

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

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

**RESOLUTION T-17716  
December 17, 2020**

**RESOLUTION**

**Resolution T-17716:** Approval of funding for the grant application of Race Telecommunications, Inc. (U-7060-C), d/b/a Race Communications, from the California Advanced Services Fund (CASF) up to the amount of \$7,603,656.30 for the Gigafy Williams Project located in Colusa County.

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**SUMMARY**

This Resolution approves up to \$7,603,656.30 from the California Advanced Services Fund (CASF) for the grant application of Race Telecommunications, d/b/a Race Communications (Race), to construct the Gigafy Williams Project. Race proposes to deploy middle-mile and last-mile fiber infrastructure to provide fiber-to-the-premises (FTTP) broadband access in the city of Williams located in Colusa County. The proposed project will enable high-speed Internet service at speeds of up to 1,000 Megabits per second (Mbps) download and 1,000 Mbps upload to 588 unserved households.

**BACKGROUND**

The CASF Infrastructure Grant Account (CASF Infrastructure) provides grant funding to 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>1</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

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<sup>1</sup> AB 1665 is codified at Public Utilities (Pub. Util.) Code § 281.

forth the rules, application requirements and guidelines for the CASF Infrastructure Grant Account (CASF Infrastructure).<sup>2</sup>

On June 29, 2020, Governor Newsom signed AB 82 into law, amending Public Utilities Code § 281 to authorize leveraging of CASF Infrastructure grant funding to supplement the costs of broadband infrastructure already funded, in whole or in part, by the federal Rural Digital Opportunity Fund (RDOF).<sup>3</sup> In an effort to effectively utilize state and federal funding toward meeting the CASF program goals, Staff has recommended project applications that include areas eligible to receive RDOF may be deferred for approval until after the results of the RDOF Phase I (Auction 904) have been published.<sup>4</sup>

**On May 4, 2020, Race submitted a CASF Infrastructure application requesting \$6,758,805 for the Gigafy Williams Project to deploy middle-mile fiber and last-mile FTTP broadband access to 588 unserved households in the city of Williams in Colusa County.** The CASF grant funding request would cover 80 percent of the \$8,448,507 total project deployment costs of the Gigafy Williams Project.

Race was established in 1995 and has been a fiber-based Competitive Local Exchange Carrier (CLEC) providing next-generation Voice Over Internet Protocol (VoIP), Internet Protocol television (IPTV), and traditional cable/satellite television. The company specializes in scalable fiber-optic networks and continues to expand throughout California. Race has successfully delivered high-speed fiber solutions to rural and disadvantaged areas. Race has received CASF infrastructure grants for 11 projects since the program's inception, accounting for infrastructure deployment in unserved areas encompassing nearly 20,000 households.<sup>5</sup> Race has successfully completed nine of the CASF projects, with two still under construction.

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<sup>2</sup> The Commission extended the CASF Infrastructure application deadline from April 1 to May 4, 2020, and all subsequent deadlines are moved back by five weeks due to COVID-19 public health emergency. See Executive Director Letter to CASF Distribution and Service Lists, Postponement of the 2020 CASF Infrastructure Application Deadlines, March 20, 2020.

<sup>3</sup> See Public Utilities Code § 281(b)(1)(B)(ii).

<sup>4</sup> See Staff Proposal on State-Federal Broadband Infrastructure Funds Leveraging Rulemaking (R.)20-08-021, October 1, 2020, which is pending Commission decision.

<sup>5</sup> Race has been awarded grants for Mojave Air and Space Port Project (T-17279), Kern County High Desert Project (T-17415), Boron Project (T-17416), Mono County Underserved Project (T-17433), Gigafy Backus Project (T-17480), Five Mining Communities Project (T-17488), Gigafy Mono Project (T-17477), Gigafy Occidental (T-17524), Gigafy North 395 Project (T-17541), Gigafy Phelan (T-17525, T-17658), and Bright Fiber Project (T-17495, T-17565, T-17633).

## **NOTICE**

On May 18, 2020, Staff posted the proposed project area map, census blocks (CBs) and zip codes for the Gigafy Williams Project on the Commission's CASF webpage under "CASF Application Project Summaries" and sent notice regarding the project to its CASF Distribution List.<sup>6</sup>

## **PROTEST/CHALLENGES**

Staff received challenges from Comcast Cable Communications Management LLC (Comcast), DigitalPath Inc. (DigitalPath), Citizens Telecommunications Company of California d/b/a Frontier Communications (Frontier) and Succeed Inc. (Succeed). The companies claimed to provide broadband availability at served speeds in the Williams area.

The outcome of the challenges is addressed in the Discussion, Section I, Project Area Eligibility.

## **DISCUSSION**

In compliance with D.18-12-018, Staff determined Race's Gigafy Williams Project is eligible to receive \$7,603,656.30<sup>7</sup> in CASF Infrastructure grant funding.

Details of Staff analysis are explained 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.

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<sup>6</sup> CPUC, CASF Applications Project Summaries: <https://www.cpuc.ca.gov/General.aspx?id=1040>.

<sup>7</sup> As explained in the Project Eligibility section.

**I. Project Area Eligibility**

No provider filed a “right-of first refusal” for Race’s Gigafy Williams project area by January 15, 2020, nor does the proposed project area include census blocks identified by the Federal Communications Commission’s (FCC) Connect America Fund Phase II program.<sup>8</sup> Additionally, the proposed project areas do not include census blocks identified by the FCC as eligible to receive RDOF as part of Phase I (Auction 904).<sup>9</sup>

On September 25, 2020, Race submitted a revised application requesting funding of up to \$7,603,656.30 to correct an inadvertent budgeting error.<sup>10</sup> In its revised application, Race reduced its total project expenditures by \$844,850.70, to \$7,603,656.30 and requested 100 percent (instead of 80 percent) funding. Table 1, below, provides a summary of the Race’s budgeted project costs.

**Table 1: Summary of Race’s Funding**

	Grant Request	Total Project Costs
Original Application	\$ 6,758,805.00	\$ 8,448,507.00
<b>Revised Application</b>	<b>\$ 7,603,656.30</b>	<b>\$ 7,603,656.30</b>

The revised Gigafy Williams Project Summary was posted on the Commission’s webpage on October 12, 2020. Based on Race’s project revision, Staff determined the Gigafy Williams Project, including the middle-mile infrastructure, is eligible for a CASF Infrastructure grant.

**Comcast did not submit a valid challenge to the Gigafy Williams Project.** Comcast challenged the application stating the company provides broadband availability at served speeds in two census blocks within the Gigafy Williams project area. Staff reviewed the customer address and billing information submitted by Comcast and determined the challenged census blocks were not in the proposed project area. Based on the review of the data, Staff concluded that Comcast’s challenge was not a valid claim for the proposed project area.

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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.

<sup>9</sup> See <https://www.broadbandmap.ca.gov/federal/funding/>.

<sup>10</sup>Race’s revised project expenditure budget reflects a 10 percent reduction in project management and indirect expenses.

**Frontier and Succeed did not submit complete challenges to the Gigafy Williams Project.** Frontier and Succeed challenged the application, stating the companies provide broadband availability at served speeds within the Gigafy Williams project area. Staff reviewed the information submitted by Frontier and Succeed and determined that neither company provided the required information per D.18-12-018, Appendix 1, Section 11. Frontier submitted customer address data but did not provide any customer billing information to indicate subscription rates demonstrating actual levels of broadband availability at served speeds. Succeed provided served census blocks but did not submit customer address and billing information to demonstrate actual levels of broadband service in the proposed project area. Therefore, Staff concluded Frontier’s and Succeed’s challenges were incomplete and deemed denied.

**DigitalPath did not submit a successful challenge to the Gigafy Williams Project.** DigitalPath challenged the application stating the company provided broadband availability at served speeds within the Gigafy Williams project area. Based on customer address and billing information submitted by DigitalPath, Staff determined that DigitalPath has subscribers in 6 census blocks within the proposed project area. Staff further reviewed the subscriber information and found that each census block contained a single subscriber, for a total of 6 subscribers, within the challenged project area. Table 2 summarizes the number of DigitalPath subscribers compared to the total number of households in the challenged census blocks.

**Table 2: Challenged Households within the Gigafy Williams Project Area**

<b>Challenged Census Blocks</b>	<b>DigitalPath Subscribers</b>	<b>Total Challenged Households</b>
060110003002042	1	7
060110003003000	1	24
060110003003045	1	4
060110003004015	1	10
060110003004078	1	14
060110003004082	1	8
<b>Total Households</b>	<b>6</b>	<b>67</b>

DigitalPath is a fixed wireless broadband service provider for rural communities in California. The wireless technology used by the company relies on a direct and unobstructed line of sight (LOS) path to connect customers to the network. LOS signals may be affected by weather, foliage, terrain, and man-made structures, thus making establishment of broadband service complex. Staff relies on subscriber data to verify

the actual level of wireless broadband service available to customers. According to the California Interactive Broadband Map, DigitalPath claims to serve areas directly adjacent to the Gigafy Williams Project at broadband speeds of 50 Mbps download and 10 Mbps upload. However, the customer subscriptions provided for the challenged census blocks were much lower at 6 Mbps download and 1 Mbps upload. Based on the minimal subscriber data submitted by DigitalPath, Staff is not able to substantiate that DigitalPath's service is available throughout the entirety of the six census blocks.

After careful review of the submitted information, Staff determined that DigitalPath's challenge did not establish that it provided sufficient levels of broadband coverage to warrant removal of specific areas from the project area. Further, DigitalPath did not provide sufficient information for Staff to verify the served status with the customers.<sup>11</sup> Therefore, Staff denies DigitalPath's challenge.

**The Gigafy Williams project area is eligible for a CASF grant.** Only households that are unserved are eligible for a CASF Infrastructure grant. Unserved is defined as no facilities-based service provider offering access at speeds of at least 6 Mbps downstream and 1 Mbps upstream. Based on the outcome of the challenges, Staff has determined no other facilities-based service providers exist in the project area. According to the California Interactive Broadband Map, the area only has access to dial-up service.<sup>12</sup>

**Middle-Mile infrastructure is eligible for a CASF grant.** Race proposes to deploy approximately 29.1 miles of fiber optic middle-mile infrastructure to Colusa where an existing service provider can provide leased backhaul access to Race's network. The proposed middle-mile infrastructure was not challenged by owners of middle-mile facilities in the area, which supports a finding of indispensability of the proposed middle-mile deployment to the project. Race is unable to deliver last-mile service without building the additional middle-mile fiber infrastructure. Therefore, Staff has determined the middle-mile infrastructure is indispensable to serve the proposed community and thus eligible for CASF funding, pursuant to Pub. Util. Code § 281(f)(5)(B). The middle-mile fiber network shall be made available for wholesale access to other potential CASF grantees at reasonable rates and terms. These reasonable rates shall be at cost.

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<sup>11</sup> See D.18-12-018, Appendix 1, Section 11: Project Challenges, "...billing statement must contain sufficient information so that Staff can verify it with the customer."

<sup>12</sup> Dial-up provides speeds of less than 200 Kbps downstream and 200 Kbps upstream.

## II. Minimum Performance Criteria

Staff reviewed Race’s Gigafy Williams application and determined that the proposed project meets the minimum performance criteria pursuant to D.18-12-018, Appendix 1, Section 6, as summarized below in Table 3.

**Table 3: Minimum Performance Criteria**

	<b>CASF Performance Criteria</b>	<b>Proposed Project</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	12 months (CEQA Exempt)
<b>Speed</b>	At least 10 Mbps /1 Mbps	Up to 1 Gbps/ 1 Gbps
<b>Latency</b>	Maximum of 100 ms of latency	25 ms
<b>Data Caps</b>	Minimum of 190 GBs per month	No data cap
<b>Affordability</b>	Must offer low-income plan	\$25 monthly

**The Gigafy Williams proposed project is categorically exempt from California Environmental Quality Act (CEQA) review.** The Commission must review all CASF projects in accordance with CEQA requirements unless the project is statutorily or categorically exempt pursuant to CEQA guidelines.

In its application, Race requested categorical exemption from CEQA and provided the Commission with its plan to use existing utility poles, public utility easements, and public rights of ways (ROW) for the installation of underground and aerial fiber cable. The proposed project would cover approximately 0.46 square miles in the city of Williams in Colusa County and deploy middle-mile fiber and last-mile FTTP facilities. The outside plant infrastructure will consist of 20.9 miles of aerial fiber installed on existing joint-use utility poles and 8.2 miles of underground placement of fiber optic cable within 2-inch conduit.

All proposed fiber cable installation will be conducted in existing utility ROWs, in previously disturbed areas, and utilize easements to lessen the environmental impact. Race will follow General Order 95 pole safety and loading requirements for all aerial cable construction. Race is expected to obtain the required utility permits for placement of aerial fiber cable on existing utility poles and easements. New underground construction will be performed using a combination of trenching and boring. Boring will be performed using horizontal directional drilling in accordance with the lead permitting agency, in areas where minimal impact and restoration of the roadways is

required. Where trenching is required, backhoes and hand-digging will be used to locate existing utilities. Following the installation of underground facilities and cabling, the site will be returned to its original condition. Where available, Race plans to lease dark fiber and/or fiber duct from other service providers.

Based on the information that Race provided, the Commission’s Energy Division has confirmed that the project is categorically exempt from CEQA review. The Race Gigafy Williams Project meets the criteria of the CEQA categorical exemptions for CEQA Guidelines, 14 C.C.R. § 15301 (Existing facilities) and § 15304 (Minor alterations to land). Thus, the Race Gigafy Williams Project is categorically exempt from CEQA review.

**Race’s broadband service offering meets CASF minimum performance criteria.** Race commits to residential and low-income broadband pricing plans, as provided in Table 4 below, for two years starting from the beginning date of service. There is no long-term commitment required by the consumer to receive these prices. Activation and installation fees will be waived during the pricing commitment period.

**Table 4: Race’s Broadband Pricing Plans**

Name of Tier	Advertised Speeds		Pricing Plan (\$ / per Month)
	Downstream (Mbps)	Upstream (Mbps)	
<b>Residential</b>			
Entry Level Speed	25	25	\$25.00
Max Level Speed	1,000	1,000	\$60.00
<b>Business or Institutions</b>			
Entry Level Speed	25	25	\$60.00
Max Level Speed	1,000	1,000	\$200.00
<b>Options</b>			
Setup Fees	N/A	N/A	\$0.00
Wireless Router	N/A	N/A	\$10.00
Wireless Mesh Repeater	N/A	N/A	\$5.00

The proposed speed offerings (up to 1,000 Mbps download and up to 1,000 Mbps upload) meet the 10/1 minimum performance requirement. Race also offers interconnected voice services with long-distance calling as an add-on to broadband service, for \$10 per month. Voice service plans will be available as a stand-alone service



with basic service (no long-distance calling) starting at \$10 per month. These services will be available to residents, as well as anchor institutions and small businesses.

### **III. Funding Determination**

**Race is eligible to receive 100 percent funding to cover the costs for its Gigafy Williams Project.** 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)(12) and 281(b)(2)(B)(i), and CASF program rules adopted in D.18-12-018. Based on those factors, Staff determined Race is eligible to receive 100 percent funding; and thereby recommends awarding a CASF Infrastructure grant of \$7,603,656.30 for the Gigafy Williams Project. Table 5 summarizes Staff’s funding level determination for the project.

**Table 5. Funding Level Criteria for Race Gigafy Williams Project**

<b>Funding Criteria</b>	<b>Funding Level</b>
Baseline for Eligible Project (60%)	60%
Service Level Preference: Only Dial-up or No Internet Connectivity (40%)	39.6%
Low Income - up to 40% <ul style="list-style-type: none"> <li>• Median Household Income for community is less than CARE standard for family of 4, which is currently \$50,200 (30%)</li> <li>• Applicant serves low-income customers for no more than \$15/month (10%)</li> </ul>	0%
Others: PU Code Sec 281 (f)(13) Criteria - up to 20% <ul style="list-style-type: none"> <li>• Inaccessible Location (10%)</li> <li>• Uses Existing Infrastructure (10%)</li> <li>• Makes a Significant Contribution to the Program Goal (10%)</li> </ul>	0%
<b>Total Funding Level</b>	<b>100%<sup>13</sup></b>

Details of the appropriate funding level are described below.

**Baseline for an Eligible Project qualifies for 60 percent funding.** The CASF program is intended to finance capital costs of projects deploying broadband facilities in unserved areas of California. The identified community of Williams

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

meets all of the eligibility criteria, as previously described in the Project Area Eligibility section.

**Service Level Preference qualifies for an additional 39.6 percent funding.** Pub. Util. 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 that are not served by any form of wireline or wireless facility-based broadband service. Based on the challenge submitted by DigitalPath, 6 of the 588 households in the project area have access to fixed wireless service, and thus do not qualify for additional funding. The remaining 582 households qualify for the Service Level Preference.

The maximum funding level for the Service Level Preference is 40 percent. Staff calculated the percentage of additional funding in proportion to the percentage of households in the project area. The 582 of 588 CASF-eligible households represent 99 percent of the households in the project area. Therefore, this project should receive 99 percent of the 40 percent Service Level Preference; this equates to an additional 39.6 percent funding for this criterion.

**Low Income considerations do not qualify for additional funding.** The average median household income of the census block groups in the proposed project area is \$53,025, which does not meet the CASF low-income eligibility threshold. For those with incomes at or below the federal poverty level, Race will offer a \$25 monthly plan. This does not meet the CASF low-income pricing plan and therefore does not qualify for additional funding.

**Other Factor considerations qualify for an additional 20 percent funding.** The Gigafy Williams Project meets two of the three criteria and qualifies for an additional 20 percent funding.

Staff determined the proposed project does not meet the inaccessible location criteria and is not eligible for an additional 10 percent funding. The project area is located in the agricultural community of Williams in Colusa County. The surrounding areas are census designated places (CDP) that are classified as urban and are therefore, populated with developed access to highways, public utilities, and community health and educational resources. The area is considered to be relatively flat terrain with feasible access to existing infrastructure.

The proposed project is eligible for an additional 10 percent funding for use of existing infrastructure. Race proposes to use existing utility poles for the deployment of its FTTP service offering.

Staff determined that the project makes a significant contribution to the program goal and is eligible for an additional 10 percent funding. The Redwood Coast Connect Consortium region to which the city of Williams belongs, is at 90.3 percent served,<sup>14</sup> which is below the CASF program goal. Therefore, this project will make a significant contribution to the program goal.

#### **IV. Safety and 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.

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

Race 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 Race to complete the project within 12 months from the start date (after Race has secured CEQA approval from the Commission and all required permits), and Race has committed to do so. If Race is unable to complete the proposed project within this 12-month timeframe, it must notify the Director of the Communications Division as soon as Race becomes aware of this possibility. If such notice is not provided, the Commission may reduce payment for failure to satisfy the requirement of timely notification to the Director.

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

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

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<sup>14</sup> See 2019 Annual Report on the CASF Program, California Public Utilities Commission, Issued April 2020, Page 13, Table 7: Remaining Unserved Households in Each Consortia Region.

reimburse some or all of the CASF funds that it has received. Race 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, Race 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. The Race 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

Race has certified that its fixed interconnected Voice over IP (VoIP) service meets the FCC standards for E-911 service and battery backup.

F. Reporting

All grantees must submit biannual progress reports on the status of the project irrespective of whether grantees request reimbursement or payment. These reports are due semi-annually, in March and September, until the project is completely built and operational. Progress reports shall include 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 is made, Race must submit a project completion report. Race shall also include test results on the download and upload speeds by census block in the final completion report. Race must certify, under penalty of perjury, that each progress report is true and correct.

G. Submission of Form 477

The Federal Communications Commission (FCC) currently requires broadband providers to semiannually submit Form 477, which includes speed data. While there is

an imperfect match between the data that are 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 CASF Rules, service providers in California must submit a copy of their Form 477 data directly to the Commission, concurrent with their submission of the same data to the FCC, for a five-year period after completion of the project.<sup>15</sup>

#### H. Prevailing Wage

Section 1720 of the California Labor Code specifies that CASF-subsidized projects are subject to prevailing wage requirements. Race is subject to the prevailing wage requirements in Section 1720.

### VI. Payments to CASF Recipients

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

### COMMENTS ON DRAFT RESOLUTION

In compliance with Public Utilities Code § 311(g), a notice letter was e-mailed on November 13, 2020, informing all parties on the CASF Distribution List of the availability of the draft of this resolution and of the opportunity to comment, at the Commission's website at <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.

Comments were submitted by the California Cable and Telecommunications Association (CCTA) on December 7, 2020. Reply comments were received by Public Advocates Office at the Commission (Cal Advocates) on December 11, 2020.

#### **CCTA's Comments**

CCTA asserts that Pub. Util. Code § 281 does not permit the Commission to impose an open access mandate on CASF grant recipients proposing middle-mile facilities and that the existing CASF rules for infrastructure grants do not include open access requirements. Further, the imposition of open access obligations, to the extent not voluntarily agreed to by the applicant, would be impermissible

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<sup>15</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.

given that the CASF rules in place at the time of the application – and to date—do not provide notice that such access must be provided by grant recipients.

### **Cal Advocates’ Reply Comments**

Cal Advocates states that the Commission should reject CCTA’s arguments because (1) the Commission has the authority to impose open access requirements to middle-mile infrastructure that is publicly funded by ratepayer funds; (2) open access requirements will provide benefits that will help the state reach CASF program goals; (3) and the grant recipient did not raise any concerns with the Draft Resolution.

Cal Advocates asserts the Commission can impose (and has previously imposed) open access requirements on CASF broadband infrastructure grant recipients. Pub. Util. Code § 281 contains no discussion of open access and does not preclude the Commission from imposing open access conditions or any other type of condition on CASF grant recipients. The Commission has previously approved CASF grants that required open access, including Resolution T-17418 for the KRRBI Project with the exact same language included in this Draft Resolution.<sup>16</sup> Additionally, Resolution T-17429 approved a CASF broadband infrastructure grant application which conditioned additional funding on access to applicants’ middle-mile network at reasonable prices.<sup>17</sup>

Cal Advocates asserts that requiring open access on middle-mile portions of CASF projects will provide benefits that will help the state reach the goals laid out in Pub. Util. Code § 281. Cal Advocates states that building and connecting more open access middle-mile infrastructure will encourage deployment of high-quality advanced communication services. Further, Benton Institute for Broadband and Society found that “an open access, middle-mile model promotes private investment and competition in last-mile service by reducing capital expenditures required to build last-mile connections.”<sup>18</sup> Cal Advocates asserts that requiring middle-mile open access will ensure publicly funded infrastructure maximizes the benefit to Californians; it is reasonable that middle-mile infrastructure funded in whole (100 percent) by the public be used by Internet service providers to facilitate last-mile broadband deployment to the public.

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<sup>16</sup> See Resolution T-17418, page 8.

<sup>17</sup> See Resolution T-17429, page 12. See also T-17295, page 9. “The Commission shall award funding of \$6,659,967 from the California Advanced Services Fund to Central Valley Independent Networks, LLC and Corporation for Educational Network Initiative in California (CVIN) for its middle-mile which will provide open access network capabilities to 18 Central Valley counties.”

<sup>18</sup> Arnold, Jordan & Sallet, Jonathan. “If We Build It, Will They Come? Lessons from Open-Access, Middle-Mile Networks.” Benton Institute for Broadband & Society.

[https://www.benton.org/sites/default/files/OAMM\\_networks.pdf](https://www.benton.org/sites/default/files/OAMM_networks.pdf) at page 4. Accessed 12/9/2020

Cal Advocates disagrees with CCTA's comments that the imposition of open access obligations would be impermissible given that the CASF rules in place at the time of the application do not provide notice that such access be provided by grant recipients. Cal Advocates points out that none of the infrastructure grant recipients raised concerns with the Draft Resolution. Cal Advocates states that CCTA's comments are not relevant as none of the grant recipients are CCTA members.

### **Staff's Response to Comments and Reply Comments**

Staff rejects CCTA's comments that statute does not permit the Commission to impose open access requirements on CASF grant recipients proposing middle-mile infrastructure. Staff agrees with Cal Advocates that requiring open access on CASF funded middle-mile infrastructure will provide benefits to Californians and help the state reach CASF program goals. Staff finds it reasonable that middle-mile infrastructure funded by the public be used by Internet service providers to facilitate equitable and affordable broadband access. Staff also recognizes that none of the CASF applicants raised concerns with the open access requirements.

### **FINDINGS**

1. On May 4, 2020, Race submitted an application for CASF funding for its Gigafy Williams Project. The proposed project will deploy middle-mile and last-mile fiber that will enable provision of high-speed Internet service with speeds of up to 1,000 Mbps download and 1,000 Mbps upload to 588 households in unserved communities in Colusa County.
2. On May 18, 2020, Staff posted a summary of the proposed 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 4 challenges to the application for this proposed project. Based on the review of information submitted, Staff concluded none of the challenges warranted revision of Race's application.
4. On September 25, 2020, Race submitted a revised application to correct a budgeting error. In its revised application, Race reduced its project expenditures by \$844,850.70, to \$7,603,656.30 and requested 100 percent funding. On October

12, 2020, Staff posted the revised project summary on the “CASF Applications Project Summaries” webpage.

5. Based on its review, Staff determined that Race is eligible to receive 100 percent of its requested funding for the Gigafy Williams project, pursuant to the funding criteria in D. 18-12-018 and its Appendix 1. Therefore, Staff recommends Commission approval of CASF funding for the Gigafy Williams project in the amount of \$7,603,656.30.
6. The Commission has determined that the project is categorically exempt from CEQA review because it meets the criteria of the following CEQA categorical exemptions – CEQA Guidelines, 14 C.C.R. § 15301 (Existing facilities) and § 15304 (Minor alterations to land).
7. A notice letter was emailed on November 13, 2020, informing all applicants filing for CASF funding and entities on the CASF Distribution List of the availability of the draft of this Resolution and the opportunity for comment, at the Commission’s website <http://www.cpuc.ca.gov/PUC/documents/>. Comments were submitted by the CCTA and reply comments were submitted by the Cal Advocates.

**THEREFORE, IT IS ORDERED that:**

1. The Commission shall award up to \$7,603,656.30 to Race for the Gigafy Williams 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.
2. Race 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.
3. If Race 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, Race must reimburse some or all of the CASF funds that it has received.



4. Race 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 to 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.
5. The Race Gigafy Williams Project's middle-mile network shall be made available for wholesale access to other potential CASF grantees at reasonable rates and terms. These reasonable rates shall be at cost.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on December 17, 2020. The following Commissioners approved it:

/s/RACHEL PETERSON

Rachel Peterson  
(Acting) Executive Director

MARYBEL BATJER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

Commissioners

**APPENDIX A**  
**Resolution T-17716: Race Telecommunications Gigafy Williams Project**  
**CASF Applicant Key Information**

<i>Project Name</i>	<b>Race Gigafy Williams Project</b>		
<i>Project Plan</i>	The project proposes to build middle-mile and last-mile fiber infrastructure to deploy fiber-to-the-premise (FTTP) high-speed Internet service to 588 unserved households in the city of Williams, California. The project will provide up to 1,000 Mbps download and 1,000 Mbps upload speeds.		
<i>Project Size</i>	0.46 square miles		
<i>Download/Upload speed</i>	1,000 Mbps / 1,000 Mbps		
<i>Location</i>	Colusa County		
<i>Community Names</i>	City of Williams		
<i>Census Blocks</i>	060110003002001	060110003002037	060110003003030
	060110003002002	060110003002038	060110003003031
	060110003002003	060110003002039	060110003003032
	060110003002004	060110003002040	060110003003033
	060110003002006	060110003002042	060110003003034
	060110003002007	060110003003001	060110003003035
	060110003002009	060110003003002	060110003003036
	060110003002010	060110003003004	060110003003037
	060110003002011	060110003003005	060110003003040
	060110003002012	060110003003006	060110003003041
	060110003002013	060110003003007	060110003003042
	060110003002014	060110003003010	060110003003043
	060110003002015	060110003003011	060110003003045
	060110003002016	060110003003012	060110003003046
	060110003002017	060110003003013	060110003003047
	060110003002018	060110003003014	060110003004013
	060110003002020	060110003003015	060110003004014
	060110003002024	060110003003016	060110003004015
	060110003002025	060110003003017	060110003004017
	060110003002026	060110003003018	060110003004042
	060110003002027	060110003003019	060110003004044
	060110003002030	060110003003020	060110003004056
	060110003002031	060110003003021	060110003004058
	060110003002032	060110003003023	060110003004060
	060110003002033	060110003003024	060110003004061
	060110003002034	060110003003026	060110003004062
	060110003002035	060110003003027	060110003004065
	060110003002036	060110003003029	060110003004066

**APPENDIX A**  
**Resolution T-17716: Race Telecommunications Gigafy Williams Project**  
**CASF Applicant Key Information**

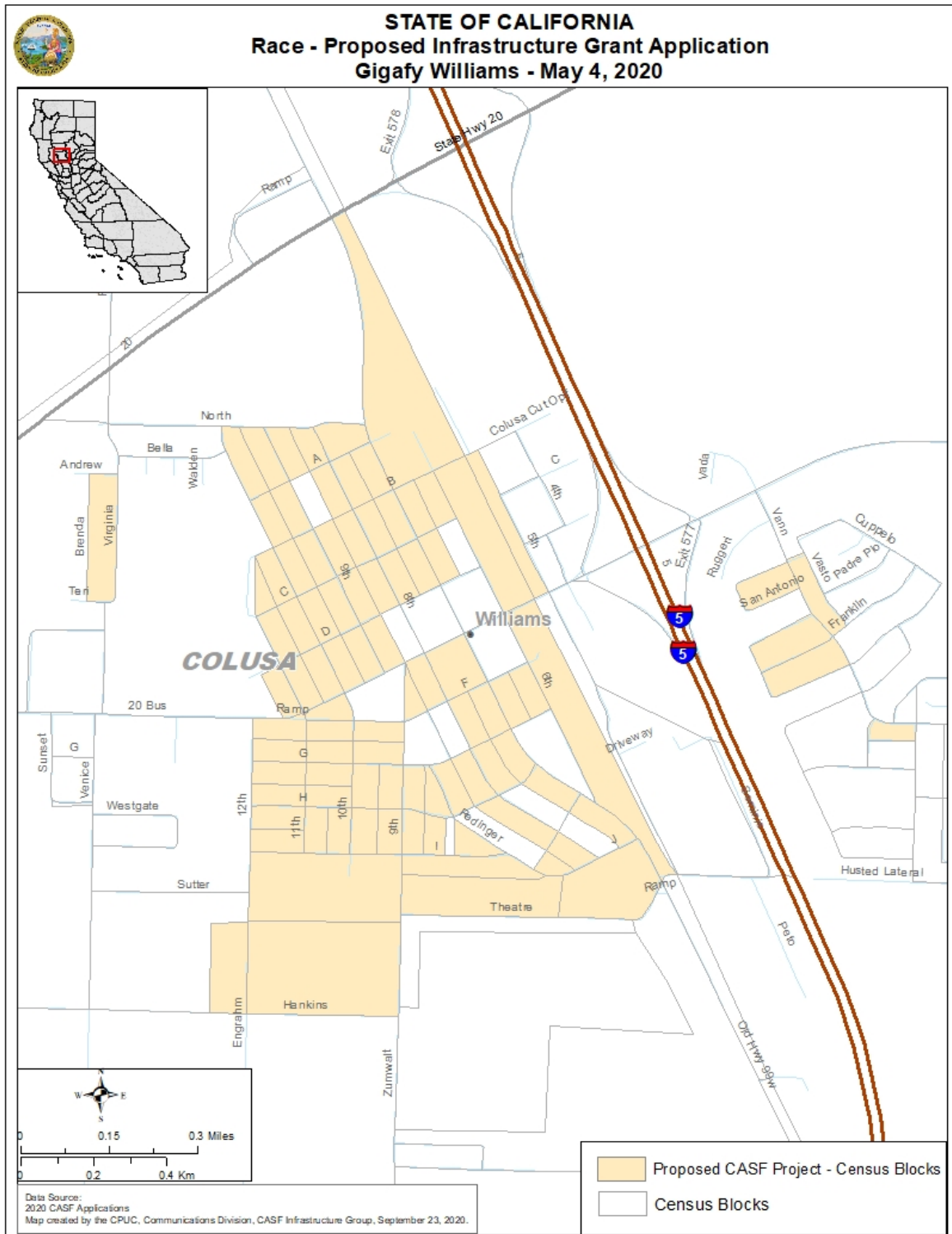
<i>Project Name</i>	<b>Race Gigafy Williams</b>		
<i>Census Blocks</i>	060110003004077 060110003004078	060110003004079 060110003004081	060110003004082 060110003004135
<i>Weighted Median Household Income</i> <sup>19</sup>	\$53,035		
<i>Estimated potential subscriber size</i>	588 households		
<i>Applicant expectations</i>	243 households (40% take rate)		
<i>Pricing Plan (Monthly), Residential</i>	25 Mbps / 25 Mbps for \$25.00 1000 Mbps / 1000 Mbps for \$60.00		
<i>Deployment Schedule (from permit approval date)</i>	12 Months		
<i>Proposed Project Budget (Total)</i>	\$7,603,656.30 Middle-Mile Budget: \$5,024,974.49 Last-Mile Budget: \$2,578,681.81		
<i>Grant Requested Amount (100 percent)</i>	\$7,603,656.30		
<i>CASF Grant Amount (100 percent)</i>	\$7,603,656.30		
<i>Recommended Grant per household passed</i>	\$12,931.39 \$4,386 (last-mile costs only)		

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<sup>19</sup> Staff performed a weighted average calculation of the census block group median household incomes to accurately represent the income distribution of the households in the project area.

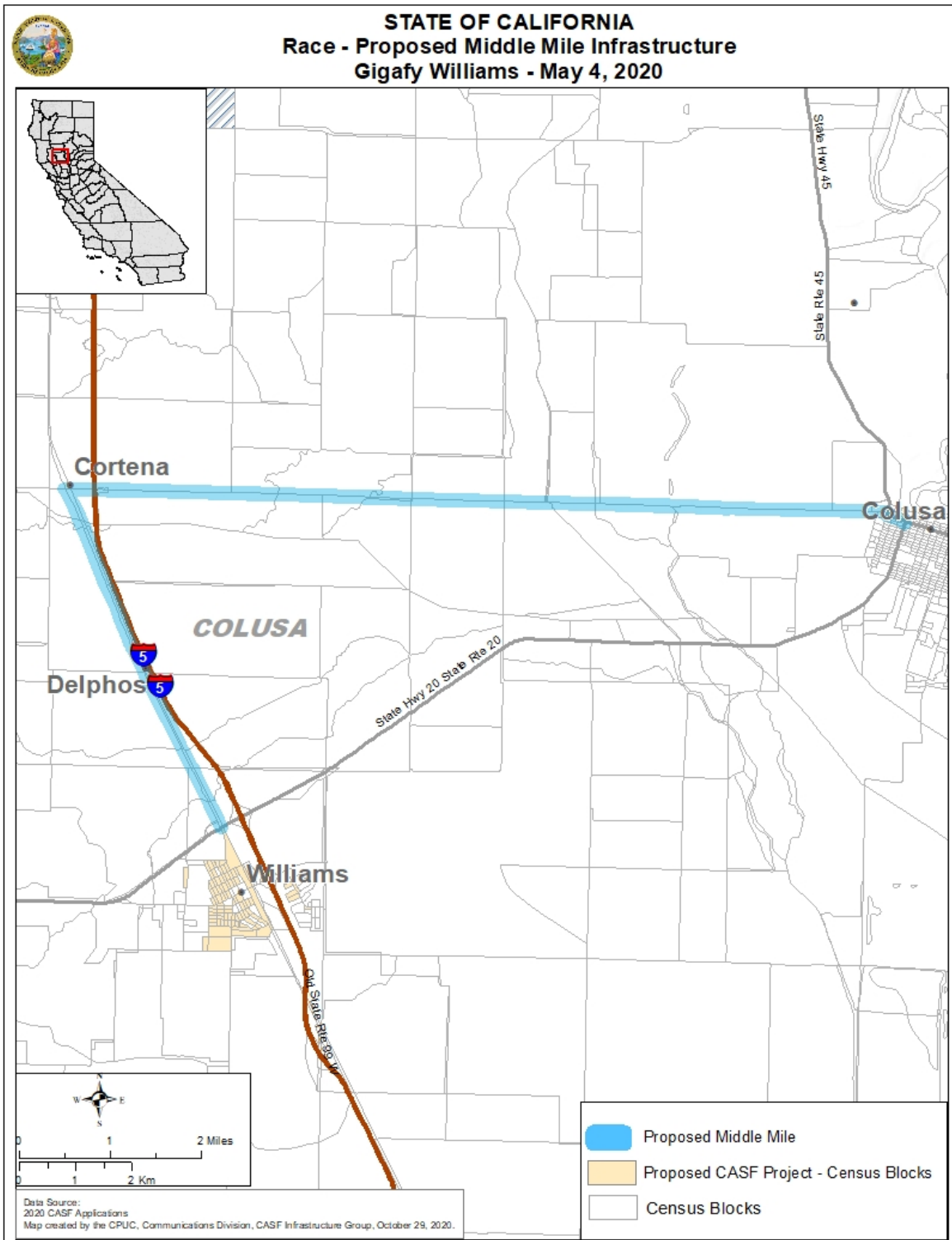
### APPENDIX B

## Resolution T-17716: Race Telecommunications Gigafy Williams Project Project Location Map



### APPENDIX B

## Resolution T-17716: Race Telecommunications Gigafy Williams Project Project Location Map



**APPENDIX C**  
**Resolution T-17716: Race Telecommunications Gigafy Williams Project**  
**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>20</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 Public Utilities 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>20</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.