of ADSL2+ broadband service to these areas.

The Westport Project will extend high-speed Internet service to 19.87 square miles in Westport by deploying Mega Link ADSL2+ broadband service to the area which is capable of reaching speeds of 24 Mbps download and 2 Mbps upload. The project will deploy a hardened outdoor DSLAM collocated next to an AT&T remote terminal. Middle mile connectivity will be provided by wireless microwave communications technology. The CBG impacted by the project area is: 060450102003.

Westport, the northernmost town of Mendocino County, was once the largest community in California's north coast. When the lumber industry was at its peak, Westport was a town of about 20,000 residents, mostly loggers and fishermen. Today, with an area population of just over 450, there is still a strong commitment to community. Westport is the site of Fort Bragg Unified School District's small school, a general store, a number of

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<sup>4</sup> The project area encompasses 48% unserved households and 52% underserved households. These percentages were used to calculate the project costs associated with the expansion of broadband service to unserved and underserved areas; respectively. Project costs associated with unserved areas is \$110,640 (48% of \$230,500). Project costs associated with underserved areas is \$119,860 (52% of \$230,500). CASF grant funding percentages of up to 70% for unserved areas and 60% for underserved areas were then applied to the unserved and underserved project costs to determine the total eligible CASF grant request  $((.70 * \$110,640) + (.60 * \$119,860) = \$149,364)$ .

state and private campgrounds, some vacation rentals and a few restaurants/inns. Subdivisions in the Westport service area, created 30 years ago, are home to local residents and to part-time residents. According to the applicant, many professionals who call Westport home have been unable to work from their own community due to the lack of broadband services.

When completed, the project will reach an estimated 126 households where 60 households are unserved and 66 households are underserved. The project will initially deliver broadband at advertised speeds of 6 Mbps download and 2 Mbps upload. WillitsOnline estimates an initial 20 to 25 potential households to subscribe in the proposed area.

WillitsOnline has committed to a broadband pricing plan under the terms shown below for two years, starting from the beginning date of service.

<b>Service/Description</b>	<b>Download/Upload Speeds</b>	<b>Monthly Fee</b>
MegaLink - Basic	Up to 3 Mbps download/ 1 Mbps upload	\$44.95*
MegaLink - Pro	Up to 6 Mbps download/ 2 Mbps upload	\$69.95*
Other Recurring Charges		None
* The monthly fee assumes customer has existing land line phone service that is working with AT&T. Customers who do not have an existing land line phone service that is working with AT&T will be required to pay an additional monthly charge for "dry line" service of \$15.		
		<b>Non-Recurring Charges</b>
Basic Modem		\$69
Pro Modem		\$120
Installation Fee		\$0 - Waived for 2 years

B. Project Qualification

To qualify for the CASF program, the applicant is required to submit proof that the area is unserved or underserved by submitting shapefiles of the proposed project. CD reviews the submitted shapefiles and compares them with United States 2010 Census data and the California Interactive Broadband Availability map which contains broadband availability data as of June 30, 2012. Once CD finds the areas eligible either as unserved or underserved areas, CD evaluates all other information submitted by the applicant to determine if the project meets the requirements outlined in D.12-02-015. Other information CD reviews includes: proof of a Certificate of Public Convenience and Necessity (CPCN) from the Commission; descriptions of current and proposed broadband infrastructure; 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.

As an initial step in the review of WillitsOnline's application, CD checked the CBGs submitted in the project application to determine that the project was indeed unserved and underserved. In doing so, CD found broadband availability at served speeds by satellite providers such as Hughes.net, ViaSat Communications, and Skycasters, LLC. However, as adopted in D.12-02-015, the Commission does not consider satellite broadband service in CASF project evaluation, unless the satellite project in an area was previously funded by the CASF<sup>5</sup>. Additionally, CD requested greater detail for the project budget, estimated potential subscriber size, and proposed pricing. Specifically, for the proposed pricing section of its application, WillitsOnline recognized the CASF guidelines for a two year fixed monthly subscription fee and waiver of installation and/or initial service connection fees. WillitsOnline stated in its original application that there is an installation fee to subscribers where such fee includes the modem. CD staff pointed out that CASF requires a waiver of installation and or initial service connection fees for two years. WillitsOnline amended its application to remove the installation fee in its originally application.

Since WillitsOnline's submission of its CASF project application, Round 7 broadband availability data as of December 31, 2012 continues to show the proposed project area as not having broadband availability at served speeds of 6 Mbps download and 1.5 Mbps upload with the exception of a very small area in the southern part of the project that

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<sup>5</sup> This determination was based on the limited speed capabilities of satellite services, the cost to the consumer, high latency, and unreliability known at the time of the decision, D. 12-02-015 at 13-15. Since that time, like other technologies, satellite services have improved.

contains five households. The area shows maximum advertised mobile broadband availability from Verizon at speeds greater than 6 Mbps download and 1.5 Mbps upload. However, CD has not been able to validate the maximum advertised mobile broadband speeds in the area. CD validates advertised speeds by conducting drive tests at 1,200 points within the state. The nearest point to this project is approximately 11 miles to the east of the project boundary. CD inputs these tests into an interpolation model to predict speeds in areas outside of the drive tested points. Where the predicted speeds are slower than the advertised speeds, the model shows that speeds in that area are not validated. CD staff therefore concludes that the project continues to be eligible for CASF funding.

### C. Project Evaluation and Recommendation for Funding

CD evaluated the application with respect to the scoring criteria defined in D.12-02-015, Appendix 1, Section VIII (Scoring Criteria). The scoring criteria 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. In addition, five bonus points are added to the score of an applicant who is able to submit local government and community endorsements or letters of support.

The Westport Project's overall score was not as high compared to other projects. However, the project scored highest on the low-income areas criterion where the median household income in the project area is \$21,886. Additionally, 48% of the households in the project area are unserved. The Commission considers unserved areas as having the highest priority and therefore funding of the WillitsOnline Westport project delivers on this priority. In fact, the Westport County Water District (WCWD) wrote a letter in support of the project because of the importance of broadband to the area and because high-speed Internet access will enable the WCWD to meet requirements by the California Department of Public Health-Division of Drinking Water to provide 15 minute updates on the quality of water via the Internet. Other support letters from residents in the project area highlight how high-speed Internet access will enable them to participate in educational opportunities, support businesses, interact with local government, and provide emergency health and safety improvements.

Based on its review, CD determined that WillitsOnline's grant application qualifies for funding as an unserved and underserved area and meets the requirements of D.12-02-015. CD recommends Commission approval of CASF funding for WillitsOnline Westport Project.

CD staff finds that funding the Westport Project aligns with CASF's goal to encourage the deployment of high-quality advanced information and communications technologies to all Californians to promote economic growth, job creation, and substantial social benefits.

#### D. Safety Impact

The CASF program encourages the deployment of broadband throughout the state which can enable the public to access Internet-based safety applications, access to emergency services, and allow first responders to communicate with each other and collaborate during emergencies. As the Governor's Broadband Task Force stated in its 2007 report, ubiquitous broadband will play a key role in enhancing public safety operations and applications in law enforcement, disaster relief, traffic management, and virtually every other aspect of public safety. The funding to the Westport Project will enable households in the Westport area to have access to high-speed Internet and make use of the technology for safety purposes.

### V. COMPLIANCE REQUIREMENTS

WillitsOnline 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. Such compliance includes, but is not limited to:

#### A. California Environmental Quality Act (CEQA)

The WillitsOnline Project is subject to the California Environmental Quality Act (CEQA) review and must follow the requirements listed below.

The applicant must provide the Proponent's Environmental Assessment (PEA) prior to the first 25% payment. The PEA submission should include information on any land crossing sites requiring discretionary or mandatory permits or environmental review pursuant to CEQA (including the type of permit required, the name of the permitting agency/agencies and the Lead Agency if an environmental review is required). Also, the applicants must also agree to identify, prior to the first 25% payment, any other special permits required with a reference to the government agencies which grants these permits.

WillitsOnline has provided the Commission with construction plans for the Westport unserved and underserved project area. Westport is in a coastal zone and is a designated highly scenic area with the exception of the Westport Beach Subdivision and the area within the Westport urban/rural boundary. The collocated DSLAM site is within the Westport urban/rural boundary and may require a Coastal Development Permit from Mendocino County depending on the final design of the project. The installation of the

microwave relay tower from Cahto Peak to a second tower in Westport will require a Mendocino County Major Use permit. Permitting may take up to one year depending on the tower location and whether or not any additional studies are required (i.e. a botanical study, geotechnical study, etc.).

B. Deployment Schedule

The Commission expects WillitsOnline to complete the project within 24 months from the start date. If the applicant is unable to complete the proposed project within the 24-month timeframe requirement established by the Commission, it must notify the Commission as soon as it becomes aware of this prospect. The Commission may reduce payment for failure to notify CD's Director and satisfy this requirement.

C. Execution and Performance

CD and the CASF grant recipient shall determine a project start date after the Commission has granted all approvals to the CASF grant recipient. Should the recipient or Contractor fail to commence work at the agreed upon time, the Commission, upon five days written notice to the CASF recipient, reserves the right to terminate the award.

In the event that the CASF recipient fails to complete the project in accordance with the terms of approval granted by the Commission, the CASF recipient must reimburse some or all of the CASF funds that it has received.

The CASF grant recipient must complete all performance under the award on or before the termination date of the award.

D. Performance Bond

The Commission does not require a performance bond if the applicant certifies that the percentage of the total project costs it is providing comes from its capital budget and is not obtained from outside financing. In its application, WillitsOnly certified that 35% of the total project costs it is providing will come from its existing capital budget cash flow. Therefore, a performance bond is not required for this project.

E. Price Commitment Period

The minimum required price commitment period for broadband service to all households within the project area is two years. WillitsOnline 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.

The recipient'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 (if applicable)

If the grantee is providing voice service in the project area, it must meet the FCC standards for E-911 service and battery backup. WillitsOnline in its application has stated that no voice service will be provided as part of the Westport project.

H. Reporting

Grantees must submit quarterly progress reports on the status of the project irrespective of whether grantees request reimbursement or payment. Before full payment of the project, the CASF recipient must submit a project completion report. Progress reports shall use both the schedule for deployment, major construction milestones and costs submitted in the proposals; indicate the actual date of completion of each task/milestone as well as problems/issues encountered, and the actions taken to resolve these issues/problems during project implementation and construction; and identify future risks to the project. Recipients shall also include test results on the download speed and upload speeds on a CBG and zip code basis in the final completion report. Recipients must certify that each progress report is true and correct under penalty of perjury.

I. Submission of Form 477

The Federal Communications Commission (FCC) currently requires broadband providers to biannually submit the 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, Form 477 data will be useful in documenting CASF deployment for the new service area of the carrier. CASF recipients shall submit a copy of their Form 477 data directly to the Commission, under General Order 66-C, when they submit this data to the FCC for a five-year period after completion of the project.<sup>6</sup>

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<sup>6</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.

**VI. PAYMENTS TO CASF RECIPIENTS**

Submission of invoices from and payments to WillitsOnline shall be made 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 WillitsOnline shall follow the process adopted for funds created under P. U. Code § 270. The following table describes the timeline for processing CASF payments.

Event	Payment Cycle 1 (Day/ Month)	Payment Cycle 2 (Day/ Month)
Invoices due from WillitsOnline to CD	5 <sup>th</sup> of Month 1	20 <sup>th</sup> of Month 1
Payment letters from CD to Administrative Services <sup>7</sup>	On 19 <sup>th</sup> of Month 1	On 4 <sup>th</sup> of Month 2
Invoices submitted from Administrative Services to State Controller’s Office (SCO) for payments	20 <sup>th</sup> through 26 <sup>th</sup> of Month 1	5 <sup>th</sup> through 13 <sup>th</sup> of Month 2

WillitsOnline may submit its invoices under Payment Cycle 1 or 2.

If any date in this payment schedule falls on a weekend or holiday, that date will be advanced to the next business day, but the remaining dates in the payment schedule will remain unchanged. The State Controller’s Office (SCO) requires 14- 21 days to issue payment from the day that requests are received by SCO.

**VII. COMMENTS ON DRAFT RESOLUTION**

In compliance with P.U. Code § 311(g), a notice letter was emailed on September 26, 2013, informing all applicants filing for CASF funding, parties on the service list of R.06-06-028, and 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

<sup>7</sup> The above schedule is contingent on the CASF recipient submitting clear, complete, and error-free invoices to CD. Additional time to process payments may be necessary if CD finds problems with the submitted invoices.

letter also informed parties that the final confirmed Resolution adopted by the Commission will be posted and will be available at this same website.

### **VIII. FINDINGS**

1. On May 10, 2012, the Commission approved Resolution T-17362 which established the application deadlines for the CASF Broadband Infrastructure Grant Account and the Revolving Loan Account as follows: October 1, 2012, for unserved areas; February 1, 2013, for underserved areas not previously funded by the CASF and hybrid projects that cover both unserved and underserved areas; and, a date to be determined for projects in underserved areas where the existing broadband infrastructure was partially funded by a CASF grant.
2. WillitsOnline filed an application for CASF funding for its Westport Project on October 1, 2012. After review and analysis of the project application, CD deemed the proposal to be a hybrid project that covered both unserved and underserved areas and therefore moved it into the February 1, 2013 application deadline where hybrid projects are eligible for CASF funding.
3. The Westport Project will extend high-speed Internet service to 19.87 square miles in Westport by deploying Mega Link ADSL2+ broadband service to the area which is capable of reaching speeds of 24 Mbps download and 2 Mbps upload. The CBG impacted by the project area is: 060450102003.
4. CD posted the proposed project area map, CBGs and zip codes by county for the Westport Project on the Commission's CASF webpage under "Pending New CASF Applications to Offer Broadband as of October 9, 2012." CD did not receive any challenges from any broadband provider claiming to provide service at served speeds in the proposed project area.
5. CD reviewed and analyzed data submitted for the Westport Project CASF grant application to determine the project's eligibility for CASF funding. This data includes, but is not limited to: proof of a CPCN 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 underserved; 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.

6. CD reviewed the submitted shapefiles, which mapped the proposed broadband deployment using United States 2010 Census data and the California Broadband Availability map which contains broadband availability data as of June 30, 2012. The map helped to verify the existence or nonexistence of broadband service areas and broadband speeds, where available.
7. Based on its review, CD determined that the project qualifies for funding under D.12-02-015 and recommends Commission approval of CASF funding for WillitsOnline's project.
8. WillitsOnline is not required to post a performance bond because the percentage of the total project costs it is providing, 35%, will be financed through WillitsOnline's existing capital budget.
9. WillitsOnline is required to comply with all guidelines, requirements, and conditions associated with the granting of CASF funds as specified in D.12-02-015 and must submit the FCC Form 477, as specified in Resolution T-17143.
10. The Commission finds CD's recommendation to fund WilitsOnline's project as summarized in Appendix A to be reasonable and consistent with Commission orders and, therefore, adopts such recommendation.
11. The Commission must complete CEQA review prior to disbursing CASF funds for construction activities.
12. WillitsOnline shall submit the PEA to Commission staff prior to the first 25% CASF payment.
13. A notice letter was emailed on September 26, 2013 informing all applicants filing for CASF funding, parties on the service list of R.06-06-028, and 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 conformed Resolution adopted by the Commission will be posted and available at this same website.

**THEREFORE, IT IS ORDERED** that:

1. The Commission shall award \$149,364 from the CASF to WillitsOnline LLC and subsidiary company, Rural Broadband Now LLC (WillitsOnline) for the Westport Project as described herein and summarized in Appendix A of this Resolution.
2. The program fund payment of \$149,364 for this unserved and underserved project shall be paid out of the CASF fund in accordance with the guidelines adopted in D.12-02-015, including compliance with CEQA.
3. Payments to the CASF recipient shall be in accordance with Section XI of Appendix 1 of D.12-02-015 and in accordance with the process defined in the "Payments to CASF Recipients" section of this Resolution.
4. The CASF fund recipient, WillitsOnline, shall comply with all guidelines, requirements and conditions associated with the CASF funds award as specified in D.12-02-015 and must submit the FCC Form 477, as specified in Resolution T-17143.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 31, 2013.

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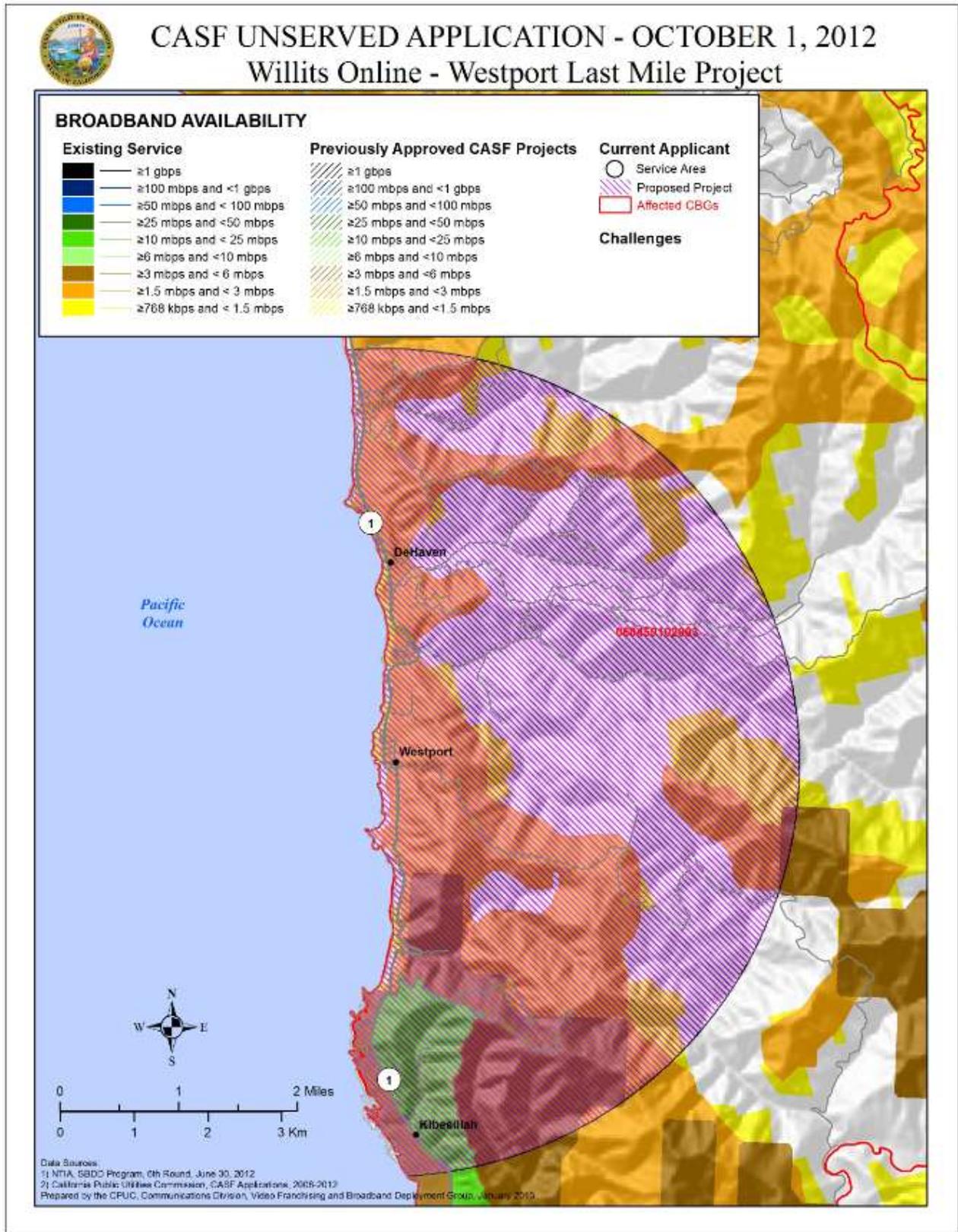
PAUL CLANON  
Executive Director

**APPENDIX A**  
**Resolution T – 17421**  
**WillitsOnline Westport Project Key Information**

<i>Project Name</i>	<b>Westport</b>
<i>Project Plan</i>	Implementation of ADSL2+ broadband service to Westport, CA and surrounding areas. The project will deploy a hardened outdoor DSLAM collocated next to an AT&T remote terminal that serves the Westport area. Middle mile connectivity will be provided by wireless microwave communications.
<i>Project Size (in square miles)</i>	19.87
<i>Download/ upload speed (in Mbps)</i>	24 Mbps down / 2 Mbps up Initial service offerings up to 6 Mbps down / 2 Mbps up
<i>Location</i>	Westport, Mendocino County
<i>Community Name</i>	Westport
<i>CBGs/ Household Income</i>	0060450102003 / \$23,433
<i>Zip Codes</i>	95488
	95437
<i>Estimated Potential Subscriber Size Households/ Subscribers</i>	126
<i>Deployment Schedule (from Commission approval date)</i>	24 months
<i>Proposed Project Budget</i>	
<i>Total</i>	\$230,500
<i>Amount of CASF Funds requested (65%)</i>	\$149,364
<i>Internally funded (35%)</i>	\$81,136

Resolution T – 17421  
WillitsOnline Westport Project Maps





END OF APPENDIX A