

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

Order Instituting Rulemaking to Consider)	
Modifications to the California Advanced)	
Services Fund)	Investigation R.12-10-012
)	(filed October 25, 2012)
_____)	

COMMENTS OF CITIZENS TELECOMMUNICATIONS COMPANY OF CALIFORNIA INC. (U-1024-C), FRONTIER COMMUNICATIONS OF THE SOUTHWEST INC. (U-1026-C), AND FRONTIER CALIFORNIA INC. (U-1002-C) ON ASSIGNED COMMISSIONER RULING SETTING WORKSHOPS AND SEEKING COMMENT ON ELIGIBILITY FOR AND PRIORITIZATION OF BROADBAND INFRASTRUCTURE FUNDS FROM THE CALIFORNIA ADVANCED SERVICES FUND

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Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California (U-1024-C), Frontier Communications of the Southwest Inc. (U-1026-C), and Frontier California Inc. (U-1002-C) (collectively “Frontier”), pursuant to Rule 6.2 of the Commission’s Rules of Practice and Procedure, hereby responds to the California Public Utilities Commission (“CPUC”) Assigned Commissioner Ruling dated July 11, 2018 (“Ruling”) seeking additional comments on infrastructure grants from the California Advanced Services Fund (“CASF”).

Frontier’s responses to the questions presented in the Ruling include reference to Frontier’s Comments and Reply Comments already filed in Phase II of this rulemaking related to the Staff Proposal, as well as Frontier’s Comments and Reply Comments on both Resolution T-17613 and Resolution T-17614, awarding CASF grants for Lytle Creek and Desert Shores projects, which are attached and hereby incorporated by reference in this rulemaking.

I. The Eligibility and Challenge Process for CASF Grants:

- a. What should the CASF challenge process look like? Which trigger(s) should be used to start the challenge process for a CASF application? Which trigger(s) should be used to end the challenge process for a CASF application? Should the Commission create a single definitive list of CASF-eligible census blocks and a**

pre-application eligibility-map challenge process, as AT&T proposes? (See Opening Comments of AT&T on Phase II Staff Proposal, filed April 16, 2018, pp. 9-11).

The CPUC challenge process allows a third party to claim that a CASF infrastructure grant application filed with the CPUC is ineligible for a grant by demonstrating that broadband service at “served” speeds is available in the application’s proposed project area. Public Utilities Code Section 281(f)(5)(A)¹ provides that a project area is eligible for a CASF grant “where no provider offers access at speeds of at least 6 mbps downstream and one mbps upstream.” Thus, a challenge would claim that a proposed project area is ineligible for a grant by demonstrating that at least one provider offers broadband at speeds of at least 6/1. While the CPUC’s Broadband Availability Map may be a starting point to show what broadband service is available in a proposed project area, Section 281(f)(8) provides for demonstrating actual levels of service offered by an existing provider:

281(f)(8) The commission shall provide each applicant, and any party challenging an application, the opportunity to demonstrate actual levels of broadband service in the project area, which the commission shall consider in reviewing the application. (emphasis added)

Basic due process requires that any party have an opportunity to file a challenge after public notice of the application and public notice of any amendment to the application. In this regard, Section 281(f)(10) provides for public notice of applications and all amendments to an application and prohibits a draft resolution until at least 30 days after that public notice.² Consistent with this public notice requirement, the final end date for a challenge cannot be until after the public notice of any amendment to an application and before a draft resolution is released. In Phase II Reply Comments, Frontier supported 21 days for a challenge period, as long as that 21 days is triggered after the public notice of any amendment to an application. (Frontier also asked the CPUC to clarify the cut-off date for filing a competing application.)

Frontier generally supports the AT&T proposal, as discussed further below.

¹ All further Section references are to the Public Utilities Code.

² Section 281(f)(10): “The commission shall establish a service list of interested parties to be notified of any California Advanced Services Fund applications. Any application and any amendment to an application for project funding shall be served to those on the service list and posted on the commission’s Internet Web site at least 30 days before publishing the corresponding draft resolution.”

- b. What should the challenger have to prove (household subscription rate and broadband service speed) during the challenge process? What information should be required of the challengers to an application, other than what is currently proposed in the Staff Proposal? What information should be required of challengers to determine eligibility as indicated on the California Interactive Broadband Availability Map (as proposed by AT&T)? Could such a pre-application eligibility map challenge partially or entirely replace the post-application challenge? If yes, explain. Is the 21-day staff proposed challenge window timeline and challenge criteria also sufficient for the eligibility-map challenge process? Should the challenges vary by technology? (e.g., should the burden of proof for a fixed wireless Internet service provider submitting a challenge be different than that of a wireline provider?) Why or why not?**

A challenger should be required to demonstrate that the applicant does not meet the statutory eligibility requirement for a CASF grant under Section 281(f)(5)(A) – that in the proposed project area “no provider offers access at speeds of at least 6 mbps downstream and one mbps upstream.” Thus, the challenger would need to prove that at least one provider *offers* broadband at speeds of at least 6/1 in the proposed project area.

Section 281 clearly states that the determinant of a proposed project area’s eligibility is what service an existing provider already “offers,” not how many customers subscribe to that service offering. No provision of Section 281 or any other law provides the CPUC authority to require a challenger to demonstrate household subscription rate. Nor does current law provide the CPUC authority to make a “served” project area eligible for a CASF grant based on a determination that not enough customers are subscribing to service at speeds of 6/1 or higher offered via existing broadband infrastructure. In fact, the Legislature, in Section 2 of AB 1665, expressly and specifically directed that the CPUC should “not use moneys in that fund to overbuild the broadband infrastructure.” Thus, adopting a subscription rate requirement on top of the statutory eligibility criteria would directly violate AB 1665.

The AT&T proposal could not entirely replace the post-application challenge process because Section 281 requires that a challenger have the opportunity to demonstrate actual levels of service and requires the CPUC to consider actual levels of service. However, as stated in Phase II Reply Comments, Frontier supports the AT&T proposal that the CPUC create a single definitive list of eligible census blocks in advance of an application window, thereby removing the expense and delay from map errors, challenges, speed tests and related problems. Frontier

reiterates that the AT&T proposal would be most effectively implemented – and in furtherance of the AB 1665 statutory preference for completely unserved areas – if used to develop a relatively small list of completely unserved areas (perhaps no more than 20). By definition, these completely unserved areas (what the Staff Proposal calls “unserved households with no service”) would involve the least amount of pre-eligibility challenges. After an initial list and application window for completely unserved areas, the CPUC could undertake the more difficult task of developing additional lists for “unserved households with slow service,” where pre-eligibility challenges would be more likely.

II. The Process for Prioritizing Projects and Areas to Support

- a. Which census blocks, census tracts or communities should be prioritized by the Commission? Two examples of previous approaches to prioritization include: Resolution T-17443 (approved by Commission 6/26/14) and the High Impact Analysis developed by Staff and included in the Supporting Materials for the May 25, 2017 CD Staff Workshop on CASF Reform. Should the Commission use methods similar to this going forward?**

The CPUC is obligated to follow the express direction of the Legislature in AB 1665, which clearly states that, in awarding CASF infrastructure grants, the CPUC shall do the following:

281(b)(2)(B)(i) Give preference to projects in areas 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 or areas with no Internet connectivity.

This is the only preference or type of priority area that is expressly referenced in statute for CASF infrastructure grants, and the CPUC should not prioritize service areas with other attributes until this clear preference for completely unserved areas is implemented. In this regard, Frontier’s Phase II Comments and Reply Comments, along with Comments and Reply Comments on the Desert Shores and Lytle Creek Resolutions, addressed the problems with the previous lists, including how simply creating a priority list is insufficient to incentivize grant applications.

- b. Do parties have additional communities to suggest as priorities? If so, please follow instructions for submitting those priorities in Appendix A.**

It is Frontier’s position that any designation of communities as priorities or eligible for a “preference” should be based in statute and not be merely communities suggested for other reasons. In addition to the explicit preference for a completely unserved area, a CASF proposed project in a consortia region with less than 98 percent households having broadband access could be prioritized with reference to Section 281(b)(1)(A). As Frontier demonstrated in its Desert Shores CASF application, the statutory preference for low-income communities for CASF adoption grants can be relevant to prioritizing an infrastructure grant application or be a factor that could justify full funding under Section 281(f)(13). After explicit statutory preferences for infrastructure grants are implemented, other criteria could be considered for prioritizing communities or applications.

c. In order to ensure that priority projects get developed and funded, how should the Commission treat these areas identified as priorities?

- i. Should these priority areas be eligible for expedited review?**
- ii. Should these priority areas receive higher funding levels or percentages, perhaps under the argument that they contribute significantly to the program goal, one of the rationale for additional funding in statute?**

Frontier’s Phase II Comments and Reply Comments addressed the many problems with the two options for expedited review in the Staff Proposal, including complexity and delay. Frontier asserts that the most effective way to expeditiously get CASF projects funded and built in the areas that need them most is to act as soon as possible to establish a list as proposed by AT&T of completely unserved communities with an explicit invitation to demonstrate the need for full funding under the analysis proposed by Frontier. As previously stated in this proceeding, expeditiously implementing the full funding is absolutely the most significant thing the CPUC can do to fulfill the Legislature’s intent to give a preference to the completely unserved areas.

Regarding grant funding levels, Frontier’s request for full funding in the Lytle Creek and Desert Shores CASF applications set forth a statutory analysis to implement Section 281(f)(13). For all the reasons stated in Frontier’s Comments and Reply Comments on Resolution T-17613 and Resolution T-17614, Frontier reiterates its position that the implementation of this full funding provision in those resolutions is unduly narrow and does not follow the plain meaning or legislative intent of AB 1665.

- III. A method(s) for Providing Access to Broadband Service to Areas Adjacent to CAF II Areas; The number of eligible Connect America Fund Phase II (“CAF II”) locations exceeds the number of required locations to which CAF II providers must offer service. Many census blocks may have more households than CAF II eligible locations, meaning that some households will not benefit. How can the Commission incentivize CAF II providers to build beyond their commitments to the Federal Communications Commission? In order to incentivize CAF II providers to deploy throughout the community and in areas adjacent to CAF II areas, should the Commission:**
- a. Provide an expedited review process to approve supplemental grants to expand CAF II-related projects?**
 - b. Should there be a separate process or set-aside of funding for these supplemental builds?**
 - c. Should supplemental grants be tied to the release of CAF II plans? Should areas where CAF II providers do not commit to build out be reclassified as eligible?**
 - d. How should the interests of the CAF II providers to choose which CAF II areas they build out to with federal funding while also requiring them to complete other projects in the state) be balanced with competitor interest in bidding to build out in those same communities?**

Frontier’s Phase II Comments and Reply Comments, along with all filings in the Desert Shores and Lytle Creek CASF applications, emphasized the need for prompt CPUC action to implement AB 1665 in order to not miss the limited window of opportunity for California to leverage federal CAF II funds with state CASF funds.³ As a provider that helped bring \$228 million in federal CAF funds to California, Frontier purposely filed CASF applications immediately after AB 1665 was enacted in order to help advance CPUC action to maximize use of federal and state broadband funds to help close the Digital Divide. But even with the recent CPUC decisions on the Desert Shores and Lytle Creek applications,

³ This is consistent with the legislative findings in Section 2 of AB 1665, which provides, in pertinent part, as follows:

“SEC. 2. (a) The Legislature finds and declares both of the following:

(c) It is the intent of the Legislature that California achieve the goal specified in paragraph (1) of subdivision (b) of Section 281 of the Public Utilities Code by fostering private investment, maximizing California’s ability to obtain available federal funds, and administering the California Advanced Services Fund to fund broadband infrastructure where private investments and federal funds are not available and not use moneys in that fund to overbuild the broadband infrastructure.

***”

uncertainty still remains as to how the CPUC will treat a CASF application to fill in a CAF II census block and what level of funding will be available. Thus, CAF II providers are compelled to move ahead to meet annual CAF II deployment milestones with very limited ability to factor in CASF grants in deployment plans.⁴

For Frontier, given the enormous time and resources it takes to file and gain approval of a CASF application, it is not appealing to be a test case for any new complex, cumbersome and unvetted “expedited review” processes. However, a process that actually simplifies and streamlines project review would provide an incentive for filing applications for CASF grants to fill in CAF II census blocks.

Frontier does not support a set-aside of CASF funds for a specific purpose other than as authorized in statute.⁵

The CPUC should not condition CASF grants on “the release of CAF II plans.” Frontier’s Phase II Comments and Reply Comments address public disclosure of CAF II deployment information. CPUC action to add to or undermine the federal rules that CAF II providers agreed to when accepting CAF II funds would be a strong disincentive for any provider to accept federal funds in the future. That approach would be directly counter to the legislative direction to maximize and leverage federal broadband funds to close the Digital Divide.⁶ Moreover, the CPUC does not have authority under current law to reclassify CAF II areas as eligible for CASF grants prior to July 1, 2020. Section 281(f)(5)(c) explicitly makes CAF II census blocks ineligible for a CASF grant by a non-CAF II provider prior to July 1, 2020.

IV. A Cost Reimbursement Process

Should the CASF reimbursement process change? AT&T has proposed that grantees receive funding on a monthly basis, instead of being reimbursed after

⁴ Frontier also is working with CASF staff and the Assigned Commissioner’s office to correct the record from the July 12 CPUC meeting where statements were made that indicated that Frontier could use both a CASF grant and CAF funds to build the Desert Shores project approved in Resolution T-17614. That is prohibited by Section 281(f)(12). Pursuant to Section 281(f)(5)(C), Frontier notified the CPUC and CASF service list that it would not use CAF funds for the proposed Desert Shores CASF project.

⁵ See Frontier’s Phase II Comments at page 4, footnote 4, objecting to proposal for set aside of funds for low-income communities as not authorized by statute.

⁶ As noted in D.15-12-005, California has a significant public interest in having providers participate in federal broadband programs. Moreover, under Section 270(c), the Legislature has directed the CPUC to administer the CASF and other universal service programs to maximize California’s draw of counterpart federal funds, not create barriers or disincentives to participation.

submitting invoices.

- a. Is it possible to use a new process and still be in compliance with the State Administrative Manual?**
- b. Are there other state programs the Commission could use as an example? Additionally, given current Staff resources, would payments every two months be acceptable?**

With the exception of environmental review cost reimbursement, Frontier does not have any specific recommendations based on prior experience with the CASF cost reimbursement process. Frontier would not generally oppose changes to the reimbursement process if they are (1) based on actual experience with the program, and (2) not overly complex so as to create burden and delay in implementation. The CPUC should retain flexibility to tailor a reimbursement schedule if warranted by the specifics of a particular grant as long as consistent with Section 281.

Regarding environmental review and upfront CEQA costs, Frontier supports the approach the CPUC adopted in Resolution T-17613 for the Lytle Creek project and discussed in Frontier's Comments and Reply Comments on that resolution.

V. Verification of Middle Mile Infrastructure

How should the Commission verify that a middle-mile build included in a proposed project is "indispensable" to that project, as required by statute? Should Commission Staff rely on the middle-mile location information providers submitted as ordered in D.16-12-025? If middle-mile infrastructure already exists near the proposed project area, under what circumstances may an applicant build its own middle-mile infrastructure? If middle-mile infrastructure already exists near the proposed project area, should there be a limit on how much infrastructure may be built? (e.g., 10 miles, 5 miles, etc.) For purposes of grant funding, is leasing or purchasing middle-mile facilities for terms beyond five years (e.g., IRU for 20 years) allowable or even preferred over building new infrastructure? Alternatively, is a challenge to the project application sufficient to prove it is not indispensable, or a lack of a challenge sufficient to prove that it is?

Verification of middle-mile facilities being indispensable should be based on information provided in the application followed up if necessary by CPUC staff questions and a possible site visit. The applicant should be able to demonstrate that without the middle-mile facilities the last-mile portion of the proposed project cannot be completed.

CPUC staff should not rely on middle-mile information provided in D.16-12-025. That information is proprietary and may be outdated at the time a CASF application is filed and reviewed. In addition, it should not be up to CPUC staff to interpret other providers' network capabilities and decide on how to best engineer a CASF build. CPUC staff do not have the specific expertise to engineer a project that relies on current technology and network availability that takes into account the network requirements for a grant applicant. Instead, it should be up to the applicant to demonstrate the specific needs and solution for middle-mile facilities, whether leased or built.

Regarding existing middle-mile infrastructure that already exists near a proposed project, other providers are not required to provide middle-mile access. The applicant should state in its application that facilities are not available or available only at cost higher than the proposed project. Just because facilities may be perceived to be nearby does not mean that they are compatible or a cost-effective alternative to the middle-mile portion of a proposed project.

Regarding term of a lease, Section 281(f)(11)(B) allows a CASF grant to fund costs "to lease access to property or for Internet backhaul services for a period not to exceed five years." Frontier requests more clarity on the questions in the Ruling related to a lease term beyond five years.

VI. Issues Related to Line Extension

- a. What are the components of a wireline technology line extension connection that should be remunerated by the program? About how much on average do line extensions cost per foot?**
- b. Is the \$1,000 limit per aerial line extension and the \$3,000 limit per underground drop proposed by Race Telecommunications Inc., sufficient to address properties far away from distribution facilities? (See Comments of Race Telecommunications on Phase II Issues, filed April 16, 2018, at 10.) Alternatively, should the Commission allow remuneration for line extensions costs incurred to serve properties several thousand feet away from distribution facilities? What should be the limit? Should there simply be a maximum length of line extension, for example the 750 feet maximum proposed by North Bay North Coast Broadband Consortium? (See Comments of the North Bay North Coast Broadband Consortium on Commissioner's Amended Scoping Memo and Ruling Phase II, filed April 16, 2018, at 16-19.)**

- c. **What are the components of a fixed-wireless line extension connection that should be remunerated by the program? And how much on average do fixed wireless extensions cost? Is the \$300 limit per wireless extension connection proposed by Race Telecommunications Inc., sufficient?**
- d. **Should a service provider be able to apply for line extension connection cost remuneration on behalf of the property owner requesting such line extension service connection?**

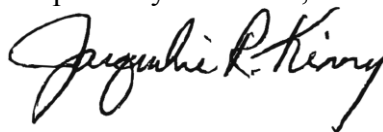
Frontier stands by its position in Phase II Comments that all of the complex issues related to the line extension provision in AB 1665 – including threshold legal and policy questions on accountability and gift of public funds -- should be deferred to a separate phase of this rulemaking so as to not further delay making progress on the program goal with regular infrastructure projects. The detailed technical questions asked in this Ruling are more appropriate to a workshop dedicated solely to line extensions.

Regarding who can apply, it is Frontier's position that a provider should *not* be allowed to apply because that would be contrary to the plain meaning and legislative intent of AB 1665. The integrity of the CASF program would be undermined if a provider were able to escape the program requirements and accountability by applying for a grant on behalf of a third party.

VII. CONCLUSION

Frontier looks forward to reviewing the comments of other parties and submitting reply comments to help improve the CASF program to close the Digital Divide in California.

Respectfully submitted,



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August 8, 2018

**BEFORE THE PUBLIC UTILITIES COMMISSION
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**COMMENTS OF FRONTIER CALIFORNIA INC. (U-1002-C)
ON DRAFT RESOLUTION T-17613 FRONTIER COMMUNICATIONS
CASF GRANT FOR THE LYTLE CREEK INFRASTRUCTURE PROJECT**

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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-17613 (“Draft Resolution”) proposing to award Frontier \$1,458,886 from the California Advanced Services Fund (“CASF”) to cover 80% of costs to deploy broadband in the Lytle Creek area of San Bernardino County.

I. Introduction

Frontier supports the recommendation in the Draft Resolution to approve the proposed fiber to the home (“FTTH”) infrastructure project to serve 339 households in the remote canyon community of Lytle Creek, a high fire danger area. Frontier appreciates the positive collaboration with CASF staff in its review of the project. However, Frontier seeks modification of the Draft Resolution to adjust California Environmental Quality Act (“CEQA”) payment provisions 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 safety benefits given Lytle Creek’s high risk of wildfires and other natural disasters**;
- provides funding essential for Frontier to move forward with the project in this remote, rough terrain high-cost area where no federal broadband funds are available and no other provider has applied for a CASF grant; 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 Lytle Creek Project Will Increase Public Safety and Provide Many Other Public Benefits That Justify a Determination of Full Funding Under AB 1665.

Just a month after AB 1665 was signed into law in October 2017, Frontier filed this Lytle Creek application, the first 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 Lytle Creek project:

- The project would **enhance public safety** because it is a high fire danger area, adjacent to the devastating 2016 Blue Cut fire, and would enable improved fire risk mitigation and response with high capacity fiber service to several fire stations.
- The project area is entirely within a national forest in a steep mountainous canyon, creating **high costs to build, maintain, and operate** infrastructure and serve customers, which is why no other provider has ever applied for CASF funding to serve the area in the history of the program.
- The project area **does not qualify for federal funding** from the Connect America Fund (“CAF”).
- 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 34% lower than other FTTH projects funded by CASF – a real bargain for California.**
- The lack of any other service makes the project area fall within the statutory preference.
- The project would **contribute significantly to the CASF program goal** because this area will almost certainly remain unserved without a CASF grant.

¹ See Attachment A -- Frontier’s full funding request setting forth the language and legislative history of the full funding provision in AB 1665. Appendix B to the Draft Resolution includes only an excerpt.

- The proposed project would bring life-changing benefits to Lytle Creek by connecting a community that has long been on the wrong side of the Digital Divide – a community that has expressed an **outpouring of support for the project, including letters from hundreds of community residents, public officials, the consortia, an economic development organization, and a resolution of the San Bernardino County Board of Supervisors.**

Despite all of this justification and support for full funding, the Draft Resolution proposes funding only 80% of the proposed Lytle Creek project costs. This 80% 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 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.²

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.³ Incorporating the 2012 minimum funding level rules into the analysis precludes the Lytle Creek project from full funding before *any* case-by-case review of public interest factors.

² AB 1665 (Garcia), Assembly Committee on Communications and Conveyance Analysis (April 26, 2017), page 4.

³ The Draft Resolution on page 5 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.

Second, after applying these 2012 rules, the Draft Resolution then 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 potential. The analysis fails to allow for additional funding no matter how compelling any other factor may be. The following excerpt from page 7 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 a National Forest, Staff considers the project area to be relatively inaccessible to advanced broadband communications infrastructure and eligible for additional funding. Due to Frontier’s use of existing infrastructure to upgrade and deploy broadband, Staff considers the project eligible for additional 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, in February 2017 Staff published a High-Impact Analysis. Lytle Creek has not been recognized in either document as making a significant contribution toward achievement of the program goal beyond the contribution made by other CASF grants. Therefore, in total this project receives an additional 20 percentage points funding in consideration of meeting two 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, the requirement that a project area be on the 2014 Consortia Priority Area list or the February 2017 High Impact Areas for Broadband Availability list is indefensible, especially given the CASF staff’s own criticism of these lists.⁴ 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.

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 Lytle Creek project would be 34% lower than the median cost of other FTTH projects funded by CASF.** In any case, the review of only three factors to even potentially obtain full funding is fundamentally flawed and contrary to the

⁴ “High Impact Areas for Broadband Availability - Staff White Paper.” (February 2017), pages 5 and 6.

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.⁵

B. The Draft Resolution Ignores Significant Public Safety Benefits that Justify Full Funding for this Project Given High Risk of Fires and Other Natural Disasters.

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

“Public Safety Benefits – The proposed project area is located entirely within the boundaries of the San Bernardino National Forest and would advance the CPUC objective of prioritizing broadband deployment to areas designated as high fire danger areas and tree die-off zones. Lytle Creek is designated by Cal Fire as a “Community at Risk.” In addition, the Lytle Creek area is adjacent to a tree mortality “Tier 1 High Hazard Zone,” which is designated as “Zone 1” in the Proposed Decision in the CPUC’s fire map proceeding (R.15-05-006). The proposed project would further enhance public safety by enabling High Speed Internet service to the local San Bernardino County Fire Station and U.S. Forest Service Lytle Creek Ranger Station. These public safety benefits will not be realized if full funding is not available to support Frontier’s proposed deployment.”

The Draft Resolution funding level assessment fails to even mention these public safety benefits or Lytle Creek’s high fire danger designation by CalFire. Given the CPUC’s laser focus on public safety, especially in connection with mitigating the “new normal” fire risk, it is inexplicable how the Draft Resolution could fail to consider this justification for full funding. Letters of support from nearly 250 Lytle Creek community members, Congressman Col. Paul Cook, Assemblymember Marc Steinorth, Senator Mike Morrell, the Inland Empire Regional Broadband Consortium, along with the County Board resolution, reference Lytle Creek’s proximity to the recent Blue Cut fire and praise the proposed project’s public safety benefits – but the Draft Resolution makes no mention of these in the funding level assessment.⁶

Although fire danger is the predominant public safety risk in Lytle Creek, this mountainous canyon town is no stranger to suffering from other natural disasters such as mudslides,

⁵ See Frontier’s Desert Shores CASF application (pending approval in Draft Resolution T-17614), which presents an equally compelling case for full funding, but based on a different combination of factors and public interest benefits.

⁶ The Draft Resolution at page 8 discusses these public safety benefits, including that “[r]eliable broadband Internet will play an important role in response and recovery from future fires.” But none of this is considered in the analysis to determine project funding level.

rockslides, flooding, flash floods and earthquakes. The upward trend in disasters is indicated by a mudslide as recent as 2014 (after a large fire), and floods and earthquakes on a consistent basis and as recently as 2018.⁷ There is only one road in and out of Lytle Creek, so residents are often stuck for days, and often without easy access to safety services when these disasters strike. Frontier's fiber-based project would absolutely help reduce potential loss of lives and property from these disasters, and the Draft Resolution should consider this in the full funding analysis.

C. The Draft Resolution Fails to Follow the Legislature's Direction to Award CASF Funds Where Federal Funds are Not Available.

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

"No Private Investment or Federal Funds Available – Although lacking any existing broadband service provider, the Lytle Creek area did not qualify for support from the federal Connect America Fund, and Verizon (owner of the facilities 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 Lytle Creek. 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 safety benefits, this factor also was not considered in the funding level determination in the Draft Resolution. Moreover, given that Lytle Creek is not a CAF area, it is now – and always has been – open for any provider to seek CASF funding. Yet no other provider has ever come forward. Frontier, on the other hand, has stepped forward, and the CPUC should support this willingness to serve with the tool the Legislature gave it – a grant to fully fund project costs.

⁷ See for example, [Residents Of Lytle Creek Brace For The Worst As Rain Threatens Mudslides](#) (2014); [Blue Cut fire in the Cajon Pass destroys 105 homes and 213 other buildings](#) (2016); [Raw video of Blue Cut fire in Lytle Creek, Calif.](#) (2016); [Flooding in Lytle Creek leads to swiftwater rescue](#) (2018); [Storms Slam "Notorious" Flood-Prone Area in San Bernardino County: CALIFORNIA ROCKED BY THREE EARTHQUAKES IN ONE DAY, SCIENTISTS EXPECT MORE TO COME IN 2018](#) (2018).

Accordingly, Frontier requests that the following in the Draft Resolution be modified to grant Frontier's request for full funding – Section D on pages 5 to 8, Finding #5 on page 11, and Ordering Paragraphs #1 and #2 on page 12.

IV. Lack of Full Funding Limits Frontier's Ability to Move Forward with the Lytle Creek 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 \$1.8 million for Frontier's very cost-effective FTTH project to connect 339 households, Lytle Creek will not be the only California community that continues to wait for broadband service. Lytle Creek 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 case to invest private capital or obtain public funds for broadband expansion. 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 Lytle Creek does not get enough funding to move forward. On the other hand, a full funding award for Lytle Creek 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 \$1.8 million out of the \$330 million authorized by AB 1665 last year.⁸

V. The Draft Resolution Should be Modified to Allow Direct Funding from the CASF Program to the Energy Division for Initial CEQA Review.

The Draft Resolution at page 8 requires Frontier to submit a Proponent's Environmental Assessment prior to the first 25% payment. It also requires Frontier to enter into a Memorandum of Understanding with the Energy Division, which will retain a contractor to conduct the environmental review. Frontier has discussed the challenges these requirements present with the

⁸ 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.

CASF and Energy Division staff. The problem is not new, and a proposed solution is presented in the pending staff proposal in the CASF rulemaking, page 19, Section 1.16 on CEQA Payment:

“Problem: The current program requires that the applicant provide the Proponent’s Environmental Assessment (PEA) prior to the first 25% payment. This is problematic because (1) potential CEQA costs are generally unknown and are not always considered prior to grant approval and (2) because CEQA costs can be substantial and under current rules can only be recovered after 25% of the project is complete, which cannot occur without CEQA first being completed. Because completion of CEQA can take years, cash flow problems have occurred for some grantees.

Proposed Solution: CEQA consultant costs should be paid directly by the Commission to the contractor. Following award of a grant the Energy Division CEQA Section Staff will obtain a contractor to review the CEQA documents for the project. The CASF program will pay directly for the cost of the consultant preparation of the CEQA compliance documents in proportion of the awarded project cost grant share. The grantee will be billed for the remaining portion of the cost of the consultant according to that awarded share, award to matching funds.”

Frontier requests that the Draft Resolution be modified to adopt this approach for the Lytle Creek project. As it is, the Draft Resolution would create the inefficient and absurd result of requiring Frontier to front funds to the CPUC for retaining the contractor, and then submit an invoice to the CPUC for these costs, for which the CPUC would then reimburse Frontier.

Moreover, as the staff proposal points out, it is burdensome to require a grantee to front all the environmental costs and get no reimbursement until after construction has commenced. This modification from the traditional process would be similar to requests the CPUC has granted when necessary for other projects with challenging environmental circumstances to move forward.⁹ Accordingly, Frontier requests modification of Section A on page 8, and Section K on page 10, as well as Ordering Paragraphs #2, #3, and #11 on pages 12 and 13, to allow for the CEQA consultant costs to be paid directly by the CPUC.¹⁰

⁹ See, for example, Resolution T-17548, Inyo Networks Digital 299 Middle-Mile Broadband Project (March 23, 2017).

¹⁰ A second choice alternative would be to modify the ordering paragraphs to allow for awarding Frontier 10% of project costs upfront, with the second payment at 50% (rather than 25%) project completion, and subsequent payments at 75% and 100% completion. This approach also would help alleviate the burden of incurring such high costs during the uncertain period of the environmental review. This upfront investment by the CPUC would have

VI. Technical and Factual Errors in the Draft Resolution Should Be Corrected.

Frontier requests the following modifications to the Draft Resolution:

- On page 5, regarding low-income status of Lytle Creek, while the median income is below the low-income threshold, Lytle Creek residents represent a wide range of socio-economic groups, including many retirees and significant pockets of low-income residents.
- On page 5, the community support section fails to mention the resolution adopted by the San Bernardino County Board of Supervisors urging the CPUC to grant Frontier's application and request for full funding as authorized by AB 1665.¹¹
- On page 5, the community support section fails to recognize additional support letters that were submitted by the Inland Empire Regional Broadband Consortium and the Inland Empire Economic Partnership.¹²
- On page 6, the reference to Appendix B should be modified to state that an excerpt of Frontier's full funding request is attached – or attach the full text of the Frontier request document.
- On page 6, the reference to "Legislative Analyst" appears to be an error and should reference the legislative committee.

VII. Conclusion

The residents of Lytle Creek have been paying surcharges on their telephone bills for years to fund the federal CAF and state CASF programs. Lytle Creek is not eligible for federal CAF funding. Lytle Creek has always been eligible for a CASF grant, but no provider has ever applied to deploy broadband in Lytle Creek. Now, after years of watching the surcharges they pay fund broadband expansion in *other* communities, Lytle Creek residents have a chance to get broadband in their own community. In alignment with direction from the Legislature, Frontier

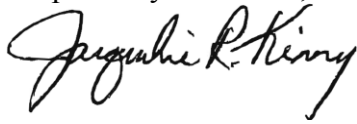
the benefit of having the CASF staff feel "invested" in the project and helpful to the grantee in working through any difficult environmental challenges in order to get the project to construction.

¹¹ See Attachment B to these Comments for a copy of the board resolution.

¹² See Attachment C – support letters from Congressman Paul Cook, Senator Mike Morrell, Assemblymember Marc Steinorth, Supervisor Janice Rutherford, Superintendent of Schools Ted Alejandre, Inland Empire Regional Broadband Consortium, the Inland Empire Economic Partnership, and the Lytle Creek Community Center Board of Trustees, also representing the nearly 250 community members and their individual support letters.

has stepped up to apply for a CASF grant with full funding that is essential to move forward in this remote high-cost area with high fire danger. For all the reasons stated herein, Frontier requests modification of the Draft Resolution so that Lytle Creek can finally move to the other side of the Digital Divide.

Respectfully submitted,

A handwritten signature in black ink, reading "Jacqueline R. Kinney". The signature is written in a cursive style with a large, prominent initial "J".

Jacqueline Kinney
Vice President State Government Affairs – CA

ATTACHMENT A

**Frontier CASF Broadband Infrastructure Grant Application – Lytle Creek
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: Lytle Creek

Location: Lytle Creek, San Bernardino County

Type: Middle Mile & Last Mile

Grant Request: \$1,823,607¹

As described in the “Lytle Creek Project Summary” submitted with this application, Frontier California Inc. (“Frontier”) is applying for a \$1,823,607 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 339 households in Lytle Creek that currently are unserved by any wireline or wireless broadband provider. The \$1,823,607 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

¹ Amount revised from rounded figure of \$1.8 million to exact figure of \$1,823,607 as filed in the Lytle Creek CASF application proposed project budget dated November 20, 2017.

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.² 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.

² 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.”³

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 Lytle Creek broadband infrastructure project in the attached application based on, at a minimum, the following factors:

- Statutory Preference -- The location of the proposed Lytle Creek 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)). Lytle Creek 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.
- Existing Facilities – The Lytle Creek application proposes a cost-effective expansion of broadband access by leveraging Frontier’s existing facilities and operations to enable symmetrical 1 Gbps service. 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 Available – Although lacking any existing broadband service provider, the Lytle Creek area did not qualify for support from the federal Connect America Fund, and Verizon (owner of the facilities 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 Lytle Creek. For Frontier,

³ 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).

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 Safety Benefits – The proposed project area is located entirely within the boundaries of the San Bernardino National Forest and would advance the CPUC objective of prioritizing broadband deployment to areas designated as high fire danger areas and tree die-off zones. Lytle Creek is designated by Cal Fire as a “Community at Risk.” In addition, the Lytle Creek area is adjacent to a tree mortality “Tier 1 High Hazard Zone,” which is designated as “Zone 1” in the Proposed Decision in the CPUC’s fire map proceeding (R.15-05-006). The proposed project would further enhance public safety by enabling High Speed Internet service to the local San Bernardino County Fire Station and U.S. Forest Service Lytle Creek Ranger Station. These public safety benefits will not be realized if full funding is not available to support Frontier’s proposed deployment.
- 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 Lytle Creek project will make a significant contribution to achieving the CASF program goal.
- Closing the Digital Divide – The proposed project will bring life-changing benefits to Lytle Creek 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, Lytle Creek 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 Lytle Creek infrastructure project. Expeditious award of this grant under the new full funding provision will enable Frontier to move ahead quickly with this project in 2018.⁴

⁴ 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.

ATTACHMENT B

RESOLUTION NO. 20 - _____

**RESOLUTION TO SUPPORT SUBMITTAL OF FUNDING APPLICATION FOR THE CALIFORNIA
ADVANCE SERVICES FUND**

On Tuesday _____, 20____, on motion of Supervisor _____, duly seconded by Supervisor _____ and carried, the following resolution is adopted by the Board of Supervisors of San Bernardino County, State of California.

WHEREAS, Lytle Creek is a community within San Bernardino County that lacks access to wireline or wireless broadband service and is considered “unserved” by the California Public Utilities Commission (“CPUC”) as shown on the California Interactive Broadband Map (currently found at <http://www.broadbandmap.ca.gov>); and

WHEREAS, on November 20, 2017, Frontier Communications applied to the CPUC for an infrastructure grant to deploy broadband to Lytle Creek (“Project”), which would, for the first time, connect Lytle Creek to the digital economy and provide improved access to employment, education, health care, public safety and other services; and

WHEREAS, the Project is within a canyon in the San Bernardino National Forest, an area designated by Cal Fire as a “Community at Risk” (see, e.g., http://osfm.fire.ca.gov/fireplan/fireplanning_communities_at_risk), and is adjacent to a “Tier 1 High Hazard Zone” designated in the CPUC’s fire map proceeding. As such, it is anticipated that the Project would further the CPUC objective of prioritizing broadband deployment to areas designated as high fire danger areas; and

WHEREAS, the Project would address fire danger and further enhance public safety by enabling High Speed Internet service to the U.S. Forest Service Lytle Creek Ranger Station, and possibly to the local San Bernardino County Fire Station; and

WHEREAS, Lytle Creek has not previously received any public funding for broadband deployment in that it does not qualify for support from the federal CAF program, and no provider has previously applied for a state CASF grant; and

WHEREAS, Frontier Communications identifies itself as a nationwide leader in broadband deployment and has long participated in state and federal universal service programs to close the Digital Divide, such as the federal Connect America Fund (“CAF”) program, and the state California Advanced Services Fund (“CASF”) program administered by the CPUC; and

WHEREAS, Frontier Communications has applied for a grant for the Project under the state California Advanced Services Fund (“CASF”) program administered by the CPUC; and

WHEREAS, AB 1665 (Garcia 2017) added \$330 million in new funding to the CASF program and expressly authorized the CPUC to provide full funding to CASF infrastructure projects on a case-by-case basis, recognizing that some projects are so high-cost and uneconomic that they do not present a business case for deployment absent full funding; and

WHEREAS, the CPUC’s approval of the Project with full funding under the CASF program will enable Frontier’s deployment of the Project and install fiber to the home broadband service (up to 1 Gigabyte) to 339 households in the Lytle Creek area and enable public agencies, anchor institutions, businesses and other entities to obtain fiber-based service; and

THEREFORE, BE IT NOW RESOLVED that the County of San Bernardino, Board of Supervisors hereby resolve to submit to the CPUC a letter expressing support for approval of the Project and full funding in order to close the Digital Divide in Lytle Creek.

BE IT FURTHER RESOLVED that this resolution be noted in the minutes of the Board of Supervisors of the County of San Bernardino.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Bernardino, State of California, by the following vote:

AYES: SUPERVISORS:
NOES: SUPERVISORS:
ABSENT: SUPERVISORS:

* * * * *

STATE OF CALIFORNIA)
)
COUNTY OF SAN BERNARDINO) ss.

I, **LAURA H. WELCH**, Clerk of the Board of Supervisors of the County of San Bernardino, State of California, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Supervisors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of _____, 20 .

LAURA H. WELCH
Clerk of the Board of Supervisors

By _____
Deputy

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

3

May 1, 2018

**FROM: JANICE RUTHERFORD, Second District Supervisor
Board of Supervisors**

**SUBJECT: RESOLUTION TO SUPPORT FRONTIER COMMUNICATIONS SUBMITTAL OF
FUNDING APPLICATION FOR THE CALIFORNIA ADVANCE SERVICES FUND**

RECOMMENDATION(S)

Adopt resolution supporting Frontier Communications' application to the California Public Utilities Commission for funding from the California Advance Services Fund to provide broadband internet service to the community of Lytle Creek.

(Presenter: Janice Rutherford, Second District Supervisor, 387-4833)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS AND OBJECTIVES

Create, Maintain and Grow Jobs and Economic Value in the County.

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this resolution will not require the use of Discretionary General Funding (Net County Cost).

BACKGROUND INFORMATION

Frontier Communications is seeking funding from the California Advance Services Fund (CASF) to provide broadband internet service through fiber infrastructure to the community of Lytle Creek and is requesting a declaration of support from the County of San Bernardino to the California Public Utilities Commission concerning the project.

Currently, Lytle Creek is home to about 700 full-time residents and internet service options are limited to only satellite providers that offer limited bandwidth. Lytle Creek is an isolated canyon community that is subject to flooding and wildfires. The proposed broadband internet service will provide high-speed internet service not only to residents but also be available to the U.S. Forest Service Lytle Creek Ranger Station, if the federal government opts to use the service. Having reliable internet service will allow these residents to stay informed about emergency situations in their community. Broadband internet service has become an important utility that people use for all facets of their lives, including banking, healthcare, education and more.

Page 1 of 2

**RESOLUTION TO SUPPORT FRONTIER COMMUNICATIONS
SUBMITTAL OF FUNDING APPLICATION FOR THE CALIFORNIA
ADVANCE SERVICES FUND
MAY 1, 2018
PAGE 2 OF 2**

3

The CASF provides grants to telephone corporations to bridge the “digital divide” in unserved and underserved areas in the state. With an initial funding of \$100 million, the CASF supports projects that will provide broadband services to areas currently without broadband access, and build out facilities in underserved areas. The passage of AB 1665, which took effect on October 15, 2017, added \$330 million in new funding to the CASF program, and expressly authorized the California Public Utilities Commission to fully fund CASF infrastructure projects on a case-by-case basis, especially in instances where a project’s high cost may have made the project economically infeasible without full funding. Frontier Communications is seeking full funding of \$1.8 million for this project because of the cost to extend service into the Lytle Creek canyon.

PROCUREMENT

N/A.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Penny Alexander-Kelley, Chief Assistant County Counsel, 387-5455) on April 23, 2018; Finance (Stephenie Shea, Administrative Analyst, 387-4919) on March 29, 2018; and County Finance and Administration (Katrina Turturro, Deputy Executive Officer, 387-5423) on April 3, 2018.

ATTACHMENT C

Congress of the United States
House of Representatives
Washington, DC 20515-0508

January 2, 2018

The Honorable Michael Picker
President, California Public Utilities Commission
505 Van Ness Avenue
San Francisco CA 94102

RE: Lytle Creek Broadband Infrastructure Project

Dear President Picker:

I write to you today to offer my unequivocal support for Frontier Communications' application for a grant from the California Advanced Services Fund ("CASF") to deploy broadband infrastructure in Lytle Creek, California. Lytle Creek is a remote, high-cost area that requires support from the CASF program to allow for high-speed internet access. I respectfully urge the Commission to approve Frontier's project so that Lytle Creek can join the 21st century digital economy.

Lytle Creek currently lacks high-speed internet access and has been overlooked by other providers. Frontier Communications presented their proposed project to the community of Lytle Creek on December 14, demonstrating that the project will have a positive impact. The fiber-based project will provide households multiple options for high-speed service, including a low-income option. This grant will also enable local businesses to access new economic opportunities and will enhance the services that the community center provides.

Frontier's proposed project will also enhance public safety. Lytle Creek is a high fire danger area and was significantly impacted by the 2016 Blue Cut fire. Providing access to reliable communications is critical to keeping residents and first responders safe. The local fire station and U.S. Forest Service station will see their capabilities increased with better access to reliable communications.

I strongly support Frontier's CASF proposed project and appreciate your careful consideration of their application. Additionally, I respectfully request full-funding for this project, as Lytle Creek is unserved and is not a Connect America Fund area. Should you have any questions related to this letter, please contact my Apple Valley District Office at (760) 247-1815.

Very Respectfully,



Col. Paul Cook (Ret.)
U.S. Congressman, 8th District

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California State Senate

MIKE MORRELL
SENATOR, TWENTY-THIRD DISTRICT



COMMITTEES
ENERGY, UTILITIES
AND COMMUNICATIONS
VICE CHAIR
PUBLIC EMPLOYMENT
AND RETIREMENT
VICE CHAIR
INSURANCE, BANKING AND
FINANCIAL INSTITUTIONS
TRANSPORTATION
AND HOUSING

January 31, 2018

Cynthia Walker
Director, Communications Division
California Advanced Services Fund
California Public Utilities Commission
505 Van Ness Avenue
San Francisco CA 94102

RE: Lytle Creek Broadband Infrastructure Project

Dear CASF Staff and Commissioners:

As the representative of Lytle Creek in the California Senate, I am pleased to express strong support for the application of Frontier Communications for a grant from the California Advanced Services Fund ("CASF") to deploy broadband infrastructure in this community.

Lytle Creek currently lacks high-speed Internet access and has waited a long time for reliable and affordable service. As presented by Frontier at the Lytle Creek Community Center meeting on December 14, the proposed project will provide transformational benefits. The fiber-based project will provide households multiple options of high-speed service, including a low-income option. Local businesses will have new economic opportunity, and the community center will be able to offer robust Wi-Fi to the community.

Most significantly, Frontier's proposed project will enhance public safety. Lytle Creek is a high fire danger area and was greatly impacted by the 2016 Blue Cut fire. Reliable, state-of-the-art broadband service, as proposed by Frontier, will play a vital role in response and recovery from future fires. The local fire station and U.S. Forest Service stations will have enhanced capacity to keep people and property safe.

I strongly support Frontier's CASF application and request for full funding because Lytle Creek is exactly the kind of community the Legislature had in mind when enacting AB 1665 (Garcia 2017). Lytle Creek is unserved, is not a Connect America Fund area, and no other provider has ever applied for a CASF grant to deploy broadband here. This remote, high-cost area needs support from the CASF program to get high-speed Internet access. I urge the Commission to expeditiously approve Frontier's project so that Lytle Creek can join the 21st century digital economy.

Sincerely,

A handwritten signature in blue ink that reads "Mike Morrell".

MIKE MORRELL
Senator, 23rd District

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Assembly California Legislature

MARC STEINORTH
ASSEMBLYMEMBER, 40TH DISTRICT

**COMMITTEES**

Vice Chair, Housing and Community
Development
Health
Business and Professions
Governmental Organization

January 10, 2018

California Advanced Services Fund
California Public Utilities Commission
505 Van Ness Avenue
San Francisco CA 94102

RE: Lytle Creek Broadband Infrastructure Project

Dear CASF Staff and Commissioners:

As the representative of Lytle Creek in the California Assembly, I am pleased to express strong support for the application of Frontier Communications for a grant from the California Advanced Services Fund ("CASF") to deploy broadband infrastructure in this community.

Lytle Creek currently lacks high-speed Internet access and has waited a long time for reliable and affordable service. As presented by Frontier at the Lytle Creek Community Center meeting on December 14, the proposed project will provide transformational benefits. The fiber-based project will provide households multiple options of high-speed service, including a low-income option. Local businesses will have new economic opportunity, and the community center will be able to offer robust Wi-Fi to the community.

Most significantly, Frontier's proposed project will enhance public safety. Lytle Creek is a high fire danger area and was greatly impacted by the 2016 Blue Cut fire. Reliable, state-of-the-art broadband service, as proposed by Frontier, will play a vital role in response and recovery from future fires. The local fire station and U.S. Forest Service stations will have enhanced capacity to keep people and property safe.

I strongly support Frontier's CASF application and request for full funding because Lytle Creek is exactly the kind of community the Legislature had in mind when enacting AB 1665 (Garcia 2017). Lytle Creek is unserved, is not a Connect America Fund area, and no other provider has ever applied for a CASF grant to deploy broadband here. If California is to meet its goal of providing quality broadband access for all residents, this remote, high-cost area needs support from the CASF program. I urge the Commission to expeditiously approve Frontier's project so that Lytle Creek can join the 21st century digital economy.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Steinorth".

MARC STEINORTH
ASSEMBLYMEMBER, 40TH DISTRICT



June 28, 2018

California Advanced Services Fund
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dear CASF Staff and Commissioners:

As the elected County Supervisor for the residents of Lytle Creek, I fully support Frontier Communication's requests for 100% funding from the California Advanced Services Fund (CASF) to deploy broadband infrastructure in the community.

Lytle Creek is located in a canyon in the San Bernardino Nation Forest, and its remote location has dissuaded internet service providers from offering service in the community and will likely continue to do so unless this project moves forward with full funding. The fiber-based project proposed by Frontier will provide more than 300 households with multiple options of high-speed internet service, including an option for low-income residents.

The new broadband service will enable students and families to take advantage of online resources to assist with homework and other educational endeavors. The project presents an immense opportunity to support an underserved community to help promote early learning, improve literacy and facilitate school readiness. Additionally, the broadband service will allow online access to health care services and resources that will benefit students' overall health and wellness.

In May, my Board of Supervisors colleagues and I unanimously adopted a resolution in support of Frontier's application for 100% funding for this important project. Lytle Creek residents would benefit greatly from having reliable broadband service, and I encourage the Commission to approve Frontier's project so Lytle Creek can join the 21st century digital economy and provide improved access to education, health care and other government services the community needs.

Cordially,

JANICE RUTHERFORD
Second District Supervisor
County of San Bernardino

JR:sv

January 5, 2018

California Advanced Services Fund
California Public Utilities Commission
505 Van Ness Avenue
San Francisco CA 94102

RE: Lytle Creek Broadband Infrastructure Project

Dear CASF Staff and Commissioners:

San Bernardino County Superintendent of Schools (SBCSS) is pleased to express strong support for the application of Frontier Communications for a grant from the California Advanced Services Fund (CASF) to deploy broadband infrastructure in this community.

Lytle Creek currently lacks high-speed Internet access and has waited a long time for reliable and affordable service. The fiber-based project will provide approximately 339 households with multiple options of high-speed service, including a low-income option. The new broadband service will enable students and families to take advantage of online resources to assist with homework and other educational endeavors. The project presents an immense opportunity to support an underserved community to help promote early learning, improve literacy and facilitate school readiness. Additionally, the broadband service will allow online access to health care services and resources that will benefit students' overall health and wellness.

SBCSS strongly supports Frontier's CASF application and request for full funding to provide High Speed Internet service to the community of Lytle Creek. This remote, high-cost area would benefit greatly from the CASF program. I encourage the Commission to approve Frontier's project so that Lytle Creek can join the 21st century digital economy and provide improved access to education, health care and other government services the community is so deserving of.

Sincerely,



Ted Alejandre
County Superintendent



May 1, 2018

Communications Division
California Advanced Services Fund (CASF)
California Public Utilities Commission (CPUC)
505 Van Ness Ave.
San Francisco, CA 94102

Subject: Support for Lytle Creek CASF Broadband Infrastructure Grant Application – Frontier California, Inc.

The Inland Empire Regional Broadband Consortium (IERBC) strongly supports Frontier's CASF Broadband Infrastructure Grant Application for the community of Lytle Creek in San Bernardino County.

Lytle Creek is a remote, unserved community nestled in a canyon within the San Gabriel Mountains in San Bernardino County. The community is 50% Hispanic/Latino with 8.5% of the families living below poverty. Over 19% of the residents are Veterans. Lytle Creek is a disadvantaged community with a median household income of \$56,875, which is below California's statewide median household income.

IERBC has worked diligently to help the Lytle Creek area without being able to generate strong interest in a CASF grant application—the remoteness, geographical layout, small number of households served, and high-cost deployment makes it a difficult area to attract any Broadband providers. Outside of Frontier's CASF application for Lytle Creek, it is doubtful the area will be served for many years, if ever. The Frontier project is extremely important for Lytle Creek, and each day that goes by without Broadband service is a hardship for the community and exacerbates the effects of the digital divide.

Frontier is applying to the CPUC CASF program to deploy fiber-based high-speed broadband to 339 households covering 4.4 square miles in Lytle Creek. Frontier plans to use existing poles and rights of way to deploy fiber-to-the-home (FTTH) facilities capable of providing high speed internet, ethernet and VoIP service with speeds up to 1 Gbps down and 1 Gbps up. This high level of service assures that the community will no longer be left behind and will receive strong service moving forward. This is a future proof "smart project"—a concept that IERBC strongly supports, especially when utilizing CASF and other public funding.

Frontier's project is also a smart project because it takes advantage of existing resources, provides last mile connectivity, and addresses the long-standing and high-priority community need for improved communication during high fire danger periods and extreme weather, and strongly supporting the needs of public safety and first responders. The project also will provide the first opportunity for students to engage in online learning.

The San Bernardino County Board of Supervisors, residents and stakeholders in Lytle Creek are all in full support of Frontier's CASF Grant Application.

Lytle Creek is unserved and exactly the type of community that the CASF program was created to help. IERBC fully supports Frontier's Lytle Creek CASF Application and urges the Commission to expeditiously approve so this deserving community can experience the benefits of internet service as soon as possible.

If you would like to discuss, please contact me at 951-845-4391 or martha@iebroadband.com.

Sincerely,

A handwritten signature in cursive script that reads "Martha Van Rooijen".

Martha van Rooijen
Executive Director, Inland Empire Regional Broadband Consortium



July 2, 2018

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Support for 100% Funding for CASF Lytle Creek Project

Dear Commissioners,

On behalf of the **Inland Empire Economic Partnership (IEEP)**, which aims to improve the Inland Empire's economic competitiveness, educational attainment, job creation, quality of life and governmental responsiveness, I am writing to urge you to approve **Frontier Communications** request for 100% funding from the California Advanced Services Fund (CASF) in order to provide reliable high-speed internet to the community of Lytle Creek.

The Draft Resolution's proposed funding of 80% of project costs is inadequate. When the legislature adopted AB 1665 (Garcia, Ch. 851, Stats. of 2017) it recognized that a shortcoming of the program was that its limitation of infrastructure grants to 70% of funding was insufficient to sustain a viable broadband project in the most remote, sparsely populated, high-cost unserved areas. To correct this, AB 1665 included a "full funding" provision that authorizes the CPUC to award grants to fund all the costs of a CASF project. From a financial perspective, the Lytle Creek project is not feasible without full funding.

The costs of building infrastructure in a remote, rocky canyon are very expensive. Maintenance will also be expensive considering as it is a high fire danger area and prone to other natural disasters such as flooding, rockslides and mudslides. Because of the lack of business case, no other provider has ever offered to bring broadband into the community of Lytle Creek, which is why it remains unserved today. Lytle Creek does not qualify for funds from the federal Connect America Fund, so funding from the CASF program is critical and appropriate. For the California Public Utilities Commission (CPUC) to provide only 80% of funding would be akin to rejecting the request because the project will not be able to proceed at that funding level.

Frontier Communication's 100% funding request is more cost-effective than past awards. The Frontier Lytle Creek project is very cost-effective and more than 70 percent less than other CASF grants providing fiber to the home. For example, some prior fiber to the home grants have been more than \$20,000 per household, this project is only \$5,379 per household. Lytle Creek customers have been paying surcharges to fund the CASF and Connect America Fund for years and have watched other communities get broadband. Frontier has now come forward

with a project to close the Digital Divide in Lytle Creek so that our community can finally benefit from these programs.

The Lytle Creek project advances the state's mission to close the digital divide. Lytle Creek is a community of 339 households located in the San Gabriel Mountains in San Bernardino County with no broadband infrastructure or providers of broadband service in the proposed project area. It is essential for communities like Lytle Creek in the Inland Empire have access to high-speed internet in order for our region to compete in the global marketplace.

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. Frontier’s proposed fiber-based project will include a diverse range of opportunities for the population and businesses in Lytle Creek. The proposed project will bring life-changing benefits to Lytle Creek by connecting a community that has long been on the wrong side of the Digital Divide. Furthermore, the communications service would promote economic growth and job creation in Lytle Creek. Full funding of project costs will enable Frontier to proceed with the proposed deployment.

California leads the nation in innovation, investment, and job growth in its technology and Internet ecosystem. Our state’s longstanding approach to innovation policy has helped make it the epicenter of the global tech community—home to leading entrepreneurs, growing startups, and Fortune 500 enterprises. We strongly support Frontier’s project and proposal for 100% funding.

Sincerely,

A handwritten signature in blue ink that reads "Paul C Granillo". The signature is written in a cursive, flowing style.

Paul Granillo
President & CEO
Inland Empire Economic Partnership

LYTLE CREEK COMMUNITY CENTER
PO Box 51, 14082 Center Rd, Lytle Creek, CA 92358

June 29, 2018

California Advanced Services Fund (CASF)
California Public Utilities Commission (CA PUC)
505 Van Ness Ave.
San Francisco, CA 94102

Dear CA Public Utilities Commissioners:

We, the Board of Trustees of the Lytle Creek Community Center, are writing to express our strong support for Frontier Communications' efforts to increase the percent funding for the CASF grant to provide for fiber-optic cabling into Lytle Creek (Draft Resolution T-17613) from its current proposed 80% to 100%.

The Lytle Creek Community Center (LCCC) is the organization established in 1948 that organizes, promotes, and puts on various social, educational/informational, senior & youth, library, emergency preparedness, commodities distribution, and other public service activities for our community of approximately 900 full-time residents. The LCCC is made up of about 200 members and is administered by a 16-member Board of Trustees.

As Board members, we are confident that we speak for our entire community in expressing the great need for reliable communications for our community. In February of this year, the LCCC organized a letter-writing campaign in which 244 letters from Lytle Creek residents were sent to you, PUC Commissioners, expressing the great need for the up-to-date cable. Frequently, our phones are inoperable and internet service is not available. Because our community is remote with a single highway that accesses it and because we live in a high-risk area, dependable communications are vital.

Many elderly people reside in Lytle Creek, and for them, driving down-the-hill is costly and arduous. On-line services and shopping opportunities, dependable telephone service, and decent television reception are absolutely necessary. For our business owners, professionals, students, families, and home-alone seniors, reliable internet access is critical. Almost all families have computers and or smart/phones, but all Lytle Creekers complain that doing business, work from home, class assignments, or any other on-line communications are not really possible in our community. Although, a cell tower was placed in our canyon about 10 years ago, because of the curves in the geography of our canyon, cell reception is spotty with numerous *dead zones*.

LYTLE CREEK COMMUNITY CENTER
PO Box 51, 14082 Center Rd, Lytle Creek, CA 92358

We love our community, and we work together in making living here better, which includes keeping pace with the changes occurring all around us. Without decent communications with the rest of the world, many Lytle Creekers would have to find residency elsewhere.

We thank you for approving funding for reliable communications for our community, but we are concerned about Frontier's need for the 100% level of funding. We can assure you that most residents will subscribe to Frontier's services if the cable were to be installed.

We appreciate your interest in our community and your service to California.

Sincerely,

The Lytle Creek Board of Trustees

Officers

Janet Davey, President

Ramona Merrifield, Vice President

Anna Sorum, Secretary

Buffie Lee, Treasurer

Trustees

Tim Arner

April M. Baumgartner

Donald Crow

Kent Hutchings

Bruce Jackson

Lois Long

David Mullen

Ken Phillips

Don Quinn

Debbie Shiba

Cindee Smith

Darlyn Voesten

Ken Wood

**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**

Charlie Born
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July 2, 2018

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

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.

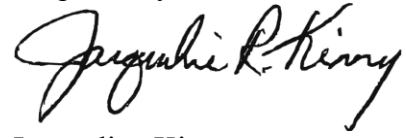
VI. Conclusion

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 black ink, reading "Jacqueline R. Kinney". The signature is written in a cursive style with a large, looping initial "J".

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, reading "Jacqueline R. Kinney". The signature is written in a cursive style with a large initial "J" and a distinct "R" before the last name.

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

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

**REPLY COMMENTS OF FRONTIER CALIFORNIA INC. (U-1002-C)
ON DRAFT RESOLUTION T-17613 CASF GRANT FOR
THE LYTLE CREEK INFRASTRUCTURE PROJECT
AND
DRAFT RESOLUTION T-17614 CASF GRANT FOR
THE DESERT SHORES INFRASTRUCTURE PROJECT**

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July 9, 2018

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**REPLY COMMENTS OF FRONTIER CALIFORNIA INC. (U-1002-C)
ON DRAFT RESOLUTION T-17613 CASF GRANT FOR
THE LYTLE CREEK INFRASTRUCTURE PROJECT
AND
DRAFT RESOLUTION T-17614 CASF GRANT FOR
THE DESERT SHORES INFRASTRUCTURE PROJECT**

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 Reply Comments on Draft Resolutions T-17613 and T-17614 proposing to award Frontier grants from the California Advanced Services Fund (“CASF”) to deploy broadband infrastructure in Lytle Creek and Desert Shores, respectively.

I. Introduction

The California Emerging Technology Fund (“CETF”) is the only other party that filed opening comments on the Draft Resolutions regarding Frontier’s proposed CASF projects for Lytle Creek and Desert Shores. CETF filed one set of comments to address both projects, and Frontier similarly submits a consolidated reply.

II. CETF Comments Support the Need for the CPUC to Follow AB 1665 and Determine Funding Level on a Case-by-Case Basis with Consideration of the Unique Public Interest Benefits of Each Proposed Project.

CETF comments state that Lytle Creek and Desert Shores are “appropriate unserved communities for broadband deployment supported by funding from the CASF.” However, CETF does not support Frontier’s request for full funding under AB 1665, claiming that “there is no reliable methodology to determine how much subsidy is appropriate” and “no objective assessment or analytical rubric that justifies 100% subsidy for any specific project.”

CETF is correct that no one-size-fits-all methodology or scoring system is uniformly applicable to determine the CASF funding level for California’s many diverse pockets of unserved areas still waiting desperately to get connected. That is exactly why the Legislature enacted the full funding provision in AB 1665, which requires the CPUC to determine CASF project funding level on a case-by-case basis with consideration of a combination of factors that will be unique to each project. This full funding provision is self-executing. For each pending

application – Lytle Creek and Desert Shores -- Frontier has presented the unique compelling public interest benefits that justify full funding, and, as required by AB 1665, the CPUC should consider all of them to determine the funding level for each proposed project.¹

Instead of following the plain meaning of the statutory full funding provision, CETF proposes again that the CPUC "convene all the stakeholders in key regions and develop a preferred scenario (or scenarios) to achieve 98% deployment in each region so that economies of scale can be achieved (including leveraging public assets) to minimize excess subsidies from CASF." Nothing in AB 1665's full funding provision requires such an exercise before approving an actual project application with full funding.² For communities still lacking broadband, the "preferred scenario" is to have a provider actually step up with a real project and commit the time and resources to seek a CASF grant. Frontier has done just that for Lytle Creek and Desert Shores and will proceed with deployment if full funding is available.

III. The Most Objective and Relevant Data Point is How Many Other Providers are Willing and Ready to Serve a Proposed Project Area.

If, as CETF proposes, the CPUC feels compelled to have some numeric criteria or data points as part of its case-by-case determination of project funding level, Frontier asserts that the most objective and most relevant number is how many other providers are willing and ready to serve the proposed project area. For both Lytle Creek and Desert Shores, for example, the analysis would be as follows:

- How many providers previously filed for a CASF grant to serve the project area?
 - Zero
- How many providers have invested private funds to deploy broadband in the area?
 - Zero
- How many providers filed a competing CASF application?
 - Zero
- How many providers filed a challenge to Frontier's application?
 - Zero

¹ Frontier's opening comments request modifications to the Draft Resolutions' proposed funding level assessments, which ignore compelling considerations such as fire danger and low-income status, among others.

² Frontier's comments and reply comments in Rulemaking R.12-10-012 address this same CETF proposal and are hereby incorporated by reference.

Other data points that paint the picture of daily life in Lytle Creek and Desert Shores are relevant to the case-by-case funding level determination as well – high fire danger, number of fire stations, high poverty and unemployment, dangerously poor air quality, staggering rates of asthma, and public safety concerns. But when it comes to any *other* broadband provider ready and willing to serve, the data point is zero. Frontier, on the other hand, is ready and willing to deploy broadband infrastructure if CASF funding is available for Frontier’s Lytle Creek and Desert Shores projects to go forward.

IV. Lytle Creek and Desert Shores are Not “Targets of Opportunity with the Highest Potential Revenue” – they are Communities that Need Full Funding.

Frontier strongly objects to any implication by CETF that Frontier is seeking to “cherry-pick targets of opportunity with the highest potential revenue.” That description simply does not match up with the reality of Lytle Creek, a mountainous canyon community in a high fire danger area, and Desert Shores, which is a disadvantaged community with high poverty, high unemployment, poor air quality, and high rates of asthma and other chronic health conditions. In fact, Frontier selected Lytle Creek and Desert Shores precisely because they present – for different reasons -- such challenging economics that they epitomize what the Legislature had in mind when enacting the full funding provision. If the CPUC determines that these communities do not warrant full funding, it seems no community could ever qualify.

Moreover, CETF’s concern about minimizing “excess subsidies” seems misplaced with these grant requests of \$1.4 and \$1.8 million. By the CPUC staff’s own calculations, these proposed projects are at least 34% and 70% lower than the median cost-per-household of other FTTH grants the CPUC has funded – and **way lower than some prior CASF grants of more than \$20,000 per household in affluent communities.**

Frontier developed these cost-effective FTTH projects for Lytle Creek and Desert Shores, and is seeking timely CPUC action on the applications in order to determine how it can most effectively leverage state and federal broadband funds during the dwindling window of Connect America Fund (“CAF”) deployment. This is not “cherry picking” – it is working in good faith to help California close the Digital Divide.

V. Released CAF II Census Blocks Should Be Open to Applications under Rules that Balance Legislative Direction to Leverage Federal Funds.

Frontier objects to CETF's assertion that Frontier is trying to take advantage of CASF by declining to use funding from Phase II CAF funds for Desert Shores and instead is seeking a CASF grant to deploy infrastructure to many more households. Frontier fully addressed this same claim in its Reply Comments in Rulemaking R.12-10-012.³ As explained therein, Frontier has acted in good faith in alignment with legislative direction to leverage federal and state funds, fully acknowledged the need for public notice of newly eligible census blocks, and in fact proposed rules to address this notice issue. In any case, despite the area being CASF-eligible for months, no other provider has expressed an interest or filed a competing application to serve Desert Shores.

VI. Conclusion

The residents of Desert Shores and Lytle Creek have been paying surcharges on their telephone bills for years to fund the federal CAF and state CASF programs. Before Frontier, no other provider has ever applied for public funds to deploy broadband in Desert Shores or Lytle

³ The following excerpt is from Frontier's Reply Comments in R.12-10-012 filed May 1, 2018:

“As a CAF provider and long-time active participant in the CASF program, Frontier is working diligently and expending very significant time and resources to develop CASF applications that follow the Legislature's and CPUC's direction to leverage federal and state funds. This has included hiring contractors to review opportunities under the Broadband Availability Map, doing ground testing to verify if the map correctly portrays an area as served, and coordinating with many stakeholders to generate cost-effective projects that serve the public interest. This activity is undertaken with good intent but – unfortunately -- without any certainty on how the CPUC will implement key provisions of AB 1665. At the same time, Frontier faces a narrow window of opportunity to align engineering and planning of potential CASF projects with CAF II builds.

These circumstances are what led Frontier to submit a notice of release of CAF II census blocks containing only 79 CAF II locations in Desert Shores the same day as submitting a CASF application to serve nearly 800 households in Desert Shores. This definitely was not “gamesmanship” as some assert, but a good faith attempt to get CPUC action on a key provision of AB 1665 that can help speed up release of other CAF II census blocks prior to July 1, 2020. In fact, for the record, when Frontier contacted CASF staff about this, Frontier proactively stated that a process for some public notice was needed but not in place, which Frontier also acknowledged in its Opening Comments.

Regarding what public notice should be provided, Frontier recommends that the CPUC balance the need to give everyone a chance to apply, but not cause undue delay contrary to the goal of leveraging CAF II and CASF funds. A 90-day window before accepting any application, as suggested by CETF and Race, seems way too long, especially for an area like Desert Shores where no application has ever been filed in the history of the CASF program. Rather, a tiered approach seems reasonable – (1) allow any application to be filed as soon as the public notice releasing the CAF II census block is posted; (2) allow any party 21 days after the public notice to file an intent to submit an application; and (3) for any party that filed an intent to apply within the 21 days, allow another 30 days to file a full application.” (emphasis added)

Creek. Now, after years of watching the surcharges they pay fund broadband expansion in *other* communities, Desert Shores and Lytle 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 these remote high-cost areas that face critical health issues and fire safety issues. For all the reasons stated herein, Frontier requests modification of the Draft Resolutions so that Desert Shores and Lytle Creek can finally move to the right side of the Digital Divide.

Respectfully submitted,

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

Jacqueline Kinney
Vice President State Government Affairs – CA