

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

**COMMENTS OF FRONTIER CALIFORNIA INC. (U-1002-C)
ON DRAFT RESOLUTION T-17614 FRONTIER COMMUNICATIONS
CASF GRANT FOR THE DESERT SHORES INFRASTRUCTURE PROJECT**

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**BEFORE THE PUBLIC UTILITIES COMMISSION
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Frontier California Inc. (U-1002-C) (“Frontier”), in accordance with Rule 14.5 of the Rules of Practice and Procedure of the California Public Utilities Commission (“CPUC”), hereby submits comments on Draft Resolution T-17614 (“Draft Resolution”) proposing to award Frontier \$1,262,567 from the California Advanced Services Fund (“CASF”) to cover 90% of costs to deploy broadband in the Desert Shores community along the Salton Sea in Imperial County.

I. Introduction

Frontier supports the recommendation in the Draft Resolution to approve the proposed fiber to the home (“FTTH”) infrastructure project to serve households in the remote desert community of Desert Shores, a low-income disadvantaged community. Frontier appreciates the positive collaboration with CASF staff in its review of the project and site visit with Commissioner Guzman-Aceves and staff. However, Frontier seeks modification of the Draft Resolution to the number of households to be served and to increase the grant award to full funding. These modifications are essential in order to ensure that the Draft Resolution:

- fully complies with current law enacted by AB 1665 (Garcia 2017) with a case-by-case analysis of all public interest justification for project funding, including significant public health and economic benefits;
- provides funding essential for Frontier to move forward with the project in this remote, high-cost area where federal broadband funds are not available to serve the whole community; and
- does not deter the filing of CASF applications for other remote, costly and hard-to-serve areas of California still lacking Internet access that present no business case for private investment.

II. **The Desert Shores Project Will Increase Access to Telehealth Services and Provide Many Other Public Benefits That Justify a Determination of Full Funding Under AB 1665.**

Just a few months after AB 1665 was signed into law in October 2017, Frontier filed this Desert Shores application, the second CASF project with a request for full funding as expressly authorized under the bill. In that request,¹ Frontier set forth the new AB 1665 requirement that the CPUC determine a CASF infrastructure grant funding level on a case-by-case basis after a mandatory review of public interest factors, including, but not limited to, the factors listed in the bill. Frontier presented detail on the following factors as justification for full funding of the proposed Desert Shores project:

- The project would **enhance public health and safety** by enabling access to real-time air quality monitoring and critical telehealth services in this community that suffers from poor air quality, causing increasingly high rates of asthma and other chronic health conditions.
- The project area has high unemployment, above average poverty and faces economic and ecological challenges due to receding water levels in the Salton Sea.
- The project area qualifies for minimal federal funding from the Connect America Fund (“CAF”), which Frontier has decided to forego to instead serve a larger area with a state grant.
- Frontier can leverage its existing infrastructure in the project area to deploy FTTH at far lower cost than any other provider and for far less per household than previous FTTH grants.
 - **The cost per household is more than 70% lower than other FTTH projects funded by CASF – a real bargain for California.**
- Because the area would remain unserved without a CASF grant, the project would **contribute significantly to the CASF program goal and broadband adoption goals prioritizing low-income communities.**
- The proposed project would bring life-changing benefits to Desert Shores by connecting a community that has long been on the wrong side of the Digital Divide,

¹ See Attachment A -- Frontier’s full funding request setting forth the language and legislative history of the full funding provision in AB 1665.

and would be a timely supplement to other public investments in the Salton Sea area as a result of Proposition 68, approved by voters in the June primary election.²

Despite all of this justification and support for full funding, the Draft Resolution proposes funding only 90% of the proposed Desert Shores project costs. This 90% level is determined without considering many of the factors presented, as AB 1665 requires. Instead, the Draft Resolution utilizes a confusing analysis that charts a nearly impossible path for any CASF project to ever be awarded full funding.

III. AB 1665 Requires Case-by-Case Determination of Funding Level with Consideration of a Wide Range of Factors and Public Interest Benefits.

The Draft Resolution simply fails to follow the clear direction of the full funding provision added by AB 1665, which provides as follows:

Public Utilities Code Section 281

(f)(13) The commission may award grants to fund all or a portion of the project. The commission shall determine, on a case-by-case basis, the level of funding to be provided for a project and shall consider factors that include, but are not limited to, the location and accessibility of the area, the existence of communication facilities that may be upgraded to deploy broadband, and whether the project makes a significant contribution to achievement of the program goal.

As stated in Frontier’s full funding request, this provision expressly authorizes the CPUC to award CASF grants to fund all the costs of a project. It further requires the CPUC to determine the level of funding for each CASF infrastructure project on a case-by-case basis with consideration of factors that include, but are not limited to, “the location and accessibility of the area, the existence of communication facilities that may be upgraded to deploy broadband, and whether the project makes a significant contribution to achievement of the program goal.” Thus, in each case, the CPUC may determine that a grant for full funding of the costs of an infrastructure project is warranted based on consideration of the specified factors as well as other factors consistent with the language and purpose of Section 281.

The full funding provision responds to input provided to the Legislature and the CPUC that an infrastructure grant of 70% funding (the maximum under CASF rules adopted in 2012) is

² [Proposition 68 “California Clean Water, Climate, Coastal Protection and Outdoor Access For All Act of 2018”](#).

insufficient to sustain a viable broadband project in the most remote, sparsely populated, high-cost unserved areas. The Assembly Committee on Communications and Conveyance recommended adding the full funding provision to AB 1665 because a 70% grant does not provide enough incentive to deploy broadband in remaining unserved areas.³

A. The Draft Resolution Funding Level Determination Fails to Follow AB 1665 by Using 2012 Rules and Considering only Three Factors in Case-by-Case Analysis.

The Draft Resolution raises legal and policy concerns in that it only partially follows AB 1665. An agency implementing a statute is required to give effect to all of its provisions, so that no part will be inoperative or superfluous. See, e.g., *Guillen v. Schwarzenegger* (2007) 147 Cal.App.4th 929, 946; 55 Cal. Rptr. 3d 87 (Ct. App. 2007). Also, it is a canon of statutory construction that when a Legislature uses the phrase “including, but not limited to,” the list that follows is illustrative and not exhaustive. See, e.g., *People v. Arias*, 45 Cal.4th 169, 176 (Sup. Ct. 2008) (use of the language “including, but not limited to” is a phrase of enlargement rather than limitation).

In this regard, the Draft Resolution fails to follow AB 1665 in at least two significant ways. First, it determines a baseline funding level by following the 2012 CPUC rules that allow only 60% funding for underserved areas and 70% for unserved areas – the very rules the Legislature found to be inadequate to attract applications for such high-cost unserved areas, which led to express authorization of full funding in AB 1665. The Draft Resolution finds that the existence of any level of mobile data service limits baseline project funding to 60%. This use of a rule-based minimum funding amount contravenes and fails to give meaning to the clear statutory requirement to determine funding on a case-by-case basis.⁴ Incorporating the 2012 minimum funding level rules into the analysis precludes the Desert Shores project from full funding before *any* case-by-case review of public interest factors.

Second, the Draft Resolution considers only three public interest factors – the three listed in statute – even though the statutory language clearly states “including, but not limited to...” With no explanation, each of these three factors is assigned an arbitrary additional 10% funding

³ AB 1665 (Garcia), Assembly Committee on Communications and Conveyance Analysis (April 26, 2017), page 4.

⁴ The Draft Resolution on page 8 cites to the Scoping Memo statement of intent to keep funding projects with CASF funds remaining before AB 1665, but this does not justify continuing to follow the 2012 rules and ignore all aspects of the full funding provision that became effective in October 2017.

potential. The analysis fails to allow for additional funding no matter how compelling any other factor may be. The following excerpt from pages 9 to 11 of the Draft Resolution is the entire analysis of the case-by-case review of public interest factors that AB 1665 requires:

“Assessment: Due to the proposed project’s location in an unincorporated, geographically isolated desert location, Staff considers the project area to be relatively inaccessible to advanced broadband communications infrastructure and eligible for an additional 10 percent funding. Due to Frontier’s use of existing infrastructure to upgrade and deploy broadband, Staff considers the project eligible for an additional 10 percent funding. Regarding whether a project makes a significant contribution to achievement of the program goal, the Commission has established priority areas for broadband infrastructure deployment in Resolution T-17443. Further, at the Commission’s request, Staff published a High-Impact Analysis in February 2017 identifying eligible areas having both unserved households (dial-up) and a relatively high population density. Desert Shores was identified as one of the areas that would make a high-impact towards the program goal, justifying an additional 10 percent funding. Therefore, in total this project receives an additional 30 percentage points funding in consideration of meeting all of the three described factors.”

As this excerpt demonstrates, the analysis of what would constitute an adequate showing for each of the three factors is either nonexistent, unduly narrow, or lacking adequate policy justification. Regarding the factor on significant contribution to the goal, Frontier objects to the requirement that the only apparent way to qualify is for the project area to be on the 2014 Consortia Priority Area list or the February 2017 High Impact Areas for Broadband Availability list, especially given the CASF staff’s own criticism of these lists.⁵ As Frontier found when preparing another project application that never got filed, many areas on those lists are now “served,” so it is impossible for a grant to those areas to contribute to the program goal.⁶

Regarding the factor on use of existing facilities, the Draft Resolution assessment should include the key point that this enables a very cost-effective FTTH project. **Even with full funding, the cost per household of Frontier’s Desert Shores project would be 77% lower than the median cost of other FTTH projects funded by CASF.**⁷ Compared to prior CASF grants exceeding \$20,000 per household, it is a real bargain to fund this proposed project for such a disadvantaged community.

⁵ “High Impact Areas for Broadband Availability - Staff White Paper.” (February 2017), pages 5 and 6.

⁶ Even though Desert Shores is on the High Impact Areas list, Frontier objects to this rationale.

⁷ This 77% figure assumes full funding of project costs to serve 791 households, as presented in Frontier’s application. Even if the household number is reduced to 596, this percentage would be 69% with full funding.

In any case, the review of only three factors to even potentially obtain full funding is fundamentally flawed and contrary to the plain language and legislative history of AB 1665. Rather, AB 1665 requires consideration of the combination of factors for each application that could justify full funding, which will be unique in each case.⁸

B. The Draft Resolution Ignores Significant Public Health and Safety Benefits that Justify Full Funding for this Project in a Rural Disadvantaged Low-Income Community.

Frontier’s request for full funding presented, among several other factors, the following public health and safety benefits to support its request:

“Public Health and Safety Benefits – The proposed project area is located in an area designated by the California Air Resources Control Board and other agencies as having unhealthy air quality, with high incidences of asthma and other critical life-threatening health conditions. High-Speed Internet can provide critical online access to health care services and other resources to help protect the health and safety of the Desert Shores community. These benefits will not be realized if full funding is not available to support Frontier’s proposed deployment.”

The Draft Resolution on pages 7 to 9 under “Safety and Community Support Considerations” discusses the project’s significant public health benefits, including opportunities for telehealth and air quality monitoring pioneered by the environmental justice organization Comite Civico. But the Draft Resolution – inexplicably – does not consider these benefits in the full funding assessment. A related factor is the recent voter approval of Proposition 68, which provides for public investment to address ecological, economic and health issues in the Salton Sea. A fiber infrastructure would provide a communications backbone that would enhance any of these additional investments. It is indisputable that Frontier’s fiber-based project would absolutely benefit public health and safety, and the Draft Resolution should be modified to consider this in the full funding analysis.

⁸ See Frontier’s Lytle Creek CASF application (pending approval in Draft Resolution T-17613), which presents an equally compelling case for full funding, but based on a different combination of factors and public interest benefits.

C. The Draft Resolution Fails to Consider Legislative Direction to Fund CASF Projects in Areas Lacking Federal Funds and Private Investment.

Frontier's request for full funding highlighted the lack of federal broadband funding as another factor justifying full funding from CASF under AB 1665:

“No Private Investment or Federal Funds – Of the 791 households that will receive broadband service from this proposed project, 79 were identified as eligible for support from the second phase of the federal Connect America Fund (“CAF II”). However, Frontier will be meeting its CAF II requirement of deploying broadband to 90,000 locations statewide by 2020 in other areas of the state. Frontier will not be using CAF II funds for the Desert Shores proposed project and will not count any households in the Desert Shores project area towards its CAF II requirement. Verizon, the owner of the facilities serving Desert Shores until April 2016, never applied for a CASF grant to deploy broadband infrastructure. No other provider has ever submitted a CASF application to expand broadband to Desert Shores, and no right of first refusal has been filed for Desert Shores. For Frontier, the area does not present a business case for deployment absent 100% public support. Thus, the proposed project aligns with legislative intent in AB 1665 that the CASF program fund projects where private investment and federal funds are not available (Ch. 851, Stats. 2017, Sec. 2(c)).”

Like the public health and safety benefits, this factor also was not considered in the funding level determination in the Draft Resolution. Frontier, as California's provider with the greatest participation in both the federal CAF program and the CASF program, determined that the most cost-effective use of public broadband funds was to forego use of CAF funds for the 79 CAF-eligible households in Desert Shores and instead seek CASF funding to serve all households in a much larger project area.⁹ Thus, Frontier urges the CPUC to modify the Draft Resolution to explicitly recognize in the full funding analysis that the Desert Shores proposed project is very cost-effective and advances the legislative direction to fund CASF projects where federal funds and private investment are not available.

Moreover, Frontier is seeking expeditious CPUC approval of this approach in order to move ahead with the Desert Shores project and also to inform decisions where other communities with very few CAF-eligible households may benefit more from a CASF grant. The engineering and planning window for CAF deployment is dwindling, and Frontier cannot wait for final action in the pending rulemaking to maximize the benefit of this approach.

⁹ See Frontier letter to CPUC dated February 6, 2018 attached to Desert Shores application submitted pursuant to Public Utilities Code Section 281 (f)(5)(C)(i).

Because so few Desert Shores are CAF-eligible, if this proposed CASF project is not awarded sufficient funding to move forward, then Desert Shores will likely remain unserved. No other provider has ever applied for a grant to expand broadband service in Desert Shores. Frontier, on the other hand, has stepped forward, and proposed the option of a CASF grant to reach the entire community rather than just the relatively few CAF-eligible households. The CPUC should support this willingness to serve with the tool the Legislature gave it – a grant to fully fund CASF project costs.

D. The Draft Resolution Fails to Consider That the Project Will Advance CASF Broadband Adoption Goals.

Frontier’s request for full funding described how the Desert Shores project will further the legislative direction in AB 1665 to prioritize broadband adoption in low-income communities:

“Statutory Preference for Broadband Adoption – Desert Shores is exactly the kind of community the Legislature had in mind when it established a statutory preference for CASF broadband adoption programs that serve low-income communities facing socioeconomic barriers to broadband adoption (P.U. Section 81(j)(5)). By many measures, Desert Shores is “disadvantaged.” Moreover, its population has high representation in subgroups with some of the lowest rates of broadband adoption, including low-income. Frontier recognizes that a robust broadband adoption program will be essential to maintaining a successful broadband service in Desert Shores and has made a CASF broadband adoption grant an integral component of its Adoption Plan in Item #15 of this application. However, no one in Desert Shores will benefit from a broadband adoption program if there is no broadband infrastructure, and Frontier cannot commit to deploying broadband infrastructure absent full funding of proposed project costs. Thus, approval of Frontier’s Desert Shores application with full funding of proposed project costs is an essential first step toward achieving the legislative intent of Public Utilities Code Section 281(j).”

Like the other factors Frontier presented, this factor also was not considered in the funding level determination in the Draft Resolution and should be modified to do so.

Accordingly, Frontier requests that the following in the Draft Resolution be modified to grant Frontier’s request for full funding – Section D on pages 8 to 11, Finding #5 on page 16, and Ordering Paragraphs #1 and #2 on page 16.

IV. Lack of Full Funding Limits Frontier’s Ability to Move Forward with the Desert Shores Project and Will Have a Chilling Effect on Potential CASF Applications for Other High-Cost Projects in Remote Rural Areas that Remain Unserved.

If the CPUC fails to fund the relatively small \$1.4 million for Frontier’s very cost-effective FTTH project to connect 791 households, Desert Shores will not be the only California community that continues to wait for broadband service. Desert Shores is exactly the kind of project area the Legislature had in mind when it enacted the full funding provision in AB 1665 – a community where no provider has ever found a business for private investment or incentive to seek a CASF grant. Frontier has spent substantial time and resources to get this application this far in order to determine the CPUC’s commitment to supporting providers willing to undertake the toughest deployment projects in rural California. Projects for other communities that are candidates for CASF grants if full funding is available will not be pursued if Desert Shores does not get enough funding to move forward. On the other hand, a full funding award for Desert Shores could inspire Frontier – and other providers – to come forward expeditiously with applications to finally close the Digital Divide in many other unserved areas. That would be a very prudent investment of a meager \$1.4 million out of the \$330 million authorized by AB 1665 last year.¹⁰

V. The Draft Resolution Should be Modified to Recognize the Number of Households that Frontier Identified as Within the Project Area.

The Draft Resolution at page 5 reduces the project funding to reflect the staff conclusion that the project would serve only 596 households based on “census data contained on the Broadband Map.” Frontier identified 791 households in the project area based on its well tested methodology used extensively in broadband deployment. In response to a CASF inquiry, Frontier further explained its methodology as follows:

“Frontier uses a broadband service availability (“BSA”) program to determine households and locations for broadband deployment, including deployment for CASF, Connect American Fund Phase II, and other projects. BSA is an engineering tool that captures current technologies related to high speed internet services available in the Frontier footprint, along with current census data and marketing household data. Frontier

¹⁰ As previously stated by Frontier, the CPUC giving a signal that it will exercise its authority under AB 1665 and fully fund worthy projects is the single biggest thing it can do to incentivize CASF infrastructure applications and start moving that \$330 million out the door to begin making progress toward achieving the 98% goal. See Frontier Comments and Reply Comments in R.12-10-012 filed April 16, 2018 and May 1, 2018 respectively.

network information is also displayed in BSA, along with fiber hubs, terminal and splice points, all of which enables calculation of facility placement to optimize coverage from specific infrastructure. Frontier uses the BSA tool across its nationwide footprint and found it to be the most accurate process for determining locations and engineering for broadband deployment.”

The Draft Resolution does not explicitly conclude that Frontier’s methodology is inaccurate but reduces the grant by \$76,050 – the household number reduction of 195 times the cost of an Optical Network Terminal, which would be placed at each household served.

Frontier stands by its methodology and requests that the Draft Resolution be modified to state the household number as Frontier presented it – 791 households. The program rules allowing reimbursement for verified receipts further ensures that Frontier will not be overpaid. In this regard, Frontier would be reimbursed only for the number of households for which it actually installs ONTs – which would be exactly the number of households actually served, not a staff estimate. In this way, if it turns out that there are only 596 households, then Frontier would have ONT invoices for reimbursement only of the lower amount. But reducing the grant now without a basis for rejecting Frontier’s household count methodology is premature.

Accordingly, Frontier requests modification of Section B on page 5, as well as Finding #1 on page 155, Finding #5 on page 16, and Ordering Paragraphs #1, #2 on page 16.

VI. Conclusion

The residents of Desert Shores have been paying surcharges on their telephone bills for years to fund the federal CAF and state CASF programs. Desert Shores has very few CAF-eligible households, making it an economically infeasible choice for use of CAF funds. Desert Shores has always been eligible for a CASF grant, but no provider has ever applied to deploy broadband in Desert Shores. Now, after years of watching the surcharges they pay fund broadband expansion in *other* communities, Desert Shores residents have a chance to get broadband in their own community.

In alignment with direction from the Legislature, Frontier has stepped up to apply for a CASF grant with full funding that is essential to move forward in this remote high-cost area that is low-income and disadvantaged facing critical health issues. For all the reasons stated herein, Frontier requests modification of the Draft Resolution so that Desert Shores can finally move to

the other side of the Digital Divide.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jacqueline R. Kinney". The signature is written in black ink and is positioned below the text "Respectfully submitted,".

Jacqueline Kinney
Vice President State Government Affairs – CA

ATTACHMENT A

Frontier CASF Broadband Infrastructure Grant Application – Desert Shores
Item #2 – Request for Full Funding

Applicant: Frontier California Inc. (U-1002-C)
Contact: Amy Warshauer
Government Affairs Analyst
Amy.warshauer@ftr.com
Project Title: Desert Shores
Location: Desert Shores, Imperial County
Type: Last Mile
Grant Request: \$1,478,902

As described in the “Desert Shores Project Summary” submitted with this application, Frontier California Inc. (“Frontier”) is applying for a \$1,478,902 grant from the California Advanced Services Fund (“CASF”) Broadband Infrastructure Grant Account to deploy fiber facilities that will enable provision of High Speed Internet service to 791 households in Desert Shores that currently are unserved by any wireline or wireless broadband provider. The \$1,478,902 represents 100% of the proposed project costs, which Frontier hereby requests pursuant to Section 281 of the Public Utilities Code.

AB 1665 (Garcia), Chapter 851 of the Statutes of 2017, added \$330 million in new funding and made statutory changes to the CASF program codified in Section 281 of the Public Utilities Code. These changes took effect immediately upon the Governor’s signature of the bill on October 15, 2017, including the following new provision relating to CASF grants for broadband infrastructure projects:

Public Utilities Code 281

(f)(13) The commission may award grants to fund all or a portion of the project. The commission shall determine, on a case-by-case basis, the level of funding to be provided for a project and shall consider factors that include, but are not limited to, the location and accessibility of the area, the existence of communication facilities that may be

upgraded to deploy broadband, and whether the project makes a significant contribution to achievement of the program goal.

As stated, this new “full funding” provision authorizes the California Public Utilities Commission (“CPUC”) to award grants from the CASF Broadband Infrastructure Grant Account to fund all the costs of a CASF project. It requires the CPUC to determine the level of funding for each CASF infrastructure project based on consideration of factors that include, but are not limited to, “the location and accessibility of the area, the existence of communication facilities that may be upgraded to deploy broadband, and whether the project makes a significant contribution to achievement of the program goal.” Thus, on a case-by-case basis, the CPUC may determine that a grant for full funding of the costs of an infrastructure project is warranted based on consideration of the specified factors as well as other factors consistent with the language and purpose of Section 281.

The full funding provision responds to input provided to the Legislature and the CPUC that an infrastructure grant of 70% funding is insufficient to sustain a viable broadband project in the most remote, sparsely populated, high-cost unserved areas. The Assembly Committee on Communications and Conveyance recommended adding the full funding provision to AB 1665 because a 70% grant does not provide enough incentive to deploy broadband in remaining unserved areas.¹ Frontier stated in a letter to the committee that award of CASF grants with full funding of project costs is essential to achieving broadband deployment to high-cost areas that currently lack any service:

“Frontier supports maintaining the CASF’s original purpose of providing infrastructure grants with a priority for reaching unserved areas. Frontier does not oppose establishing a regional goal but respectfully suggests that a goal alone is inadequate to attract applications for areas where deployment still lags – the rural areas that are the most expensive to serve because of remote location, sparse population, rough terrain, and frequently above-average poverty rates. Similarly, as the CPUC’s recent White Paper pointed out, merely establishing a list of priority areas does not generate applications.

¹ AB 1665 (Garcia), Analysis of Assembly Committee on Communications and Conveyance (April 26, 2017), page 4.

The fact is that many remote areas are so uneconomic to serve that there will never be a business case to invest without higher CASF project funding.”²

Pursuant to Section 281, and in light of the legislative history of AB 1665 and CPUC workshop discussion, Frontier hereby requests that the CPUC make a determination to award Frontier a grant to cover 100% of costs for the proposed Desert Shores broadband infrastructure project in the attached application based on, at a minimum, the following factors:

- Statutory Preference -- The location of the proposed Desert Shores project currently has no Internet connectivity, thereby constituting an area where the CPUC is required to give a preference in award of infrastructure grants (P.U. Code Section 281(2)(B)(i)). Desert Shores is exactly the type of community for which this statutory preference is intended – it currently lacks any wireline or wireless broadband service, and a CASF grant will enable Internet connectivity for the first time.
- High Impact Area – In a February 2017 CPUC staff “White Paper,” CPUC staff designated Desert Shores as one of only 13 “High Impact Areas” proposed for “fast-track” review and approval for a CASF broadband infrastructure grant. The report described high impact areas as follows:

“Our intent is to identify the communities representing the biggest “bang for the buck,” what we call “high impact areas.” We believe the identified “high impact areas” represent sustainable network builds or expansions due to sufficient potential subscribership, relatively high household density, the lack of significant competition from other Internet service providers and the lack of challenging terrain that would drive up deployment costs. We also balanced the need for network sustainability with the requisite presence of unserved households to

² AB 1665 (Garcia), letter of Frontier Communications to Assembly Committee on Communications and Conveyance (April 20, 2017). See also Informal Comments of Frontier Communications on CASF Workshop Report (June 17, 2017) (urging CPUC to allow CASF applicants to justify award of 100% funding on a case-by-case basis with factors such as an area being unserved, ineligible for Connect America Fund or other federal funding, and proposing a cost-effective solution that leverages existing infrastructure and/or non-CASF funds).

ensure any potential CASF applications meet the statutory requirement [statutory preference for “unserved”].³

The White Paper recommendation to expedite review of infrastructure projects for High Impact Areas such as Desert Shores was based in part on the acknowledgement that many of these communities remain unserved because there is no business case for deployment absent full funding. Frontier’s review of the Desert Shores project area confirms that it has the cited characteristics of a High Impact Area. Accordingly, Frontier requests that the staff White Paper analysis be incorporated as justification for full funding in order for this High Impact Area project to proceed expeditiously.

- Existing Facilities – The Desert Shores application proposes a cost-effective expansion of broadband access by leveraging Frontier’s existing facilities and operations to enable symmetrical 1 Gbps service. The bulk of the proposed infrastructure is aerial, making it a very cost-effective project. The cost of the proposed fiber-to-the-home (“FTTH”) deployment is far less than many previously approved FTTH CASF projects and far less than funding another provider. Moreover, the incremental cost for Frontier to deploy FTTH compared to copper-based broadband service is minimal given the significantly higher speed of FTTH service.
- No Private Investment or Federal Funds – Of the 791 households that will receive broadband service from this proposed project, 79 were identified as eligible for support from the second phase of the federal Connect America Fund (“CAF II”). However, Frontier will be meeting its CAF II requirement of deploying broadband to 90,000 locations statewide by 2020 in other areas of the state. Frontier will not be using CAF II funds for the Desert Shores proposed project and will not count any households in the Desert Shores project area towards its CAF II requirement.⁴ Verizon, the owner of the facilities serving Desert Shores until April 2016, never applied for a CASF grant to deploy broadband infrastructure. No other provider has ever submitted a CASF

³ “High Impact Areas for Broadband Availability - Staff White Paper,” (February 2017), page 6.

⁴ Attached as Exhibit A is Frontier’s letter providing notice required by Section 281 (f)(5)(C)(i).

application to expand broadband to Desert Shores, and no right of first refusal has been filed for Desert Shores. For Frontier, the area does not present a business case for deployment absent 100% public support. Thus, the proposed project aligns with legislative intent in AB 1665 that the CASF program fund projects where private investment and federal funds are not available (Ch. 851, Stats. 2017, Sec. 2(c)).

- Public Health and Safety Benefits – The proposed project area is located in an area designated by the California Air Resources Control Board and other agencies as having unhealthy air quality, with high incidences of asthma and other critical life-threatening health conditions. High-Speed Internet can provide critical online access to health care services and other resources to help protect the health and safety of the Desert Shores community. These benefits will not be realized if full funding is not available to support Frontier’s proposed deployment.⁵

Statutory Preference for Broadband Adoption – Desert Shores is exactly the kind of community the Legislature had in mind when it established a statutory preference for CASF broadband adoption programs that serve low-income communities facing socioeconomic barriers to broadband adoption (P.U. Section 81(j)(5)).⁶ By many measures, Desert Shores is

⁵ See, for example, <http://www.desertsun.com/story/news/environment/2017/11/06/near-salton-sea-many-young-children-suffer-asthma-study-finds/837857001/>.

⁶ AB 1665 established a new Broadband Adoption Account in the CASF by adding a new subdivision (j) to Section 281 of the Public Utilities Code, which provides as follows (emphasis added):

(j) (1) Moneys in the Broadband Adoption Account shall be available to the commission to award grants to increase publicly available or after-school broadband access and digital inclusion, such as grants for digital literacy training programs and public education to communities with limited broadband adoption, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption.

(2) Eligible applicants are local governments, senior centers, schools, public libraries, nonprofit organizations, and community-based organizations with programs to increase publicly available or after-school broadband access and digital inclusion, such as digital literacy training programs.

(3) Payment pursuant to a grant for digital inclusion shall be based on digital inclusion metrics established by the commission that may include the number of residents trained, the number of residents served, or the actual verification of broadband subscriptions resulting from the program funded by the grant.

(4) The commission shall, in a new or existing proceeding, develop, by June 30, 2018, criteria for awarding grants and a process and methodology for verifying outcomes. The commission shall be prepared to accept applications for grants from the Broadband Adoption Account no later than July 1, 2018.

“disadvantaged.”⁷ Moreover, its population has high representation in subgroups with some of the lowest rates of broadband adoption, including low-income. Frontier recognizes that a robust broadband adoption program will be essential to maintaining a successful broadband service in Desert Shores and has made a CASF broadband adoption grant an integral component of its Adoption Plan in Item #15 of this application. However, no one in Desert Shores will benefit from a broadband adoption program if there is no broadband infrastructure, and Frontier cannot commit to deploying broadband infrastructure absent full funding of proposed project costs. Thus, approval of Frontier’s Desert Shores application with full funding of proposed project costs is an essential first step toward achieving the legislative intent of Public Utilities Code Section 281(j).

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

(5) The commission shall give preference to programs in communities with demonstrated low broadband access, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption. In the proceeding specified in paragraph (4), the commission shall determine how best to prioritize projects for funding pursuant to this paragraph.

(6) Moneys awarded pursuant to this subdivision shall not be used to subsidize the costs of providing broadband service to households.

⁷ Desert Shores is among “disadvantaged communities” for many public policy purposes, including as defined by Health and Safety Code Section 39711.

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=39711. Frontier encourages the CPUC staff and Commissioners to visit Desert Shores to understand the socioeconomic challenges facing this community. Attached as Exhibit B are three photos taken in Frontier’s proposed project area during a recent visit.

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

Taken together, these factors provide a substantial basis under Section 281(f)(13) for award of a grant covering 100% of Frontier project costs for the proposed Desert Shores infrastructure project. Expedient award of this grant under the new full funding provision will enable Frontier to move ahead quickly with this project in 2018.⁸

⁸ The full funding provision of AB 1665 is already in effect, and no further CPUC proceeding is necessary to act on this CASF application now. On November 8, 2017, CPUC staff and Commissioner Guzman Aceves presented a framework for implementing AB 1665 to the Commissioner Committee on Emerging Trends. The presentation indicated that, while some provisions of AB 1665, such as the line extension and broadband adoption provisions, require a proceeding to implement, the CPUC would continue funding CASF infrastructure applications in the interim.

Exhibit A

SENT VIA ELECTRONIC MAIL

February 6, 2018

Robert Wullenjohn
Program Manager, Communications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

RE: CAF II Census Blocks – Desert Shores

Dear Mr. Wullenjohn:

Frontier Communications Inc. (U-1002-C) (“Frontier”) hereby provides notice to the California Public Utilities Commission (“CPUC”) regarding its broadband deployment in specified census blocks pursuant to Section 281 of the Public Utilities Code.

AB 1665 (Garcia 2017) modified the California Advanced Services Fund (“CASF”) to, among other things, ensure that California maximizes its support for broadband deployment from the federal Connect America Fund (“CAF”) and preserves CASF grants for broadband infrastructure in areas lacking federal and private investment. The Federal Communications Commission (“FCC”) requires providers that accepted CAF funds to complete deployment by December 31, 2020, with 40% by year-end 2017, 60% in 2018, and 80% in 2019. Frontier is on track with its statewide CAF deployment to a total of 90,000 locations, exceeded its 40% CAF requirement for 2017, and is actively engaged in ongoing engineering and planning for deployment through 2020. At the same time, Frontier is participating in the CASF program.

Section 281 provides that each CAF census block is not generally eligible for a CASF grant until July 1, 2020, unless the CAF provider notifies the CPUC prior to that date that its deployment with CAF funds is complete:

281(f)

(5) Projects eligible for grant awards shall meet all of the following requirements:

(A) The project deploys infrastructure capable of providing broadband access at speeds of a minimum of 10 megabits per second (mbps) downstream and one mbps upstream to

unserved households in census blocks where no provider offers access at speeds of at least 6 mbps downstream and one mbps upstream.

(B) All or a significant portion of the project deploys last-mile infrastructure to provide service to unserved households. Projects that only deploy middle-mile infrastructure are not eligible for grant funding. For a project that includes funding for middle-mile infrastructure, the commission shall verify that the proposed middle-mile infrastructure is indispensable for accessing the last-mile infrastructure.

(C) (i) Except as provided in clause (ii), until July 1, 2020, the project is not located in a census block where an existing facility-based broadband provider has accepted federal funds for broadband deployment from Phase II of the Connect America Fund, unless the existing facility-based broadband provider has notified the commission before July 1, 2020, that it has completed its Connect America Fund deployment in the census block.

(ii) An existing facility-based broadband provider is eligible for a grant pursuant to this subdivision to supplement a grant pursuant to Phase II of the Connect America Fund to expand broadband service within identified census blocks, as needed.

Pursuant to Section 281 (f)(5)(C)(i), Frontier hereby provides notice that the following census blocks representing a small portion of the Desert Shores community in Imperial County should be made generally eligible for a CASF infrastructure grant:

Census Block 060250123011565

Census Block 060250123022105

Census Block 060250123022028

Census Block 060250123022010

Census Block 060250123022051

Frontier will be meeting its CAF II requirements without using CAF funds for broadband infrastructure in Desert Shores and without counting any Desert Shores locations to meet its 2020 FCC requirement. Thus, Frontier has completed its CAF deployment in the identified census blocks in Desert Shores for purposes of Section 281(f)(5)(C)(i).

Frontier is serving this notice to the CASF service list. Please contact Amy Warshauer with any questions at amy.warshauer@ftr.com.

Respectfully submitted,

A handwritten signature in black ink that reads "Jacqueline R. Kinney". The signature is written in a cursive, flowing style.

Jacqueline Kinney
Vice President Government Affairs – California

Cc: Cynthia Walker, Director, Communications Division

**Frontier CASF Broadband Infrastructure Grant Application – Desert Shores
Item #2 – Request for Full Funding
Exhibit B**



PHOTO 1 – Entrance into Desert Shores Community



Photo 2 – VFW West Shores Post 3251 in Desert Shores



Photo 3 – Home in Desert Shores